



Thomas Benedikter

WHEN CITIZENS DECIDE BY THEMSELVES

An introduction to direct democracy

POLITIS



Politische Bildung und Studien in Südtirol
Centro sudtirolese di formazione e studi politici
Zenter de stude y de formazion politica dl Südtirol
South Tyrol's Center for Political Studies and Civic Education

Impressum

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February 2021

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Proofreading: Dr. Hanna Battisti

Editor: POLITiS - South Tyrol's Center for Political Studies and Civic Education, Weinstr. 60 - I-39057 Eppan – Tel. +39 324 5810427

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ISBN 978 88 7106 515 1



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An introduction to direct democracy

With a preface by Andreas Gross

POLITiS e-book

Content

| | | |
|---|---|----|
| | <i>Preface (Andreas Gross)</i> | 7 |
| | Developing the citizens' political creativity and commitment | |
| 1 | Happier with direct democracy? | 11 |
| | <i>What does 'direct democracy' actually mean?</i> | |
| 2 | The unfinished democracy | 19 |
| | <i>The plebiscite: a popular vote ordered from above</i> | |
| 3 | The myth of the incompetent citizen | 31 |
| | <i>Populism and direct democracy</i> | |
| 4 | A veto right in the hand of the citizens: the referendum | 42 |
| | <i>The petition in a modern guise</i> | |
| 5 | When citizens initiate laws: the popular initiative | 49 |
| | <i>Italy: Unnecessary 'citizens' draft bills'?</i> | |
| 6 | The design of direct democracy | 61 |
| | <i>Postal voting</i> | |
| 7 | Who takes the field? The actors of direct democracy | 74 |
| | <i>The media and direct democracy</i> | |
| 8 | The performance of direct democracy: quality and effects | 85 |
| | <i>A decalogue against the turnout quorum</i> | |

| | | |
|----|---|-----|
| | | 5 |
| 9 | Will elected politicians be dismantled? Objections to direct democracy | 97 |
| | <i>Direct versus deliberative democracy</i> | |
| 10 | Switzerland: the cradle of direct democracy | 119 |
| | <i>Which reforms for the Swiss 'popular rights'?</i> | |
| 11 | Direct democracy also in the European Union? | 134 |
| | <i>The costs of representative politics and direct democracy</i> | |
| 12 | Direct democracy at the service of a more sustainable tax system | 147 |
| | <i>Participatory budgeting</i> | |
| 13 | A model on the rise: direct democracy in the world | 160 |
| | <i>A century of direct democracy in California</i> | |
| 14 | Digital democracy and direct democracy | 172 |
| | <i>With CONSUL to digital citizens' participation</i> | |
| 15 | Conclusion: Citizens can decide for and by themselves | 187 |
| | <i>Space for utopia - Direct democracy in 2040</i> | |
| | Basic glossary | 196 |
| | References and further resources | 201 |
| | The author and the editor | 206 |

Cover foto: The Landsgemeinde of Canton Glarus in Switzerland, 3 May 2009

Since 1403, the men of the canton of Appenzell-Innerrhoden have been meeting every last Sunday in April, armed with sabres, to decide on new cantonal laws. Since 1990, in the Canton of Glarus also women (without sabres), who have been voting in Switzerland in general since 1971, have also been allowed to vote. The traditional 'Landsgemeinde', a legislative assembly of the canton's citizens in the open air. It still exists in the canton of Glarus and in Appenzell-Innerrhoden. This form of assembly democracy, which was typical for medieval Switzerland, has, however, been replaced in all the other cantons by referendums at the ballot box or by post. In a large number of Swiss communes, general communal assemblies are held every year, in which the citizens vote directly on essential issues of their commune's policy.

Source of the picture: WIKIPEDIA,

<http://www.fotocommunity.de/pc/pc/extra/mydiscuss/display/16944106>

Author: Marc Schlumpf

Tables and figures

- 1 Popular referendum rights (direct democracy) – Overview
- 2 Referendum and initiative: the procedures
- 3 Popular votes at federal level in Switzerland 1848-2012
- 4 Popular votes around the world
- 5 The 30 “top countries” for the application of direct democracy
- 6 Citizens’ initiatives worldwide
- 7 Popular referendums around the world

Preface

Developing the citizens' political creativity and commitment

By Andreas Gross

If a young man of 18 was discovered to be a great football talent, but instead of playing he could only once a week choose which match to watch as a spectator while watching players mostly less good than him, it would be a frustrating experience for him, and local football would let a great sporting potential shrink.

The same is true today for most citizens in Italy and in many other countries. Many citizens are politically well-prepared, well-informed, can assess political developments, can form a well-founded opinion and would like to cooperate on political issues. However, because they do not want to join a party, they feel excluded from everyday political activity. Every five years they can choose from a very limited number of parties, groups with limited responsibility for keeping their promises made before the elections. Between two elections, which are rare and ephemeral moments of democracy, decisions are made only *about* them, never *with* them. This is frustrating for the individual citizen, it excludes him from political life, it limits individual and collective political learning processes. It does not allow society to unfold the potential for creativity and free political engagement that is present in every society. The consequences are fatal. Citizens, who already feel excluded or undervalued by democracy at regional and national level, will lack the strength and the will to actively confront the great democratic challenges of the next 20 years: the establishment of a truly democratic system, at national but also at transnational level.

A plea for more referendum rights in the hands of the citizens is never a plea against representative democracy. This would be a major misunderstanding, often deliberately peddled in political debate. Elements of direct democracy make the representative democracy even

more representative, since members of parliament in this way know best who they represent, what the citizens they are called upon to represent think and prefer.

Direct democracy is also not to be confused with plebiscitary democracy, as is often the case in order to discredit institutionalised referendum rights. In fact, there is an essential difference: in direct democracy, we have a qualified minority of citizens (in Zurich less than 1 percent of those entitled to vote, in Switzerland generally between 1 and 2 per cent, in California with its 39.5 million inhabitants between 3 and 5 percent) who have the right to bring laws or changes to the Constitution decided by parliament to a popular vote, and they can also submit their own proposals for ordinary and constitutional law. In a system with plebiscite voting, these rights are vested only in a few institutional bodies: in France in the president of the republic, in Australia in the parliament, in Denmark the Constitution lays down exhaustively on which issues the citizens must be consulted. Finally, in dictatorial systems, despots such as Napoleon III, Hitler, Pinochet and so on appropriated this privilege in order to gain some legitimacy they did not have on the basis of the consent of a democratically elected parliament.

As a rule, plebiscitary elements are not very democratic and only complement an authoritarian system of government. Direct-democratic rights, on the other hand, are rights that complement representative democracy, increase citizens' freedom of action, demonopolise political decisions, distribute part of the political power and profoundly transform political culture. It is decisive that a minority of citizens can request such a popular vote at any time by following the procedure laid down, i.e. the right to question all fellow citizens on a specific issue or rule, before it comes into force as a legal norm.

This is the pivot for transforming political culture, i.e. the right of a minority of citizens to be able to address all citizens with a precise and specific question. It is direct democracy that provides this right, which allows political minorities to articulate their own proposals. They can

put issues on the public agenda that would otherwise be ignored or passed over in silence. This also transforms the structure of the media and the political debate itself. If everyone has a voice in politics, everyone must feel interested and taken seriously. Because democracy does not only mean the right to articulate an opinion, it should also allow a serious proposal to be heard, discussed, taken into consideration. Direct democracy reduces hierarchies because it increases the possibilities of binding political action by citizens. Because many more people are politically active, there is more public debate on many different issues and in many different places. And this means that many more people can inform themselves, understand and participate. So it is justified to say that a society with direct democracy can develop its political potential better than a political system in which only politicians rule. We all know that this is precisely the challenge if we want to create a lifelong learning society with a more participatory democracy.

The Swiss experience with direct democracy since 1866 has shown precisely this: anyone who considers direct democracy to be a democratisation of democracy must pay close attention to its concrete regulation in institutional and procedural terms. Unlike the regulations currently in force in many countries, the number of signatures to be collected must be small and the method of collection must be simple. There must be sufficient time, and the administration and parliament must also have sufficient time for reflection and negotiation. There must be neither participation nor approval quorums, because these definitely hamper the communicative purpose of direct democracy. The results of referendum votes must then be applied, not dodged or simply bypassed by resolutions and amendments subsequently approved with a simple majority in parliament.

Citizens worldwide interested in direct democracy should not be misled by Swiss experiences. In many countries, the Constitutional Court will always play a much more important role than in Switzerland. The protection of fundamental rights would still be absolutely guaranteed.

Moreover, do not forget: decisions taken through direct democracy are like a mirror of society, and the mirror is not responsible for the face it reflects. Different societies using the same referendum rights will produce different results. Two arguments count: direct democracy is a value in itself regardless of the results, because it transforms the character of politics. With a functioning direct democracy, you have to argue more, you have to convince more, you cannot order everything from above and far fewer citizens will feel alienated from politics. Direct democracy, as opposed to purely representative democracy, enables citizens to regain a piece of sovereignty and to regain the desire and pleasure of political engagement. This is what counts, what lies at the heart of a living, participatory democracy.

Andreas Gross



Andreas Gross is a Swiss political scientist and politician (Socialist Party) and one of the most prestigious researchers and publicists on direct democracy internationally. He worked at the Universities of Bern and Lausanne and founded the Institute for Direct Democracy in Zurich in 1989, which was renamed Atelier pour la Démocratie Directe in 1998 and is based in Saint-Ursanne (Canton Jura). Gross has lectured on direct democracy at the universities of Marburg, Trier, Speyer, Graz, Hamburg, Jena and St. Gallen. In Switzerland he is also known as the founder of the group 'Switzerland without an army'.

From 1986 to 1991 he was a member of Zurich's City Council, from 1991 to 2015 he was a member of the Federal Parliament, specialising in questions of the democratic system, foreign affairs, defence and European issues in general. From 1995 to 2016 he was Switzerland's parliamentary representative in the Council of Europe. He was active as an observer of electoral processes on behalf of the Council of Europe, and with 98 observed elections he is perhaps Europe's champion in this discipline. His last major work on direct democracy is: Die unvollendete Direkte Demokratie, Werdverlag.ch, 2016 Thun/Gwatt. Website: www.andigross.ch.

Picture: WIKIPEDIA

CHAPTER 1

INTRODUCTION: HAPPIER WITH DIRECT DEMOCRACY?

When we look people in Lombardy in the face and then cross the border into Switzerland, we probably don't get the impression that the Swiss are so much happier and more content. But on balance, Swiss citizens should be happier with the political situation in their country than Italian citizens, at least according to the results of various studies. The renowned Swiss scientists Bruno S. Frey and Claudia Frey Marti state: "The more inclusive the rights of direct democracy are, the happier citizens feel in their lives" (Frey&Frey Marti, 2012, 92).

Does direct democracy make people happy?

The definition of happiness can of course be questioned, as can all indicators that lend themselves to measuring happiness by statistical methods on the basis of causal assumptions. What 'happiness' concretely means and how it can be statistically detected and measured is, however, a matter of debate among social researchers. Can direct democracy actually be a cause for a higher degree of satisfaction or is happiness basically due to higher material well-being? The link between democracy and satisfaction is statistically significant and quantitatively relevant.

People living in democratic conditions not only have more rights to participate in politics than people in authoritarian systems, but can actually exercise them. The legal system is more stable, the state apparatus behaves more responsibly, people's dignity is respected and citizens regard the state as fundamentally friendly rather than hostile. In authoritarian systems one will feel happier if one is part of the ruling clique, the ruling political elite with all its privileges.

Since direct democracy creates a permanent mutual exchange between the governed and the governors, we can assume that citizens are happier in a system with advanced direct democracy than in a purely representative system.

There are several Swiss scholars whose empirical research has investigated the link between the instruments of direct democracy and the degree of citizen satisfaction. Frey and Frey Marti, for example, have succeeded in demonstrating the positive correlation between participatory processes and the degree of happiness or at least satisfaction of the people. A first mechanism for this link relates to the outcome of popular votes: the participation of the population in the political decision-making process means that the results and political decisions more closely reflect the real needs and preferences of the citizens.

A second mechanism concerns procedural usefulness. The simple fact of being able to express one's political will directly produces more trust and satisfaction among citizens. The researchers also measured the difference in the degree of satisfaction between those entitled to vote and those who are excluded from this right, even though they live in the same territory (e.g. foreigners). The latter, while benefiting from the final results of direct democracy processes, cannot benefit from the procedural utility of exercising political rights.

In a nutshell: the degree of satisfaction with life in general is determined not only by individual factors (genetic factors, inter-relationships, family, health), economic factors (work, income, assets) and social factors (environment, housing, security, etc.), but also by political rights in the broadest sense, i.e. by the possibility of participating directly in the decision-making processes that affect us most: "The broader and more inclusive the possibilities for direct participation of citizens, the higher the general satisfaction of citizens. This effect is relevant and statistically significant". (Frey and Frey Marti, 2012, 92). This result stems from the widespread perception among Swiss citizens that they can intervene in politics at any time,

should there be a very important issue for a certain minimum number of fellow citizens. The Swiss do not therefore feel left at the mercy of politicians who, once elected, do as they please. Strengthened by their referendum rights, citizens feel they have more self-determination in political life, provided they can organise themselves.

Cantons with stronger referendum rights, less obstructive thresholds and more referendum activity are less indebted, report less tax evasion, a lower tax burden and a higher degree of efficiency in their public administration. The control exercised through popular rights forces political decision-makers into a more intensive dialogue with the population. The citizen feels calmer and freer if he is aware of his possibilities of influencing politics through initiatives and referendums. The tendency of the political elite to focus only on their own interests is reduced because politicians know that citizens can intervene at any time.

The Swiss economists Frey and Stutzer (Frey and Stutzer 2006) have empirically demonstrated the link between happiness and democracy by supplementing the economic analysis of the weight of income, unemployment, inflation etc. with insights and discoveries from psychology, sociology and political science. Frey and Stutzer started with Switzerland as a field of study, where the different forms of implementation of direct democracy in the various cantons within a single economic system make it possible to isolate political effects from economic effects. The study shows that the more democratic the institutions are and the greater the degree of local autonomy, the higher the degree of perceived quality of life and people's satisfaction.

While income and wealth only influence happiness up to a certain threshold, institutions and rights that allow greater involvement in politics have a significantly greater impact. In the research, the indicators of citizen involvement were determined not only by the presence of referendums, but above all by the elements that determine the degree of openness and closeness to the citizens: the subjects for which there is a mandatory confirmatory referendum, the number of

signatures required to be able to request a popular vote and the possibility of submitting any subject to a referendum, i.e. those instruments that unanimously define direct Swiss democracy.

A simple set of participatory tools

The recent history of democracy has shown that this system - if it does not want to exhaust itself in the ritual of electing political representatives and reproduce a political class that is increasingly remote from the citizens - must be equipped with new elements. Since citizens of democratic countries continue to experience political decisions taken in a non-transparent web of personal, party and corporate interests, and since the group of representatives seems to show an intrinsic dynamic of following their own interests rather than those of the community, tools for direct citizen intervention have been introduced that can be applied during the course of a legislature. This toolbox is quite simple and is based on just two mechanisms: the confirmatory referendum, also considered to be 'the brake', and the citizens' initiative as an accelerator. The passengers in the 'democracy vehicle' would thus be equipped with two instruments, one to brake and the other to spur the drivers of the omnibus, i.e. the politicians. If the politicians have run too fast, without the consent of the majority of the population, the citizens should be able to put the brakes on them. If elected politicians block intentions that are felt by large sections of the population, the citizens should be able to press the accelerator.

The government and parliament remain unchallenged at the helm of the state machine, but with these simple instruments the citizens retain at least a minimum of control and power of initiative. Direct democracy always concerns specific political issues, never people. Referendum votes can prevent decisions contrary to the will of the majority, and on the other hand they give the initiators the possibility of putting political issues on the agenda to hear the opinion of the entire electorate. Eventually, the real sovereign subjects are the citizens and at certain

conditions they should be allowed to become legislators. The tool for more participatory participation is basically very simple.

Direct democracy has proved to be a very effective supplement to representative democracy. Today, 38 states have introduced the instruments of confirmatory reference and popular initiative into their legal systems in a serious and fair manner. In Switzerland, the cradle of modern direct democracy, 617 national referendum votes were held from 1848 to 2018 (March). Worldwide, the number of referendums at state level continues to grow. In the countries concerned, there is no shortage of political issues and citizens committed to pursuing them and demanding that they be put to the vote. All this is in favour of a more lively, more participatory democracy, more consistent with the needs and interests of broad sections of society. A modern democracy seems to need this kind of integration, i.e. giving citizens the right to take back the power to decide when an issue affects so many people, dividing society and provoking strong pros and cons.

Why do most citizens in Switzerland feel comfortable, more relaxed, more self-determined when it comes to politics? They can count on the formidable rights and instruments of direct democracy, which have been within their reach for around 150 years. Why are the Swiss not so concerned about the decline in electoral participation? Because they trust in political stability, and many prefer to influence only directly by participating in referendums on three levels of government four times a year. Why are the citizens of the Swiss cantons with the most referendums more informed and aware of political issues? Because being directly involved in so many political issues, on which they will decide with their vote, they feel more motivated and interested, so that they can ultimately claim more solid and well-founded knowledge. Why do Swiss citizens not want to join the EU? Among other reasons, the fear of having to give up their direct democracy.

These brief facts alone would be enough to suggest an apparently naive question: why then don't other countries also introduce these instruments? Some referendum rights are already present in several

Constitution: why not supplement and strengthen them so as to benefit democracy itself, as is amply confirmed by the Swiss reality? Resistance is hard to overcome, perplexity great, lack of knowledge regrettable. This is what this book aims to remedy with the modest medium of written text.

Direct democracy is not intended to overrule or even dismantle politicians, nor does it involve an avalanche of referendum votes every year, nor does it favour the prevalence of minority groups over the tacit majority of society. Those who spread such mystifications, refuted by the reality of direct democracy applied for decades in other countries, intend to create confusion and fear. Direct democracy is not even a panacea for all the ills of our political system, but simply helps politicians to take their voters seriously. That is why it needs to be made clear what it is about, what rights and rules we are talking about, what effects it will have and what its merits will be.

Clarification is the basic aim of this publication, which illustrates the basic features of direct democracy in a compact form. It starts with the basic instruments and arrives at an articulate proposal for reform, articulates the rules of application and the players in the game of democracy, mentions the results achieved, effects and institutions, but also addresses a whole series of objections to referendums and finally sheds light on the practice of direct democracy in other countries. In this way, the publication attempts to offer a complete, though not exhaustive, picture of what direct democracy means today.

What does 'direct democracy' mean?

There are different understandings of the term 'direct democracy'. On the one hand, the term circumscribes a specific form of political system, in which power is exercised exclusively through the general electorate rather than through elected representatives or political officials legitimised in other ways. The opposite form to this system, but still within the framework of the political system 'democracy',

would be pure representative democracy, i.e. without any direct element. On the other hand, 'direct democracy' means a set of political decision-making processes that allows citizens to be decisive on specific questions through separate referendum votes, unmediated by politicians and independent of the election of representatives. Direct democracy transcends the representative system, in which only elected representatives decide.

Direct democracy in this sense is not to be understood as a concept opposed to representative democracy, but as its logical complement: decision-making methods based on the referendum method, in the most varied forms and degrees, complement systems of representative democracy. In this text, we will focus on this meaning of the term. What instruments should direct democracy, i.e. as a method of citizen participation in politics, be equipped with? Although referendum rights are articulated differently in the various political realities, four categories of instruments can nevertheless be identified that can be conceived and concretely implemented in the various modern political systems: the right of petition, the referendum, the initiative and the consultative referendum.

The petition consists of a formal question asked of a political body, with no provision for a referendum, but with the obligation to reply within a certain time frame. Through the referendum (in the strict sense, not the act of voting), a parliament's decision, whether a law or an amendment to the Constitution, is subject to a referendum vote before it comes into force. A law passed by a parliament in this way can be rejected or confirmed by the citizens. If the competence to call for such a referendum lies with the citizens, this is referred to as an optional referendum; if it is absolutely required by constitutional or other regulations, this is referred to as a compulsory referendum. An initiative is an instrument that can be used by individuals, groups and organisations, but not by state bodies. With a sufficient number of signatures, these groups can submit legislative proposals to parliament

and then to the judgement of all citizens ('every citizen becomes a parliamentarian').

If the parliament does not accept the proposal, it goes to a referendum vote with or without the parliament's alternative counterproposal. The popular initiative bill, as regulated today in some countries, is merely a right of stimulus to the parliament without providing for the obligation of a popular vote in the event that the bill is rejected by the parliament or not even dealt with. Finally, there is a fourth, weaker right, the non-binding advisory or consultative referendum. All those four civil rights together form what is generally termed "direct democracy".

CHAPTER 2

THE UNFINISHED DEMOCRACY

There are more and more citizens who are no longer satisfied with voting for a political party every five years, but who also want to intervene in the political agenda, in individual issues, by deciding for themselves on proposals that are deemed important by hundreds of thousands of fellow citizens who sign a request for a referendum vote. The individual's right to direct participation in politics is part of the core of fundamental rights in many modern Constitutions.

This is the leitmotif of direct democracy based mainly on referendum rights. Direct democracy is not ideologically opposed to representative democracy, but is an essential and decisive complement to it in order to be able to fully express popular sovereignty and the widest possible participation of citizens in decision-making processes: not on the choice of people (to whom elections are entrusted), but on the concrete issues that are most relevant to regional and municipal communities, to a state and, in the not too distant future, also to the EU.

Political participation is a fundamental right

The right of eligible citizens to participate directly in political life, in addition to the right to the free choice of political representatives, is a right that is laid down in various international conventions and treaties as one of the fundamental political rights. Article 25 of the International Covenant on Civil and Political Rights of 19 December 1966 states: "Every citizen shall have the right and the opportunity (...) to participate directly in public affairs either directly or through freely elected representatives. Article 21(1) of the General Declaration of Human Rights of 10.12.1948 states:

1) Everyone has the right to participate in the direction of the public affairs of his country, either directly or through freely elected representatives.

2) Everyone has the right of equal access to the public offices of his country.

3) The will of the people is the basis of the authority of public powers; this will must be expressed through serious elections, which must take place periodically, by equal universal suffrage and by secret ballot or following an equivalent procedure that guarantees freedom of the vote.

In the Italian Constitution, alongside the people's right of legislative initiative with a bill drafted in articles (art. 71, paragraph, Const.), there is also the right to vote by referendum. Article 75 provides that Italian citizens have the right to repeal a law or part of a legislative provision. According to article 123 of the Constitution, the regions are obliged to regulate referendum rights with regard to regional laws and administrative acts in their statutes. Article 138 of the Constitution grants citizens the right to a confirmatory referendum on laws amending the Constitution if it has been approved in parliament without a two-thirds majority. Finally, Article 118, paragraph 4 of the Italian Constitution states:

“The State, regions, metropolitan cities, provinces and municipalities favour the self-initiative of individual and associated citizens to carry out activities of general interest, based on the principle of subsidiarity.”

Law no. 142 of 1990 on municipal autonomy created the basis for referendums at municipal level, which are now present in all municipal statutes. In the Lisbon Treaty of 2009, the European Union itself introduced a first form of direct participation by European citizens: the European Citizens' Initiative (ECI), which became applicable in April 2012.

Participation not only through parties

In the development of today's democratic system, parties have been conceived as a transmission belt between the population and the political institutions of the state. In the past, they were well-established organisations in civil society with hundreds of thousands of members and a dense network of offices. They were considered indispensable for the selection and preparation of political staff, as forums for debate and discussion on all political issues, and as forges of political will. Today, almost all the parties have moved far away from the grassroots, turning into campaign machines and apparatuses for distributing seats. The power stations of the governing parties have become the nodes of a less and less transparent web of interest groups, lobbies of all kinds and more occult powers. Despite the continuous loss of both votes and registered members, the traditional parties have remained the central organisations interposed between society and the state. Undoubtedly, their crisis has reinforced the need for more direct participation rights for citizens. This has also happened in countries with less discredited parties than Italy, where direct democracy has been extended as a supplement to representative bodies.

The actual sovereign in a democratic state is not the parties, but the people, the citizens. The Constitutions of parliamentary democracies often mention this basic fact in the first articles: "All state power comes from the people" (German Constitution, art. 20, para.2) or "Sovereignty belongs to the people, who exercise it in the forms and within the limits of the Constitution" (Italian Constitution, art.1, para.1). Citizens delegate political power for a period of five years through free and fair elections to representatives in municipal and regional councils, and in the national and European parliament. In addition to this 'blank delegation' given to our representatives, citizens can also exercise their sovereignty directly through referendums. This right of participation, as stated earlier, is present in most democratic Constitutions. Citizens can regain decision-making power if a minimum number of citizens deem it necessary to return the decision on a specific issue to the sovereign

itself, i.e. to the electorate as a whole. Direct democracy thus expands the possibilities for citizens to articulate their political will and, by bypassing the party filter, they establish themselves as direct interlocutors with the municipal and regional councils and parliament.

Direct democracy does not replace parliament

Direct democracy takes up the idea of the division of public power, not only between the three powers of the state and the various levels of government, but also between elected representatives and voters. Checks and balances is the basic characteristic of modern democracy. The citizen is not condemned to be a passive spectator, but is given the right of initiative and veto. At the moment of the referendum, decision-making power returns to the sovereign, i.e. to all those entitled to vote, i.e. to the basic idea of democracy 'One head - one vote'. Those who lack political weight and financial resources regain their importance as subjects with at least equal rights in the exercise of direct democracy. Equal political rights - remember the battles for the right to universal suffrage without census - is the foundation of modern democracy.

Referendum procedures do not replace parliament, but complement the formation of political will. They do not deprive the parties and elected politicians, i.e. the political professionals, of their job and their source of income. Politicians only need to share political decision-making on specific topics with citizens from time to time, if citizens manage to organise themselves. When citizens manage to co-ordinate for a common goal and the solution of a specific problem, they must be able to directly influence political decisions, regardless of party affiliations, individual economic interests or patronage of politicians and parties. A direct channel is created, opened up by direct democracy.

In parliamentary democracy, political organisations remain indispensable for a critical, committed and caring civil society. The pluralism of political parties is an essential pillar of modern democracy. The opposition in assemblies has a very important control function.

Authoritarian systems, on the other hand, demonstrate the drift of society when 'state parties' are created, when the freedom of free political association is denied, political forces and election candidates are hindered and filtered, and equal access to the media is denied.

The Constitution itself protects the right to organise in parties: "Citizens have the right to associate freely, without authorisation, for purposes that are not prohibited to individuals by criminal law." (Article 18 of the Italian Constitution). Direct democracy does not obviate the need to organise oneself into stable and structured political forces, but it does open up new channels for citizens to engage outside the parties on issues that they feel directly affected by. Direct democracy today only exists in representative systems and is in no way intended to supplant the principle of representation. Even in Switzerland, more than 99 percent of political decisions are taken by elected politicians, not by the people.

Modern democracies no longer resemble the classical democracies based on the assembly of citizens as in ancient Athens or medieval Switzerland. Assemblies are fine for debating, but not for taking collective decisions in a free and democratic manner. The right to freely and secretly elect political representatives is equivalent to the right to vote in referendums in the various concrete forms that exist today: at the ballot box, by post and electronically online. Assembly decisions still exist in some circumstances, in Switzerland mainly at municipal level, but the general rule of direct democracy is the popular vote.

Upstream of this final act, direct democracy gives citizens the right to put something on the political agenda and the agenda, the topics to be dealt with are not only dictated by governments and power groups in parties, but also chosen from below, by active citizenship. In addition to parliamentary channels and direct communication between politicians and voters, direct democracy opens up an additional possibility for being heard as a citizen. With referendum instruments, citizens address their concerns directly to the parliament, and at the

same time to public opinion and all fellow citizens, who are invited to sign not just an appeal, but a precise request. If a certain number of citizens want to have their proposal implemented by means of a vote, then they must also convince the majority of the population, and not just a few influential people at the top. This political communication work, now facilitated by the new media, is still a great challenge for small associations and initiatives without large budgets for an advertising campaign. Direct democracy takes place in the open, in public space. It makes politics more communicative, less one-way top-down.

Direct democracy should not be confused with 'instant democracy' and opinion polls. Political debates and confrontations require time and effort. Referendum procedures usually last for several years. Citizens are no longer condemned to the role of spectators, passive receivers of the results, subjects who send a petition or petition to the rulers, but can actually take the initiative and influence, accelerate or slow down decision-making processes. The objects of direct democracy are always concrete issues and problems; they are not people's choices or elections.

The soul of direct democracy is debate. A popular initiative can be understood as the right of a minority of interested and committed citizens to confront the whole of society with a question that would not otherwise be raised. The confirmatory referendum is equivalent to the right of a minority to request an additional debate outside parliament on a rule that has already been discussed and approved by the legislators.

Both of these popular rights increase the intensity of the political debate in our society. They create thousands and thousands of small and large debates, private and public, spontaneous and organised. These debates in turn these debates in turn create more political legitimacy or challenge it. In the case of the initiative, an attempt is made to create more legitimacy for a new idea; in the case of the referendum, a regulation that has not yet come into force is challenged so that it can be blocked by the voters. The more frequent and intense these debates are, the more critical awareness is formed and the greater the likelihood

of avoiding mistakes or making choices that are not shared by the majority of the population.

Direct democracy as a corrective to social inequalities

Democratic societies in industrialised countries suffer from a structural imbalance: even in a democracy, economic resources are decisive in order to get noticed, to gain influence, to run political campaigns and to influence political decisions. Financial resources, time, expert knowledge and media power are the trump cards in political life, and all of them cost money. In a capitalist system, there is no fair distribution of economic resources. A democratic society must therefore prevent social and economic imbalances from growing out of all proportion. It must prevent the processes of shaping political will, the organisation of political interests itself, from taking place exclusively among economically strong groups with a great deal of media power. Referendum rights create a counterweight on the part of the less well-off and less influential citizens. Regardless of their income and wealth, many individuals, if they unite around common aims, gain the opportunity to initiate a political process based on argument and commitment. The challenge is always to convince the majority of citizens to vote for their proposal in a popular referendum vote.

It is obvious that strong powers and large interest groups can also make use of referendum instruments to push through their political proposals, and in various cases they have also succeeded. But in terms of campaigning, these powers still have to convince a large part of the entire electorate and not just a few influential groups within the government or a few prominent party figures. Operating in the open is different from lobbying behind the scenes. To a certain extent, the contractors in a referendum battle are on an equal footing, equipped with the same 'weapons'.

Direct democracy serves society as a mirror that reflects the moods, interests and demands not picked up by parliament. The mirror reflects

the image of the political state of a society, but it is not responsible for the image it shows us. Any proposal made by the minimum number of citizens required by the referendum regulation is legitimate, as is the invitation of this numerically significant minority to confront and measure themselves.

The political stage must also be open to ordinary citizens. The validity of a proposal will emerge from the ballot box, and this is not an absolute moral validity, but based on the strength of numbers, as in votes in parliaments and elections. This is the democratic game, in which no one can arrogate to himself the power of being a priori more enlightened than everyone else. Direct democracy, after a broad public debate, brings to the surface the positions that are actually present in a society, a snapshot of the moment that may well change, but which is nonetheless legitimised by the majority of voters and not just by a handful of parliamentarians who perhaps only vote out of group discipline.

This should also be noted: direct democracy offers society a force for social integration. In a referendum, representatives of civil society, politicians, large organisations and the media are called upon to give their opinion, to discuss, to listen and to integrate. Otherwise, others will prevail, because - in the absence of a quorum - those who use their right to vote decide at the ballot box. In this way, citizens get to know each other better, come out in the open, form an opinion, become better informed and confront the various positions. Direct democracy involves everyone and offers everyone the opportunity to participate, to intervene. This also depends on the regulations. If they are poorly made, as is the case in many democratic countries, public debate takes much less root. In the long term, direct democracy not only improves the quality of democracy, but also increases social cohesion.

The merits of direct democracy at a glance

The aim of direct democracy is to entrust citizens with a small part of legislative power, subject to certain conditions. Major political issues can thus be referred to the sovereign as a whole for decision. This is also a way of breaking a deadlock in parliament, of involving everyone in responsibility, of strengthening the role of citizens, while maintaining the representative nature of our democracy. Every political system, even in the smallest communities and at the most local levels, needs council bodies. These are the main objectives in a nutshell:

- Direct democracy is a necessary addition to democratic representative bodies. Many citizens do not feel satisfied after the elections: once representatives are elected, citizens feel they have no say for the next five years, they feel they have handed over a blank cheque to those elected to do what they want. The popular initiative and the confirmatory referendum give back some of this 'say'. In turn, politicians can respond to citizens' referendum proposals by engaging in direct dialogue and negotiations with citizens. Direct democracy does not replace representative bodies, but extends the power of citizens beyond election day.

- Direct democracy operates as a brake: no policy against the will of the majority of citizens. A confirmatory referendum is called when a large part of the population seems to disagree with the choices of the rulers. This simple instrument avoids an excessive disconnection between those in government and the citizens. With a well-regulated direct democracy, politicians must always take the mood of the population into account. If they stray too far from the will of the voters, they will call for a referendum to issue a 'popular veto'.

- Direct democracy is an engine for reform: propositional referendums usually start with cross-party formations. Groups of committed citizens submit their proposals directly at the political level, not via parties and politicians. Minorities that are not present in parliaments can articulate

themselves and participate in the game. Rulers no longer have a monopoly on ideas and solutions to political issues.

- Direct democracy stimulates the acquisition of more political expertise: Many citizens consider themselves too uninformed to be able to participate. Only politicians think they are experts on everything. Many decisions are taken behind the scenes, under the rule of the experts and lobbies, without public debate. Direct democracy requires that in the case of a referendum all interested the citizens have a minimum amount of knowledge to be able to judge. Before referendums, there is often a wide-ranging and controversial, but clarifying, debate.

- Direct democracy is about concrete issues: in referendums, it is not about electing anyone, it is not about voting on people. The problems and possible solutions are at the centre of the debate. Many citizens gather considerable expertise and knowledge on a range of political issues, often because they are directly affected. Therefore, it is useful to involve them in order to find the best solution with the greatest consensus.

- Those who are asked do not decline the invitation: 'Politicians do what they want' is often heard. Citizens, deprived of the power to influence decisions, resign themselves and withdraw from participation. Referendum instruments encourage people to get involved. When citizens feel that they can move something, they become interested in politics again.

- With direct democracy, it is many citizens who share in the decisions: whereas the decisions of politicians can be accused of being wanted and supported only by interest groups or individual parties, with a referendum, on the other hand, the position shared by the majority emerges and even the defeated minority must accept the result. More democratic legitimacy is created.

- Direct democracy means more responsible politics. Every month, national and regional parliaments pass far-reaching laws. Often, not

only the current living conditions but also those of future generations are at stake. When it comes to finding long-term solutions with a major social and ecological impact, it is useful to find a broad consensus at least among the majority of the population.

- More direct democracy means less power of the caste. We often hear: only those who have the resources and a strong lobby behind them succeed in politics. With direct democracy, even citizens without lobbies and resources gain a minimum of power to count and can prevent the abuse of public resources. This is the strength of Lilliput.

More direct democracy also means more social peace. The instruments of direct democracy are not aimed at politicians, but rather allow politicians to learn more about the preferences of the population. Given the enormous power of lobbies, there is an urgent need for a certain counterweight to balance out the lack of fairness in distribution. If lobbying projects and intentions turn out to be harmful, too costly or even risky, citizens must be able to apply the emergency brake. In this way, social peace grows, because then no one can say that everything has been decided over their head.

The plebiscite: a popular vote ordered from above

Direct democracy is sometimes wrongly also referred to as 'plebiscitary democracy'. Plebiscites are only defined as popular votes called from above, by one of the organs of the state. However, this does not correspond to the basic idea of direct democracy, which starts from the bottom and leaves the initiative to the citizens.

In history, it was mainly dictators who carried out plebiscites, such as Napoleon, Hitler, Ceausescu and Pinochet. These plebiscites were not only staged to show public opinion that the leader's choices enjoyed the consent of the (often manipulated) people. Often the plebiscites were nothing more than piloted or even falsified votes, which had nothing to do with democracy. In more recent times, presidents have held

plebiscites to strengthen their position, especially vis-à-vis the parliament, e.g. in Venezuela, Hungary and Turkey.

Strictly speaking, these are votes that do not respond to an act of direct democracy desired by the citizenry, but to the demands of the rulers. A plebiscite can be motivated by a contingent blockage in the political system: if the government cannot decide on an important issue or is at odds with parliament, a popular vote can be held. With a plebiscite won, governments not only try to bring home more political legitimacy, but also use this vote as proof of absolute trust, often a kind of green light for rulers to go ahead. This has happened in crisis situations to armour power against criticism. These plebiscites established by rulers from above are also often problematic in their practical implementation. A clear distinction must therefore be made between direct democracy with its instruments that lead to a vote requested by the citizens and the plebiscite, the referendum imposed from above.

In recent times, plebiscites have also been held in some democracies with the aim of strengthening the position of incumbent presidents vis-à-vis parliament. One of these was the referendum on the Fifth Republic in France, the primary aim of which was not the involvement of citizens in political decisions, but rather the solemn confirmation of the exceptional powers of the President of the State in the French political system. Some EU Member States, as part of the approval process of the European Constitutional Treaty, have called national referendums for its ratification. These are not plebiscites, but compulsory confirmatory referendums (as, for example, in Ireland), since the actual ratification always requires the approval of a law or a parliamentary resolution. A plebiscite, in general, aims to close a debate, not to stimulate it; it aims to achieve consensus against the pre-established power, and not to question the rulers' decisions on specific problems. The plebiscite, as a 'referendum wanted from above', must be clearly distinguished from the actual referendum instruments wanted and requested by the citizenship and also from the compulsory ones provided for by a law already in force.

CHAPTER 3

THE MYTH OF THE INCOMPETENT CITIZEN

The image of the uneducated, disinterested, uninformed citizen and even of the 'politically immature people', driven by their passions and selfish interests rather than by reason, has accompanied the development of democracy for centuries and has continually delayed the full emancipation of the different groups of citizens within political life. The image of the average citizen, politically unskilled, has always been exploited by the rulers: firstly in order not to extend the right to vote to all and sundry, then to oppose demands for direct participation by citizens.

Are the citizens mature for democracy?

Even today, the argument of incompetence often comes up when discussing the extension of referendum rights. It tends to be the case that the ordinary citizen is deemed incapable of making his own judgement and decisions on 'complex issues'. The argument has a long history, having been used for many decades against universal suffrage, then against the right to vote for women, later still against the right to vote for the black population of South Africa. Every time a group that was discriminated against in the past managed to win the right to vote, the argument vanished.

Today it is no longer democracy and universal suffrage that are being challenged with this argument, but the extension of direct participation rights to all citizens. In other words, it is denied that ordinary people are capable of assessing, drafting, blocking and repealing laws. And it is objected that "experienced persons in government, the Platonic custodians, would be superior in their knowledge of the general good and the best means of achieving it" (Robert Dahl, *On Democracy*, 2000, 75).

Even the generic attribution of the label 'populist' to a politician or a political force starts from an image of the average citizen who is not really mature enough to reason and decide on political issues, and who is the victim of manipulation and exploitation, if he does not vote for the party supported by the respective commentator.

No degradation of politics due to stronger popular rights

In the nineteenth and twentieth centuries, the argument of incompetence was also used against democracy itself and especially against extending the right to vote to other categories of men, especially those without large assets, and to women in general. Today, except in some Islamic countries, the right to vote for women is no longer questioned by anyone. What is questioned, however, is the average citizen's ability to understand and evaluate political issues of today's times, when it comes to exercising referendum rights.

But in light of the facts, this argument does not hold water. If this had been the case, Switzerland, a democracy with the full range of referendum instruments, would have been on the verge of self-destruction. Already in the first half of the 19th century, it was feared that, following the introduction of referendum instruments, the country would be swamped by an avalanche of unsuccessful laws dictated by selfish interests and the narrow-mindedness of ordinary people. Although the liberals in Switzerland had come to power through popular elections (with only male voters), their leitmotif was 'governing for the people' and not governing with the people. In their view, ordinary people were politically immature and incapable of participating in political decisions. This argument continued to justify a purely representative parliamentary system. In Switzerland, such a system only remained intact until 1869, but today it is still in force in most democratic countries. Some scientists predicted that Swiss democracy would crumble on the rocks of the cognitive incapacity of the majority of its citizens. We know that the opposite has happened:

Switzerland has become one of the most vibrant and stable democracies in the world.

At the beginning of the 21st century, the demand for greater participation in political decision-making is growing in several countries. The population of European countries demonstrates an average level of education that leaves no room for judgement on its lack of intellectual capacity. Yet in debates on direct democracy, the advocates of purely representative democracy continue to project situations in which the results of referendum votes would seriously impair the development of a liberal, open and inclusive society. A number of opinion polls suggest that popular initiatives could lead to the reintroduction of the death penalty, make the right to political asylum almost unenforceable, cut taxes on mineral oil consumption and car taxes, etc. In Switzerland, after almost 155 years of regular exercise of the instruments of direct democracy, none of this has happened. The debate seems to ignore a century and a half of development of democratic systems and the increased political competence of the average citizen, linked to mass schooling and the degree of dissemination of information organs of all kinds.

Also in other industrialised countries, as never before, the cultural, technological and educational conditions are favourable to a deepening of democracy. There is no longer any reason to believe that there is a restricted category of people who, by training or vocation, are predestined to conduct political affairs. There is no reason to assume that there are political elites per se more capable of judging political issues than the ordinary citizen. Elections and political careers within parties do not automatically generate a 'more advanced political intelligence', which the ordinary citizen is never able to achieve. In democracy, there is no political maturity test, which is a requirement for ordinary citizens to deal with political issues, unlike professional politicians. Yet, in our society, the political class can constitute a group that cultivates an image of the social elite, different from ordinary citizens who are not part of it.

By contrast, in a democratic system supplemented by the main referendum instruments, the relationship between the citizen and the politician is different from a pure representative system. In the latter case, both politicians and citizens have the freedom and opportunity to intervene in political decisions, even if the opportunities for action are different. Politicians and citizens meet with equal dignity.

Monopolising political decisions

The lack of competence of the average citizen is in its essence an argument against democracy as such. If citizens are not competent to decide on individual political issues, how could they be able to properly assess people who stand to make decisions for them?

In the case of the election of a candidate, it is not only a matter of assessing the moral and intellectual integrity of a person, his competence and ability, but one should also know and assess his entire political programme. It is not clear why voters on the one hand are judged to be able to choose between parties and candidates, while on the other hand they are deemed incapable of judging on concrete political issues.

This criticism also tacitly suggests an almost mythical image of the politician: supremely intelligent, extremely well-informed, rational and morally unimpeachable, a wise statesman, in short a perfect synthesis between a chairman of a board of directors and a university professor.

The idea that government should be entrusted to experienced people dedicated to governing for the common good and superior to others in their knowledge of the means to achieve it, has always been the main opponent of democratic ideas. At the time of the popular struggles for universal suffrage, this attitude used to be legitimised in not only cognitive but also moral terms, which Robert Dahl sums up as follows:

Like you, we believe in intrinsic equality. But we are not only deeply devoted to the common good; we also know better than most how to achieve it. So we are much better suited than most people to govern. Therefore, if you grant us exclusive authority over government, we will put our wisdom and efforts at the service of the common good; and in doing so, we will give equal consideration to the good and interests of each (Robert Dahl, 2000, 74).

The argument was used by politicians to control the selection of political personnel and to restrict the right to vote.

Today, within purely representative democracies, citizens elect and delegate, but only politicians decide. With very limited referendum rights and very rare referendum votes, as is the case in Italy today, the situation is similar. Politicians have a monopoly on a whole series of resources, including that of deciding on almost all the most important issues, that of determining the political agenda and that of using financial resources to propagate their positions. Their exclusive access to these resources underlies the imbalance of power between politicians and citizens. Once again, this imbalance is justified with two main arguments: the act of democratic legitimisation, i.e. elections, and the professional competence of political personnel. While the nature of legitimisation through democratic elections may be unexceptionable - even if the electoral systems in force today for getting elected deserve a separate discussion - political competence is not automatically acquired just by being elected or by doing a parliamentary activity.

It is not only politicians who cultivate the myth of the average incompetent citizen confronted by the political elite, but also experts of various kinds. With technological progress and the increasing complexity of industrial societies, there are more and more scientific elites who, representing the interests of the powerful, challenge the regulatory and legislative capacity of democratic representative bodies. In an increasingly complex society like ours, it is often the case that people seek the advice of experts to take crucial decisions that will directly affect their well-being.

But delegating certain decisions to experts is not the same as giving up ultimate control over the most important decisions. It is one thing to enlist the help of experts in government; it is quite another to give an elite the power to decide laws and policies that we will have to follow. So the question is who or which group should have the final say in decisions made to govern a state or region (Robert Dahl, 2000, 76).

Now, governing a democratic country is not a science like physics, chemistry or, at most, medicine:

On the one hand, virtually every important political decision, whether personal or governmental, involves ethical judgements, and these judgements are not 'scientific' judgements in the current sense. Then there always remains a considerable margin of uncertainty and conflict over the means: how to achieve the end and the desirability, practicability, acceptability of the means and their possible consequences (Robert Dahl, 2000, 77).

The fact that experts may be qualified to serve as citizens' agents, i.e. entrusted with specific tasks, does not mean that they are qualified to serve as rulers, i.e. to be able to impose their choices, concludes Robert Dahl, one of the most influential political scientists and scholars of democracy of our time. This means that experts of all kinds, discrediting arguments as 'scientifically unfounded' or amateurish, cannot deny the legitimacy of elected bodies and possibly voters as a whole in setting rules that are binding on everyone. The debate on the rule of the experts has intensified in recent years as a result of the large sums paid by regional and provincial governments and councils for various consultations.

Without questioning the qualification and competence of experts, it must be emphasised that their choices, the type of consultation and the conditions of rule are decided by the politicians and interest groups involved on the basis of often opaque criteria.

In order to avoid abuse of the role of experts by political elites, it is necessary to improve decision-making procedures. One of the most

useful tools for this can be direct democracy, with the initiative and referendum. The 'expertocracy' (experts' rule) must be counterbalanced by an enhanced role for citizens themselves, who demand transparency and claim an independent and neutral role for experts. On the other hand, there is no antagonism between legitimate experts and the citizen-voters and citizen-promoters of referendums, so much so that for many civic initiatives, citizens too, albeit with much more limited financial means, make use of scientific knowledge and the opinions of technicians and experts. The important thing is that a proper relationship is established between democracy and 'expertocracy', which keeps the roles of political decision-makers and those who, as experts legitimised by academic knowledge and qualifications, give advice and opinions separate.

In a system of well-institutionalised referendum rights, experts find it more difficult to impose their opinions than in a purely representative system in which only the political elites need to be convinced. Voting in Switzerland shows that voters do not in a purposeful habit for or against expert opinion. Generally, the Swiss electorate votes cautiously, combining technical criteria with normative assessments that go beyond purely scientific reasoning. In Switzerland, the population seems to be more aware of the fact that too strong a role for experts would ultimately restrict the free citizen's ability to decide for himself, a concept that is very dear to the Swiss people.

With the referendum instruments, the monopoly of decision-making in the hands of a small minority of politicians is essentially broken, without their general responsibilities as elected members of political bodies being restricted or changed. The image of the incompetent citizen vanishes and is replaced by that of an active, interested, more responsible, politically more competent citizen who is aware of his role in society. At the same time, the image of the politician is changing: from the high spheres of decision-making, which is shared with only a few other politicians and lobbyists, he is more often forced into more mundane realities and has to deal with 'ordinary citizens'. Politicians

should perceive this process not so much as a loss of power and status, but as an opportunity to increase their empathy and humanity.

What exactly is populism? Not even scientists agree on a clear and comprehensive definition of this political phenomenon. Is it about arguments, or is it about the propaganda and communication style of a political force, or is it just about the style of certain political figures? The word 'populism' has become a vague and empty formula with which to discredit political opponents and block any serious discourse. On the other hand, political parties have emerged in Europe over the last two decades that are generally classified as right-wing populist forces. Although these parties themselves often do not consider themselves populist, they seem in general to have accepted this category of convenience.

Populism and direct democracy

One of the characteristics apparently common to populist parties is their enthusiasm for referendum rights. It is obvious that politicians who continually appeal to the true will of the people, the authentic voice of the people, cannot but claim the right of 'the people', the citizens, to express themselves and intervene directly. That is why the programmes of these political forces not only include the strengthening of referendum rights, but the fraction of right-wing populist parties in the European Parliament has even given itself the name: 'Alliance for Direct Democracy in Europe'. The German party 'Alternative für Deutschland', which entered the Bundestag in Berlin in September 2017, explicitly calls for the introduction of direct democracy at federal level along the lines of the Swiss model. This is a proposal brought forward by 'Mehr Demokratie e.V.', a civic association that has been present throughout Germany for at least two decades. The Austrian FPÖ also proposed and promised such a reform of participation rights, but under pressure from its conservative governing partner, it abandoned it in 2017. Inconsistent populists?

A good idea for integrating and improving democracy cannot be discredited by the mere fact that it is also supported by disliked political forces. In Germany, the popular legislative initiative at federal level is supported by all parties except the CDU (Christian Democrats), without being denigrated as populist. On the other hand, however, there seems to be widespread confusion among populists between plebiscites and referendum rights: whereas well-known populists such as Erdogan, Chavez and Orbán held plebiscites to cloak their autocratic projects in democratic legitimacy (votes were often lost), direct democracy starts from below, from the citizens. In fact, one often has the impression that the followers of populist forces and their leaders are unaware of the functioning and basic logic of direct democracy. It is not a question of extending the rights of rulers to hold plebiscites, but of strengthening the democratic rights of citizens. However, even among the voters of the parties described as 'populist' there are countless citizens who simply demand more rights of participation.

The Swiss system of direct democracy is the opposite of the plebiscite. It is based on a systematic interaction between citizens, parties and institutions and other stakeholders, and then leaves the last word to the sovereign, i.e. the citizens. Each citizens' group, each political movement is free to launch its own proposal with the help of referendum rights. This group will have to convince the majority of its fellow citizens with valid arguments, otherwise the proposal will not pass. There is no court of opinion in a democracy to distinguish 'populist ideas' from 'reasonable non-populist ideas'. The "Swiss People's Party" (SVP), by some observers considered a populist party, has often been defeated at the ballot box with some initiatives and referendums.

Even British Prime Minister Cameron was accused of being a populist when he called the BREXIT referendum in 2015. In reality, this was an old popular demand, present in all English parties, which had been put forward and discussed for many years. Cameron did nothing more than allow the vote to clarify positions and settle the conflict.

In Switzerland, citizens can propose constitutional amendments with almost unlimited freedom, but the implementing law must be approved by the federal or cantonal parliament. Popular initiatives have to undergo a public and parliamentary debate, are subject to strict conditions and have to fulfil specific information rights. This means that even 'populist' forces are forced to reach out to society with their arguments. It is not enough to seduce the people with facile slogans; instead, one must engage in political debate based on facts and arguments, which is the test of the validity of a referendum proposal. In this way, the very concept of 'populism' ends up vanishing. Otherwise one would end up branding as populism the search for democratic legitimacy of a citizens' proposal, i.e. declaring citizens to be populists. An almost bizarre confusion.

From a loyal subject to a competent citizen

It is a recurring saying that one learns by doing. If the skills required to be a legislator are best learned by engaging in the legislative process, in a direct democracy the referendum and initiative procedures promote these same political skills among ordinary citizens. In this context, the image of direct democracy as a 'democracy gymnasium' also resurfaces. On the one hand, mass schooling has equipped the vast majority of the population with the minimum critical tools to form an opinion in politics, and on the other, the progressive enlargement, over time, of the number of people entitled to vote up to universal suffrage, introduced in Italy in 1946, have made the exercise of democratic rights habitual for all. If participation in political life is not to end with the act of voting, instruments are required that can better involve and 'educate' average citizens in political decisions.

The referendum rights guaranteed by the Swiss system give citizens decision-making power independent of the government and parties. Being able to actively participate in the running of the state and the development of society, citizens feel much more motivated to follow political issues. Therefore, direct democracy also operates as a political

and civic education programme for all. Matthias Benz and Alois Stutzer, two politicians from the University of Zurich, have shown in this respect that citizens with more participation rights are also better informed about political issues (Matthias Benz, Alois Stutzer, *Are voters better informed when they have a larger say in politics?*, in "Public Choice" no. 119 (2004), pp. 31-59).

If they want to achieve their goal, citizens must find collaborative forms themselves: launching a popular initiative or referendum requires the collection of a large number of signatures and considerable communication skills. In this process, citizens develop organisational skills, learn how to run a campaign, how to obtain resources (financial, physical and human), transmit information, organise public debates, form alliances, find good compromises and how to deal with political power. Direct democracy means not only being able to express oneself, but also being seriously involved in the preparation and conduct of referendum campaigns.

As the ways in which political commitment is encouraged are strengthened, the myth of the incompetent citizen fades away and virtuous mechanisms are set up to create trust among citizens. But these mechanisms can only work if the citizen's commitment counts, i.e. if his commitment and his vote are literally 'decisive'. On the other hand, however, it is well known that in Italy the institutions dedicated to civic education are weak and need to be strengthened. Therefore, those who believe in the validity of direct democracy are obliged to seek suitable and effective ways for citizens to acquire and cultivate the necessary competence.

Direct democracy presupposes interested, alert and informed citizens and is far removed from an elitist conception of democracy, which presupposes the existence of enlightened minorities who arrogate to themselves the right to think and decide for the whole people. In a well-developed direct democracy, it is always the sovereign people in their entirety who ultimately have the final say.

CHAPTER 4

A VETO RIGHT FOR CITIZENS: THE REFERENDUM

Direct-democratic procedures rest on two pillars. On the one hand, it is a question of giving citizens a right of veto over political representatives, a control that complements the control and veto function of the opposition in parliament and in regional and municipal councils. On the other hand, citizens should be able to play an active role in politics by submitting proposals or bills to the representative bodies which, if rejected by the politicians, can subsequently be put to a popular vote. These two instruments are the confirmatory referendum, presented hereafter, and the citizens' initiative, which will be presented in chapters 5.

The brake: the citizens' right to veto

The citizens' initiative and the referendum are like the emergency accelerator and brake of democracy. The initiative acts as an accelerator when politicians in power are not prepared to tackle an important problem for society head-on. The referendum, on the other hand, offers an emergency brake when politicians intend to tackle a problem in a way that is presumably different from the preferences of the population. In the first case, the citizens urge the politicians to solve a problem in a certain way, otherwise the sovereign citizens will decide for themselves. In the second case, citizens oblige the representatives to 'report', i.e. to refer on an issue to the eligible voters.

"Power requires control" - this was the main reason for the invention of the political right to referendum. "Lex referenda est": a new law must be referred to the sovereign people so that they can examine it and possibly reject it. Swiss citizens in the 19th century were simply asking to have the last word in the legislative process.

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| <p><i>“Power requires control”</i></p> <p>Referendum -Facultative/optional -obligatory/mandatory -constructive (with counter-proposal by citizens)</p> | <p><i>Referendum rights without decision by polls</i></p> <p>Other consultative popular votes - consultative referendum (no binding effect) - citizens’ initiative (draft act without popular vote)</p> |
| <p><i>“The lack of power requires possibilities for action”</i></p> <p>Popular initiatives -initiative with counterproposal of the Parliament -initiative without counterproposal of the Parliament</p> | <p><i>Participatory (deliberative) instruments without popular votes</i></p> <p>Participatory instruments without popular votes -Participatory budgeting -Civic jury -Civic Assembly -Public hearing -many others</p> |

They demanded the power to trigger a referendum vote on a law passed by the elected body at the request of a minimum number of citizens. Today, in many states including Italy, there is only one person who can enforce this right of veto: the President of the Republic. This right is sometimes compared to an emergency brake with which the citizenry can block a law that presumably does not have popular support. It is no coincidence that the confirmatory referendum is the referendum right that the Swiss exercise most frequently. It was introduced for all constitutional laws in 1848 and for all federal laws in 1874. When a section of the Swiss people wants to stop a ordinary federal law wanted by the federal parliament or the cantonal councils, they use the referendum.

The confirmatory referendum offers citizens the possibility of expressing their opinion on both laws and administrative acts desired by elected bodies. This instrument places in the hands of citizens a real power of control over representative institutions. Citizens will thus be

able to exercise their right to intervene in specific decisions that do not conform to their will on an ongoing basis, and not only at election time. In the case of the referendum that is compulsory (mandatory) by law, a popular vote is held without a request from the citizens. The optional or facultative referendum, on the other hand, must be requested by the citizens, i.e. a minimum number of promoters must file the referendum application, then collect the necessary supporting signatures within a short period of time. The rule does not come into force until the sovereign has exercised his or her right to a referendum or until the deadline for requesting one has expired (in Switzerland, depending on the canton, between 30 and 90 days). The rule enters into force if it is established that no one has requested a referendum.

The referendum in the strict sense (not the act of voting) is a kind of consensus test. It is a question of ascertaining whether the deliberations and laws wanted by political representatives can count with the general consent of the citizens or not. Sometimes, the decisions of the political representatives elected by the citizens (parliament, regional and municipal councils) are in open conflict with the will of the majority of the population. Passing a law against the will of the majority of citizens is basically undemocratic, so the citizens must be given the opportunity to express their opinion and possibly veto it before the law comes into force. This is technically possible without blocking the legislative machine for too long. After a law has been passed by the legislative assembly, citizens (the initiating committee) have a very short period in which to request a vote (and a veto). During this time, they can collect the minimum number of signatures to support the request for a referendum vote on the rule that has just been passed by the parliament. Once that minimum number of signatures is reached, the law is put to a popular vote. If the law passes the consensus test, it comes into force. If it does not, everything goes back to Parliament. If the rule wanted by Parliament is rejected by the people, the bill goes back to the legislators. Having failed the popular consensus, they either have to leave it alone or find a more suitable and agreed solution.

This type of instrument of control is called an optional referendum (referendum in the strict sense). Optional because citizens are free to request a referendum vote. Conversely, confirmatory referendums are compulsory for supreme laws that provide for their implementation without citizens having to request it by collecting signatures. In democracies, such a referendum is usually provided for in the case of partial or complete amendments to the Constitution, i.e. when it is a question of changing the rules of the game of democracy. In such cases, the citizens must necessarily and by law be able to express themselves. In addition, in other states, compulsory referendums are held when the territory of the state is reorganised or when essential powers are ceded to an international organisation (e.g. the EU).

In Italy, unlike Switzerland, there has never been a right to a referendum on ordinary laws, either of the state or of the regions. Whereas in Switzerland the referendum in the strict sense is by far the most widely used referendum right, in Italy it turns out even difficult to explain what this is, partly because the general public is familiar only with the abrogative referendum. There is no 'emergency brake' for ordinary laws, with which citizens prevent the entry into force of a law that is possibly harmful to society. In Italy, this 'right of self-defence' of citizens exists only for amendments to the Constitution that have not been approved by at least two thirds of the members of parliament (art. 138 of the Constitution). In 2001, 2006 and 2016, citizens were called to the polls to confirm or reject laws amending the Constitution. Italians confirmed Prodi's reform (2001), but rejected Berlusconi's (2006) as well as the reform wanted by the Renzi government in December 2016. Interestingly, there is no participation quorum for this type of referendum vote. The result is always valid.

The referendum in its mandatory and optional variant and the citizens' initiative are the two main pillars of a well-functioning direct democracy. Other instruments such as the advisory referendum and the citizens' initiative bill supplement the basic toolkit. The abrogative referendum, the only form in Italy for ordinary laws, is basically

nothing more than a popular initiative to cancel a regulation. Referendums always have a binding effect, whereas other forms of participatory democracy, which aim to involve citizens in the preparation of a political decision, are not binding. They are therefore also much less decisive.

'Referendum' or 'referendum vote'?

In international debate and political science, the term 'referendum' always refers to one of the two main referendum instruments, i.e. to block and then vote on a law passed by parliament before it comes into force. The term 'referendum' in its original meaning refers only to the latter political right. In Italy, however, every referendum vote is referred to as a 'referendum'. It doesn't matter for which purpose the vote is taken or at which level of government, it is always referred to as "a referendum". In everyday language, this word denotes both the instrument, the procedure and the act of voting.

In Italy there is no popular initiative with a referendum vote at national level. If it did exist - some political force has claimed it - it would be called a 'propositional referendum'. Abroad, such referendum votes are always called 'popular initiative' (Switzerland) or 'initiative' (USA). In Italy, both the referendum as an instrument and the act of popular voting are always called referendums, which is why the terminology ends up being confusing.

The only important form of direct democracy on national level in Italy, the abrogative referendum, is basically a variant of the citizens' initiative, i.e. aimed not at introducing, but at cancelling a regulation. In this text, the act of voting is referred to as 'referendum voting' to distinguish it well from the confirmatory referendum as one of the two main forms of direct citizen participation.

The petition in a modern guise

Petitions, the ancient democratic rights of citizens, are nothing more than a question put to an institution (municipality, region, parliament, European Commission) on a political issue of public interest. Petitions, on the other hand, concern facts about individual cases. The citizen who submits a petition also has the right to receive a reply. Article 50 of the Constitution states: "All citizens may petition the Houses of Parliament to request legislative measures or to express common needs." The petition therefore does not have the effect of opening a legislative procedure, but can only solicit it.

A petition is a formal request from one or more citizens to a representative body on a matter of public importance, never a personal matter. The petition obliges the administration or representative body to respond within a fixed deadline, but does not carry any voting rights.

In the meantime, the electronic petition is becoming more and more widespread, not only in the municipalities, but also in the regions and at national level. Let's take the example of the Land of Tyrol in Austria: every Tyrolean citizen has the right to submit petitions to the regional council (*Landtag*) in electronic form. These petitions can be consulted on the petition register for 14-28 days and can be supported with a digital signature by any other citizen. Therefore, some petitions have been supported by more than 1000 people. Then the petitions are forwarded to the Petitions Committee of the *Landtag*.

The United Kingdom has introduced a citizen-friendly petition regulation. If a citizen's petition manages to collect 10,000 signatures, the government is obliged to respond. If this petition has more than 100,000 signatures, the parliament must debate it. An example: James Richard Owen in July 2015 filed his motion to make the production, sale and use of cannabis legal. He had 6 months, until 21 January 2016, to collect the necessary signatures. By 9 August 2015, it had already collected 194,000 signatures, almost double the amount needed to get the motion debated in Parliament.

The e-petition to the British Parliament was introduced in July 2015. To launch such a petition, in addition to the petitioner, it has to be signed by five other citizens and assessed by a special committee. The rules are clear: all petitions are published on the petitions website. So far, several petitions have exceeded the 100,000 signature threshold. In Italy, on the other hand, citizens' initiative bills must first be signed on paper with a notarised signature, after which not even those signed by at least 50,000 citizens and deposited in Parliament are seriously discussed, but often immediately trashed in the committees. Source: <https://petition.parliament.uk/petitions/104349>

CHAPTER 5

WHEN CITIZENS INITIATE LAWS: THE POPULAR INITIATIVE

The idea of the citizens' initiative has its roots in ancient Greece, in the polis of Athens. Any citizen with the right to vote could - together with others – come forward with a proposal for a new law. This right is present in many Constitutions, but only in a few cases do citizens also have the right to vote on proposals desired by other citizens, if these proposals are not accepted by parliament. The popular initiative or simply 'initiative' is the second pillar of direct democracy alongside the confirmatory referendum.

The citizens in the role of legislators

In the history of modern democracy, the citizens' initiative was introduced for the first time in Switzerland in 1891. In addition, this right is found in almost half of the US federal states. The citizens' initiative was born out of the need to give the power of proposal back to the citizens, the real sovereigns, since in representative democracies, all legislative power is delegated to the representatives. What happens, however, if the representative body fails to address urgent issues, if it fails to find satisfactory solutions to impending problems, or if it implements a regulation that only serves the interests of a few? The almost total delegation of political power to the elected representatives requires instruments of citizen intervention that are capable of limiting the total freedom of elected politicians during the legislature.

The popular or citizens' legislative initiative is a fundamental right enshrined in many Constitutions. Let's take the example of Italy. According to article 71, paragraph 2 of the Italian Constitution, the right of legislative initiative also belongs to citizens, not only to members of the parliament. With the citizens' initiative, even ordinary

citizens can take the initiative, draft a bill or at least an outline for a regulation to be specified later by parliament. A minimum number of citizens (actually 50.000) must then support the proposal with their signatures so that it can be submitted to the representative body. Once the required number of signatures has been obtained and the proposal has been submitted to parliament, the latter is obliged to deal with it within a specified time limit. If the proposal is not accepted by the parliamentarians, it does not go to a referendum vote under Italy's current constitutional regulation. However, even in Italy, it is always elected politicians who exercise the role of legislators. Neither the regions nor the citizens have the right to call for a referendum if the parliament rejects their draft bill.

Without the right to a popular poll such a "citizens' initiative" is a blunt weapon. In Italy e.g., hundreds of citizens' initiative were to no avail, ignored or immediately archived by the parliament. Thus, the right to submit draft bills must be linked to a right to a popular referendum, whenever the elected politicians do not agree. With the real citizens' initiative, it is the citizens themselves who act as legislators. They are not only entitled to come forward with a political issue and to negotiate about it with the parliament, but also to recur to a popular referendum, whenever the proposal is rejected. Only in this case we may speak about "popular legislation". Together with the referendum as a right of control, the citizens' initiative forms the 'tandem of direct democracy'.

In Swiss law, a citizens' initiative can only amend the Constitution or the cantonal statute. 100,000 citizens have to support an initiative with their signature. If the initiative is rejected by parliament or the cantonal council, the people have the right to express their opinion. Even when initiatives do not get a majority of votes at the ballot box, they have an effect because a new topic is put on the political agenda, everyone discusses it and eventually parliament has to react. The referendum vote is only the last step in a long public debate and subsequent political negotiation between the initiators of the proposal and the politicians in the representative bodies.

In a well-regulated direct-democratic procedure, the parliament, the regional council and the municipal council must always have the right to a counter-proposal, especially when citizens make use of the citizens' initiative. This means that the representative body (parliament, etc.) must be able to respond to the proposal made by the citizens with its own proposal, approved by the majority of the representative body in question. Then there is a form of negotiation between the parliament and the initiating committee. If the compromise is not reached, both the citizens' proposal and the parliament's counter-proposal go to a referendum vote. The idea of a counterproposal is also feasible in cases of a confirmatory referendum, and is called a 'constructive referendum'. In addition to their request for a veto on a regulation desired by the parliament, citizens can submit a proposal for an alternative regulation, which is voted on by all.

Other rights of direct citizen participation

In the various constitutional systems, there are other secondary rights with which citizens can address political bodies. In addition to the two main instruments - the popular legislative initiative (a bill drafted by the citizens themselves, i.e. an act of 'popular legislation') and the referendum (a vote as a preventive check and as a condition for the entry into force of a law) - there are other instruments of participatory democracy that perform an integrative function although they do not have any binding effect on the political power and although they do not lead to an act of decision at the ballot box by the electorate. They are:

1. The popular advisory referendum: this is a popular vote by all those entitled to vote, which is equivalent to a legally non-binding advisory poll. This type of vote can be initiated either by citizens or by elected bodies to make clear the direction of public opinion on specific issues. The result of the vote gives a representative and democratic picture of the prevailing opinion in the population and is therefore of political importance. In Switzerland, the USA and Germany, this type of

referendum does not exist, since the concept of a referendum instrument without binding effect does not exist. In Italy, an advisory referendum is occasionally held, i.e. a body decides to consult the population on a particular issue in a non-binding vote.

2. The citizens' initiative bill (without a popular vote) is the possibility of bringing a bill drafted by citizens to a vote in a regional council (with a given number of signatures) or in parliament (with a minimum of signatures), without the obligation of approval by these bodies and without the right to a referendum whenever the draft act is rejected by the legislative assembly (unlike the popular legislative initiative proper).

3. The petition consists of a formal question submitted by the citizens to a political body, with the obligation of an answer from the body within a given time frame.

4. The right of recall from a political office: strictly speaking, this procedure is not one of the instruments of direct democracy, but it is nevertheless another instrument of guarantee in the hands of citizens. In some US federal states, such as California, some Swiss cantons and recently also Romania (2007) and Venezuela (2005), voters are given the right to trigger a popular referendum about removing an elected politician from his office. The "right to recall" as a kind of 'negative election' forms a part of the electoral legislation.

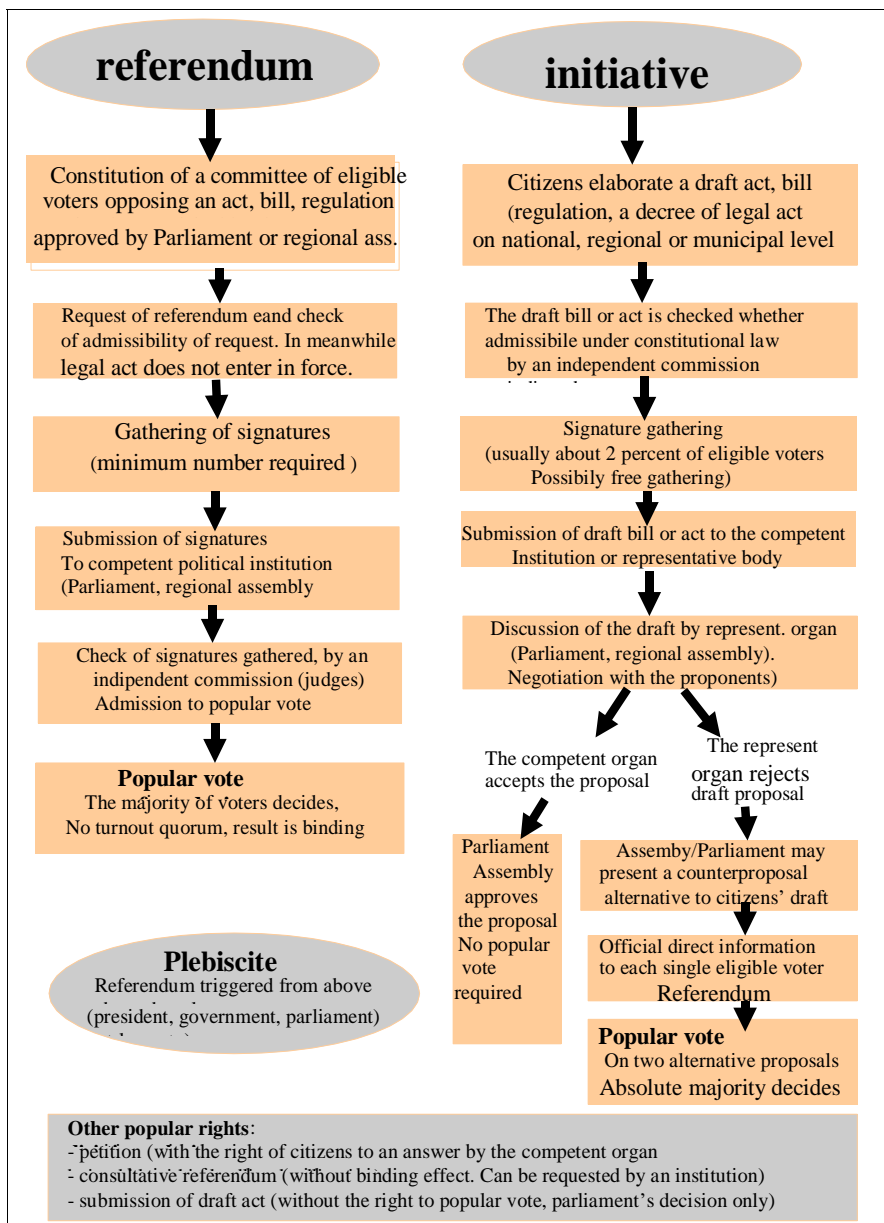
In general, however, referendum rights always refer to decisions on specific political issues and projects contained in laws or administrative measures of general interest, i.e. decided by an executive body, not to decisions about offices and representatives. Moreover, in direct democracy always the voters must have the last word. The sovereign, the citizens, must be able to decide. If this is not permitted, and one merely asks for their opinion, it would be better not to talk about referendums or direct democracy, but about deliberative democracy ('deliberation' not in the sense of decision, but careful consideration).

Table 1 – Popular referendum rights (direct democracy)

| <i>Type of referendum</i> | <i>Aim of the procedure</i> | <i>Kind of vote</i> | <i>Legal effect</i> |
|---------------------------|--|--|---|
| Citizens' initiative | Draft bill submitted by citizens without right to popular vote | Vote only in the parliament or assembly (represent. body) | Representative body may approve or reject the proposal. |
| Popular initiative | Popular vote on the citizens' proposal | Popular vote on new act submitted by citizens | Result of the vote is binding for the legislator. |
| | Abrogative referendum to cancel existing bills | Popular vote to abolish an act, triggered by citizens | |
| Optional referendum | To repeal a bill approved by the representative body | (confirmative) referendum | Result of the vote is binding for the legislator. |
| Mandatory referendum | Mandatory constitutional referendum | The vote can be requested by the citizens or by a minim. number of members of the parliament | Result of the vote is binding for the legislator. |
| | Optional constitutional referendum | | |
| Consultative referendum | Popular consultation on an issue without legal effect. | Popular vote | Result of the vote is not binding for the legislator. |

Note: In the international terminology of referendum rights, the main referendum rights are referred to as 'referendum' and 'citizens' initiative'. In some countries (e.g. Italy, Spain) the term 'referendum' is used both in the case of an abrogative referendum (a popular initiative to repeal a law) and in the case of a confirmatory referendum (only the constitutional referendum exists). This creates a lot of confusion in international comparisons, also because in Italy the same act of voting is simply called a 'referendum'.

Table 2 – Referendum and initiative: the procedures



the opportunity, after collecting a minimum number of citizens' signatures, to remove an elected politician (president, governor, minister) from office by popular decision.

Direct democracy, minorities and fundamental rights

In referendums, votes are cast according to the majority principle. 50 percent plus one of the voters decide, the losing party must respect the result of the ballot box. Is this a case of 'dictatorship of the majority' over the minority? In the context of direct democracy, a distinction must be made between two types of minority. The first type is the supporters and alternatively the opponents of a referendum proposal. In a popular vote, as in any parliament, one or the other can end up being in the minority, and therefore defeated. But as in elections, everyone can find themselves among the winners one time and among the losers the next.

'Structural' minorities are another matter, i.e. religious minorities, ethno-linguistic minorities, minorities according to sexual orientation, minorities with disabilities. These are minorities characterised by a social quality that either cannot or will not change. For these groups there is often a specific regime of protection and a ban on discrimination based on the specific characteristic. To give an example: in Italy there is a religious minority of Waldensian evangelicals and Muslims, recognized by state law; moreover, there are 13 linguistic minorities recognised under Article 6 of the Constitution, but there is no "recognised minority" of farmers who use pesticides, dog owners, off-road motorcyclists or smokers and similar groups.

Every citizens' initiative bill is examined on possible violations of fundamental rights or anti-discrimination rules against these structural minorities. The final decision on whether a popular proposal is allowed to be put to the vote is taken by the Supreme Court or a regional or municipal committee of guarantors. Even after the referendum vote, the result can be challenged before the Constitutional Court by the people

directly affected. Any articles that are incompatible with the Constitution can be removed in negotiations between promoters and parliament. In any case, the rule of law, based on the Constitution and international conventions on human rights and fundamental freedoms, cannot be undermined even by referendum votes.

In Switzerland, the number of referendum votes cast concerning minorities (religious, ethnic, sexual orientation, foreigners) is not high. Between 1866 and 2013, 577 votes were recorded at federal level. Only seven of the questions concerned the rights of religious minorities, while three questions concerned the rights of foreigners and asylum seekers. In addition, only one vote concerned the recognition of same-sex couples. All in all, in 150 years there have been 45 federal votes on 'structural' minorities, i.e. 8% of the total number of votes taken. Not all of these votes were negative for the minorities concerned. The Swiss federal law introducing the registration of homosexual couples was approved by the electorate. With regard to confirmatory referendums, 42 percent of the improvements desired by the federal or cantonal parliaments in favour of foreigners living in Switzerland were contested and then rejected by the electorate. This means that 58 percent of the federal laws with this content were not contested by the citizens, who therefore agreed with reforms for the rights of foreigners.

Most of the 45 votes on minority rights were referendums, i.e. the population was called upon to vote on a bill issued by parliament. Very rarely in Switzerland are there any popular initiatives with which citizens propose a deterioration in minority rights. In 150 years, i.e. from 1866 to 2014, there were not even 20 popular initiatives in Switzerland that were hostile to minorities. Only four of these initiatives were accepted:

- 1893 a popular initiative to ban Jewish and Muslim slaughter;
- 2009 the popular initiative against the construction of minarets;
- 2010 the popular initiative for the expulsion of foreign criminals;
- 2014 the popular initiative against 'mass immigration'.

All other popular initiatives concerning minorities were rejected by the Swiss population, such as the SVP (Swiss People's Party) initiative not to recognise people from safe third countries as political asylum seekers. The same was true of the SVP's proposal for an immigration regulation in 2000 to limit the proportion of foreigners in the total population to 18 percent. Only 36 percent of those entitled to vote approved this popular initiative. Today, more than two million of the resident population in Switzerland are foreigners (foreigners' share of 25,1 percent in 2017). Of these, 15.4 percent are Italian citizens, who constitute the largest group of foreigners. This share is 2.5 times higher than in Italy and 3 times higher than the EU average.

The Swiss have opted for a system of direct democracy in which citizens can decide on almost any matter, with the only limitation being compliance with the Constitution. But in Switzerland, there is no Constitutional Court that can definitively decide on the constitutional incompatibility of a popular initiative question. The subjects of initiatives are defined freely by the citizens, the population is sovereign in the exercise of direct democracy (see also chapter 10 'Switzerland').

Often, politicians who are against any strengthening of direct democracy envisage horror scenarios if it were up to the citizens to decide on major political issues. The referendum on BREXIT in the United Kingdom in 2016 is cited as proof of this assumption, without, on the other hand, contesting the dozens of previous referendums on the accession of a state to the EU. On the one hand, the citizens are regarded as the 'oxen', uninformed and aroused by populist slogans, on the other hand, parliaments are presented as places of enlightened sages, always aware of the rights of minorities.

The reality of parliaments is different and there are countless examples where parliamentary majorities have approved decisions at the expense of one or other minority. In democracy, both citizens and political representatives can be and are mistaken. Finally, even if citizens were able to decide freely on almost any political matter, they could not

violate those fundamental rights and rights of minorities, which are protected by supreme law and international conventions.

First of all, any decision taken in a popular referendum should be compatible with the Constitution, the international conventions ratified by the respective state, and the European Convention of Human Rights (ECHR), just as laws passed by the parliament are. All European states are a part to the ECHR. Most European Constitutions prohibit any discrimination of minorities and persons on the basis of their race, language, religion, gender and political conviction. The case law of the European Court of Justice and the ECHR also protect minority rights and human rights. As a rule, all Constitutions of Western democracies guarantee minority rights and prohibit discrimination on the basis of race, religion, gender, marital status, sexual orientation and political conviction. Various laws resulting from citizens' initiatives in the USA have not been able to enter into force because they conflict with the Federal Constitution. A case in point is California's Proposition 14, which aimed to allow property owners to disadvantage black people. The proposal, which was accepted by the electorate, was declared unconstitutional by the US Supreme Court.

Others propose a high participation quorum to protect minorities. It is alleged that small groups or a radical party can mobilise their followers and sympathisers for an extremist referendum question, while the majority of the population would stay at home because they are not interested. Experience in Switzerland and the USA shows that referendum votes on minority issues achieve above-average attention and participation. The mobilisation of proponents provokes the commitment of opponents and opponents: the best protection is a civil society with a high level of open political debate. This culture of fair and peaceful political confrontation is promoted by direct democracy. But there must be sufficient time for all sides to be heard and to be listened to, and for serious and peaceful debate to develop. In conclusion, the Constitution protects the rights of minorities both vis-à-vis parliament and vis-à-vis referendum decisions.

Italy: unnecessary 'popular' bills?

According to article 71, paragraph 2 of the Italian Constitution, 50,000 citizens in Italy can jointly submit a legislative proposal. This proposal does not give the right to a referendum if it is rejected by the parliament, which can also immediately shelve the proposal or simply not express an opinion on it. As a rule, the whole procedure ends with a brief debate in the competent committee. You have to be luckier than in a scratch card to get a 'popular' bill passed. In the period 1979-2014, out of a total of 260 citizens' initiative bills submitted, 153 were never debated in parliament, 104 were rejected and only three were accepted, as Openpolis.com reports. The three proposals that became law date back to 1983, with the introduction of the so-called Protection of Minors, another to 1992, with restrictions on hunting and the simultaneous protection of the environment, and the last one to 1996, with new regulations on compulsory schooling. These three laws have only become such because they have been merged into Unified Texts with proposals of parliamentary or governmental initiative.

There are also no clear deadlines within which the parliament is obliged to deal with proposals. Often citizens' draft bills deal with important topics for society and the economy and are signed by hundreds of thousands of citizens. The proposal to cancel the unitary police trade union was signed by 500,000 people, one on support for the elderly, put forward by the trade unions, by 494,000 people, new regulations on the origin of food even by 1.5 million citizens. In other words: the citizens' legislative initiative is literally mortified in Italy. The only remedy would be to introduce the genuine popular initiative on the Californian and Swiss model, i.e. to put a 'popular' bill not accepted by parliament to a referendum vote.

But it is not only the tireless promoters of citizens' initiatives who should be frustrated. The parliamentarians themselves do not fare any better. And to realise this, one has to analyse another statistic, which looks specifically at this legislature, writes Il Tempo online. In the 2013-14 period, only 26 bills proposed by those elected to parliament,

out of almost 4,000, were approved, even in unified texts: If the approval rate for the government is 20 percent, here we do not even reach 1% (0.66 percent). It is shocking that almost 4,000 bills are sitting in Parliament's drawers gathering mould. Between bills presented just to make up the numbers, and those for which there is no time to discuss, the proposals of parliamentarians are increasingly becoming a waste of time, writes *Il Tempo*.

To back up this reasoning, it is even more interesting to see the percentages with which the various parties "hit the target": the best result (if we can call it that) is obtained by SEL, which, out of 86 proposals presented, has seen four approved, i.e. 4.49 percent. The Democratic Party deposited more than 1,400 proposals, of which only 11 became law (0.77 percent), the percentage increases for Forza Italia (1.11 percent) and Scelta Civica (1.77 percent). All the other political forces do not go beyond 2 percent.

In short, the bottom line is that in Italy legislative initiative seems to be entrusted in absolute prevalence to the Government, and that the Chambers (whose members are appointed by the parties, except for leaving the decision on the numerical weight of each political force to the electorate) are in fact reserved a role essentially of control and modification. Citizens and their right to initiate legislation, enshrined in the Constitution, are given an absolutely marginal role, which is mortified by the current regulations for the acceptance and discussion of proposals in Parliament.

CHAPTER 6

THE DESIGN OF DIRECT DEMOCRACY

In the previous chapters, the central instruments of direct democracy were described. The citizens' initiative allows citizens to introduce, propose, amend or repeal laws (propositional and abrogative referendums). In order to verify whether a law passed by a legislative body (parliament or regional or municipal council) has the support of the population, the optional referendum must be activated. But the best referendum instruments are of no use if the rules for their use and for the conduct of referendum voting are poorly made. The quality of direct democracy depends on the concrete regulation of these procedures and their framing in political decision-making processes.

Good rules essential for operation

At each stage of a direct democracy procedure, there are important elements to regulate that can encourage or discourage citizens from using them. The 12 most important procedural elements of direct democracy are as follows:

1. On what subjects can citizens vote? Which political subjects, on the other hand, should be excluded from any direct-democratic procedure in advance?

The basic principle is this. The citizens as sovereigns in democracy should be able to decide on every political issue that their elected representatives also decide on. The only exceptions would be the rules of procedure and the budget plan of the Parliament or Council itself, as well as the budgets proposal of the respective political body.

A supreme limit for the admissibility of a referendum question is, however, given by the Constitution, international conventions ratified by the state, the regional or sub-state entity statutes. A referendum must

always deal with issues that fall within the powers of the respective level of government. Public expenditure, levies, taxes do not necessarily have to be excluded from referendums. In other countries, financial issues are among the most popular questions in initiatives and referendums (→chapter 10). Since decisions with a major financial, environmental and social impact are often taken by the government by decree or by regional councils by resolution, it is essential to allow referendum votes on these acts too.

2. Access thresholds: how many supporting signatures are required to be entitled for requesting a referendum vote?

Access threshold in this context means in concrete terms: how many citizens' signatures must the proponents of a referendum collect in order to obtain the right to a referendum or a citizens' initiative? There are reference values for a reasonable measure of these thresholds, for example in Switzerland, where at cantonal level an average of 2.3 percent of the total number of eligible voters in that canton is required. The highest threshold is in the canton of Ticino with 5 percent. In Italy, at least 500,000 voters must sign a request for a nationwide abrogative referendum, which is equivalent to approximately 1 percent of those entitled to vote in the parliamentary elections in March 2018. In the Autonomous Province of Bozen, 13,000 signatures are currently required to initiate a popular initiative. In Lombardy, such a request must be signed by 20,000 resident citizens entitled to vote. A reasonable, non-exaggerated threshold is between 2 and 5 percent of citizens entitled to vote.

3. The way to collect signatures

Discourse, direct information, communication between citizens is one of the decisive elements in referendum procedures. The collection of signatures is a phase in which one comes into contact with one's fellow citizens and tries to convince them with a new proposal. Therefore, the

collection of signatures must take place in public places or meeting places, but without requiring the presence of a public official to authenticate the signatures. The complicated requirements in Italy for the authentication of signatures at the moment of signing make this civic engagement burdensome and difficult. Promoters find it difficult to be accompanied by public officials, and citizens find it difficult to go to town halls to sign a referendum proposal. Signatures on the spot on the spot must be certified by any citizen, under criminal responsibility and on the authority of the mayor. It would then be up to the municipal offices to verify the data of the signatories at a later date. Today, in most countries, signatures are freely handed in at the collection points and then checked by the electoral offices. The authentication of signatures by a public official is an outdated Italian peculiarity.

4. The admissibility check

There must be a neutral body (commission) responsible for verifying the admissibility of a referendum question and controlling the entire referendum process. The verification of the constitutional compatibility of a proposal, which is the exclusive competence of the Constitutional Court, does not fall within the competence of such a commission. Legal admissibility must be verified before the referendum vote. The verification of constitutional compatibility can also be allowed at an early stage of signature collection, so that the electorate is not called upon to vote on a non-constitutional question, which would result in the waste of considerable public funds. Legal challenges against a rule that has entered into force thanks to a referendum vote are not excluded, but this also applies to all national and regional laws passed by representative assemblies. Review commissions are usually composed of magistrates, but they do not necessarily have to be just judges: other experienced legal experts can also be called upon to perform this function.

The majority of countries and sub-state entities which allow direct democracy rights now have such guarantee bodies. They are variously named (Guarantee Council, Guarantee Committee, Commission for Referendum Procedures, etc.), but the substance is that the judgement of admissibility and other relevant legal checks are transferred from the political body to a commission supposed to be independent and impartial with respect to political parties. Moreover, moving the judgement on the admissibility of referendums and popular initiatives to a time before the collection of signatures is certainly strengthening direct democracy, because it avoids the uncertainties, confusions and frustrations inherent in a decision that comes only after the collection of signatures has already been completed.

5. Collection periods and periods when referendums are prohibited

How much time is left for citizens to collect signatures? Time in referendum procedures plays a very important role. The longer the period for collecting signatures, the more time is given to the proponents to get their messages across, to inform citizens and to involve them in their efforts. According to international standards, this period ranges from at least six months to one year. In the case of the popular initiative in Switzerland, it is as long as 18 months. Periods of prohibition of referendum activities before and after elections hinder the holding of a democratic vote of equal dignity, i.e. a referendum on a question of importance to the community. Sometimes regional laws prevent referendum activities in the 12 months before elections, which is far too long. Such a rule implies that citizens for a year before the elections cannot think about anything other than where they are going to tick the box.

6. The turnout quorum

A quorum invites the opponents of a referendum proposal to boycott the whole process, from information to debate to participation in the

vote. The quorum is an implicit invitation to the political forces opposed to a question to abstain. With the quorum and the subsequent boycott, the 'real opponents' against the proposal are added to the abstainers (undecideds), forming a fictitious alliance of the disinterested, prevented for a thousand different reasons, and the strictly opposed. No election, on the other hand, is cancelled due to the absence of non-voters, disinterested and undecided.

By the nature of political issues, most initiatives coming from the electorate do not affect the whole population, but always only a very considerable part, otherwise they would not have crossed the signature threshold. The votes of those citizens who do not go to the polls are to be considered in the same way as the votes of those citizens who do not vote in the elections: abstentions and nothing more. Abstentions cannot be equated with votes against.

The turnout quorum is a mechanism that does not protect minorities - a mystification - but adds up the votes against the referendum question or proposal with the 25-30 percent of voters who regularly do not go to the polls for a thousand non-political reasons. Without a turnout quorum, referendum voting works like elections: those who vote decide, those who do not vote leave the decision to others. The examples of Switzerland, the USA, United Kingdom and many other countries with referendums without a quorum show that direct democracy does not need a turnout quorum to function. The rules of citizens' participation must encourage and not discourage citizens from exercising these rights at the ballot box. A quorum has exactly the opposite effect (→A decalogue against the turnout quorum, p. 94-96).

7. Public accountability and parity of information

In a democratic system, citizens should have the right to be sufficiently informed about political issues, including by public institutions. In addition, as the Italian *par condicio* (equal and fair chances) regulation provides, they should have equal access to the public media. The

political positions in a referendum campaign, the questions on which everyone is called upon to express an opinion, the pros and cons of a question, briefly explained by the proponents, should be presented in a form that can be understood by everyone and published in all available forms. Therefore, it will be the task of the public body to edit a paper and digital booklet, containing the proposals put to the vote, the arguments for and against, procedural notices and other useful information for the citizen. This booklet should be delivered in good time to each eligible voter and made available for download from the website of the body organising the vote.

8. Involvement of the representative body

Direct citizen participation should not bypass the parliament or assembly, but in a first phase aim at finding a common understanding in the search for the best solution to a problem. Parliamentary work and citizens' initiatives should dialogue in order to find a compromise or at least a solution acceptable to all. In the case of a citizens' initiative, the initiating committee enters into negotiations with the parliament or the regional council, and the representative body has the right to approve and put to a referendum its own alternative proposal (the 'institutional counter-proposal').

9. The manner of voting

At present in most countries the vote at the ballot box is still the most common way to vote in referendum votes, with the exception of citizens resident abroad who can also vote by post. Postal voting is the most widely used form of voting in Switzerland, Germany and some states in the USA. Oregon even allows only postal voting (→Postal voting p.72-73). This form of voting offers considerable advantages to the citizen and considerable savings to the public body. Electronic voting via the Internet has been established in various countries (→chapter 14 Digital democracy and direct democracy).

In general, there are the following methods for referendum voting:

- assembly (vote by raising hands or ballot box in the hall)
- ballot box at polling stations
- postal vote (by post)
- electronic voting (Internet)
- a combination of the last three forms (ballot box, post office, Internet)

In Switzerland, only two cantons still practice the 'Landsgemeinde', the annual cantonal assembly of all citizens with a legislative function. Laws and the budget are approved by a show of hands. However, 70 percent of Swiss municipalities have a municipal assembly that decides by a vote of all the citizens present (open or secret). In referendums, however, today most Swiss people vote by post. In addition, since 2015, Swiss living abroad have had the right to vote electronically via the Internet, a right that has been extended step by step to all Swiss citizens in the course of 2019. From then on, the Swiss will be able to use three voting methods, in addition to direct participation in the traditional "Landsgemeinde" (only functioning in two cantons) and the deciding municipal assembly (in small communes).

10. Financing

Committees promoting a referendum or an initiative are always confronted from the outset with the question: how do we cover the costs? Like parties in the case of elections, citizen initiators are also entitled to be reimbursed for the costs of collecting signatures. The legal advice in the drafting of the proposal, the collection of signatures, the referendum campaign and the information entail considerable costs, which are difficult for small associations and citizens without means to bear. By analogy with the reimbursement of election campaign expenses, the public body is obliged to reimburse the initiators for part of the costs incurred for their initiative or referendum. Public support

usually consists of a contribution for each signature collected until the minimum number of signatures required is reached.

11. Duties of transparency

Transparency duties are important for several reasons. Each campaigning committee must make it clear how it covers the costs of its referendum initiative and from which third parties it is financed. The sources of funding for both proponents and opponents must be made transparent, so that all citizens can gain a full picture of the parties involved and their financiers. Public institutions, on the other hand, are not allowed to participate directly in referendum campaigns.

12. Implementing and guaranteeing the results

At this stage it must be ensured that the will of the majority expressed by the ballot box is respected and thus translated into legal reality. The verdict that comes out of the ballot box cannot be overturned by the parliament or the regional council in the short term. On the other hand, like all laws passed by parliament, the results of a referendum vote can be challenged before the Constitutional Court. The protection of the result of a referendum on a legal-political level basically means preventing this result - a bill, the amendment of an existing law or its repeal - from being circumvented in any way by the political majority in parliament. This phenomenon has occurred several times in Italy. The result of a referendum must be valid and guaranteed for a minimum of years, which is laid down in the implementing law.

The quality of direct democracy is determined by the rules governing the conduct of the referendum process and how this fits into the legislative process in the legislative bodies. These rules are then the litmus test for assessing in practice the actual practicability of the direct-democracy instruments provided for in the current legal system.

The European Commission for Democracy through Law (Venice Commission) of the Council of Europe has adopted a 'Code of Good Conduct on Referendums' (17 March 2007), which to a large extent coincides with the application rules suggested in this text. To achieve a well-developed direct democracy, in a nutshell attention must therefore be paid to the following aspects:

- No unfounded exclusion of single political subjects

Generally spoken, no political subjects should be excluded from referendum rights. With the exception of budgets, the rules of procedure of parliament and councils, amnesty and pardon, there must be no matters that cannot be put to a referendum. Referendum questions must be compatible with the Constitution and the respective competences of the level of government in question.

- An independent commission of guarantors

The commission called upon to judge the admissibility of a proposed citizens' initiative law or a request for a confirmatory referendum must be composed of independent experts, not necessarily all magistrates.

- A not exaggerated number of signatures of supporters

The 'access threshold' to a referendum vote must not be so high as to make this right inaccessible to citizens not organised in large structures. As a rule, the number of signatures should lie between 2 and 5 percent of those entitled to vote. As a rule, this number should not exceed the number of votes required for the election of a member of the respective representative assembly.

- Citizen-friendly methods of collecting signatures

The principle of citizens' responsibility should be applied at the time of self-certification. It is important to be able to collect signatures freely, with subsequent verification by electoral offices. Supporting signatures can therefore be certified by any citizen delegated by the mayor for citizens residing in the same municipality.

- Involvement of the Parliament and the right of counter-proposal

In direct democracy procedures, elected politicians play an important role. In addition to scrutinising popular proposals, the parliament must be able to approve and put to a referendum vote a 'parliamentary counterproposal'. Thus citizens can choose between three options: the popular proposal, the parliamentary counter-proposal, the status quo (neither). In the special case of the constructive confirmatory referendum, citizens have the right to a counterproposal.

- Adequate time for the collection of signatures

In referendum procedures, there must be ample time for information and public debate. The government and the administration, in the case of citizens' initiatives, must have enough time to hear both the initiators and the parties involved, to then discuss and approve a counter-proposal, or to formulate their own position, which can also be an abstention from any position. In Switzerland, between 12 and 18 months are available for this purpose.

- No turnout quorum

Those who are interested in the question and the problem put to the vote participate and decide. Whoever does not vote abstains, and is therefore not counted in the result in the same way as the non-voters in the election. Those who do not vote leave the decision to their fellow citizens (see the following 'decalogue against quorums').

- Regular and fixed voting dates

Every year it must be predetermined on which days people will vote in a possible referendum ('voting Sundays'). Thus referendum voting cannot overlap with elections. Excessively long periods with a ban on referendum activities should be avoided (e.g. a year before and after parliamentary or regional elections), because they excessively delay the processes of direct participation.

- Objective information of all those entitled to vote

Institutional information and the comparison of the various positions at stake should be given maximum attention. All voters have the right to

receive an official information booklet drawn up by the competent public body on the various options put to the vote. Municipalities and public offices will also be able to use electronic channels.

- Transparency in financing and reimbursement of expenses

In every referendum campaign, the sources of funding of the parties involved must be made public. Who finances what? As in elections, citizens' initiative organisers are entitled to reimbursement of expenses according to an amount fixed by law for each signature collected. If the political body publicises its counterproposals to the referendum, the initiators of the initiative must have equal access to funding for their campaign.

- Legal advice for citizens

Like members of parliament, citizens should also be able to benefit from free legal advice from the public body in order to draw up their draft bills and referendum questions.

- Guarantee clause of the voting results

The result that comes out of the ballot box must be guaranteed, i.e. it must not be overturned by subsequent parliamentary or government deliberations. The result of a referendum vote must be respected and applied for a predetermined minimum period.

Important, however, is the option to be reserved for citizens to introduce and change these rules, using the popular initiative and the confirmatory referendum. As in the case of electoral law, it is up to the sovereign citizens to lay down rules both for the election of their representatives and for the exercise of direct participation. It would be a contradiction to give representatives a free hand to decide for themselves how citizens can apply their powers.

The postal voting

This is a voting method for both referendums and elections, in which voters receive their ballot papers by post and, after voting, return them to the polling station or office. In some states, this system can be used by the citizen on request, in other states it is applied as the only voting system that has replaced the classic ballot box and polling station. Since 1998 in the US state of Oregon and in New Zealand voting at state level is completely postal. In Switzerland, almost 80% of voters choose this method.

How does postal voting work? About three weeks before voting, ballot papers and other information are delivered to each person entitled to vote. To vote, he or she marks the list, candidate or referendum option, and then places the ballot paper in a special envelope. This sealed envelope is inserted into another envelope for postal delivery, which is also signed and sealed. In each country, a deadline is set for postal voting to be valid. In Switzerland, for example, it is 12 noon on polling day or election day. The secrecy of the vote is ensured by separating the completed ballot or referendum papers from the envelope. All envelopes received by the office or polling station are checked to see if the signature matches the pre-registered one. The envelope with the ballot paper, which has no address, is placed in the ballot box, then mixed with the other ballot papers. Each stage of voting is public, voters may check whether it is correct.

The strengths of postal voting are that it reduces the cost of voting, increases voter participation, simplifies the counting of votes and offers a number of practical advantages to the citizen: there is no need to queue at the polling station, there is no confusion about which polling station to go to, there is no need to hire and train polling station staff, there is the possibility of recounting votes as each ballot sent by post is equivalent to the traditional ballot inserted in the ballot box; bad weather, illness or lack of time are no longer obstacles to voting. For these and other reasons, postal voting is appreciated by citizens, especially in the case of referendum votes. In such cases, postal voting

gives citizens plenty of time to inform themselves, read, think and decide in peace at home instead of at the polling station.

The main criticism of postal voting concerns the alienation of the citizen and the possibilities of coercion. According to the first assumption, citizens would lose the opportunity to feel like members of a community of citizens by no longer voting physically in a single public place. According to the second assumption, voting at home could be influenced by a family member or a third party. Others claim that voting weeks before polling day could deprive the citizen of the opportunity to change his mind at the last moment in front of the last twists and turns of the electoral campaign. Finally, there could be fraud due to the fact that someone could fill in the ballot papers and send them as a vote for a third person. But in all these hypothetical cases, we do not rely on the image of a mature and responsible citizen who, in addition to making self-certifications, can also freely cast his vote from home and send it by post. On the other hand, the principle of trusting the state authorities in the honesty of the citizens should also be upheld in the case of elections and voting.

CHAPTER 7

WHO TAKES THE FIELD? THE ACTORS OF DIRECT DEMOCRACY

Direct democracy is a 'game' with multiple actors and participants, while allowing citizens to play the role of protagonists on the field rather than just spectators in the stands. Whereas in the purely representative system, it is only the elected representatives who sit at the table and dictate the rules of the game, with direct democracy the citizens, the sovereigns in their own right, are added. In any good regulation of referendum rights, a crucial role is also reserved for other institutional actors. Parliament, regional and municipal councils set the rules of the game and react to popular proposals, representative bodies negotiate with referendum promoters, other offices take care of official information, and the courts act as arbiter or deal with citizens' complaints. Only two acts are no longer within the exclusive power of elected politicians: they cannot prevent the game from being played and, if the citizens demand it by means of referendums, they must change the rules.

Parliament and regional and municipal councils

In a system of representative democracy supplemented with mechanisms of direct democracy, the legislative procedure does not end with the approval of a law, but only with the closure of the deadline for the optional referendum and the subsequent promulgation of the law. The legislative initiative, as already provided for in the Constitution, is not only reserved for elected representatives, but for all citizens, who will also be endowed with the right of veto (confirmatory referendum), an ancient tradition of the Roman political system. On the other hand, the parliament has the task of receiving and deciding on a proposal submitted by the citizens. It can essentially accept it with the

consent of the initiators, avoiding a popular vote. Or, in the absence of agreement, it can put its counter-proposal to a referendum vote. This is not yet possible in Italy today, whereas it has been regular practice in Switzerland for almost 150 years.

The parliament does not come into play as a united front in such cases. As a rule, in the case of an optional referendum, the majority will defend its bill, the minority will take a different position. The orientation of the parties within the parliament with regard to the question nevertheless serves as a guideline for the citizens.

In this 'game' between elected representatives and the electorate, it must always be borne in mind that direct democracy is not about expressing confidence in one or other party, but about concrete problems. Opinions and majorities are formed across party lines. Therefore, neither elected representatives nor citizens are required to have a mandate. A referendum vote should not be interpreted or exploited as a vote of confidence in the government or the majority, as is often the case. After the popular vote, the elected bodies are asked only to respect and implement the result.

The executive: governments

Can members of a regional or municipal government or council or senior civil servants take sides in a referendum campaign? Or must the government and the administration in general refrain from any propaganda activities in referendum votes? Even more sensitive would be the direct involvement of public bodies and publicly owned companies (post office, railway, public media, Telecom companies, banks, etc.), possibly with the use of their financial funds. It is occasionally observed that mayors or governors of municipalities and regions make a personal commitment for or against a referendum question. Is this permitted in a good practice of direct democracy?

It is disputed whether governments and councils can intervene with their own means, infrastructure and funds in a referendum campaign.

This would create a major imbalance, because governments with the public funds of all taxpayers could massively influence public opinion, so that the democratic confrontation between different positions in society and the political world would end up being distorted. The same applies to public enterprises or publicly owned companies. If they were allowed to take the field as players, fairness and equality would be severely compromised.

The executive often sees direct democracy as an obstacle, because it gives citizens the opportunity to block a law or a project. Their acts and deliberations can be subject to a confirmatory referendum, i.e. a veto by the citizens. Their acts and resolutions can be submitted to a referendum, i.e. a veto by the citizens. If rejected in the popular vote, they do not come into force. But we are far away from the 'paralysis of the legislative machine' feared by the enemies of direct democracy. These fears are unfounded, otherwise Switzerland would be an ungovernable country that has been paralysed for decades.

Referees: jurisdiction

In any game, there are often those who use tricks and fouls. This also applies to direct democracy. It is up to other public and neutral actors to act as referees. As a rule, specific commissions are set up to examine all the formal aspects of a proposed citizens' initiative law. The wording of the question, the admissibility of the proposal, the number and authenticity of signatures, compliance with deadlines - all of these must be checked by public offices and 'guarantor commissions'. The expenses of the promoters' committees must also be checked, as well as any maximum referendum expenditure allowed. The decisions of these committees can in turn be challenged before the courts.

As a rule, these guarantor commissions are composed of magistrates and legal experts. Courts often come to different conclusions than political bodies, but judges also interpret laws and referendum proposals in different and conflicting ways. In Italy, for example, the

Constitutional Court in numerous cases has declared referendum subjects as inadmissible for purely political reasons. The courts are involved in various stages of the game of direct democracy. However, the role of the Constitutional Courts in democratic systems is essential because laws, regardless of whether they are approved by parliament or the people, must comply with the Constitution. In Switzerland, the federal court can declare cantonal and municipal referendums null and void, but not federal referendums. There is no Constitutional Court in Switzerland. The guarantors and magistrates therefore appear as referees on the playing field of direct democracy, but they sometimes encroach on the political field and end up playing the role of players.

Parties are political groupings united by the same interests and ideologies, and as such are essential to representative democracy. Through elections, they divide up seats in parliaments, councils and in the executive bodies. It is no coincidence that in Italy the term "partitocracy" (political party's rule) has been coined: traditional parties make inordinate use of public finances and the powers of public bodies, a system that has led to enormous political clientelism and privileges that are unattainable for the caste of professional politicians.

On the other hand, parties are central players not only in the management of power and the selection of political staff through elections, but also in referendum battles. Parties, in cooperation or opposition with civil society and associations, can also make use of referendum rights. However, with direct democracy, the importance of parties as the only actors on the political stage is reduced, because free and self-governing citizens, not organised in parties, are brought into the picture. The governing parties are generally opposed to enhanced referendum rights because they fear a loss of power and control. Opposition parties are rather in favour because they gain a means of action and greater legitimacy for alternative proposals. Although direct democracy should primarily offer an instrument of articulation to citizens and not to parties already present in parliaments, parties can

still present themselves as associations of citizens engaged in politics and thus express legislative proposals in a direct form.

In Italy, for years, it has been a small party, the Radicals, that has emerged as the 'party of the referendum', launching a whole series of abrogative referendums. Other parties have attempted to challenge the government majority through referendums, turning them into votes of no confidence in the government. This is not the purpose of direct democracy. Finally, there are also governments themselves that can initiate consultative referendums to let the people have the final say. This last option falls under the plebiscite type described above, i.e. referendum votes that are not called for by the citizens, but by the rulers. No-one can prevent party members from launching a referendum proposal, but the main role in this game still lies with the citizens as such, not the parties.

Civil society and citizens

With the procedures of direct democracy, citizens obtain an instrument of direct participation in political decisions. In order to use it, they usually have to organise themselves into committees and associations and seek the support of the world of associations and organised civil society.

Platforms of associations and NGOs, committees, etc. are often formed. of citizens to prevent or promote a specific project or intervention. These ad hoc platforms often succeed in building a broad consensus and have a high chance of success. In an analysis conducted in 2014 of all 537 national referendums held around the world from 1874 to 2013, the success rate of referendums launched by civil society groups was 38.4 percent, while the success rate of opposition parties stood at 24.9 percent. The majority of all these referendum votes (336) took place in Switzerland alone (Qvortrup, 2014, 252).

Civic committees are born out of an immediate need for public action or resistance, they do not have an articulated structure, are not

represented in parliament and often pursue only one specific aim. After the popular vote, they disband. The mobilisation succeeds because it is focused on the moment of the popular decision, the financial resources are modest. In Italy, too, there are hundreds of such initiatives - against hunting, against nuclear power stations, against drilling along the sea coast, etc. - which have attracted a lot of interest and have been successful in winning their case through the referendum instrument.

However, for such groups and committees the instruments of direct democracy are a major challenge. These groupings of often small associations address the electorate of an entire region or even the whole state, trying to convince the majority to go out and vote for their proposal. These groups cannot claim to be 'the people', but with the few resources available they have to carry and explain their message to the entire population. This commitment is a great communicative effort that makes politics more interesting and more alive.

Of course, the large business corporations and other large associations such as trade unions are also free to use the instruments of direct democracy. However, economic groups are not among the most convinced supporters of referendum rights because they find more direct and incisive channels for reaching the political power holders in the parties and governments. Targeted lobbying of rulers pays more than the referendum route, which requires the effort to convince at least half of the voting citizens.

In referendum votes, majorities are sometimes formed against the interests of large organisations and the strongest political parties, irrespective of whether they are trade unions or business groups. What is important is that all citizens are free, without a filter and without party support, to launch a popular initiative or a confirmatory referendum. Therefore, a good system of referendum rights makes politics fairer and more accessible.

The media

Democracy and freedom of opinion and expression are inseparable. All citizens have a fundamental right to information and freedom of expression. Freedom of the press and freedom of the Internet are rights guaranteed by the Constitution and various international charters. However, this does not mean that media power is distributed equally and that every citizen has an equal chance to influence public opinion. Anyone who fails to make his or her own interests and proposals heard is as if he or she does not count and does not exist at a political level. Lobbies do nothing but exploit every possible means to make themselves heard by those in power. The instruments of direct democracy also serve to make the voice of 'ordinary' citizens, not supported by large media groups, heard. They have to find collaborators, supporters for the preparation, collection of signatures and the referendum campaign. What role does the media have in the referendum process?

As in all political life, the media are one of the most important players on the field when it comes to implementing direct democracy. It is no coincidence that in authoritarian regimes, rulers primarily aim to control the media and the Internet. In this way they not only control information, but also exclude opponents from communicating with the public and their supporters. The opposition is strangled with silence. Those who control the media manage the flow of information and steer public opinion according to their own tastes. Only the news published in the big media carries weight, even though the Internet has opened up more self-managed space for free political information and communication. Being cut off from the big media is tantamount to being deprived of fairness regulations, of the free competition of ideas in a democratic system. The power of the autocrats in Russia, Turkey, Iran, Egypt, etc. is based not only on force, but also on the control of information, which, behind a democratic facade, ensures easy majorities for the powerful.

In the application of referendum instruments, the media therefore play an essential role. With word of mouth and social media alone, it is difficult to collect the necessary signatures and votes required to win a referendum vote. In order to be able to launch an argument widely, reach broad strata of the population, and gain attention and relevance, it needs to be proposed by the major newspapers and TV channels. On the other hand, the media themselves are also interested in taking up the arguments brought forward by citizens through direct democracy, because these are political events of great weight and relevance. The media feel encouraged by the citizens who are their readers.

However, the power of the media must also be regulated in order not to turn into a dominant power and to ensure fairness. To this end, regulations such as the fairness regulations in the access of citizens and political forces to public media have been incorporated into media and information law. The media, in the context of referee campaigns as well as election campaigns, are obliged to respect the rule of fairness regulations, i.e. to guarantee equal time and space to all the contestants in a referendum vote, without discriminating against or favouring anyone. The press and private electronic media are not subject to the same obligation, so in an information market that is increasingly dominated by a few large newspapers, it is even more important to guarantee neutral and official information delivered directly to the homes of every person entitled to vote.

But do citizens want to play this game?

Among the skeptics of direct democracy are those who assume that in real democracies today, elected politicians do not count so much, let alone citizens who express themselves in sporadic referendum votes. The forces that really count in political life would be quite different. This is the approach that assumes the existence of hidden actors, hidden puppeteers whose interests cannot be undermined by either representative or direct democracy. It goes without saying that those

strong powers that have every opportunity to influence governments, councils and parties no longer claim direct democracy. However, direct democracy means decentralising political power, returning some of it to the people, preventing a monopoly of power in the hands of the few at the top of the governing parties. It is the people without political power and economic resources who most need referendum rights in order to be able to oppose the intertwining of economic interests with political and administrative power.

Then there are also those who think that there is already too much voting at all levels on too many issues. The demand for more direct democracy is naturally strongest in those systems where participation rights are scarce, where there is widespread disillusionment with the 'political caste and parties'. By the nature of things, referendum rights, once introduced and well regulated, will also be applied by citizens. The arguments and problems are certainly not lacking. What is lacking is trust in the sovereign citizen to be able to decide in a free and reasoned manner. Finally, even for those who do not normally participate actively in direct democracy, it is important to know that these instruments are available at all times. There are many citizens in Switzerland who do not regularly take part in all referendum votes, but they would be shocked if direct democracy were restricted. Politicians behave with more respect towards ordinary citizens when there are effective referendum rights.

The media and direct democracy

Does the existing imbalance in media access and the control of large media by a few pose a risk to direct democracy? Two realities clash with each other in this context. On the one hand, the mass media are mainly privately owned and on the other hand, the dissemination of information is based on the principle of freedom of the press and freedom of expression. This generally restricts freedom of expression for two reasons: the mass media have a tendency to defend the point of view of their respective owners (wealthy individuals or groups), who can not only buy advertising space and TV spots for referendum campaigns, but often own entire newspapers and TV channels. On the other hand, small, unfunded initiatives have few opportunities to make their voices heard. Attacking the freedom of the press cannot, however, be the way out of the dilemma. Rather, a democratic state must create its own information channels offering independent information and discussion forums open to all citizens that are true spaces for free debate. This forum should revolve around the following two considerations:

1. There should be no direct intervention in the press. The media must have complete freedom to express their preferences for or against an initiative or referendum. Furthermore, the state, the regions and the autonomous provinces should not divert either the funds allocated for representation and advertising expenses or the subsidies to the various party newspapers to promote their position in referendum campaigns. On the contrary, 'democratic spaces of public expression' must be guaranteed, which guarantee both sides the right to present their arguments. This space should be highlighted as a paid public space, avoiding any confusion with the editorial parts of the respective newspaper.

2. A few weeks before a referendum, every voter should receive an information leaflet, which can also be downloaded from the Internet, containing all the essential aspects of the referendum proposal, in which opponents and proponents could explain their arguments in their

own words. The various political and social groups and associations could express their assessments and voting instructions. This type of public voting pamphlet has long been established in Switzerland and in some states in the USA.

3. Finally, in addition to these active measures, there is also a need for restrictions. Expenditure on political campaigns must be limited, not only for the election of representatives, but also for referendums. The budgets of both the initiating forces and the opponents of a citizens' initiative must be made public within the framework of a strict transparency regulation. Both the names of the largest campaign contributors and the amount of funds granted must be published, as already provided for in the relevant California referendum law.

It is possible to guarantee a minimum level of funding for an initiative or referendum. If a citizens' initiative manages to collect the necessary number of signatures to require a referendum vote, it has nevertheless shown that it has touched on a subject that is felt by the population. This initiative can be supported by awarding the promoters a minimum fund of financial means that allows even economically weak groups to launch an initiative proposal and that allows the promoters to prepare the actual referendum campaign.

CHAPTER 8

PERFORMANCE OF DIRECT DEMOCRACY - QUALITY AND EFFECTS

It is difficult to find general, empirically-based assessments of the effects and performance of direct democracy. The socio-economic context, the historical and cultural background, the level of development of referendum rights, the legal framework and the political situation in individual countries are too diverse to draw unambiguous conclusions for all the systems applied. However, although it is not possible to make a general and transferable judgement for every situation, there are some effects that are regularly observed and are noted in empirical investigations carried out by various research institutes, including at international level. The most important are summarised hereafter.

No fundamental change to democracy

Direct democracy is not a lever with which to undermine a political system in its constituent elements. In a liberal democracy, citizens are free to improve certain structural elements of the political system in order to extend and qualify democratic rights. Participation in politics is a fundamental right in a democratic society and can also serve to change the rules of politics. Referendum rights, which are desired by a large part of the population, actually have a stabilising effect on democracy: the great political ruptures were not triggered by referendums. It is not a question of introducing a new political system, but of supplementing the existing system with additional civil rights.

In Switzerland in the second half of the twentieth century, the hopes of the left for a profound reform of the power structure in the state and the empowerment of the weaker classes did not come to fruition. At first, conservative circles feared that the expansion of direct democracy

would affect private property rights, and the wealthier classes saw the new powers of the population as a threat.

No disadvantages for smaller parties

Direct democracy is a barrier against attempts by the dominant parties to tailor their electoral system to suit their own needs. A central element of representative democracy is free elections and party pluralism. The fear has sometimes been expressed that strong parties might try to change electoral law in their favour by using referendums.

The argument is not convincing, because such parties could do this anyway thanks to their parliamentary majority. Referendum rights have not had this effect; on the contrary, they have proved to be useful tools for controlling the major parties. In Switzerland, the citizens, by means of a referendum, imposed the proportional system, which benefits the smaller political forces. In Italy, by contrast, on the initiative of small parties, the pure proportional system was repealed in the 1990s to make way for a predominantly majority system that forces the formation of party alliances.

Sometimes, opposition political parties are tempted to 'try the referendum route', trying to defeat the government majority on specific political issues. On the other hand, a coalition of governing parties can also absolve itself of responsibility for an unwelcome decision by 'delegating' it to the voters in a form of quasi-plebiscite manoeuvre.

In Italy, as a rule, in all referendums the parties have openly sided for or against, or have launched appeals to boycott the vote. All in all, it can be observed that direct democracy in legislation on electoral systems has benefited rather than harmed the smaller parties. It is no coincidence that in many countries it was and often is also the smaller political forces that make use of referendum instruments, so much so that the Radical Party in Italy promoted no less than 20 referendum questions in the period from 1974 to 2006.

Direct democracy strengthens the role and possibilities of interest groups and civic initiatives, which are sometimes in opposition to parliaments on individual issues. In this way, even groups and movements, which do not have any political responsibility, do not stand for election and do not systematically work as lobbies for group interests, have the opportunity to make their voice heard and to influence specific issues of interest to them.

Federalism: a favourable condition for making direct democracy work

Federal systems and regional autonomy offer a favourable context for the development of referendum rights: the broader the powers attributed to the regions, provinces and municipalities, the wider the range of policy areas in which referendum rights can be activated. These rights are a kind of 'gymnasium of democracy'. In local politics, citizens feel more involved in referendum voting because the issues affect them closely. In other words, the closer political responsibility is to the citizen, the easier it is to find interest in referendum instruments. In addition, a good regulation of referendum rights, which also includes the possibility of voting on possible changes to the regional statutes, prevents a worsening of the region's own position vis-à-vis the centre. It is unlikely that citizens will willingly cede regional competences to the central state. In this sense, direct democracy also strengthens federalism: citizens will tend to keep as much power as possible at the level of local government, where they have the greatest opportunity to participate.

Dangers and opportunities for minorities

Direct democracy offers great opportunities for social and political minorities both to participate and articulate interests and to veto them. Theoretically, however, referendum instruments can also be used to their disadvantage. First of all, a distinction must be made between two

types of minorities: on the one hand, there are the 'permanent' social minorities (e.g. the disabled, Sinti and Roma, LGBT, ethnic and religious minority groups, immigrants, etc.); on the other hand, there are the political and other minorities that change. On the other hand, there are political and other minorities that change. On their own, however, they cannot prevail: the assertion of their interests depends on political majorities and therefore on cooperation with broader social groups. With the referendum, minorities also have the possibility of entering into new alliances and even of defeating parliamentary majorities. The mere existence of this right forces parties and governments to take the interests of minorities more seriously.

On the other hand, even a defeated non-structural minority, irrespective of whether it is political or social, has to accept the result of a final vote in the knowledge that the time is sometimes too early for certain reforms. In any case, an open and fair debate with minorities promotes their integration into society. Of course, for this purpose they must be given the necessary funding to be able to fully exercise their referendum rights. However, through direct democracy, even interests that are difficult to organise on the part of poorer social groups or political minorities that do not make it to the parliaments can be articulated.

Direct democracy is a system aimed at expressing a majority position in the population at a given moment in history. Therefore, social minorities in the framework of direct democracy procedures can sometimes also be subjected to attempts at marginalisation by entrenched groups through hostile attitudes and preconceptions. However, every public debate has its own dynamic and in our highly differentiated societies no one belongs to a single minority or always remains in the minority. On the other hand, even in parliament, minority interests are often sacrificed to the logic of the majority parties. However, there are limits to referendum rights in the form of the fundamental rights enshrined in the Constitution, international

conventions and human rights pacts, which have also been ratified by most states, regional statutes and EU treaties.

Who belongs to the political elite? The political staff of governments, parliament, administration, parties and large political organisations. The elite, or at least the ruling groups of these formations, generally prefer representative democracy and create their own channels of communication to make their interests count. Direct democracy changes the conditions by encouraging them to relate more closely to the general population.

On the other hand, individual referendum initiatives also only arise thanks to active citizens who are prepared to commit themselves and fight for a cause. They do not constitute a social elite, but are minorities capable of pursuing a political discourse and project. With reference to the question asked, they can acquire considerable weight, especially in the context of advanced referendum rights. Direct democracy not only spurs debate on an issue within the elite, but also stimulates debate between the political class and groups not present at parliamentary level. The political process is thus broadened and enriched.

Direct democracy creates more legitimacy

Legitimacy' refers to the degree of political recognition of a decision or body: the more citizens who have been involved in a decision, the more legitimate the outcome is considered to be. In this sense, the strongest form of legitimacy is undoubtedly a referendum vote that includes the entire population or, in the case of elections, the direct election of the head of state or government.

If certain groups, which oppose by referendum means decisions taken by representative bodies, are defeated by a referendum vote, they would be deprived not of the validity of their arguments, but of the legitimacy of their opposition, because in democracy the interest of the majority prevails. On the other hand, politicians who are defeated by a referendum vote on a single public projects do not lose the general

confidence of their voters and the legitimacy of their mandate, conferred through general elections, but simply their legitimacy with respect to a specific choice and project not shared by the population.

Neither progressive, nor conservative

One of the first questions asked by politicians in the discussion of direct democracy is: How does this instrument serve my policy? Conservative or liberal forces, as well as left-wing and progressive forces, all want the population to be directly consulted and to express their views on the issue. In the past, it was mainly the Left that asked whether direct democracy could promote or hinder social progress. The left was confronted with the dilemma that direct democracy gives more decision-making rights to the population, but that this does not necessarily always favours progressive solutions.

In general, citizens' initiatives do no more than bring urgent problems that are felt by many people to the attention of everyone, including politicians. These instruments allow groups of citizens to articulate their interests publicly and to press for a majority decision even against the intentions of the parliament and the government. If the referendum process is accompanied by a broad debate, the outcome of the referendum is always open. An important distinction must be made between citizens' initiatives: there are those with a conservative intention, others with an innovative character. It cannot be said that direct democracy tends to benefit conservative positions and forces to the detriment of progressive forces in society, but simply gives a greater voice to those groups of the population that do not have a say in traditional channels.

The overall efficiency of the political system is increased

How do we measure 'efficiency' in politics? If we take the time required to reach a political decision as a yardstick, direct democracy certainly

does not streamline decision-making processes or reduce their time. However, in a medium- and long-term perspective, as well as in a more general perspective, the use of direct democracy promotes the stability of the political system and thus also its efficiency. Efficiency is usually defined as the ratio of costs to the performance of a political system.

Politicians often object that referendum instruments could hinder governability. They fear that referendum votes may limit the decision-making space of elected politicians and the heads of large organisations too much. There is no doubt that the costs for public education and debate, and for holding the votes themselves, are rising. However, the question must also be asked whether this increase in costs and a certain slowing down of political processes is not counterbalanced by other advantages, such as continuity, stability, legitimacy and greater acceptance of referendum verdicts.

In fact, citizens, deprived of any political means of intervening between elections, often resort to legal action or more radical forms of protest and succeed in blocking projects. With direct democracy, politicians are forced to seek the consent of the population in advance.

Every citizen, regardless of their commitment, is involved in the public debate that is created around a referendum. The socialising effect of direct democracy is strongest where the political debate takes place in direct contact between citizens and politicians, between experts and non-experts. This effect is strongest at the local level, where citizens feel more involved.

They learn that there are different positions, that everyone's arguments and voices count and that, finally, the decisions taken by the population must be accepted. Citizens find themselves once among the winning majority, once among the defeated minority. No force can call 'the people' into question any more if it cannot convince the majority in referendum processes. In the United States and Switzerland, the turnout at voting does not always exceed 50 percent, but popular resistance is

very high when attempts are made to undermine referendum rights, which are regarded as genuine democratic achievements.

More acceptance of approved solutions, fewer latent conflicts

In referendum voting, the focus is on specific problems without mixing them with political and social conflicts in general. If referendum processes take place with full respect for the rules, i.e. are fair and accepted by all, the vote helps to clarify and defuse tensions between the population, the parliamentary majority, the government and also between political forces. Some people claim that direct democracy prevents the necessary compromises from being made on complex issues, a process that is possible in parliament.

In fact, in Switzerland there are sophisticated mechanisms in place that take account of the possibility of referendums. For this reason, an attempt is made to involve all the groups that are considered capable of launching a referendum by creating 'preventive spaces' within which a compromise can be reached. Sometimes, however, direct democracy allows a stagnant situation to be unblocked at an institutional level: if the parliament does not legislate because it cannot find a compromise, the popular initiative gives the citizen the last word. In Switzerland, on average, less than 50 percent of the population take part in referendums: nonetheless, acceptance is high, because everyone knows that if they want to, they can participate.

Well-known, simple and debated topics lend themselves better to referendum discussions.

Not all political issues are easily addressed by referendum processes. Simple, well-known and debated questions are preferable, which do not require a great deal of information input and for which a clear, confirmatory or negative answer can be given. It is necessary to start

from the assumption that all decisions taken at political level are in principle also sub-optimal for the average citizen. A modern concept of democracy is based on the idea of a free, informed and aware citizen. The need to collect a large number of signatures also acts as a filter. There are questions that require stronger legitimisation, such as constitutional amendments, changes to the form of the state, the transfer of sovereign rights to supranational organisations. The referendums on EU membership in many European states were binding in order to legitimise this decision of enormous political significance.

More complex issues that require compromises at many levels, such as the annual finance law, do not lend themselves well to referendum processes. This is not the case for specific tax laws. Even California excludes some political subjects from direct democracy; not so Switzerland, which does not exclude any questions. On the other hand, with regard to the public budget, there is the interesting experience of 'participatory budgeting' (see chapter 11).

All in all, empirical research in countries with a long tradition of direct democracy reveals the following central effects of good-quality direct democracy (see Gross 2007 and Kaufmann/Büchi/Braun 2009):

- Direct democracy makes politics more communicative. The legitimacy of political decisions on concrete political issues can be questioned by citizens, and must be founded and defended by politicians.
- Direct democracy forces all parties to engage in public debate based on facts and arguments, making political discourse more serious and rational.
- Direct democracy also enables small and minority groups not present in parliaments to articulate themselves publicly and exert pressure.
- Direct democracy enables a fairer and finer distribution of political power. It does not give anyone the privilege of having so much power that they do not have to justify their policy and find majorities in popular referendum votes.

The decalogue against the turnout quorum

1. Because of the quorum, anyone who does not go to the polls automatically counts as a 'No' vote, whereas in reality there are a great many personal reasons that can prevent participation in a referendum: lack of knowledge of the subject, indecision, disinterest and a thousand other private reasons. In the case of elections, all these reasons are reasons for abstaining from voting or not participating, but they do not amount to voting against. In elections, only valid votes for parties and candidates count. Non-participation in a referendum vote should therefore also be regarded as what it is: an abstention from voting without influence on the result.

2. Through the boycott of the referendum, the turnout easily drops below 50 percent of the eligible voters, the quorum required for the result of the consultation to be valid. Opponents, exploiting the quorum mechanism, try to invalidate the consultation by inviting voters to turn away, counting on those who would not vote anyway. Therefore, opponents no longer have to convince citizens with alternative arguments and proposals, but just calls for a boycott. Only in the absence of a turnout quorum do the arguments really count, because both proponents and opponents have to convince the majority of citizens.

3. Politically active citizens undertake to inform themselves and form an opinion and then go to the polls. Non-interested citizens and boycotters do not go to the polls. In the event of a referendum being invalidated because the quorum is not reached, the former are in fact punished for their civic commitment, while the latter, boycotters and disinterested, are rewarded for a choice that in fact damages democratic debate.

4. In Italy, there is no quorum in the case of very important referendums such as the optional confirmatory referendum on constitutional laws (art. 138, 2nd paragraph) and in the case of laws on

the form of government (electoral laws and direct democracy) at regional level. Moreover, there is no quorum in elections.

5. For elections at any level of government, there is no minimum participation quota: only those who vote can decide. There is no 'quorum' in local and parliamentary elections.

6. The fear that a small, very active minority might impose its interests on a passive majority is not justified. Surveys of voter behaviour show that voters' turnout is high in contested votes and that the majority of citizens clearly express their rejection of a minority proposal. However, parties and social forces, which claim to represent the majority of society, are always free to mobilise their supporters to vote against a referendum question, which is supposedly only reflecting the interests of a minority.

7. In Switzerland, the USA, Bavaria and other countries there is no turnout quorum. Despite the fact that the turnout at referendum votes in Switzerland is "only" around 40 percent, no political force is seriously advocating such a quorum, because they know that this would open the door to tactical manoeuvring and political exploitation.

8. Direct democracy must promote and not discourage citizen participation. One of the main objectives of direct democracy is the promotion of citizen participation. A high level of participation is not achieved by imposing a legal obligation to reach a predetermined quota of voters. It is not the turnout quorum that makes uninterested citizens participate. Instead, the opposite is the case: interested and motivated citizens, after a series of experiences with failed referendums due to the lack of a quorum, feel frustrated and lose confidence in this instrument, discouraged precisely by the participation quorum exploited by the boycotters of the vote. It is therefore a vicious circle. Although the quorum was originally intended as a stimulus to participation, today the quorum leads to a rejection of debate and engagement.

9. The quorum arises from a lack of trust in citizens. Today, referendum instruments are tools for active participation and no longer

merely 'defence in extreme cases'. Direct-democratic procedures must be designed in such a way as to encourage communication at all levels, and from this perspective, a turnout quorum, with its associated boycott campaigns, tends to be an obstacle to good communication. It is easier to reject any debate, encouraging citizens not to vote, than to face a public debate and vote without a quorum head-on.

10. The Venice Commission, an advisory committee of the Council of Europe, has expressed a clear and unequivocal position in relation to the quorum for participation in referendums. This position is contained in two documents that are essential for the development of a direct democracy discipline: the Code of Good Conduct on Referendums and the opinion on the citizens' initiative bill 1/XV (opinion 797/2014).

<http://www.venice.coe.int/webforms/documents/default>.

CHAPTER 9

WILL ELECTED POLITICIANS BE DISMANTLED? OBJECTIONS TO DIRECT DEMOCRACY

Referendum instruments, in history as well as in political and academic debate, have been and still are often the subject of objections and criticism. The most significant objections raised will be briefly presented below. However, it should be pointed out that democratic systems, which today already include the most important referendum instruments, must be compared to concrete systems of purely representative parliamentary democracy and not to an abstract ideal that is not realised in any country.

In order to check the validity of the arguments against referendum instruments, therefore, the models that work today must be considered, in particular the Swiss model and that of some American states. Various criticisms of direct democracy will, on closer inspection, turn out to be objections to democracy as such. An objection frequently raised against direct democracy, referring to the alleged lack of competence of citizens to vote on complex political issues, is dealt with separately in the chapter III “The myth of the incompetent citizen”.

Danger to minorities?

An objection often raised against referendum instruments is that voting could turn into a tool in the hands of majorities to oppress the legitimate interests of minorities. This is an argument not only against direct democracy but against democracy as such. A purely parliamentary system can also fail in its obligations towards minorities or even turn into a dictatorship. The most striking example is Hitler's seizure of power in 1933. It was the German parliament that elected Hitler as chancellor in 1933 and it was also the parliament that later passed the so-called “Ermächtigungsgesetz” (law delegating all powers) even though the National Socialists did not have a majority in

parliament. The referendum instruments at the time were too weak to ensure that these decisions could be challenged, but in fact it was the parliament that paved the way for the Nazi dictatorship.

In principle, direct democracy offers social minorities more opportunities to count than purely representative systems. In every referendum, the success of the referendum depends on convincing a majority of the electorate: each type of question reshuffles the cards, forms new majorities and puts other social and political groups in the minority. The voter may find himself in the majority on one question and in the minority on the next. By using referendum instruments, however, social minorities can better articulate their interests. In Switzerland, 100,000 signatures are sufficient to propose an amendment to the Constitution; in Italy, the signatures of 500,000 voters are required to request the repeal of a law or parts of a state law. Direct democracy is more than just an opinion poll: it unleashes dynamics that can enable minorities to win the consent of majorities. In purely representative systems, the members of the governing coalition normally have a permanent majority in parliament, whereas in referendums majorities are not formed according to party logic, but predominantly across party lines.¹⁾

It is no coincidence that minorities, when questioned directly, come out in favour of direct democracy. In a survey by Rasmussen²⁾ in Texas, it emerged that 72 percent of blacks and 86 percent of Hispanics were in favour of the introduction of direct democracy, while among whites only 69 percent were in favour. Similar research carried out in California between 1979 and 1997 found large and consistent majorities in favour of referendum rights among the ethnic groups. In 1997, 76.9 percent of Asians, 56.9 percent of blacks, 72.8 percent of Hispanics and 72.6 percent of whites regarded Californian direct democracy as a success, whereas more negative attitudes were relatively more widespread (11.5 percent) among whites and to a lesser extent among Asians (1.9 percent).³⁾

Empirical research shows that referendum votes on minority rights are usually overwhelmingly in favour of minorities. In order to examine all of Switzerland's federal referendum votes on minority rights from 1970 to 1996 in the canton of Zurich, we have used the Universal Declaration of Human Rights and the International Covenants on Economic, Social and Cultural Rights. In 70 percent of the cases, the result was in favour of minority rights, whereas at federal level it was as high as 80 percent. It also emerged that initiatives aimed at restricting minority rights have a lower prospect of success than other questions.⁴⁾

The federal citizens' initiatives put forward between 1891 and 1991 were generally only accepted in 10 percent of cases, but the 11 citizens' initiatives aimed at reducing the rights of minorities were all rejected. By contrast, initiatives promoted by minority groups are often successful in referendums. Mandatory confirmatory referendums in Switzerland are accepted in 50 percent of cases. But the 11 referendums of this type concerning the promotion of minority rights (1866-1996) were accepted with 73 percent of the votes in favour. The optional confirmatory referendums in favour of minority rights were also successful.

As a classic example of the discriminatory use of the referendum against minorities, the late introduction of women's right to vote in Switzerland is often cited. Swiss women only gained this right in 1971 through a referendum vote with the participation of only men, whereas in Italy they had obtained the right to vote in 1948. The late recognition of this right in Switzerland can hardly be attributed to direct democracy, but rather to a general ethical-moral conservatism in large parts of Swiss society.

Green light for populists and demagogues?

In debates on direct democracy, the fear is often expressed that direct democracy could become the arena for a large number of demagogues

and populists. In reality, demagogues have a better chance in a purely representative system, in which a small group of politicians sets the political agenda and often dictates the law, while the citizens have no right to intervene except to vote for one party every 4-5 years.

It is the lack of popular forms of participation that causes widespread unease and later leads a part of the electorate to vote for populist politicians, who promise to 'clean up' the chaos caused by the ruling parties. With well-institutionalised referendum instruments, citizens do not need strong leaders, because they themselves can propose their own solutions and assert them through citizens' initiatives and referendums.

In Switzerland, political figures do not play a particularly important role. Swiss democracy revolves more around political issues, whereas a pure representative system focuses more on individual political figures. The Swiss Constitution does not provide for plebiscites from above. Even political forces or movements that are regarded as populist must, in the case of referendum campaigns, convince a majority of the population with effective arguments.

Financial power: decisive for the success of referendum campaigns?

This argument argues that anyone who is willing to invest large sums of money to pursue a specific political project can launch a media campaign, dominate the political debate and win a popular vote with sophisticated mass media communication techniques and marketing operations. There is no doubt that in some countries enormous sums are spent on referendum campaigns. In 1998, 400 million dollars were spent on voting and referendum campaigns in the United States, 250 million of which were spent in California alone. In the United States, professionally coordinated referendum campaigns are common, with heavy use of advertising spots and signature collection by paid staff.

However, it has to be remembered that financially powerful groups spend enormous amounts of money on the election campaigns of

political parties and candidates for the presidency, as well as on lobbying politicians and parties. The Swiss expert and former parliamentarian Andreas Gross states in this regard, that the power of money in a direct democracy is fundamentally always less than in a purely representative system.⁵⁾ In the latter case, economically powerful groups have to influence a small number of politicians, whereas with well-developed referendum instruments they have to do this publicly and try to influence the whole population.

On the other hand, even enormous expenditure in the referendum campaign does not guarantee its success. The American political scientist Elisabeth Gerber analysed the flow of funds related to 168 citizens' initiatives in eight American states.⁶⁾ When there are a few critical voices, even powerful economic groups cannot obtain laws they like simply by investing large sums in referendum campaigns. In fact, the chances of success of such initiatives are lower the more financial funds are collected from the large economic groups and invested in the campaign.

It is clear that financial capacity has a certain impact on the exercise of the institutions of direct democracy; this impact, however, is just as, if not more, incisive and relevant for representative democracy and can be counterbalanced by public intervention to ensure the financial balance of referendum campaigns.

For this reason, Californian progressives also emphatically reject criticism of direct democracy and instead call for stronger measures to curb the role of 'big business' during referendums.⁷⁾ Naturally, well-funded parties, financed by economic and financial groups, always have an advantage in launching initiatives and producing propaganda over small, poor and unorganised groups. It would be an illusion to try to balance every group in the political arena by means of public controls and financial limits. There will always be differences in the ability of individuals and groups to count in politics.

The crucial question, however, is not so much whether these differences exist, but with which rules and institutions it is possible to prevent the excessive political influence of economically stronger groups. Legitimate lobbying activity is always greater if the system becomes less democratic. In a dictatorship and in the absence of elections, interest groups wield enormous power. In the EU institutions, pressure groups (multinationals, financial groups, business associations, etc.) often count for more than in the individual member states because the structure of the EU is less transparent and less democratic.

In Switzerland, when alliances are formed between political elites and economic interest groups, it seems that this front cannot impose its proposals and demands, because every campaign and referendum vote has its own specific internal dynamic. The problem of the alleged manipulation through advertising campaigns of monopolies or oligopolies in the information sector is again not a problem of direct democracy, but of democracy as such.

In fact, there is this problem of financial resources, i.e. the democratic infrastructure necessary for a well-functioning direct democracy. Money can sometimes infiltrate and threaten even direct democracy as it does representative democracy. Public resources are needed until direct democracy can fully unfold its effects against populist simplifications. Direct democracy is a more advanced institutional system that counteracts populist discourses and strengthens widespread knowledge of politics and promotes civic engagement on concrete issues.

Do referendum rights bypass the representative democracy?

According to some theories, the authority of parliament is undermined by referendums and the authority of parliament is undermined by referendums and the 'balance' between political representation and the electorate is jeopardised. Given that democracy and representative democracy are not synonymous, nor can representation be considered

the essence of democracy, it makes little sense to regard the electorate and parliament as two separate and antagonistic bodies. Indeed, a purely representative system is only a correct application of a democratic system on one condition: that the citizens feel that their will is fully respected.

For several decades now, surveys in many states have repeatedly shown that the majority of citizens are calling for the introduction of forms of direct participation in order to assert the sovereign right of the people to intervene whenever they deem it necessary.

In other words, the argument that parliamentary authority would be emptied is irrelevant: Parliament is not an objective in itself, but is elected to make democracy work. One cannot therefore demand that democracy in the sense of citizen participation be restricted in order to maintain respect for Parliament. Instead, the problem is that in a purely representative system the population cannot intervene with a referendum instrument to defend itself against an act of parliament.

Voters are only free to shuffle the cards on the day of elections, but they can never intervene between elections on individual issues, even if these are considered very important. This arrangement changes decisively with the full range of referendum rights (popular initiative and optional confirmatory referendum). With the continued possibility of being confronted with a referendum initiative, parliament is urged to legislate with the consent of the majority of the population. The referendum instruments themselves, if well regulated, actually give an important role to parliament, especially with the right to put a counterproposal to the draft bill submitted by the proponents of a popular initiative.

Some opponents of the referendum instead formulate the criticism that the primacy of politics would be compromised by referendums. The tacit assumption, of course, is that 'politics' is the same as 'parliament' and 'government'. If, on the other hand, one considers politics as 'public action', in which all citizens can participate to some extent, it emerges

that direct democracy does not detract from the importance of politics, but, on the contrary, strongly revives it by giving it continuous impulses from the sovereign, the citizen.

The concrete use of referendum rights in the reality of modern democracies should also not be overestimated. In 1996, the peak year for referendum voting in the United States, a total of 102 votes requested by the citizens were held in all the federal states, while in the same year the elected legislators of all the states passed more than 17,000 laws and legislation (Verhulst-Nijeboer, 2007, 86). Half of the American states have referendum rights of a certain quality to which citizens regularly resort, and even in those states 99.9 percent of the laws are still drafted and approved by the elected politicians. It is absolutely illegitimate in this case to speak of a breakdown of the parliamentary democratic system caused by referendums.

Better instruments than referendums?

Faced with citizens' demands for more referendum rights, the first reaction of politicians is to try to ignore them. Only increasing bottom-up pressure through petitions, referendums and citizens' initiatives can force enough politicians to take the issue seriously. Politicians at this point also propose alternative expedients to referendum rights, which they consider to be less dangerous for maintaining their prerogatives. These often are presented to the public as "better instruments than referendums" (Verhulst-Nijeboer, 2007, 89).

Examples of such instruments of civic participation are citizens' assemblies, as currently practised in the United Kingdom, in Ireland and in Germany. On regional level various forms of "deliberative democracy" are applied. In the Italian town of Viareggio, for example, 500 citizens, chosen by politicians, were called together to discuss political projects for the municipality in a citizens' forum, also known as a 'citizens' panel'. In Bolzano, on the issue of airport's expansion, a 'conflict mediation process', coordinated by a professional, was

initiated in the first half of 2007. In the Austrian *Land* of Vorarlberg more than 100 'citizens' juries' have been successfully organized.

Despite all the good reasons that 'deliberative democracy' may have, it cannot be an alternative to direct democracy. In 'deliberative democracy' spaces, citizens obtain information, discuss with specialised mediators and can form an opinion on the basis of a process of information and discussion. Proponents of this method assume that this kind of deliberation can only take place in such a context and that the referendum leads to populism rather than to more information and more well-founded opinions.

Without disputing the usefulness of dialogue and information itself, the institution of 'deliberative democracy' is questionable if it sacrifices the sovereignty of the citizen. Moreover, it is not correct to assert that a referendum process does not involve an intense process of public opinion-forming: on the contrary, the public debate is much more intense and urgent when citizens are facing a referendum with a legally binding effect for all. Citizens are much more motivated when they know that the final decision will be up to them. A referendum vote cannot take place without opinion-forming: it is a public event in which everyone can participate and not just a 'panel' of chosen citizens. Moreover, the question of the criteria for choosing the citizens admitted to these panels should not be underestimated. Who chooses them, according to which criteria?

There is a fundamental difference between these forms of consultation and deliberation and genuine direct democracy. Citizen enquiries promoted by institutions and mediation processes take place on the initiative of the authorities, whereas referendum instruments are triggered by the citizens. Direct democracy is definitely bottom-up.

There is no doubt that the first two methods involve fewer citizens than referendums. The role of politicians and technocrats is always dominant in the first two methods, whereas it cannot be so in the case of referendum processes. In the final analysis, referendum instruments

strengthen the entire citizenry because everyone can participate, whereas in deliberative democracy, even if innovative and valid methods are present, it is mainly the political class that seeks to acquire greater legitimacy.

The essential difference between a free survey of a sample of citizens and the exercise of a citizen's right with a vote at the ballot box with legally binding effect must also be remembered. Moreover, during the collection of signatures and during the referendum campaign itself, citizens have much more time to find information and form an opinion. For this reason, a referendum vote is the democratic process that involves and empowers the largest number of people.

Will improved direct democracy require voting on everything?

Many citizens fear that after a strengthening of referendum rights there will be a popular vote on any subject, even unimportant ones, at any time. The nightmare of a flood of referendum votes every year is blamed. Why then should we elect well-paid politicians?

Even if citizens have more referendum rights at all levels of government, an avalanche of referendum requests is not to be expected. This will be prevented by the procedure itself, which operates with various filters to allow only the most relevant and conflicting questions to be put to the vote. Every committee promoting a referendum is in any case obliged to collect the minimum number of signatures to prove the actually felt importance of an issue. The number of signatures required, usually between 2 and 5 percent of those entitled to vote, forms an effective threshold. In Switzerland, only after passing this filter, then after verification of the admissibility of the proposed draft bill, after negotiations with parliament will a maximum of three Sundays per year be voted on, with dates set in advance by parliament and the cantonal councils for each year.

What happens if there are too few voters?

A high turnout in elections and referendums is always an advantage for democracy. This reflects the fact that a political question is actually felt to be important by a large part of the population. There is an obvious difference between elections and referendum votes. The political representatives elected during a five-year parliamentary term take a myriad of decisions, which no citizen will ever know all about. In addition, as members of a council or parliament, they also elect the executive. In a referendum vote, it is a question of dealing with a specific, concrete issue that not all citizens consider equally important. As a rule, therefore, participation in referendums is a matter of course, slightly lower than in elections. What is important is that everyone who is interested also has the right and the opportunity to vote. And that the principle 'He who votes, decides. Whoever does not vote, lets others decide.' If a citizen makes use of this right, it is a completely personal choice. Therefore, the problem of "low participation" does not exist either.

Shouldn't there be a rule for a necessary minimum participation to the vote, i.e. a turnout quorum?

Today, in quite many countries and regions when it comes to a popular referendum a turnout quorum of 50 percent of the eligible voters is required, if the result is to be recognised as valid. In countries with a longer tradition of direct democracy such as Switzerland and all US federal states, such a turnout quorum is unknown. The quorum undoubtedly has a detrimental effect on the political participation of citizens:

- The initiators of a citizens' initiative must make all possible efforts to initiate a debate and carry messages and invite citizens to vote. Their opponents with a quorum have an easy time of it, saying: 'Don't even think about it. Stay at home! Boycott the vote.' With boycotts,

participation quickly drops below 50 percent; a turnout quorum is a kind of sabotage of participation.

- With a turnout quorum, two totally different groups are added together, namely the opponents of a referendum question or proposal, and the non-voters (abstainers or those prevented from voting). A vote against is not the same as an abstention or non-participation for other reasons. In reality there are thousands of possible reasons why 30-35 percent of those entitled to vote cannot go to the polls. Their votes should not be treated as votes against. The same applies to elections without a turnout quorum. You don't leave as many seats vacant as there are non-voters. Only valid votes for parties and candidates count.

- Without a turnout quorum, the debate and the competition is truly open. Both promoters and opponents of a question have to face the question and try to convince the citizens. The public debate is stimulated by pros and cons and civic engagement and political communication is strengthened. Quorums and boycott campaigns have the opposite effect, i.e. open democratic debate is also boycotted.

- In direct democracy, there is no turnout quorum, as there is in an apartment block meeting or in certain council and parliamentary meetings. In parliaments, representatives delegated by the electorate meet, and it is their duty to participate and commit themselves. Thus, it is a legitimate custom to require a participation quorum for the most important votes. If it is the people who decide, i.e. the sovereign as a whole, there is no need for a quorum. It is the civic responsibility of each individual citizen whether to participate or not.

- The citizens themselves do not claim a turnout quorum in popular referendum votes. Neither Switzerland nor California and Oregon, states with a longer tradition of direct democracy, have ever demanded the introduction of a quorum. That would be unthinkable. It is almost always the elites of the parties that are skeptical about direct democracy that provide for a turnout quorum in order to prevent or obstruct the smooth functioning of direct democracy. This also applies to Italy.

- In Italy, strangely enough, there is no turnout quorum for the most important referendum votes, i.e. the optional confirmatory referendum in the case of amendments to the Constitution (art. 138). This shows that where the parliament is interested in reaching a decision, the turnout quorum is waived. Where there is an interest in discrediting the instrument of the referendum itself, the quorum is insisted on. In the period from 1997 to 2011, all the popular referendums in Italy failed because of the turnout quorum of 50 percent.

- In all political systems with well-developed direct democracy as a supplement to representative democracy, there is no quorum, but the simple rule: "He who votes, should decide. He who deserts the ballot box, leaves the decision to others." Overcoming the quorum is therefore the first step towards allowing citizens the free exercise of direct participation. Without a turnout quorum, with the full range of referendum rights available, and with fair and equitable implementing regulations, direct democracy can actually unfold its positive effects on democracy.

Are citizens able to understand the most complex political issues?

Many political issues seem complex and difficult, requiring specific knowledge to be fully understood. In fact, citizens, when dealing with such issues, feel too little knowledge and would like to leave them to the experts. Referendum votes on political issues are not held until the Sunday of the popular vote, entire years can pass. Promoters, public bodies and the media have plenty of time to find out what the issue is. The topic is discussed publicly, everyone can get a picture.

In Switzerland, before each referendum vote, every eligible voter receives an official information booklet at home containing all the information, the pros and cons. Anyone who doesn't think they have it all figured out and doesn't know how to vote can rely on the opinion of those they trust, just as they do when choosing candidates and parties.

Finally, it is wrong to assume that all politicians are familiar with every subject they discuss and approve in their representative bodies. They too are guided by the indications and guidelines they receive from experts, party colleagues and the party leadership. Finally, the election is also a rather complex choice because, after all, for a conscious choice, every voter should know the programmes of all the lists and parties standing for election. Politicians who are against direct democracy often claim that most political issues are not even understood by the voters. The same argument was used 100 years ago to deny universal suffrage to all citizens and then again to deny women the right to vote. If you don't believe that citizens are capable of assessing and deciding on major political issues, you have to ask yourself how it is that those entitled to vote have gained the right to elect politicians.

Should not certain issues be excluded from any kind of referendum?

In Italy, the areas of 'amnesty and pardon', 'taxes and duties' and 'international treaties and agreements' are excluded from all referendum rights, i.e. they are not admitted to any kind of referendum. It is feared that popular votes on these subjects could undermine essential aspects of state organisation and that the country would no longer be able to meet its international obligations.

In many US federal states and in the Swiss cantons, citizens can actually also vote on taxes and public spending. In fact, it is also they, as taxpayers, who cover public expenditure, not the politicians. In Switzerland, foreign policy is also fully involved in direct democracy procedures. The Swiss and American experience has shown: anyone who proposes tax reductions for certain categories of people, often at the expense of other taxpayers who will pay more, has to justify this very well in order to win a referendum vote. In Switzerland, citizens

often decided in favour of a stricter and more cautious financial policy, which is why Switzerland's public debt is very low.

In general, the community of citizens, who are the sovereigns of democracy, should not have less voting rights by excluding political matters from their elected political representatives in parliament. Some parts of the Constitution, such as fundamental rights and human rights, are excluded not only from referendum votes, but also from amendment by parliament. If so many significant political subjects were excluded as referendum subjects, citizens would indirectly be declared incompetent and incapable of making such decisions. In a democracy, laws are made for citizens, not for politicians.

Aren't so many political issues too complicated to be solved with a simple YES or NO?

A choice between YES and NO leaves no room. But even in parliament and councils, politicians ultimately vote YES or NO (or abstain) on bills. At the end of every decision-making process, things have to be summarised in some concrete proposal. The proposal that achieves the greatest consensus wins. The advantages and disadvantages and possible effects are deliberated well, hopefully, all the options for solving a problem taken into account. Such a debate also takes place in the case of a referendum vote, but instead of the parliamentary chamber, the courtroom is that of public opinion. In referendum votes, all citizens have to assess a disputed issue with a YES or NO vote. The full extent of democracy is more than a final act of vote with simple majority, but it is also based on the rule that the solution desired by the majority has to be approved.

Is there a possibility of finding a compromise in referendum votes?

Parliamentarians are forced to negotiate with coalition partners and the negotiations with coalition partners and the opposition to find a compromise solution. In the case of a referendum vote, the citizens

cannot change the question, but only reject it or accept it with a YES vote. However, even in direct democracy there is a method for allowing compromises between the initiators and the representative bodies. If a committee of proponents submits a draft bill to the parliament or a regional council, the latter examines it and can approve it either in its entirety or with some modifications. Compromises can be found in negotiations between proponents and politicians. If no agreement is reached with good direct-democratic regulation, the parliament or council can approve a counter-proposal, which is put to a referendum vote. In this case, the citizens have the choice between two different proposals and maintaining the status quo.

Are citizens' opinions exposed to too much manipulation?

In the election campaigns for national and regional elections, a worrying development can be observed: powerful parties and organisations flood the country with their advertising, produce an avalanche of material and clog up the radio and TV channels with commercials. There is a growing danger that less informed and less critical citizens will be influenced and confused by conflicting messages. As in elections, there is an imbalance in the distribution of political, media and financial resources.

This imbalance in financial and media power is a problem for democracy as such and requires compensatory measures to ensure a level playing field. This also applies to direct democracy. For example, a minimum contribution can be envisaged for those committees that manage to bring a bill to a referendum vote. Promoters, like parties, contribute to the formation of the will of the people, and for all their efforts in collecting signatures and campaigning they are entitled to a certain amount of compensation and reimbursement of expenses.

In addition, every person entitled to vote must receive an information booklet from the relevant public body three weeks before the vote. This booklet contains the question and its explanations, the pros and cons in

summary form and other information useful for voting. In addition, the public media are obliged by law to comply strictly with the rules of equal treatment. There are therefore various possibilities for avoiding or at least containing systematic manipulation of opinions in referendum campaigns.

In general, the danger of manipulation is to be assessed in the same way as in elections: the mature citizen is deemed capable of forming an opinion and voting according to his or her convictions. If this applies to elections, why should it not also apply to referendum voting?

Direct democracy and deliberative democracy

Direct democracy relies on the direct participation of citizens in legislation, mainly through the citizens' initiative and the optional referendum. These are procedures regulated by law and referendum rights established by the Constitution and set out in regional and municipal statutes. The results of the referendum vote are binding. Non-binding 'consultations' are a lesser form of citizen participation, and are ultimately economically nonsensical: why convene all the sovereign citizens if they cannot make binding decisions?

Deliberative participation of citizens in political processes is another matter. This includes a wide range of methods to involve citizens in the discussion and preparation of decisions. The final decisions, however, remain the preserve of elected politicians. Deliberative (non-decisive) democracy is sometimes and unfairly regarded as a substitute for effective referendum rights. But let's be clear: without 'deciding' referendum rights, deliberative democracy methods would also prove futile and inconclusive.

While deliberative democracy comprises various methods of dialogue between citizens and elected representatives, direct democracy means giving citizens the right to take decisions on concrete questions and issues. Deliberative democracy usually brings together a selection of

particularly interested citizens in hearings, civic councils, mediation forums, 'councils' of various kinds, working and project groups. These are public assemblies to consult, inform and discuss specific projects and issues with citizens. These methods focus on collecting ideas and proposals and on how to do something.

Referendum procedures, on the other hand, allow all citizens to participate in the final decision, i.e. at the ballot box it is decided whether or not to do something. The result of the popular vote binds the government or parliament or regional or municipal council legally. This is not the case with deliberative democracy, in which the political assembly remains free to accept or reject citizens' proposals. The result of deliberation does not bind anyone.

Deliberative participation and democracy can complement each other in a reasoned manner. A municipality, for example, can first decide in a referendum process whether to implement a certain project. Then, in the deliberative process with the citizens, it is ascertained how the project is to be implemented. The opposite is also conceivable: first preparing a relevant political decision through information and dialogue and then letting the sovereign citizens have the final say in a binding vote. In Italy, the intertwining of referendum rights and deliberative participation is still in its infancy, above all because referendum rights are backward, mortified by the turnout quorum and various bureaucratic and financial obstacles. To have effective referendum rights at hand is decisive for the citizens to count in politics. Without referendum rights, citizens risk not being taken seriously by political representatives.

The various forms of deliberative participation cannot replace referendum rights, but rather complement them in the same way that direct democracy does not replace, but complements representative democracy. Together with a more democratic system and regulation of parties, which continue to be an important instrument of participation, deliberative democracy fosters public debate, and direct democracy helps to ensure more legitimacy for political decisions.

Do referendum votes end up blocking or delaying every major project?

In our society we are constantly confronted with new projects: power stations, roads, incinerators, and infrastructure of all kinds. Often these projects have a major impact on the environment, the quality of life and public finances. Often these projects do not meet with much enthusiasm among the population, either those living near the project or in general. Opposition in the councils, demonstrations on the streets and legal challenges can curb or even block such projects if they conflict with the vital interests of the people living near the chosen locations. Direct democracy is a formidable tool for curbing and blocking unwanted large-scale projects, which are not accepted by the majority of the population in a municipality, a region or a state. The mere presence of effective referendum instruments succeeds in curbing the drive of governments towards mega-projects, often decided under pressure from powerful economic lobbies. If politicians have to take into account the resistance of the population as expressed through referendum rights, they will assess the projects in question better and seek more consensus at the preliminary stage.

Direct democracy does not risk blocking the entire legislative machinery, otherwise Switzerland would have been paralysed long ago. Instead, it forces politicians to take all interests into account and to look more carefully for consensus before launching a large-scale project of dubious or even harmful utility.

Are trendy referendum votes at odds with economic development?

In which cases have referendums actually hindered or blocked the economic development of a region or an entire country? Have referendums really hindered companies from investing, setting up and creating jobs? Empirical research in countries with more developed direct democracy shows that referendums are not 'enemies' of the economy and businesses. For Switzerland and the US states that most

often use referendum instruments (e.g. California), there is evidence that public works and services are produced more cheaply, public spending grows at a lower rate, and public debt is lower. Switzerland is the most prosperous state in the whole of Europe (if we exclude the microstates). The ability of direct democracy to curb the power of parties and politicians in government and to counter certain interest groups and political patronage is not harmful to the economy, quite the contrary. The direct participation rights of citizens are not directed against companies, but for more democracy. After all, entrepreneurs are also citizens, part of a democratic system. Finally, the economy has the welfare of the society as its ultimate beneficiary, not vice versa.

Conflicts of interest, waste of public money and corruption are widespread in many countries around the world. Conflicts of interest, squandering of public money and corruption are widespread not only in developing countries. Direct democracy can stem these phenomena, which are dangerous for democracy and society itself. The more democracy orients both the economy and the intervention of the state more towards the common good, because litigation and conflicts of interest take place in the light of day.

Is direct democracy an almost revolutionary concept claimed mainly by the extreme left and radical minorities?

Direct democracy is not classifiable as a left-wing or right-wing project, but improves the democratic process. the quality of the democratic system as such. In Switzerland and California, the initiators of initiatives and referendums were from very different and composite ideological backgrounds, and the same applies to the type of proposal or claim. Referendum processes are a mirror of society and its interests. The interests of citizens and social groups often lie across party and ideological lines, because referendums are always decided on a specific concrete issue.

Direct democracy in the various political parties has variable support. Traditional and more elitist parties are less supportive, parties that are more attentive to the desire for participation of all citizens are more attentive. Empirical research shows that the commitment to more referendum rights and individual questions cannot be easily classified. In the countries with advanced direct democracy regulations, all political groups have made use of referendums.

Don't referendum votes cost the taxpayer too much?

In principle, it is legitimate that direct citizen participation has got its cost, just as representative democracy costs something, and not a little. In Italy, it is mainly the apparatus of representative bodies and the 'caste of politicians' that burns too much public money, not so much the few popular referendum votes.

Comparing the possible costs of a moderate increase in the frequency of referendum voting with the costs of large-scale projects and other unnecessary public investments by politicians, direct democracy does not cost too much. The possibility for all citizens to participate in political debate and decision-making is not a luxury, but a necessity for a modern democracy. Furthermore, it has been observed that the population, having the choice, prefers less expensive, less gigantic solutions, less squandering of resources of any kind. Research in Switzerland has shown that, thanks to direct democracy and the so-called financial referendum, considerable savings can be made in public spending.

Endnotes

0 This chapter has been inspired mainly by: Jos Verhulst, Arjen Nijeboer, Direct Democracy. Facts, arguments, experiences, Democracy International, Brussels 2007

1 Jos Verhulst, Arjen Nijeboer, *Direct Democracy. Facts, arguments, experiences*, Democracy International, Brussels 2007, pp. 79-80.

2 See www.initiativefortexas.org/whowants.htm

3 J.G. Matsusaka, *For the Many and the Few. The Initiative, Public Policy and American Democracy*, University of Chicago Press 2004, p. 118.

4 As part of a 1998 research study, cited by Jos Verhulst, Arjen Nijeboer, *op. cit.*, p. 78.

5 Andreas Gross, *Die schweizerische direkte Demokratie. Erfahrungen und Erkenntnisse aus der Schweiz als Ermutigung zur Zukunft der direkten Demokratie*, in H.K. Heußner und Otto Jung, *Mehr Demokratie wagen*, Olzog, Munich 1999, pp. 87-100; see also Andreas Gross's website: <http://www.andigross.ch>, with comments in Italian.

6 Elisabeth Gerber, *The populist paradox. Interest group influence and the promise of direct legislation*, Princeton University Press, Princeton 1999, cited by Verhulst, Nijeboer, *op.cit.*, 2007.

7 Jos Verhulst, Arjen Nijeboer, *Direct Democracy. Facts, arguments, experiences*, Democracy International, Brussels 2007, p. 82.

CHAPTER 10

SWITZERLAND: CRADLE OF DIRECT DEMOCRACY

To be precise, the very first cradle of direct democracy hasn't been Switzerland, but revolutionary France. It was the Marquis de Condorcet, who invented the constitutional and optional referendum which entered in the draft Constitution of the French Revolution in 1791. A second "father" of such popular rights was Thomas Paine, one of the architects of the US-Revolution in the 1770ies. As members of the revolutionary centre both statesmen were strongly committed to citizens' rights to direct participation. However, Switzerland was the first country which fully accepted this idea in the 1830ies and introduced them in its federal Constitution of 1848. No doubt, Switzerland is the country which has brought up direct democracy and ensured the most comprehensive and far reaching application worldwide.

A 150-year old tradition

For many pro-democracy organisations and initiatives throughout the world, Switzerland is the great model. Apart from Liechtenstein, no other country has such well-developed referendum rights. Direct democracy does indeed play an exceptional role in Swiss political life, particularly at cantonal and communal level.

The first institutions of direct democracy with a compulsory confirmatory referendum for changes to the Constitution desired by parliament were already included in the first Constitution of modern Switzerland in 1848. At first, members of parliament opposed the introduction of direct democracy, as many politicians in neighbouring countries continue to do today. In the 1870s, a strong popular movement of craftsmen, farmers, workers and citizens from the

intellectual classes developed against the liberal-capitalist oligarchy that dominated parliament. This popular movement demanded more control and more direct participation against the party power and succeeded in imposing the optional confirmatory referendum in 1874. This right of popular veto - the optional referendum – ever since is the most frequently used instrument by the Swiss.

The citizens' initiative, with which the Swiss can introduce new regulations by amending the Constitution, had already been in existence as a political right in some cantons since the 1830s. The canton of Zurich - which was already the nerve centre of finance and commerce at the time - adopted the citizens' initiative in 1869. This instrument was then introduced at federal level in 1891. In 1921, the optional referendum on international treaties was added. In 1949, the compulsory referendum on binding and urgent resolutions of the federal government was introduced. This was followed in 1977 by the right to referendums on resolutions to join international organisations such as the UN, and in 2003 on international treaties that involve the enactment of federal laws.

The legislative popular initiative on ordinary federal laws was to have been introduced in 2003, but the legislature eventually abandoned it. In fact it exists, but in the form of constitutional initiative as in Switzerland every initiative amends the federal Constitution. Other direct-democratic rights exist in the municipalities and cantons, such as the financial referendum. If a municipality's expenditure decision exceeds a predetermined minimum threshold, this must be put to a referendum vote at the request of the citizens or even by legal obligation.

What referendum rights can a Swiss citizen make use of?

At federal level, citizens with voting rights (around 5 million in 2018) can make use of three main referendum instruments. All these rights

are also present in different forms at cantonal level, and all referendum votes have binding effect.

1. The compulsory constitutional referendum (since 1848): any amendment to the Constitution must be approved by the citizens in order to enter into force. Switzerland's membership of certain international organisations is also subject to compulsory referendum.

2. The optional confirmatory referendum (since 1874): 50,000 citizens (about 1 percent of the electorate) can request a referendum on a law that has been approved by parliament but has not yet entered into force. The time allowed for collecting signatures is one hundred days from the promulgation of the text of the law.

3. The popular initiative (since 1891): 100,000 citizens (today around 2 percent of the electorate) can request the amendment, extension or abolition of certain articles of the Constitution (this is why it is also called the 'constitutional initiative'). The time limit for collecting signatures is 18 months. Parliament can submit its own counter-proposal to the referendum vote.

Through the popular initiative, the Swiss can call for a referendum on almost any political issue. There are no areas that are categorically excluded from direct democracy, as in other countries, where voting on taxes and duties and international agreements is not permitted. There is no typical subject on the political agenda that has not already been put to the citizens' vote. The only matters excluded from direct democracy are international conventions ratified by Switzerland. This general right of the sovereign to intervene in all political matters reflects the importance of the rights to direct democracy entrenched in the Swiss political system at all levels of government.

A popular initiative must meet the requirement of unity of form and content. This means that a popular initiative bill cannot regulate two or more subjects. Finally, the rules in force stipulate that clearly unfeasible proposals can be rejected *ex officio*, which is very rarely the case. For example, a bill was not admitted to the referendum vote

because it provided for cuts in public spending for years prior to the vote. In general, however, popular draft bills on taxes, public spending, military and defence matters and even the form of government are recurrent in Switzerland.

Whereas with the popular initiative, citizens can actively determine the political agenda and thus legislate in interaction with the federal parliament, with the optional confirmatory referendum, the Swiss can react to acts approved by parliament, blocking or confirming them. The same applies to all acts approved by the cantonal councils.

Switzerland does not know about the type of popular referendums called by institutions, i.e. requested by parliament or the government, which are neither consultative nor deliberative, also known as plebiscites. Referendums in Switzerland are either compulsory, i.e. they are provided for in the Constitution in specific cases, or they are promoted by citizens by collecting signatures.

This popular initiative proposal should meet precise formal and content criteria. Once the proposal has been submitted, negotiations begin between the cantonal parliament and the initiating committee, which always has the right to withdraw its proposal. If no agreement is reached, the citizens' proposal goes to a referendum, but the parliament not only expresses its position on it by majority vote, but is also authorised to put its counter-proposal to the vote.

In the case of the right of popular initiative, the Swiss people can choose between a total or partial revision of the cantonal Constitution or a bill as a whole or in articles. In about two thirds of the cantons, citizens can also amend cantonal government decrees by popular vote. In some cantons the right to dismiss elected politicians is established. The request to remove an elected person from office is initiated by means of a popular initiative, a right that is, however, little used.

In the case of the confirmatory referendum, there is an even wider variety of choices: referendums on laws or changes to the Constitution, compulsory or optional referendums, financial or administrative

referendums, referendums on international agreements concluded by the federation. While the citizens' initiative marks the start of a legislative procedure initiated by a citizens' committee, the referendum marks the last stage of the legislative procedure. The popular vote always comes about on condition that there is a sufficient number of other citizens who sign the request. The minimum number of signatures varies between 0.8% (Zurich) and 5% (Ticino) of those entitled to vote. The procedure for the confirmatory referendum is much faster. After the referendum request, the initiating committee has very little time to collect the necessary signatures.

An ongoing democratic practice for 150 years

There are four basic principles that characterise all these forms of direct democracy in Switzerland. It is always a question of YES or NO decisions without a participation quorum. Each referendum request or popular initiative can only contain one question. Referendum campaigns are open, everyone can intervene, express themselves for or against. It is a democratic procedure involving citizens, elected representatives and administrative authorities. It is not a question of launching a vote that bypasses the federal and cantonal parliaments. The signature threshold at federal level is low. 50,000 signatures for the confirmatory referendum, 100,000 for the popular initiative. The participation quorum has never been the subject of debate in Switzerland: the voter decides, full stop.

The procedures for requesting a popular vote on a citizens' proposal or on a measure by elected representatives do not include any obligation to stamp, authenticate or certify signatures, which in Italy are required of the promoters' committees, nor do they include the bureaucratic trappings that impede and aggravate the collection of signatures, including from a financial point of view, such as the occupation of public land for the collection of signatures. signatures. The collection of signatures and the exercise of political rights are free. For all votes,

the Swiss institutions produce a guide in the form of an information brochure to explain the arguments of supporters and opponents to everyone.

The most frequently used referendum right is the confirmatory referendum, which has a high success rate for the citizens who promote it. The referendum is also effective with the mere threat. Thus civic organisations capable of launching a referendum must necessarily be involved in the legislative process. For this purpose, Switzerland has for decades had a special form of preliminary investigation and public hearing. Thanks to this type of hearing, which is nowadays mainly conducted via the Internet, the federal parliament or a cantonal council can invite all parties, organisations and corporations to express their views, and these statements are publicly visible on the official website. This creates more transparency and all those interested in a legislative project are involved at an early stage. With the optional referendum, however, every federal law can be subject to a popular vote. Parliament generally tries to avoid this type of referendum by incorporating potentially critical positions during the legislative process. As a result, only a small proportion of the laws that are passed are put to a popular vote. Since 1874, this has happened 183 times, while in a further 34 cases, referendum committees have failed to gather the required support (FDFA, *Modern Direct Democracy*, 2018, 11).

The popular initiative has a significantly lower prospect of success than the referendum. Of the 446 popular initiatives deposited in Swiss history up to February 2017, 324 managed to reach the minimum requirement of 100,000 signatures, and 209 were submitted to a federal popular vote. Only 22 were approved by both the majority of voters and the majority of the 26 cantons. In 114 cases, however, the promoters failed to collect the necessary signatures, while in 96 occasions the promoters' committee withdrew the proposal before the end of the process (FDFA, *Modern Direct Democracy*, 2018, 11). From 1891 to 2014, 189 federal initiatives took place at the federal level, but only 10% of the popular proposals made it to the ballot box. At cantonal

level, the success rate of popular initiatives is somewhat higher, at 23%. Clearly, the Swiss love direct participation, but they are also rather conservative when it comes to innovative proposals.

Table 3 – Popular votes at federal level in Switzerland 1848-2012

| | | 1848-1950 | 1951-1980 | 1981-2012 | Total |
|-----------------------|----------|------------------|------------------|------------------|--------------|
| Mandatory referendums | Total | 63 | 75 | 76 | 214 |
| | Approved | 43 | 58 | 59 | 160 |
| | rejected | 20 | 17 | 17 | 54 |
| Optional referendums | Total | 54 | 37 | 79 | 170 |
| | Approved | 20 | 19 | 55 | 94 |
| | rejected | 34 | 18 | 24 | 76 |
| Popular initiatives | Total | 37 | 38 | 107 | 182 |
| | Approved | 7 | - | 12 | 19 |
| | rejected | 30 | 38 | 95 | 163 |
| Total popular votes | Total | 154 | 150 | 262 | 566 |
| | Approved | 72 | 81 | 126 | 279 |
| | rejected | 85 | 77 | 141 | 303 |

Source: Statistical Office of the Swiss Federal Government

The quality of the rules

As a rule, the Swiss are called to the polls three times a year to vote on federal, cantonal and communal issues at the same time. The average turnout is around 40 per cent, but there are votes on major issues such as membership of the UN or the European Economic Area (EEA), which have seen far higher participation than elections. Although 99% of decisions in Switzerland remain the preserve of elected politicians,

in the cantons and the federation, direct democracy has a strong influence on political decision-making processes, and indeed to some extent characterises the culture of Swiss politics.

Overall, between 1866 and March 2018, the Swiss were able to take part in 617 national referendum votes, whose intentions were accepted in 298 cases and rejected in 333 cases. This regular and tense frequency of consultation has a considerable effect, even in cases where popular initiatives do not pass. Referendum campaigns, including official information on the individual questions, produce a broad public debate, create more knowledge and critical awareness among large sections of the population. Approximately two thirds of citizens' initiatives concern only three subject areas: environmental protection and energy, social policy and institutional regulations, and civil rights.

A Swiss peculiarity is the requirement of a double SI in federal referendums. To be valid, a confirmatory referendum or a popular initiative a popular initiative not only has to find a majority of votes among all the voters in the country, but also a majority of the 26 cantons must also vote YES. This requirement for a majority among the cantons presents a certain complication in reality in order to honour the federal state principle. It is not enough for Switzerland as a whole to say YES, but the YES vote must have won in at least 13 individual cantons.

Scientists sometimes call the Swiss system a 'semi-direct democracy', because it combines parliamentary legislative procedures with citizens' referendum rights, elections with votes, forcing politicians and civil society into a continuous dialogue. The Swiss rightly call themselves 'sovereign' in their democratic system, because they not only elect politicians, but can also at any time retake the right to decide on specific issues and questions. However, 98 percent of political decisions at cantonal and federal level are taken by politicians. These in turn are obliged to apply the results of referendums.

The voting material received by a Swiss citizen resident in the city of Berne for the 30 November 2008 referenda and elections:



1. National referendum government information booklet
2. National referendum ballot (5 issues)
3. Cantonal referendum government information booklet
4. Cantonal referendum ballot (2 issues)
5. Municipal referendum government information booklet
6. Municipal referendum ballot (4 issues)
7. Municipal election ballot for the city government (5 seats including the mayor)
8. Municipal election ballot for the mayor of Berne
9. Municipal election government information booklet
10. Municipal election ballots for the city parliament. Preprinted ballots for all party lists and one empty ballot are provided. Voters may cast only one ballot.
11. Return envelope for postal voting. To vote by mail, voters must insert the sealed ballot envelope (13) and the signed voter identification card (12) into the return envelope and mail it to the city chancellery for counting.
12. Voter identification card. It must be signed in order for a mail vote to be valid. It is discarded after validation and before the ballot envelope (13) is opened, so as to preserve the secrecy of the ballot.
13. Ballot envelope. Mail voters must insert their ballots and seal the envelope.
14. Election advertising material produced by the parties. Each party is restricted to one brochure of a prescribed format to be delivered to voters this way.

Author: Sandstein/WIKIPEDIA, CC Attribution 3.0 Unported

In direct democracy, politicians are involved as actors, not bypassed, and are in a more direct relationship with the citizens who elect them.

It is often argued that this type of direct democracy would slow down the legislative process too much. But the problem with legislative productivity today is not the quantity but the quality of laws. This also applies to Italy: there is no doubt that the Italian parliament produces too many laws and also too many unsuccessful ones. In Switzerland, there is no complaint about a lack of output of laws, but in the legislative process there is a much stronger focus on the consent of the citizens and the public involvement of all directly affected social groups. The administration is efficient, the economy is thriving, the level of public satisfaction is high, public debt is low and Switzerland is one of the wealthiest countries in terms of GDP per head worldwide.

Reforms of the system are also being discussed in Switzerland (see the box in this chapter), for example increasing the number of signatures needed to launch a referendum in proportion to population growth, or introducing the financial referendum at federal level. The federal popular initiative was proposed for ordinary laws, so as not to over-inflate the Constitution. But this instrument did not convince the legislators. Finally, consideration is being given in Switzerland to a constitutional jurisdiction to prevent referendums that are not in line with Switzerland's international obligations, without, however, affecting the citizens' right to vote on international agreements signed by the state. The introduction of a turnout quorum, on the other hand, in Switzerland is completely beyond discussions.

Is the Swiss system transferable to other countries?

It is often claimed that direct democracy, on the basis of historical development and particular traditions, can only function in this way in Switzerland, not in the rest of Europe and the world. In fact, a special form of system, but also of political culture, has developed in Switzerland. However, this is not so much a condition for a better

quality of democracy, but rather an effect. Direct democracy can develop well when citizens have the opportunity to vote regularly on concrete issues. The lack of such a tradition cannot be an argument against extending direct democracy. Rather, referendum rights must be better regulated so that such a democratic culture can evolve.

In Italy, the objection is often made: "We are not Swiss, we can't transfer this model to the Italian situation". Is direct democracy only applicable in Switzerland, because this country has a special development and a very special political system? Or is it a regulation, a set of instruments, which in theory can complement any system of representative parliamentary democracy worldwide?

Of course, Switzerland has many differences from Italy and its regions. Switzerland has developed a highly articulated federalism and the Swiss identify strongly with their canton. In addition, Switzerland implements the principle of concordance in the formation of governments. According to a 'magic formula', all the strongest parties are also present in the government coalition. Switzerland has a strong degree of community life, with a dense network of associations of all kinds, and the Swiss in general are very attached to their traditions.

There are other peculiarities of Switzerland: absolute neutrality in foreign policy, multilingualism with the principle of territoriality (each canton has, with a few exceptions, its own single official language), various Christian communities living together peacefully, and a high rate of immigration, which exceeded 25% in 2017.

While the federal structure has allowed the 26 cantons to develop their own language, culture and peculiarities while maintaining the general framework of a federal state common to all. 'Popular rights', i.e. direct democracy, allow citizens to identify strongly with their political system. Federalism and direct democracy: these are the essential ingredients of the integration of the Swiss nation and society, indeed they are part of the common historical heritage of the Swiss.

The democratic quality of decision-making is greater because, in addition to the institutions of representative democracy, it enables citizens to directly influence issues individual and concrete political issues. These paths and possibilities for direct citizen participation are based on clear rights with citizen-friendly rules. In addition, in Switzerland, citizens can decide in referendums on almost any subject, which is also discussed and decided on by parliament. In other words: the political sovereign, the citizens, have the last word in Switzerland. Why should this not also be possible in other democratic systems, especially in central Europe, but also in other parts of the world?

The Swiss are often accused of voting unacceptably in various referendums. This was the case in Switzerland's refusal to join the European Economic Area in 1992, then in 2001 when the Swiss refused to enter negotiations on EU membership. More recently, the ban on building new minarets (2009) and the decision to withdraw from the free movement of persons within the Schengen Agreement (2014) have bounced back in the European media. In these cases, a kind of 'ideological filter' is triggered. A few inconvenient decisions are exploited by those abroad who have always been enemies of direct democracy, while hundreds of other votes on other issues remain completely unnoticed and uncommented on. In their immigration and asylum policy, the Swiss have shown an attitude of openness to minorities and foreigners. In Italy, seen through the subjective ideological filter, the results of certain Swiss referendum votes are considered 'wrong' or 'unfair'. But it is a serious misunderstanding to confuse the results of votes with the referendum instruments as such. Direct democracy is nothing more than a mirror that reflects the positions of the population at a given point in history. There is no point in smashing the mirror when one does not like the image reflected. Seen from the outside with a subjective political viewpoint, there are "positive" and "negative" results in Switzerland. Despite their basically conservative attitude, the Swiss are a people who are open to the world,

to social and political innovations, and are always ready to surprise even the best of connoisseurs.

The pillars of direct democracy practised in Switzerland have already been transferred to various other countries. At the turn of the 20th century, the western US-member took up the citizens' initiative and the constitutional referendum, expressly following the Swiss model, as a complementary element of representative democracy at state and municipal level. There are now 24 US-member states that apply these rights. Globally, other 37 states have at least partially adopted these rights of participation. Every year, numerous delegations, including official ones, visit the Swiss institutions responsible for managing direct democracy in order to study how they work.

Direct democracy has proved to be a modern, successful and export-friendly concept. With at least 150 years of experience, Switzerland proves that referendum rights are applicable in every modern democratic state. But Swiss style direct democracy is still almost unknown in the majority of sovereign countries. Without having to copy all the Swiss rules, the pillars of this system are strong points of reference for a serious reform of democracy in our country, even though it is often stated that the Swiss model is not transferable.

However, there is no such thing as the 'Swiss model'; there is only a general model of direct democracy that has been consistently implemented in Switzerland. Various elements of this general model can also be found, at least in a rudimentary form, in other countries: the mandatory constitutional referendum, the zero turnout quorum, the low access thresholds, the referendum on resolutions of the regional councils, the popular initiative on regional and municipal level. However, these rights are usually accompanied by insufficient rules. It is therefore not a question of turning somebody into Swiss, but of applying rules that can be implemented in all democratic systems in the world. With a well-regulated, citizen-friendly direct democracy that encourages participation, such countries and citizens would not become more Swiss, but simply more democratic.

Which reforms for the Swiss direct democracy?

Switzerland's direct democracy has not been renovated and modernised since 1996. It needs both strengthening and refinement (cf. Andreas Gross, *Die unvollendete Direkte Demokratie*, 2016, 249-261). Above all, it is a question of balancing its relationship with fundamental rights and the European Convention on Human Rights (ECHR). If a majority votes in favour of a popular initiative bill that runs counter to the ECHR, when it comes to its implementation an affected person can file a complaint in the European Court of Human Rights and be proven right. This would undermine the majority decision of the Swiss electorate.

If the majority cannot prevail in referendums, this frustrates the electorate and undermines the integrative power, legitimacy and impact of direct democracy. Therefore, it is important to avoid voting on proposals that violate fundamental and human rights. In most states, this danger is prevented by a strict admissibility check of initiative bills by the Constitutional Court. In California and other US states, Constitutional Courts have subsequently invalidated referendums on unconstitutional bills in whole or in part.

In Switzerland, there is still no agreement on who should decide on the Constitutionality of a popular initiative and at what point in time. In any case, the grounds for invalidity of popular initiatives would have to be expanded in the Constitution. Not only parliament, but also the Swiss Federal Supreme Court should be entitled to rule on admissibility. To this end, its competences must be expanded so that fundamental rights under the ECHR remain protected even when direct democracy is applied.

On the other hand, the sponsors of popular initiatives and referendums must be enabled to make themselves heard better and more in public. This requires rules on transparency and compensation for the money invested in referendums. If the opinion-forming process before referendums is not fair, the result of the vote will also be cast in a

skewed light. It lacks democratic legitimacy and integrative power. The political public is the backbone of direct democracy. The soul of direct democracy - public debate and deliberation - must unfold freely and fairly. Even financially less powerful organisations must have equal rights in the voting campaign (cf. Andreas Gross, 2016, 254-255).

The timely implementation of referendums by the Swiss parliament must also always be ensured. Summing it up, the most important thing is a limited extension of the competences of the federal constitutional jurisdiction. No referendums should be held where the implementation of the majority will is uncertain. This would discredit direct democracy. If a bill violates the ECHR, it should no longer be allowed. As a second point of reform, effective fairness rules and balancing mechanisms are needed to limit the inequality of financial resources in voting between proponents and opponents. Similarly, full transparency of finances in voting campaigns must be ensured. There is also a need to invest in the public "political infrastructure" if the media market does not provide sufficient fairness and balance. This includes public service media, but also the direct official information to all households, and finally civic education at all school levels as well as in adult education.

Further reading on the issue: Andreas Gross (2016), *Die unvollendete Direkte Demokratie. 1984-2015: Texte zur Schweiz und darüber hinaus*, Werd&Weber Verlag, Thun/Gwatt, 249-261

CHAPTER 11

DEMOCRATISING THE EUROPEAN UNION

Today, a large proportion of legislation either comes directly from Brussels or has to be compatible with EU law. The EU is a combination of sovereign states with representative institutions, but the architecture itself is not that of a federal state. Many EU citizens have the impression that their vote does not count at European level, while the interests of the economically strong powers prevail. This is due to the fact that in a borderless internal market, which is the central objective of the EU, the economy has become transnational and the executive powers of the EU have also gained in weight, but their democratic control has not kept pace. Democracy still seems to be closed within national boundaries, with too timid steps towards transnational democracy, e.g. in the European Parliament. The EU is the world's most advanced project for a union of states, but it is not yet complete, failing in one of its core values: democracy.

Why democratise the EU?

The EU is a very special organisation. It is not a state, but it can adopt directly applicable legal regulations that may conflict with national law. With this binding regulatory power the EU distinguishes itself from other supranational organisations. The EU is not produced with a fully democratic institutional architecture and procedure: at the centre is not the body with the most political legitimacy because it is directly elected by the citizens, i.e. the European Parliament (EP). Although the Lisbon Treaty strengthened the EP's competences, the division of powers typical of national democracies is not yet realised in the EU.

The EU has normative power over a wide range of competences, which are relevant both for major policy orientations and for our daily lives. It is difficult to quantify the continuous transfer of competences to the EU level. It has been established that in the period 1998-2004 83% of all

legal acts were transferred to Brussels. But the weight of these acts needs to be properly assessed.

Not even the Lisbon Treaty has been able to correct the mechanism whereby regulatory competences continue to slide towards Brussels. Various clauses allow the Union to appropriate new competences, while the democratic rights of citizens are not extended. In general, every transfer of competences to the EU entails a loss of democratic control, because the control rights of citizens and elected politicians are less strong at EU level.

It is often argued that the EU cannot be assessed according to the criteria of a democratic nation state, as it is a *sui generis* construction, a union of states with characteristics similar to a federal state. The criterion of democracy, we argue, does not refer only to states in the strict sense, but to any decision-making centre that exercises power over citizens. Democracy consists of values, principles, methods and institutions not necessarily linked to a traditional state, but applicable to all human organisations. Therefore, the EU must also be confronted with the acquired standards of democratic rights.

It is legitimate to apply the same criteria of democracy used for a state also to the EU, because:

- the EU exercises legislative and executive powers over a wide range of policy areas, thus acting as a state structure, and manages a budget of 140 billion euros;
- European integration and therefore the transfer of powers to the EU level is allowed by the Italian Constitution, but cannot be in conflict with its fundamental principles;
- the EU itself, in the preamble to the Lisbon Treaty, professes to be 'bound by democratic principles', so the EU must be accountable to citizens for its consistency with these principles;
- European citizens are directly affected by a wide range of rules and measures, so they must have a say.

Politicians often defend the way European integration is handled by listing its positive effects on citizens, starting with the guarantee of peace and stability and ending with a functioning internal market, the single currency, the possibilities of full labour and capital mobility, stabilised agricultural incomes, university exchange programmes, etc. They claim that the lack of democratic legitimacy and transparency is compensated by the direct benefits for citizens, i.e. the output of the EU. It is claimed that the lack of democratic legitimacy and transparency is compensated for by the direct benefits to citizens, i.e. the output of the EU. In reality, in democracy it is not only the result that counts, but also the possibility for citizens to define the desired output. In a democracy, citizens must be able to choose the objectives and means of individual concrete policies through political dialectics and democratic methods. Even authoritarian regimes usually boast about their performance in terms of outputs for citizens, in order to downplay the reaction to the lack of democratic legitimacy. It is therefore essential that the actual results of the policy are also accepted and approved upstream by the citizens.

Isn't Europe too big for direct democracy?

When, 230 years ago, the idea of democracy began to enthuse most Europeans - not only in theory, but as a viable project - the discussion mostly revolved around the following question: where can democracy best be applied? Rousseau argued that the smaller the sphere, the better it works. Before the French Revolution, many people thought that democracy in a country as large as France was not viable. Similarly, for many people today, Europe, or the European Union alone with its 447 million inhabitants (2019), is simply too big to be organised democratically.

A first historical proof to the contrary is provided by the United States, founded in 1776 as a federal and democratic state. Another proof comes from India, which has functioned as a federal, multinational and

democratic state since 1947. India had a population of 1,339,000,000 in 2017 and is expected to be the most populous state in the world by 2020. It is a democratic system with three times the demographic size of the EU. Rather than questioning whether a democracy can work at the European level, we need to ask how such a system should be organised to ensure that sovereign citizens can participate as fully as possible.

This is the question that faces the 447 million inhabitants of the EU in 27 countries, a number that is set to grow further in the medium term. In the united Europe of the future, 550 million people may live there, but for practical reasons the Parliament can never exceed 750 elected members. With one MEP per 750,000 voters, representativeness is very low. Democracy in this case risks being an empty promise, so integration with referendum rights is required. The size of the EU is not an obstacle to incorporating direct democracy into its architecture, but rather is required because of the weakness of representativeness.

The new EU Lisbon Treaty of 2009 not only strengthened the role of the European Parliament (EP), but with the European Citizens' Initiative opened a window to referendum rights at the European level. In contrast, the former German federal minister Joschka Fischer, one of the main promoters of the Convention for a European Constitution in 2001-2003, has never had any doubts about this project: the EU is too big for direct democracy. The size of an electorate is certainly an important factor in making referendum procedures work. But can the number of voters alone be decisive in declaring a system of citizen participation in politics unworkable?

The application of democratic forms of government is not a matter of geography, provided that democratic institutions, rights and rules function at all levels of government. The establishment of democracy in a given area depends primarily on the will of the population concerned and secondly on the cultural level of the citizens. Are European citizens able to observe, reflect, discuss and form an opinion? Can they peacefully confront and listen to each other? Do they feel responsible

for their own destiny and for the fate of the community around them? Do they have access to preferred media and correct information on political issues? Can they formulate plans and solutions on general problems? Are the media independent and do they control political and economic power?

These are the factors that determine the viability of democracy at European level. If today the EU is not felt to be a sufficiently democratic body, this has nothing to do with the citizens' ability to understand and will in public life. Democratic systems in the EU work at municipal, regional and national level. Why should European citizens themselves not be able and interested in creating a strong democracy also at transnational level, based on a mature parliamentary system supplemented by instruments of direct democracy?

The small size as a requirement for the functioning of direct democracy is an outdated hypothesis of J.J. Rousseau. It is wrong to think that the EU is too big for direct democracy. The larger the space that is to be governed democratically and the more citizens live in this space, the more urgent it is to supplement purely parliamentary representative democracy with direct participatory rights.

The European Citizens' Initiative: a first step towards direct participation in the EU

Since 1 April 2012, the EU has been implementing a new right of citizen participation, the European Citizens' Initiative (ECI), introduced by the Lisbon Treaty (Art. 11(4)). Since then, more than 60 European initiatives have been launched, but only four have managed to reach the million-signature threshold and have had an impact on European decision-making. This is the first transnational direct democracy right in the history of democracy. At least one million EU citizens from at least seven member states have the right to propose a piece of legislation to the European Commission. The ECI is therefore a kind of 'mass petition' with which citizens can urge EU bodies to take up such

an initiative. It is an embryonic form of direct participation in EU legislation, but does not oblige the Commission to act. If the Commission rejects the citizens' proposal, no referendum follows and, in the worst case, the whole citizens' initiative ends there. Thus the ECI strongly resembles the Italian variant of the citizens' initiative proposal (art. 50 of the Constitution), which is mortified by the lack of a popular vote after a possible rejection by the parliament.

The ECI is comparable to a popular petition of at least one million citizens to influence the political agenda of the European Commission, but it does not provide the right to hold a referendum vote. However, it is not an entirely useless instrument. If more than one million citizens support a policy proposal of EU competence, it has a different political significance than a simple appeal filed by some lobby or NGO. With the ECI, civil society, organised and coordinated in a transnational form, is able to express strong proposals that the Commission and other European bodies cannot ignore. Thus, the ECI offers organisations a new channel for political pressure in the various areas of EU policy.

In any case, the ECI, while being the first instrument of transnational direct democracy, is too weak a right to bring the citizens' voice to bear on EU decision-making processes. Participation in the decision-making sense can only work if citizens are also entitled to vote on their European citizens' initiatives and in European confirmatory referendums. Then the most important EU decisions would no longer be left to the European political elite and the Brussels-centred technocracy under pressure from the strongest lobbies, but to the citizens. They would feel part of a common political space and project. Europe could also be integrated at the level of citizens.

The referendum rights that European citizens need

So far in the European Union there are no classic instruments of direct democracy. The European Citizens' Initiative (ECI), introduced in 2012, cannot replace the classic referendum rights, i.e. the popular

initiative and the optional and mandatory confirmatory referendum. These rights are indispensable for a more democratic Europe, to control European legislation and to stimulate representative bodies with proposals from civil society. In view of the forthcoming revision of the European Treaties, three types of direct participation rights should be proposed, following the referendum rights needed at national level (Benedikter, 2010):

1) The right to the legislative citizens' initiative, including the European referendum to vote on proposed laws (in Italian legal terminology this is the European propositional referendum). A minimum number of citizens have the right to propose draft European legislation, a right currently reserved for the Commission and, in a very limited form, for the EP. This right has three stages: it starts with the proposal for a European law by popular initiative put forward by at least 1 million citizens, followed by debate in Parliament. If the proposal is rejected, citizens can call for a referendum with a higher number of signatures, which would lead to a European propositional referendum.

2) A popular right of veto or European confirmatory referendum. Within a certain period after the approval of a new EU law, European citizens have the right to call for an optional confirmatory referendum on a law already approved by the EU bodies or on the possible entry of a new member state into the EU. This referendum is called 'optional', because a minimum number of citizens can ask for it.

3) The mandatory European confirmatory referendum is envisaged for possible amendments to constitutional treaties automatically, i.e. by law and without a specific request by a minimum number of citizens. This is why it is called a 'compulsory referendum'.

In a 'European referendum', all EU citizens with the right to vote are called to the polls to decide on a popular initiative proposal, possibly opposed to a counter-proposal from the EU institutions. The particular institutional architecture of the EU contains a whole series of mechanisms to prevent smaller member states from being continually

outvoted. Therefore, in European referendum votes it will be unavoidable to include such a federal element, i.e. a 'double majority' must be envisaged, as has long been the case in Switzerland: in federal referendum votes both a majority of the votes of all voters and an absolute majority of the cantons (the so-called 'Ständemehr') are required. Translated at European level, this would mean that in European votes not only a majority of the votes cast by all voters at European level would be required, but also a majority of the votes cast in most of the member states, in order to ensure representativeness in 'federal' terms.

The proposal would therefore be accepted if a majority of voters voted YES and if it was also approved by a majority of EU Member States (currently at least 14 out of 27 Member States). The 'double majority' acts as a protection in a federal sense in favour of the member states with the smallest number of citizens. European referendums should also dispense with a participation quorum.

The citizens of Europe must also be able to decide on the accession of new countries as members of the EU. On the other hand, referendums organised by governments or institutions (plebiscites) would not be acceptable, because they would be instruments used to gain easy applause for one's own policies and would not be the expression of a genuinely popular initiative. More direct democracy can compensate for the democratic deficits of the EU's current institutional set-up, it can help to create a true European public opinion, it can promote citizens' participation in politics, but it is not a general panacea for European democracy.

Challenges for direct democracy in the EU

The introduction of direct-democratic instruments faces specific difficulties, since the EU has its own history and political structure, which is not comparable to that of any nation-state, of which it is

composed. We can summarise these specific problems, which are common to all transnational democracy projects, as follows:

- Many citizens feel that the EU is too big and too remote and that it cannot function democratically.
- The EU is not a federation with a clear distinction of competences at all levels or a clear hierarchy of institutions and powers.
- The EU is not a mature parliamentary democracy, and even its parliament still suffers from a lack of powers and a lack of voter interest.
- There is perplexity about the European referendum instrument partly because of negative experiences with similar instruments at member state level. The majority of the EU Member States are centralised, and a large number of citizens already complain in their own countries about the distance between the decision-making centres of politics and their everyday lives.
- With direct democracy we are trying to introduce a historical innovation, so we have to deal with the need for a structural political transformation.
- Not all citizens have already turned into 'globally communicative citizens'. On the one hand, most citizens only know their mother tongue (plus regional dialect), on the other hand, there are still many who have a rather sectoral view of politics.

European direct democracy must be understood as a process and as a work in progress. Due to the 'democratic backwardness' of the EU, one should not expect the whole range of referendum rights to be suddenly established at EU level, as they often do not even exist at national level. Thus one can start with the compulsory confirmatory referendum to approve a future Constitution and its subsequent amendments, the legislative citizens' initiative and the popular petition to the EP; the right to an optional confirmatory referendum can follow later.

In conclusion, precautionary measures should be taken from the outset when introducing European instruments of direct democracy. The transnational dimension of its democracy gives the EU a special quality, which creates specific requirements compared to those made by national democracies, for example:

- Decision-making and initiative processes must be prevented from being unilateral in both the geographical and social sense. Citizens' initiatives must come from as many countries as possible and from every social class.
- Various forms of elitism must be opposed: neither financial power nor the power of well-organised NGOs must dominate direct democracy. The instruments of direct democracy must be accessible to all citizens, not only to those who are well organised and financed.
- Transnational activities should be encouraged and supported to foster the formation of the 'European public space'.
- When setting deadlines for dealing with and carrying out European citizens' initiatives, sufficient time must be allowed for negotiations and efforts to reach consensus between institutions, promoters and the various interest groups.
- Forms of European direct democracy must be configured, so that not only are the European institutions obliged to listen more to the citizens, but also the citizens listen to each other.

The current crisis of all national democracies is a double crisis. On the one hand, the national democracies of the member states are too indirect, almost always based only on elections, and therefore need to be supplemented with elements of direct democracy. On the other hand, they are also too national, which means that they can no longer manage and contain transnational economic strong powers. This is why these democratic powers must be expanded transnationally, i.e. at the European level of the EU.

Only by intelligently combining representative and direct elements will we be able to give the EU the democratic legitimacy it needs to pass

decisions by simple majority at a transnational level. The EU would gain the legitimacy required and necessary for the civilisation and humanisation of markets in the interests of citizens and nature. Thus direct democracy also emerges from its niche, develops its potential and is no longer confused with plebiscitary elements.

The costs of politics and direct democracy

The instruments of direct democracy - particularly referendums - are accused of being too expensive for public budgets. In the event of an extension of referendum rights, which could lead to more frequent voting, political representatives like to fear the danger of 'excess costs' due to referendums. In general, all democracy costs money: the central problem in Italy is not the funding of a few extra days of referendum voting at regional and national level, but the more serious problem of the costs of representative politics. In Italy, more than 400,000 people live directly from politics: an army of deputies, councillors, bagmen, assistants and consultants of all kinds that weigh on public budgets at all levels with more than three billion euros per year.¹⁾ According to Uil, in 2013 there were 1.1 million people, 5% of those employed in Italy.²⁾

Senators and MPs earn 14,000 EUR net per month. In addition, Members of Parliament receive cards for free travel by road, rail, sea and air within the country. For travel abroad, he or she has EUR 3,100 per year. For telephone costs, the MEP receives EUR 3,098, the senator EUR 4,150. The cost of MPs' pensions is particularly heavy. After just two years, six months and one day in the legislature, an MP earns a pension. In 2007, 2,005 former MPs and 1,297 former senators received pensions for a total expenditure of EUR 186 million per year. In no European country is the cost of political representation as high as in Italy. German, French and Spanish parliamentarians earn less than half, not to mention the Swiss, who are reimbursed very little.

However, the cost of members of national parliaments is only a small part of the total cost of Italian politics. Cesare Salvi and Massimo Villone calculate that public budgets are burdened by more than 422,000 people:³⁾ 149,000 elected office holders and 278,000 'consultants' at a total cost of 1.851 billion. The ministries with their staff require another 1.375 billion euros, while the total cost of the Quirinale is around 235 million euros per year (87.6% is devoted to staff expenses). In April 2007, the Prodi government announced its intention to contain the costs of representative politics by reducing the proliferation of elected offices, cutting the costs of election campaigns and cutting consultancy fees. The Italian MEPs are also the richest among the European parliamentarians: their gross annual salary amounts to almost EUR 150,000.

It is these costs that must be compared with the cost of referendum voting, which is not available in Italy. In Italy, referendums served to put a brake on public party funding, which was abolished in the referendum of 18 and 19 April 1993, with 77% of voters, 90.3% of whom voted in favour of the repeal. In Switzerland, the costs of referendum voting vary from canton to canton. Assuming that

- on average, a referendum vote concerns two medium-sized proposals;
- the average voting pamphlet comprises between 16 and 24 pages;
- the illustrations of the vote are printed in 4 colours and 4 languages,

a referendum vote at the Swiss federal level costs about 1.5 Swiss francs per person entitled to vote (about 5 million in 2018), regardless of the votes actually cast. In other words: every adult Swiss citizen with 3-4 votes per year spends one and a half francs per person for his or her referendum rights. To these costs must be added the costs incurred by the cantons and municipalities for votes at their respective levels of government.

The cost of direct democracy cannot be compared with the cost of representative politics. The costs of a referendum must be compared with the results it produces. Referendum rights are part of the

fundamental rights of political participation, with which the sovereign citizen regains the power of immediate decision-making. The cost of this procedure, which is in any case borne by the taxpayer, is to be compared with the cost of elections, not with the political apparatus, which in Italy exceeds any reasonable size. Whereas in Italy it is not permissible to determine the salaries of political representatives within the framework of a referendum question, in Switzerland politicians' salaries can always be regulated by the citizens through referendum rights. It is not surprising that, because of this rule, the salary level of Swiss politicians is among the lowest in Europe. In general, the admissibility of tax issues and the availability of the financial referendum mean that the level of taxes and duties, the level of public debt and the cost of politics are lower in Switzerland and that the administrations in general are more efficient.

1) Vladimiro Polchi, *"Half a million Italians live off politics"*, in *LA REPUBBLICA*, 14 April 2007.

2) UIL, *3rd report - The costs of politics*, December 2013

3) Cesare Salvi and Massimo Villone, *The Cost of Democracy*, Milan 2005.

CHAPTER 12

DIRECT DEMOCRACY AT THE SERVICE OF OF A MORE SUSTAINABLE TAX SYSTEM

Italy is among the countries with the highest public debt in the world. This debt race is conducted with the tacit consent of citizens, who elect the parties they trust. On the other hand, citizens are excluded from any direct involvement in economic policy, but above all in public finance, so much so that the Constitution does not allow referendums on tax matters. In light of the latest developments, is this measure justified?

Citizens without a say in public finance

Public debt is a basic fact that weighs on our economy and affects the wallets of taxpayers. Although it is the taxpayers - both current and future taxpayers - who pay the final bill, they are not allowed to express their specific opinion on public finance decisions. On the contrary, it is one of the main bogeymen bandied about when discussing the strengthening of citizens' referendum rights, namely that citizens should not be involved in financial and taxation decisions. There is a general fear that more democracy would reduce governability, and that citizens, unlike politicians who are responsible for the common good, would always be tempted to increase expenditure and raise taxes. The facts confirm the opposite: in Italy e.g., fiscal and tax matters are totally excluded from referendums, citizens have no say in the public budget at any level of government. The State is now over-indebted because the parties in government wanted it to be. Even in the other heavily indebted EU countries, public spending and tax issues are excluded from referendum rights. The exclusion of citizens from any form of participation in financial policy choices seems to have fuelled profligate spending and recourse to debt reduction. In fact, the

Constitution (Article 75, paragraph 2) excludes popular referendums not only on budget proposals, but generally on any tax laws.

This prohibition is due to the assumption, present among Constitution makers and still widespread in the mainstream political parties, that citizens would lack any sense of responsibility for taxation. It is assumed that citizens by their nature are always inclined to demand higher social benefits and lower taxes and duties. The reality, however, paints a very different picture. Take Italy as an example: in many regions of this highly indebted country, the community pays relatively high taxes, while the quality of public services leaves much to be desired. The waste of public money on unnecessary projects, poorly managed services and rampant patronage have contributed to the collapse of public finances. Where citizens are prevented from taking action on tax matters, politicians make inordinate use of debt, leading to serious public deficits. The public debt accumulated in many European countries, for example, was not decided in popular referendums, but by politicians.

The effects of a long-term unbalanced fiscal policy fall on the citizens, who are forced to bear high taxes without any counterpart: in the end, it is always the current and future taxpayers who have to cover the expenses for services and projects that were never requested by the majority of the community and for the interest on debts. After the end of their term of office, politicians change office, often with 'golden pensions', and the responsibility for balancing public budgets falls on their successors. After all, the logic of responsibility for public spending should be reversed: since it is always the citizens who have to bear the effects of spending and revenue decisions, they should have the last word.

Ordinary citizens are not less responsible

In reality, citizens do not appear to be any less responsible and far-sighted in the management of public finances than politicians. Surveys

conducted in the USA and Germany over a period of several decades show that a stable two-thirds majority of citizens prefer balanced public budgets even in the short term. The enormous public debt is the result of a policy that is at odds with the preferences of the population, especially the younger generation, on whose shoulders this burden falls. The accumulation of increasing amounts of public debt is actually closely linked to the strategic choices of political parties. Empirical research shows that:

- The greater the polarisation within a multi-party coalition, the greater the tendency to increase debt.
- The more likely the government is to lose the next election, the greater the tendency to increase debt.
- The shorter the average duration of a government, the greater its inclination to borrow.

This shows that the short-term reasoning of political elites plays a decisive role in public debt. In other words: they use debt to gain votes.

On the other hand, there are countries in which the citizens also have the right to intervene in financial and fiscal policy. In Switzerland, citizens have the right of veto in a optional confirmatory referendum if they believe that politicians are exaggerating with taxation or public spending, putting too much debt on public budgets, and therefore putting too much of the burden on the shoulders of future taxpayers, the younger generations. With the popular initiative Swiss eligible voters with a minimum number of signatures they can put their proposals for a fairer tax system, to limit debts, to induce politicians to spend in a fairer and more balanced way. So on the one hand a veto tool, an emergency brake; on the other hand the propositional tool, i.e. the accelerator when the political class and parties do not move.

Finally, there is the financial referendum in almost all Swiss cantons and many municipalities. When a public project exceeds a predetermined expenditure threshold (on average 2.5 million Swiss francs or approximately 2 million euros), the citizens are obliged to

vote in a referendum. This instrument of direct democracy operates according to a very simple principle: when expenditure on a specific public project exceeds a legally stipulated amount, the entire electorate must or can decide on it. Optional financial referendum means: citizens with a minimum number of signatures can call for a referendum as a right of veto on specific spending resolutions. A compulsory financial referendum means: whenever a public expenditure exceeds a certain amount, the citizens must be consulted by popular vote on whether or not to authorise this public expenditure by their canton or municipality. The financial referendum allows a popular veto against an expenditure resolution, with the effect of controlling and containing expenditure covered by taxes and fees. However, Swiss citizens can also intervene in tax regulations and the tax system with the two classic instruments of the popular initiative and the confirmatory referendum.

It was found that in the cantons that were more inclined to use this instrument, public expenditure was relatively lower than in the cantons without the 'financial referendum'. Swiss researchers (Kirchgässner, Feld, Savioz, 1999) analysed the effect of compulsory financial referendums in 131 Swiss towns and cantons. The Swiss municipalities, unlike the cantons, have more room for fiscal manoeuvre. The analysis showed that the financial referendum has a strong effect in reducing the municipal budget deficit. Furthermore, the argument that citizens, who are left free to decide on taxes and duties in referendums, always opt a priori for lower taxes has not been verified.

In the United States, 130 citizens' initiatives on tax matters took place between 1978 and 1999, of which 86 were aimed at reducing taxes, 27 at increasing taxes and 17 were tax-neutral. 39 percent of the initiatives aimed at increasing taxes were aimed at reducing taxes. Of the initiatives aimed at increasing taxes, 39 percent were approved, whereas those aimed at reducing taxes were approved in 40 percent of the cases analysed.

After all, the Swiss have raised their taxes several times using direct democracy instruments. In 1984, the general toll sticker on motorways

was introduced by popular initiative. In 1993, a new surcharge of 0.20 Swiss francs per litre on mineral oils was introduced by referendum. In 1998, the Swiss introduced a tax on road freight traffic (heavy goods vehicles) to cover the costs of the new Gotthard tunnel. In 2009, the Swiss agreed to a time-limited increase in VAT. On the other hand, the introduction of VAT had previously been rejected three times by the citizens. In December 2001, the Swiss approved a 'debt brake' in a referendum. Since then, the federal public debt has fallen continuously to 28.8 percent of GDP in 2018. In March 2018, Swiss citizens rejected the popular initiative to repeal the (higher) federal tax on public broadcasting.

The canton of St. Gallen can serve as an example. A compulsory financial referendum must be held when decisions are made on expenditure of at least CHF 15 million in one go or CHF 1.5 million in recurring solutions over several years for new expenditure items that are not yet covered by existing laws. With a total cantonal budget volume of CHF 5 billion (2018), these amounts are relatively low. The optional referendum can be requested in the case of an expenditure resolution of at least CHF 3 million and current expenditure of at least CHF 300,000. For this purpose, 4,000 signatures must be collected within 40 days. Considering the number of people entitled to vote at around 300,000, this signature threshold is certainly not excessive. From various studies (Kirchgässner 2001) has shown that the financial referendum limits public spending. Municipalities with this instrument have a lower level of expenditure per capita than municipalities without this citizens' right. The tax levy, debt rate and tax evasion are also lower where the electorate can express itself on their regulations.

In addition to the financial referendum, it is precisely the combination of direct-democratic mechanisms that has made Switzerland one of the countries with the lowest public debt, lowest taxation, most efficient public administration and most stable economy. There is a great deal of research, not only in Switzerland, but also in California and other US

federal states, that proves this dynamic. That is, where direct democracy mechanisms work well, there are

- less expenditures on public administration and a lower level of contributions;
- a fairer distribution of income;
- more responsibility of citizens for taxation.

In fact, there is also a positive effect in the fight against tax evasion. In cantons where more people vote on tax issues, tax evasion is lower. This is due to a simple link: the happier citizens are with the public administration, also because they are directly involved in the choices, the more willing they are to pay the taxes due. The more citizens can directly influence public spending and taxes, the more they feel responsible. The more citizens can control public spending, the greater their willingness to support the tax effort. A simple and virtuous circle.

The participatory budgeting

Participatory budgeting is a form of direct participation of citizens in the life of their city. The most famous experience of participatory budgeting took place in Porto Alegre in Brazil (1.4 million inhabitants) and began in 1989. The aim was to enable citizens to actively participate in the development and implementation of municipal policy. Within the framework of the participatory budget, the population is invited to specify its needs and establish priorities for municipal investments and the allocation of funds in various sectors (environment, education, health, etc.). This is complemented by complementary participation organised on a thematic basis through the involvement of professional or occupational groups (trade unions, entrepreneurs, students...).

To this end, Porto Alegre has been divided according to socio-economic criteria into 16 districts or regions. Each year, 22 civic assemblies are held, in which any citizen over the age of 16 can

participate. In conjunction with these assemblies, six 'thematic forums' were also set up in the regions in 1994, dealing with the following areas: transport and communications, health and social affairs, education, culture, economic development and tax policy, town planning and spatial organisation. These forums discuss investments that affect the whole city. Often, these are long-term, large-scale projects such as housing developments or city infrastructure. These forums have also involved many intellectuals, trade unionists, entrepreneurs and experts from many fields.

Before each official assembly, the inhabitants meet in informal assemblies to prepare their proposals. The forums and assemblies are communicated through newspapers, posters, radio, TV and the Internet. On the agenda are not only proposals for the upcoming municipal budget, but also a report of the municipal administration on the final budget. The administration has to explain and justify the decisions taken in the past year. This process offers all citizens an opportunity to directly control the work of the municipal administration. In addition, the internal rules of procedure and the general criteria for the distribution of funds between regions are also discussed in these assemblies.

Municipal authorities are present with their own representatives in all district meetings and thematic meetings. Municipal representatives have the task of providing technical, legal and financial information and can make proposals but cannot influence the decisions of the meeting participants. At the end, each territorial or thematic group presents its priorities to the planning office, which draws up a draft budget taking into account the priorities indicated by the territorial or thematic groups. At the end of the process, the Participatory Budget is approved by the municipal council. During the course of the year, citizens evaluate the implementation of the works and services decided on in the previous year's participatory budget through meetings. In view of the budgetary constraints imposed on them by law, municipal administrations usually give the proposals put forward by citizens'

groups the possibility of affecting a certain percentage of their budget of the municipal budget. In Porto Alegre, the starting point was 10 percent of the municipal budget, rising to the current 25 percent.

In Italy, the idea of participatory budgeting spread in conjunction with the first World Social Forum in Porto Alegre (2001), stimulated by Latin American experiences through campaigns promoted by non-governmental organisations, social forums and some parties of the parliamentary left. Since then, participatory budgeting has become widespread, especially in the municipalities of central Italy, having been adopted in the municipalities of Castel Maggiore, Udine, Modena, Isola Vicentina, Pieve Emanuele, Grottammare and the XI municipality of Rome. More than twenty municipalities, including Naples, Venice and Rome, formalised their interest in adopting forms of participatory budgeting by appointing a councillor or a municipal councillor delegated by the mayor for experimentation.

Unfortunately, only a few cities have matched this formalised commitment with concrete actions of innovation in municipal budgeting. Rarely has participatory budgeting been considered as a possible tool for improving urban management or the three-way relationship between government, citizens and bureaucracy.

In many local authorities, participatory budgeting has often been preceded or replaced by a "social balance sheet", which, while favouring citizens' contributions, limits its practical impact. In Brazil itself, participatory budgeting has had a different fate depending on the cities in which it has been used. The success of this instrument requires a certain political-administrative stability and a willingness to involve the citizens themselves. In some Brazilian cities, in fact, where administrative decentralisation and the participation of trade associations or trade unions was well established, the share of the budget decided by the participatory system did not exceed 10 percent.

For more information: Thomas Benedikter, *Il bilancio partecipativo*, Edizioni SI 2018.

What are the underlying reasons for these results? That is, why do advanced systems of direct democracy succeed in having this salutary effect on democracy in general, but also on public accounts and economic stability? Here are some reasons:

- With timely intervention through referendums, citizens not only have the option of electing another majority at the next election, punishing the incapable every five years, but also of intervening during the legislature, blocking certain expenses, taxes, mega-projects and waste. In Italy, a national referendum in 2011 prevented a gigantic waste, the nuclear option, but there are many other ready-made mega-projects that will weigh on the shoulders of taxpayers.

- Thanks to the referendum, citizens are better informed about public spending and politics in general. In their experience, citizens are more cautious and responsible, knowing that it is they who will have to pay the final price.

- With the referendum, citizens can also control the cost of politics, which in Italy as in other European countries is absolutely out of proportion to the average costs of representative politics in other European countries.

- The great problem of the disconnection between the preferences of politicians and the preferences of citizens is addressed. There are very strong, well-organised and well-financed interest groups that are able to direct public spending and the government's line. On the other hand, during elections, ordinary citizens vote for a party for ideological reasons, with a 'lump sum' vote, but on many issues they have different ideas to the choices made by the government formed after the elections.

With these brief remarks on the lack of direct democracy of citizens in tax matters and public spending, I would like to point out that the exclusion of citizens from decisions on tax matters has produced the opposite of what the Constituent Assembly probably had in mind. If the tax burden (including social security contributions) in Italy is very high with a rather mediocre quality of public services, if tax evasion is

widespread throughout the country, if the public debt reaches record levels and there are so many cases of waste of public money, it is also due to the fact that citizens and taxpayers have no say and no right to control single decisions taken by politicians. It is by no means true that only more centralized decision-making from above could about bring more responsibility back into public finances; quite the opposite is true: a stronger role for the sovereign is essential to consolidate public finances.

After Greece, Italy has the highest stock of public debt, which at the end of 2020, at around EUR 2,600 billion, still stands at almost 160% of national GDP. At the same time, it has a tax burden of 43.3 percent (the total share of taxes and social security contributions in GDP in 2017), making it one of the top six EU member states with the highest tax burden.

On the other hand, tax evasion in Italy is quite high (EUR 110 billion, estimated for 2017), while the quality of public services leaves something to be desired. At the regional level, taxation is also excluded from the referendums.

In Italy, politicians and parties, once in power and managing public expenditure, have considered public budgets as self-service supermarkets. In 2007, at least 400,000 people were said to live directly of politics (cf. Salvi-Villone 2007): according to UIL, this figure is as high as 1.1 million people, 5 percent of those employed in Italy (UIL 3rd report - The costs of politics, December 2013). The Chamber of Deputies alone will spend 968 million in 2018, an increase of 1.85 percent compared to 2017. For constitutional bodies, the State in 2018 will spend a total of 2,458 million Euros. Regional councils across Italy cost around one billion euros in 2012. Across Italy, the gross salary to each of the 1117 regional councillors amount to just over 200,000 euros. Taking into account all the expenses for a councillor, the Italian average is 875,000 euros per year. Including all the indirect costs of representative politics the total figure would be considerably higher. In no other European country are the costs of representative politics as

high as in Italy. The governing parties have always been able to maintain these privileges to the exclusion of any direct intervention by the taxpayer.

Italian citizens can hardly be blamed for the mountain of debt accumulated in the decades since the war. In addition to the various socio-economic reasons, there is also a political factor that has fostered the tendency towards profligate spending among the ruling parties, and that is the lack of any right of veto on the part of the citizens. Every now and then, citizens' initiative bills – without any right to popular polls - are submitted to the Parliament in Rome, with an almost futile effect, since these draft bills are quickly forgotten in parliament.

On the other hand, there is the example of Switzerland, which shows that the exclusion of taxation from the referendum process is by no means a foregone conclusion. On the contrary, public finance issues are among the most popular political issues for referendums in Switzerland, so there is traditionally a strong interest in controlling political representatives precisely in the management of public finance. To this end, the 'financial referendum' has been introduced in the cantons and communes.

With more rights for citizens, more financial responsibility for politicians the Swiss example clearly demonstrates that the exclusion of the topic of public finance from the referendums is unjustified. On the contrary: the more citizens are involved in public spending decisions, the greater the accountability among the population, the more tax evasion is reduced, the less public funds are wasted. The link between democracy and public spending is simple: citizens know that sooner or later they will have to face new expenses with an even heavier tax burden, and are therefore very cautious about authorising new expenditure items.

How do we arrive at these positive effects of direct democracy on public finances? Here are some possible explanations:

- With elections, the voters issue a kind of blank cheque to political representatives, who can only be revoked 4-5 years later. In the absence of referendum rights, citizens cannot intervene to prevent bad investments, wasted public funds, unnecessary expenditure or unjustified taxes.
- If citizens were allowed to vote on public finances, the immediate effect would be that they would be more interested and informed about the subject. Since citizens ultimately foot the bill, they are generally more reserved when faced with new spending obligations. In Italy in 2011 the citizens avoided a gigantic waste of public funds by voting against nuclear power plants, but in general they do not have the right to veto new spending obligations.
- With the optional confirmatory referendum, citizens can also limit the overflowing costs of politics and curb rampant patronage.
- In many countries around the world there is still a high rate of corruption in public administration. The right of citizens to influence spending decisions and specific projects limits this danger.
- The preferences of the citizens and those of the representatives by nature do not coincide. Influential interest groups and various strong powers can always influence politicians to direct public spending and investments according to their tastes. Ordinary citizens do not have this power. One votes 'all inclusive' for one party, all individual decisions relating to public finances remain the preserve of politicians, the citizens no longer have a say.

The compulsory financial referendum could provide for an automatic popular vote for all projects involving expenditure above a predetermined threshold (e.g. EUR 50 million). By avoiding the burden of collecting signatures, citizens would have the opportunity to learn more about the effects of a project of considerable financial commitment. It is the citizens who foot the bill, so at least in the case of large projects they should be heard beforehand. This right, which exists

in other countries, would translate into an effective brake on the profligate spending that has plagued the public finances of many countries for so long.

The direct participation of citizens in public finances, including referendum rights on taxes, would be even more reasonable if legislative powers over taxation were distributed and managed in a more decentralised way. An example comes again from Swiss federalism. In this sense, the regions and municipalities should be given more autonomy in regulating taxes and duties, as usually they have very few competences in tax matters, and the lion's share of their revenue comes from state transfers. When a financial referendum to prevent overspending is deemed to be useful, the tax system must be more decentralized. Combining more fiscal federalism with direct democracy is the recipe for reducing waste and excessive tax pressure. The consolidation of public finances is achieved by making politicians at all levels of government accountable, allowing citizens - the real taxpayers - to be the controllers.

The risk that is often feared - especially by wasteful politicians - that with referendums on taxes and levies, citizens will simply cut taxes is unfounded. The direct participation of citizens and thus of taxpayers can contribute decisively to a more solid, fair and sustainable tax system. Experience in Switzerland shows that citizens have the necessary sense of responsibility for public finances. Precisely because citizens play this role in Switzerland, there is a functioning welfare state, a high quality infrastructure, a low public debt and a rather low tax burden.

With the picklock of the compulsory financial referendum, the conditions and automatism that feed this vicious circle could be exposed and neutralised. The financial referendum and referendums on mega-projects and on tax laws and regulations would complement the 'balanced budget' provided for in the Constitution, and would provide an ideal brake on debt simply by leveraging democracy.

CHAPTER 13

A MODEL ON THE RISE: DIRECT DEMOCRACY IN THE WORLD

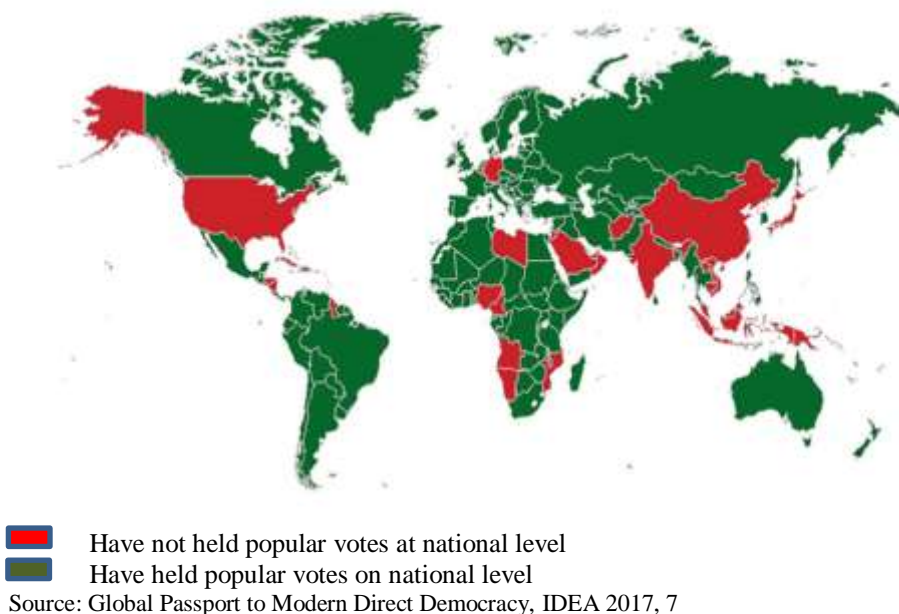
The last few decades have seen the expansion of direct participation rights in politics in many parts of the world. In many states and regions, such referendum rights are used regularly. Recently, there have been important referendum votes: the UK's exit from the EU, the peace agreement in Colombia, the future of nuclear power in Switzerland, the presidential regime in Turkey. But for the citizens of most countries, direct democracy is still not a reality, let alone the one third of states that are not even democratic. Of course, there is a difference if a vote is requested by citizens under fully democratic conditions or if it is called from above as a plebiscite, whether by an authoritarian regime or a democratic government.

Referendum rights in more and more countries

Democracy as a political system is slowly spreading around the world, which also favours the establishment of direct democracy. In 1975, 30 percent of the population lived in a democratic regime; in 2016, this figure had risen to 68 percent. According to Freedom House, in 2018, out of 195 independent states, 39 percent were free, 24 percent were partly free and 37 percent were not free. Among the 117 democratic countries, 113 have legal regulations or rights anchored in the Constitution that provide for instruments such as the citizens' initiative, referendum or both. According to the prestigious Swedish institute IDEA, since 1980, more than eight out of ten countries in the world have held at least one citizens' initiative or referendum at national level. More than half of all states have referendum rights at national level. Up to May 2018, a total of 1,471 referendum votes have been recorded at

the national level in the world: 1,059 in Europe, 191 in Africa, 189 in Asia, 181 in the Americas and 115 in Oceania. More than half of these 1,471 referendums were held in the United States. last 30 years. There are also an increasing number of states that, although they do not provide for national referendums, allow popular votes at the regional and municipal level, i.e. at the sub-national level.

Table/figure 4 – Popular votes around the world



Often, however, the right of referendum ends with the compulsory constitutional referendum, i.e. the Constitution stipulates that changes made by parliament to the Constitution must also be voted on by the citizens. In many countries, such popular votes can only be called from above, i.e. by representative or executive bodies (plebiscite). Direct democracy in the strict sense, which requires the institutionalised availability of the initiative and the referendum, is currently only found in 38 countries. However, the figures speak for themselves: direct democracy is advancing. Most of the referendum votes ever held have

taken place in the last 25 years. Approximately one third of all referendum votes held between 1793 (French Revolution) and 2017 have taken place from 1991 until 2017.

Table 5 - The 30 „top countries“ for the application of direct democracy (period 1985-2005)

| Rank | Country | „Genuine“ procedures of direct democracy | | Plebiscites (popular votes triggered by the state) | | Procedures of direct democracy - Total | |
|------|--|--|---------------|--|---------------|--|---------------|
| | | votes | In percent | votes | In percent | votes | In percent |
| 1 | Switzerland | 133 | 50,6 | 67 | 14,7 | 200 | 27,8 |
| 2 | Italy | 49 | 18,6 | 5 | 1,1 | 54 | 7,5 |
| 3 | Liechtenstein | 24 | 9,1 | 10 | 2,2 | 34 | 4,7 |
| 4 | Lithuania | 11 | 4,2 | 7 | 1,5 | 18 | 2,5 |
| 5 | Uruguay | 11 | 4,2 | 4 | 0,9 | 15 | 2,1 |
| 6 | Hungary | 7 | 2,7 | 2 | 0,4 | 9 | 1,3 |
| 7 | Slovakia | 5 | 1,9 | 4 | 0,9 | 9 | 1,3 |
| 8 | Micronesia | 4 | 1,5 | 20 | 4,4 | 24 | 3,3 |
| 9 | San Marino Ukraine | 4 | 1,5 | 2 | 0,4 | 6 | 0,8 |
| 10 | New Zealand | 3 | 1,1 | 5 | 1,1 | 8 | 1,1 |
| 11 | Columbia | 2 | 0,8 | 16 | 3,5 | 18 | 2,5 |
| 12 | Slovenia | 2 | 0,8 | 7 | 1,5 | 9 | 1,3 |
| 13 | Latvia | 2 | 0,8 | 2 | 0,4 | 4 | 0,6 |
| 14 | Bolivia | 1 | 0,4 | 5 | 1,1 | 6 | 0,8 |
| 15 | Venezuela | 1 | 0,4 | 4 | 0,9 | 5 | 0,7 |
| 16 | Ecuador | | | 33 | 7,2 | 33 | 4,6 |
| 17 | Ireland | | | 18 | 3,9 | 18 | 2,5 |
| 18 | Belarus Botswana | | | 12 | 2,6 | 12 | 1,7 |
| 19 | Azerbaijan | | | 11 | 2,4 | 11 | 1,5 |
| 20 | Poland | | | 9 | 2 | 9 | 1,3 |
| 21 | Algeria Australia Egypt | | | 6 | 1,3 | 6 | 0,8 |
| 22 | Bahamas, Denmark, France, Guatemala, Niger, Russia | | | 5 | 1,1 | 5 | 0,7 |

Source: David Altman, Pontificia Universidad Católica de Chile

The most widespread form of modern direct democracy is the constitutional mandatory referendum, in which voters approve or reject changes to the Constitution desired by the legislature. Out of 192 independent countries, 111 have provided for this type of referendum, especially in the case of amendments or total revisions to the Constitution. In the USA, the first referendum of this type was held in Connecticut in 1639. The first nationwide popular votes were held in countries influenced by revolutionary France in the 1790s, such as Belgium and Switzerland. In various federal countries, there are also compulsory confirmatory referendums for decisions on public spending and taxes.

On the other hand, in many countries, referendum instruments are burdened with obstacles and severe procedural limitations, such as high thresholds of signatures that have to be collected too quickly, participation quorums, no obligation to inform the public authorities, too many excluded subjects. Sometimes, votes are not binding, leading to the risk of arbitrary application and litigation before the Supreme Courts. Such restrictive regulations preclude a regular practice of direct democracy.

A century of direct democracy in California

Referendum rights in America have a history of more than 100 years. In South Dakota they were introduced in 1897, in Oregon in 1902 and in California in 1911. With 38 million inhabitants, California is now the largest single state in the world with a regular practice of direct democracy over such a long period of time. In both Oregon and California, 350 referendums have been held to date, both on citizens' initiatives (proposed referendums known as 'initiatives') and confirmatory referendums (known as 'referendums'). For some time, however, the Californians have been facing a serious problem: the commercialisation of referendum rights. As a rule, in the Far West, paid petitioners collect signatures, collecting an average of five dollars

per signature. What counts is the 'quick signature', to the detriment of explanation and political dialogue with the citizen, which are part of the soul of direct democracy.

The signature thresholds, from an Italian perspective, are quite high: 5 percent of the voters in the case of a propositional referendum, 8 percent for a popular initiative to amend the Constitution. Today, it is almost unthinkable to collect so many signatures with volunteers alone. In 1911, when these thresholds were introduced, California had only 2 million inhabitants. There is therefore an urgent need to lower the thresholds and extend the collection period. The commercialisation of this democratic process is even more visible and incisive during referendum campaigns. Up to 30 million USD are spent, especially when the interests of large companies are affected, and especially on television commercials. Unfortunately, in the USA there is no limit to spending on such occasions, because of the fundamental right of free speech. Corporations - regardless of whether it is EXXON or the shop across the street - have the same legal status as physical citizens and can enjoy the same rights. But battles are not necessarily decided by money alone. If one side spends too much on its campaign, it can be counterproductive, voters can get impatient and eventually vote against.

Apart from these worrying aspects of direct democracy in California, there is a whole series of positive aspects to be noted: no subject is excluded, not even taxes and duties; there is no provision for covering the costs of a reform introduced by referendum; there is no turnout quorum; all eligible voters by time receive an information booklet with the arguments for and against at home; all donations to committees for and against the question must be made public.

Today, however, there is often discussion in California of reforming certain essential aspects of referendum rights. For example, in referendums, the Californian parliament in Sacramento has no right to negotiate with the initiators and to formulate a counterproposal. In addition, there is an excessive guarantee of the temporal validity of the result: the parliament can no longer implement any changes to the law

that has emerged from the ballot box unless another popular referendum is held.

Another weak point is that, prior to the vote, political bills are only examined in terms of their formal admissibility. The risk is that the electorate will vote for a proposal that does not comply with the Constitution only to have it struck down by the Californian or federal Constitutional Court. Finally, it is regrettable that there are no spending limits for proponents and opponents, leading to the aforementioned over-commercialisation.

In addition to many positive aspects, Californian direct democracy has a number of criticisms to make. A centuries-old experience that can also teach something to the rest of the world. The rules of the most advanced European systems of direct democracy seem to be more suited to the fundamental needs of a mature democracy. According to the results of various surveys, a large proportion of Californians themselves are dissatisfied with the current rules of direct democracy, but they would not want to give up direct democracy under any circumstances.

There is a heated debate about reform. Popular initiatives should be dealt with by the parliament, which should have the right to put forward an alternative proposal to be put to a referendum vote. A clause guaranteeing the result of the referendum should combine the right to preserve the will of the people for a certain period of time, without, however, freezing any intervention by parliament in this regard. Finally, an upper limit for private funding of parties in referendum campaigns and a strict regulation of 'commercial' practices in the collection of signatures must be introduced. In any case, congratulations to California for being a pioneer of direct democracy - along with Oregon - in a country that does not always cheer us on when it comes to democracy. For more information, see the website of the American Institute for Initiative and Referendum: www.iandrinstute.org

A comparative overview of direct democracy in the world

The instruments of direct democracy have been introduced in countries on all continents, mainly in their Constitutions. In Latin America, a few cases of countries that make frequent and almost regular use of direct democracy stand out, such as Uruguay, Ecuador, Chile, Venezuela, Colombia, Bolivia, Peru, Costa Rica and Nicaragua. In Ecuador, Venezuela, Colombia and Bolivia, citizens are also provided with the right to remove elected representatives, especially the president, the so-called right to recall. In no other Latin American country has direct democracy been used as intensively as in Uruguay.

Table/figure 6 - Citizens' Initiatives Worldwide

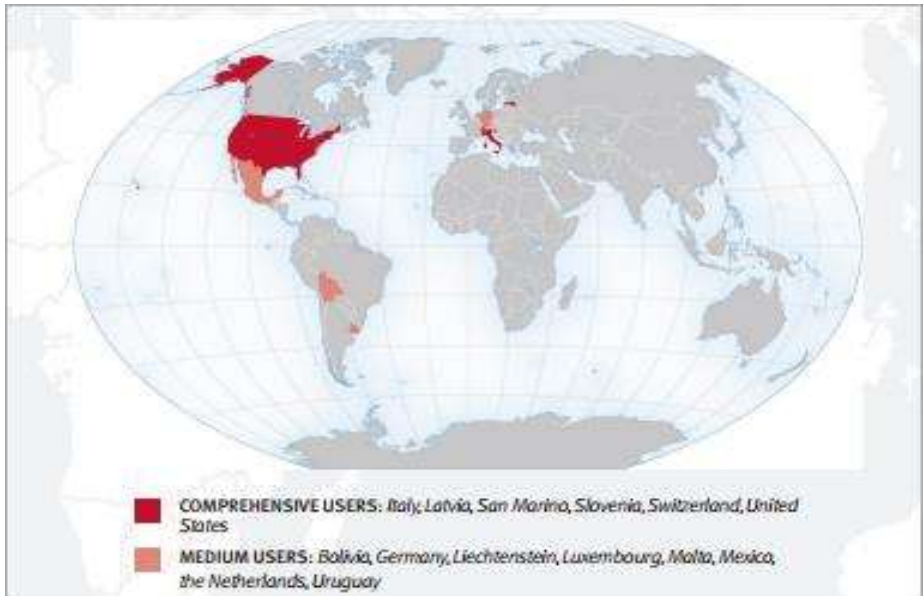


- Comprehensive users: Germany, Hungary, Liechtenstein, Palau, San Marino, Slovakia, Switzerland, Taiwan, USA
- Medium Users: Austria, Bulgaria, Canada, Costa Rica, Finland, Italy, Latvia, Lithuania, Malta, Marshall Islands, Micronesia, New Zealand, the Philippines, Poland, Spain, Sweden, Uruguay

Source: Global Passport to Modern Direct Democracy, IDEA 2017, 7

In the United States, direct democracy has been practised for more than a century in most of the western federal states, but there are no referendum rights at federal level. Almost all states have the right to a constitutional confirmatory referendum, 18 states also allow the recall of elected politicians.

Table/figure 7 – Popular referendums around the world



Source: Global Passport to Modern Direct Democracy, IDEA 2017, 7

In Asia, few countries use referendum voting on a more regular basis. The Philippines stands out: its 1987 Constitution provides for all referendum instruments. Then there is Taiwan, with referendums called by the government on both domestic and foreign policy issues. Here too, the high quorum of 50 percent often jeopardises the validity of the vote. Among the countries that have introduced direct-democratic referendum instruments are also Mongolia, Kyrgyzstan and Turkmenistan.

Europe continues to be the continent where more direct democracy is used than anywhere else in the world. In France, referendums were already held during the revolution and then again in the Napoleonic era. Switzerland introduced referendum rights in its 1848 Constitution and applies them as a frequent and regular practice at all three levels of government.

With the development of the EU, national referendums have become more widespread, also with regard to EU membership or the ratification of EU treaties. In France, the electorate voted in 1992 on the Maastricht Treaty, in 2000 on the length of the presidential term, and in 2005 on the EU Constitutional Treaty. The same applies to Ireland, where citizens voted for the European Treaties of Maastricht (1992), Nice (2001 and 2002) and Lisbon (2008). The Irish Republic introduced strict regulations on the activities of the government during referendum campaigns, the obligations of neutral public information. Apart from Italy, the most important number of referendums on the EU took place in Denmark, which provides for a mandatory confirmatory referendum on any change to the Constitution.

In the countries of the Middle East, there are only plebiscites, i.e. referendum votes called by the representative bodies: often these votes, in addition to being pure plebiscites to confirm presidents in office or certain of their choices, are also purely cosmetic, tainted by fraud of all kinds.

In Oceania, New Zealand guarantees referendum rights to its citizens, while in Australia these are only present in individual federal states, with the exception of the constitutional confirmatory referendum. The citizens of Palau and the Federated States of Micronesia also have referendum rights and frequently use them. In any case, the spread of democracy in general has increased interest in direct democracy, and it is to be expected that referendum rights will also gain in popularity as democratic freedoms and citizen participation become more established.

Direct democracy between genuine participation and plebiscites

In 2016, a number of referendums were held in Italy, Hungary and the UK, leading many commentators to wonder whether these referendums were not mainly for politicians intent on exploiting the population for their own ends. In the UK, the government's position on the EU was rejected in favour of the Brexit option. In Denmark, the opt-in on EU legislation was rejected. In the Netherlands the approval of the EU-Ukraine treaty was denied, in Greece the population overwhelmingly approved the rejection of the financial bailout conditions imposed by the Euro-group, and in Hungary the head of government wanted to use a referendum to secure the legitimacy to reject EU policy on the reception of political and humanitarian asylum seekers.

Hence the insinuation that referendums have become pre-war tools of populists to bring governments or political majorities in government to their knees. A clear distinction must be made between the various referendum acts, because 'referendums' often group together citizens' initiatives initiated by citizens, compulsory constitutional referendums and, finally, plebiscites initiated by governments or parliaments. Sometimes these votes are binding, sometimes they are only advisory. Some referendums have very high thresholds, so they have been requested by millions of people. It is important to clarify how the rules for referendum voting work in different countries before drawing hasty conclusions.

First of all, it is necessary to clarify whether these popular votes have met the basic criteria of free, fair and correct voting.

Then there is the problem that so many referendums lead to an unwanted result. But unwanted by whom? The sovereign ruler of the United Kingdom is the British people, who said NO to the EU in a free and democratic vote after years of debate. They said NO in open opposition to the beliefs of commentators and experts in other countries about what was best for the UK. In Colombia the peace agreement between the government and the FARC rebel forces was rejected with a

referendum turnout of just 37 percent. The agreement had clearly not convinced the majority of Colombians, otherwise participation would have been higher and the citizenry would have voted YES. As a result, the government modified some aspects of the peace treaty, which then came into force.

The third reason is actually the strategic and instrumental use of the referendum by numerous governments and strongmen, using it as a plea. Political parties sometimes try to take up a strongly felt argument in order to remove it from the election campaign and to demonstrate popular support for their position.

Turkey's 2017 constitutional referendum on the introduction of presidential rule was a typical plebiscitary instrumentalization of direct democracy to strengthen the future president and his party, and thus to restrict democracy. Such a tactical use of the referendum by governments and political parties to armour their power is the opposite of what direct democracy aims to achieve. This kind of instrumentalization only delegitimises direct democracy. Referendum rights are primarily the political rights of citizens, not governments, and must be reserved for citizens' initiatives and excluded from plebiscites. In Switzerland, plebiscites do not exist, and in most cases both confirmatory referendums and citizens' initiatives do not originate from the parties, but directly from below, i.e. from civil society.

Today, direct democracy is gradually becoming more and more widespread in the world, like universal suffrage a century ago. The 'if' is no longer in doubt, but rather the 'how' is being discussed. Therefore, a great deal of research, training and parliamentary debate is under way on which rights and forms of direct democracy are to be applied.

There can only be a balance between direct and indirect participation in political decisions if referendum rights are also applied regularly. In such cases, a real dialogue is created between citizens and political representatives. Otherwise, referendums run the risk of turning into mere valves of popular discontent (examples: the plebiscites on the

European Constitution in France and the Netherlands in 2005), in which anti-government and anti-establishment arguments are mixed with arguments for and against the specific question. New international movements are trying to incorporate referendum rights into the representative system in order to guarantee a balance between direct participation and other fundamental aspects of a modern democracy, the rule of law, fundamental rights, minority rights.

In established democracies in Europe and North America, it is nowadays above all a question of better developing direct and deliberative citizen participation at all levels of government. Indeed, there are more and more municipalities and local governments that offer possibilities to participate in the elaboration of a budget or a specific project, in land-use planning and other regulations. These 'deliberative' instruments of political participation of citizens complement representative democracy, but cannot supplant referendum rights in the strict sense.

Then there are still a number of European countries that do not have any kind of referendum right that is properly enforceable at national level. The efforts of various activists and international NGOs focus on making direct-democratic procedures an integral and complementary element of the representative system. The more the application of these rights increases in a genuine form and good practices proliferate, the more parties and politicians will be enticed and motivated to supplement their own democratic systems with similar rights.

CHAPTER 14

DIGITAL DEMOCRACY AND REFERENDUM RIGHTS

"In reality, the network society has many features that seem to point it towards a society of control. The 'democratic' potential of communication technologies is evident. However, one cannot fail to notice that the dynamics of economic control (a few large global companies effectively control the entire communication chain) are very strong and the aggressiveness of the neo-liberal market accentuates the dangers. Global emergencies also add a further element of uncertainty: the issue of security risks marginalising that of privacy and civil rights. In this context, communication can play multiple roles. The network can be many things at once, and certainly also a public space of great importance for increasing the quality of democracy". (De Blasio, 2014, 49).

Digital citizen participation: the future of participation?

For most methods of direct citizen participation, Internet has long been the infrastructure for information, communication and political action. The Internet does not supplant traditional forms of political deliberation, but facilitates many processes. Some methods, such as online participatory budgeting, work exclusively via the Internet; others, such as the public inquiry, cannot do without live debate. In this way, at least virtually, communication channels are intertwined and the distance between ordinary citizens, administrators and elected politicians is considerably shortened.

First of all, a clear distinction must be made between e-government (tax returns, online applications, digital administration, etc.) and e-democracy, i.e. the expression of political choices and preferences through the use of online tools. Electronic public administration (e-

government) encompasses all applications in the field of public administration. The networked applications that provide citizens with access to services and information of public bodies are defined as e-government. Administrative procedures are carried out electronically, making access to the physical counter unnecessary. The service becomes faster and more effective, the administration more transparent and accessible, at least for citizens who are familiar with the Internet.

In the case of digital democracy, citizens are no longer just customers or beneficiaries of public services, but equal partners in shaping political will, communicating on policy issues and in decision-making. E-participation encompasses all Internet-based methods that allow citizens to be actively involved in political decision-making and deliberation processes: they can inform themselves, be contacted for surveys and polls, enter into dialogue with administrators and politicians, sign petitions and legislative proposals and finally even vote electronically.

Of course, citizens' participation in politics also thrives on direct encounters, assemblies and dialogue between people who are present in the flesh. On-site meetings can usually be combined with online activities and video-conferences. All in all, the Internet is not only an unstoppable driving force for more participation, but is also increasingly forming the technical infrastructure for a wide range of forms of direct participation, starting from purely informing the public, moving on to consulting citizens by means of surveys and polls and interactive debates, and ending with direct citizen participation by means of e-signatures and e-voting.

E-participation and referendum rights

In the field of e-participation, we can distinguish between methods that take place entirely on the Internet, others that combine online and offline tools and activities. Today, it is mostly a question of extending the classic methods with online components (e.g. the public inquiry,

which collects and publishes all the documents, speeches and schedules on the municipal website). The first instrument of direct democracy at European level, the European citizens' initiative, is mainly carried out online, starting with the collection of electronic signatures. Below are just four examples:

(a) Internet hearings

An already widespread method, now also taken up by public bodies and representative bodies to discuss specific issues and to allow all participants to submit their proposals and positions. Public forums, usually facilitated by editors appointed by public bodies, also allow for online and open-end debate.

b) Online meetings with politicians

These are public meetings, based on written exchange, limited in time on the Internet, on the matrix of a TV chat with questions and answers. Online public meetings can also be broadcast live on the Internet (livestream).

c) Online petitions

Most public institutions, from the municipality to the EU, offer the possibility of filing petitions and complaints on their portals. As a rule, parliaments, including the Italian Parliament and the German *Bundestag*, have set up special sites for filing petitions. Collective petitions are launched by free platforms and international NGOs such as AVAAZ and change.org. The right to e-petition can be combined with the collection of e-signatures, opening petitions registered on the municipal portal site to signature by anyone interested in endorsing the petition within a given deadline.

d) The collection of electronic signatures and e-voting

Online participation finds its logical continuation in the right of every citizen entitled to vote to sign a popular initiative bill or a request for a optional confirmatory referendum online, leaving open the possibility of also signing physically in the square or at the municipal secretariat.

Even the request to promote a popular initiative bill can be made online in the future. These rights of political participation will in future be complemented by electronic voting.

Electronic voting in the world

First of all, e-voting is to be distinguished from direct electronic registration systems, which are able to identify the voter, who has a smart card, by means of a POS-like interface. These electronic voting machines in polling stations, aimed at facilitating polling operations, are widely used in India, Brazil and the US, but in most democratic countries ID cards and hand counting of votes still dominate.

More important is Internet voting, i.e. electronic voting in the strict sense. Through the Internet, the voter browses the web interface of the system and opens the site of the electoral office of his municipality. Voters can be identified by authenticating themselves on the website in the same way as home banking, or with an electronic identity card as in Estonia. The system then presents the ballot paper on the screen. The voter expresses his or her preference and checks the match on the screen. The voter's confirmation transmits the completed ballot to the election server. The counting of votes is handled in various ways: there can be a counting of results at polling station or constituency level, with the results being collected centrally at a later date. Or there can be a centralised digital counting.

Today, voters cast their vote at the ballot box or by post. Electronic voting enables citizens to vote online via computer, smartphone or tablet, at any time and from anywhere. To this end, along with the electoral or voting material delivered by post, voters receive a security code with which they can access their municipality's portal. They can then cast their vote once, which is then stored encrypted and anonymously in the electronic ballot box. Only the electoral commission of the municipality can open the electronic ballot box, decode the votes and count them.

Electronic voting is not an alternative to the classic paper ballot paper, but an additional and supplementary form that in some countries has been added to ballot box voting and postal voting for several years now. In some countries, such as France and Estonia, e-voting has led to an increase in voting participation.

Germany and Norway are the countries that, after experimentation, have remained most perplexed about the electronic voting system. After an experimental period that began in 2003 with the introduction of an online voting platform, the Norwegian Ministry of Local Government and Regional Development decided in June 2014 to discontinue any form of e-voting. The decision was taken following continuous parliamentary debates on the security of the system, which did not guarantee precise authentication of votes. By preferring the traditional system, it was thought to safeguard the principle of secrecy and freedom of voting by citizens.

In Germany, it was the Constitutional Court that ruled in 2009 that digital voting in the polling station was incompatible with a fair procedure in the conduct of elections, thus abolishing all forms of it. The German State had started an experimental phase between 2000 and 2006 with direct electronic recording machines (DRE: Direct Recording Electronic Systems), triggering a number of concerns among citizens about the functioning of the management software and its reliability.

France and Estonia are the other side of the coin, where e-voting has overcome prejudices and uncertainties by being accepted as a valid and reliable voting system. As early as 2003, French residents in the USA were able to elect their representatives using a new online platform, which was preferred to the traditional system by more than 60 percent of the eligible voters. The same procedure was subsequently used for the presidential primaries in 2007 in 750 polling stations and with a peak in turnout. In France, eligible voters living abroad can now use electronic voting. The same works for Swiss voters living abroad.

Estonia was among the first countries to provide all its citizens with the opportunity to vote via the internet. In 2005, Estonian voters were able to use a connected PC, digital ID card and a smartcard reader connected to the computer to express their preference for local political offices. Two years later, the procedure was extended to national elections as well. Today, the platform has grown and gained the trust of citizens, so much so that in 2014 more than 30 percent of voters chose to use e-voting instead of the traditional method. The convenience of this connected system lies in the possibility of voting from the comfort of one's home without having to go to the polls. Electronic voting helped to increase voter participation. Estonian voters also have the possibility to identify themselves with their mobile phone for e-voting, using a special SIM card with a PIN code, issued by the Estonian police.

However, voting itself is done via computer and the Internet. All an Estonian voter needs is a computer, a PIN code and an electronic identity card reader. So he can vote from any Internet access point, but only on early voting days. Estonia is the first state in the world to announce pure online voting for the political sphere.

With CONSUL to digital citizens' participation

"Consul is the most complete citizen participation tool for open, transparent and democratic governance", says the welcome on www.consulproject.org/en/. What can this platform do?

In the times of the Corona pandemic, not only fundamental and civil rights, but also basic democratic rights (freedom of assembly, parliamentary debates and opposition rights, etc.) have been restricted and elections postponed by necessity. While participation has suffered, social contact and political exchange has shifted to the digital space. Online participation existed before, but it has been given a new boost by the quarantine experience.

The best example of how not only communication but also democracy can run digitally and the corresponding tools can be used widely is the democracy software CONSUL: this most comprehensive open-source citizen participation platform worldwide is now established in 35 countries. 135 institutions and around 90 million people can use CONSUL in their everyday lives.

CONSUL was born out of the protest movement against the 2011/12 financial crisis in Spain. Protest nerds worked out the software and *Podemos* representatives elected to local governments introduced it in municipalities, such as Madrid and Barcelona. From there CONSUL has spread through Spain to Latin America, to Paris and New York. In Italy, only the municipality of Turin is involved so far; in Germany, the "lighthouse project" of Munich is underway. In Germany the CSO "Mehr Demokratie" organized a democracy event "Olympia 12062020" with about 20.000 participants. Through CONSUL they could submit their proposals on democracy, climate and human rights. Many municipalities based on CONSUL now are provided with a online participation tool.

Accordingly, the number of users is growing. Besides the free availability and the large number of users, this is mainly due to the adaptability of the platform, which is structured like a construction kit. It enables debates, citizen proposals, voting. The modules can be activated with a few clicks according to need. Madrid, for example, uses all available tools including voting (online and offline).

What does CONSUL offer? In today's version, five main applications of digital citizen participation are available:

1. A debate forum for discussion and exchange between citizens, between citizens and politicians.
2. An area for submitting proposals and petitions, which in turn can be discussed, evaluated and supported.
3. Voting: this works flawlessly from a technical point of view, as recently demonstrated at the digital party conference of the CSU.

However, the question of the legal binding effect arises. If there is sufficient participation, a vote can be politically acceptable, otherwise digital and analogue votes must be combined, as is currently the case in Madrid.

4. Legislative procedure: Municipalities have different competences depending on the country. In this respect, the digital handling of the preparatory procedure would be important, namely the comments of interested associations, NGOs and citizens.

5. Participatory budgeting: more than 300 municipalities in Europe practice a participatory budget, but most of them use online tools only for support, not for implementation.

Expert hearings and surveys are also possible. Municipalities willing to participate do not have to use all 5 areas, but can choose as they wish.

In order to use CONSUL successfully, three factors have to fit: first, the politicians have to give a binding assurance that they will take up the results of the procedure. If there were no such response from politicians, too few citizens would come to the platform. Then CONSUL must be used by the citizens and for this it must be actively advertised. Finally, politics itself has an advantage, because such a platform acts like a seismograph of society.

CONSUL is the most successful software for participation worldwide. This success so far is partly due to the free open-source approach and the strong community behind it. More than 140 cities worldwide and a coordinating foundation, the Consul Foundation, in which 14 international NGOs are members ensure constant further development and numerous examples of use. Another reason for the success of the software is its adaptability to the needs of a municipality. CONSUL offers the usual participation tools as well as the possibility of activating them according to need or project. We are there to advise: from the combination with offline processes, to the design of the platform, to mobilisation and public relations work, we support the municipalities in the implementation. However, CONSUL does not

have to be limited to municipalities. Its use is conceivable everywhere where collaborative decisions are to be made. For example, CONSUL can also be used for participation processes in schools, enterprises and big organizations at large.

These successes and the possibilities CONSUL offers make us confident that a strong nationwide community will develop and CONSUL will become the engine for a new form of citizen participation.

Finland experimented with e-voting for the first time in 2008 in the municipal elections in Helsinki. As 232 votes were not counted, the election had to be repeated. On 20.1.2010, the Finnish government declared that it would observe further developments in electronic voting, and in the meantime it wanted to improve non-electronic systems. In 2016 there were new tests of electronic voting in the municipal elections.

In Switzerland, referendum voting at municipal and cantonal level has been an established practice for almost 150 years. The extensive use of postal voting, introduced since the 1980s, has given the electorate and election coordinators solid experience in managing lengthy and remote voting procedures. It was a logical step to move on to the first binding tests of e-voting at the beginning of this century. Switzerland, at the same time as Estonia, was also among the first countries to introduce forms of e-voting. Since 2004, more than 200 successful trials have been carried out in 14 cantons, enabling a substantial proportion of voters to vote electronically. After initial trials in some municipalities, several cantons introduced e-voting around 2010, mainly for voters living abroad.

However, the Swiss Federal Government withdrew authorisation for the e-voting system from several cantons in summer 2015 for security reasons. In February 2017, only about 150,000 citizens in six out of 26 cantons were using this voting channel. On 5 April 2017, the Federal

Council decided to end the experimental phase and to start the legislative work necessary to move towards the generalised use of e-voting. The relevant commission of experts, made up of representatives of the federation and the cantons as well as scientists, concluded its work in March 2018. The way is now clear to regulate e-voting by federal law. Soon, e-voting will become the third ordinary voting channel in Switzerland, in addition to postal voting and ballot box voting at polling stations. By 2019, citizens in two thirds of the Swiss cantons will be able to vote via the internet. By 2021 all Swiss citizens should be enabled to vote online.

The Federal Council has therefore decided to pave the way for the so-called dematerialisation of voting, i.e. for paperless voting. The voting process is therefore to be digitalised. This would make it possible to dispense partially or entirely with sending voters paper documents (ballot paper/election paper, legitimation card and envelope, voting explanations) which is highly cost saving. So far, however, only a fifth of these people have registered in the register of people wishing to use e-voting. In Switzerland, the system of individual verification of one's vote is also in operation, i.e. each citizen can check whether he or she has already voted and whether his or her vote has been registered by the electronic ballot.

On the EU level, the European Citizens' Initiative (ECI), explained in chapter 11, allows not only physical signatures on paper, but also online electronic signatures. In this respect, the EU has opened up to the new possibilities offered by the digital age. Every EU citizen can sign online proving his identity as an EU citizen entitled to vote in the parliamentary elections in his country. As the long distances within the EU make any signature collection campaign difficult, the right to an electronic signature is indispensable and saves time, energy and costs for both the signatory and the sponsoring committee. Signing is simple: register on the European Commission's website with an ID card and sign. This possibility of electronic signatures for citizens' and collective petitions already exists at national level in various other countries such

as Switzerland, Estonia, the USA and Venezuela. The deadline for collecting signatures is one year from the official start of an ECI. Online digital signatures are verified by the competent national authorities, so there is no longer any requirement for 'signature authentication' as in Italy's ordinary procedures of national referendums.

In Italy, electronic voting systems and systems for counting the preferences expressed by voters are struggling to establish themselves, partly because of fears of dangers to fairness, transparency and the protection of privacy. In 2015, Lombardy passed a regional law introducing electronic voting in consultative referendums, which was then successfully tested in the consultative referendum of 22 October 2017. While the debates on the pros and cons of e-voting systems continue, in Italy there are still no real guidelines to be pursued or a political programme leading towards e-voting.

The impact of e-voting

As various surveys show, e-voting does not increase participation spectacularly, but appreciably. In Switzerland, Estonia and the USA (local elections), e-voting has succeeded in mobilising people who previously tended to abstain from political participation, and this may be one of the effects of the general introduction of e-voting for all. In addition, there is a lowering of the threshold for access to the use of referendum rights, since organisational and institutional obstacles can more easily be overcome. Popular initiatives, optional and mandatory referendums and petitions can be carried out more cheaply and more quickly. In order to meet these needs of the citizens, public administrations and, above all, the electoral offices of the municipalities will have to equip themselves. It will be even easier to vote separately (*panaché*) for candidates on different lists, as is already possible with postal voting, as well as to hold primary elections for candidates and internal votes in parties and large organisations.

However, this does not mean that the party landscape will be significantly affected. In the canton of Geneva, in all the elections observed, the choices of the 'e-voters' coincided with those of the voters at the ballot box or by post. The sympathisers of e-voting thus seem to be evenly distributed across all parties.

It seems that e-voting can contribute to a more egalitarian democracy with less structural imbalances between citizens, politicians and other actors on the ground. However, e-voting does not seem to be able to involve those social strata of the population that are not already interested in politics to a large extent. In fact, the socio-demographic profile of the typical e-voter is very similar to that of the traditional voter.

Electronic democracy and referendum rights

Indeed, the Internet simplifies and facilitates the procedures associated with referendum rights. The collection of signatures, the publicising of initiatives and referendums, and online voting strengthen direct democracy on a technical and organisational level. The advantage of electronic signature collection is obvious: access to direct democracy becomes easier and faster. Even smaller associations and initiators with fewer resources could launch citizens' initiatives. The competition of ideas must also be open to those with limited funds. There are risks, but the opportunities are promising.

Some fear nightmare scenarios such as hacker attacks on election offices, or a theft of the data of millions of voters and their publication on the Internet in the style of Wikileaks. The privacy rights of thousands of citizens could be violated. Such an event would cause a general loss of citizens' trust in the electronic voting system and would be a catastrophe for technicians and innovators of democratic procedures. However, reliable systems and programmes already exist and have been operating for many years in other areas of the economy and administration (e.g. home banking, electronic invoicing). In any

case, entrusting the electronic voting system to private companies should be avoided. Even the counting of ballot papers should not be entrusted to private companies, but remain a public responsibility.

At this point, another objection arises: if the signature for the request for a referendum or initiative is made as easy as the signature for an ordinary appeal on the Internet, won't direct democracy suffer a flood of requests and end up being devalued? Is there any fear of an inflation of citizens' initiatives bringing the instrument of the referendum to implosion through overuse? No, because in any case, drawing up a citizens' initiative, passing the legal admissibility check, preparing all the supporting materials and communicating the message require a considerable intellectual effort. Moreover, one could think of new filters and limits. On the one hand, to compensate for the ease of collection, the minimum number of signatures required could be raised, on the other hand, the maximum number of electronic signatures could be limited. This whole process will take another 10-20 years until it matures, with several European countries already leading the way. Digitalisation is advancing unstopably and it is foreseeable that by the next generation ballot boxes, ballot papers, hand ballots etc. will be anachronistic.

E-democracy between the digital divide and the democratic divide

What is digital democracy? It is the application and support of democratic processes with digital information and communication technologies. The Internet and information technologies have not only revolutionised political communication, but have also strengthened transparency and participation, and thus democracy as such. Electronic democracy should be distinguished from e-government. Electronic democracy, however, does not end with e-voting alone, but goes much further.

The Internet redefines and expands public space. Just as newspapers in the 19th century stimulated curiosity and education and thus supported

democracy, the Internet transforms and expands the way democracy is experienced in modern societies. The political rights of citizenship cannot be exhausted by the election of political representatives alone, but are understood as the possibility to engage in political life, even if one does not belong to any party and beyond elections. The role of new political actors such as online media and NGOs is growing, and political activists use the Internet and social media as their main tool to build a countervailing power.

Politicians are confronted with new conditions, because a possible re-election does not only depend on the election campaign, but on what they have done throughout the legislature. This is why many politicians have set up their own websites to maintain a dialogue with citizens and voters. Other phenomena are the Internet campaigns carried out by change.org, AVAAZ, Campact, wemove.org and others. So not only do election campaigns change, but the very relationship between politicians and their electorate changes. Elections are also a kind of referendum on their performance during the previous legislature.

After 244 years of democracy under the principle of 'no taxation without representation', we have now apparently entered the era of 'no representation without connection'. The impact of the Internet in politics lies not so much in the ease with which they disseminate their ideas, but, in contrast to the mix of information and diversity offered by the traditional broadcast media, it lies above all in the bi-directionality of communication and the higher quality of opinion. These characteristics make the Internet a powerful means of involving citizens in politics.

The Internet has paved the way for more citizen participation both in direct democracy with electronic voting systems and in non-decisive deliberative democracy by expanding interactive political communication between citizens, administrations and elected bodies. In contrast to the predominantly passive public space offered by the mass media, characterised by usually professional journalists, the Internet space is theoretically open to everyone in a bidirectional form. Citizens

interested in politics regain the ability to put their problems and demands on the agenda via the Internet and have already regained a piece of autonomy in communication. The boundary between producers and consumers of news and comments has become very fluid. In addition to the principle of 'mass media' (few to many), the Internet has opened up the online communication space 'many to many' and 'few to few'. At the same time, however, the public space created by the network and social media is increasingly broken up into many small segments of distinct sub-spaces, of non-communicating media vessels.

E-democracy should open up new possibilities for everyone to participate, but this also presents a challenge. It is about overcoming the social and structural inequality between citizens in accessing the Internet. This inequality is expressed by the term 'digital divide', i.e. the differentiated use of the Internet according to social classes. In Italy, Internet penetration reached 63 percent of the population in 2016, i.e. 37.67 million people regularly use the Internet. However, research also shows a clear difference according to age groups. Digital natives have grown up with the Internet, digital immigrants have only become acquainted with the new media as adults, and some older people do not use them at all (digital abstinent).

For this reason, some scholars fear the emergence of a democratic divide, i.e. the emergence of a new democratic elite with superior culture and skills in the use of new communication technologies. Preventing this phenomenon would require systematic efforts in civic education and training in general, then specifically in the application of these resources for democratic participation. It is clear that the digital divide is destined to disappear gradually, but it is necessary to work on the democratic divide between social classes, linked to the degree of education and information about politics, in order to spread general digital competence and to guarantee access to digital democracy for all. Only then will the quality of democracy in general be strengthened by the Internet rather than worsened.

CHAPTER 15

CONCLUSION: CITIZENS CAN DECIDE FOR AND BY THEMSELVES

As briefly outlined above modern direct democracy is a set of rights, institutions and procedures that allow citizens to participate directly in the formation of laws and political decisions beyond elections. Citizens with the popular initiative have a political "accelerator" at hand and with the optional referendum also an "emergency brake". With the referendum, citizens can veto laws approved by parliaments and councils. With the initiative some citizens may submit proposals to all citizens for new laws or amendments of existing laws. These are voted on in secret at the ballot box. So it is neither about plebiscites nor about persons, but always about factual issues. A simple, but efficient participatory "toolbox".

A success story

As widely acknowledged, Switzerland is not only the cradle, but has still the most advanced direct democracy regulations. The Swiss experience shows that the benefits of direct democracy only emerge when these instruments become part of everyday political culture, and transform into a regular practice of citizen participation in politics. Andreas Gross, one of the most active scholars and promoters of direct democracy in Europe, summarises the main benefits as products of direct democracy, from the point of view of the quality of democracy, as follows:

- Direct democracy gives minorities the right to be heard, reducing the risk that neglected or discriminated against minority groups will resort to extreme methods of protest or even violence (recall the violent demonstrations in 2006 in the suburbs of French cities, where no form of direct or participatory democracy exists).

- Direct democracy acts as a sensor for unresolved social problems, unspoken or denied conflicts and promotes the social integration of political and social minorities.
- Respect for human rights and political freedoms is a fundamental prerequisite for any democracy. The right to political participation and the possibility of making concrete use of referendum instruments strengthen democratic attitudes, and thus human rights and citizens' rights will also be more respected. People who are used to democratic procedures and have direct experience of political participation are hardly attracted by authoritarian temptations.
- Direct democracy gives citizens more effective control over governments and parliaments, be they national, regional or municipal. Referendum instruments allow them to intervene in political rules and processes, as well as in a wide range of political issues and matters.
- Direct democracy is a dynamic factor that prevents the formation of oligarchies, counterbalances the overwhelming power of parties and lobbies, and overcomes the growing closed-mindedness of political institutions.
- Direct democracy makes politics more communicative and decisions more transparent and increases the role of public debate. The citizens' initiative, a legislative proposal made by a group of citizens to all other citizens, is based on the idea of free and public dialogue between citizens, including politicians and the parliament.
- A well-developed direct democracy does not stop at a mere 'right of resistance' for emergencies or even at a pure repeal, as is currently the case in Italy, but gives citizens the necessary tools for constructive and innovative participation in the running of politics.
- Effectiveness should not be confused with speed: a broad opinion-forming process is the best protection against political mistakes. The greater the legitimacy of the decisions taken, the more effective their implementation can be.

These positive effects of direct democracy do not occur by themselves, but depend on numerous factors. By opening up effective possibilities for control and direct involvement of citizens, direct democracy is an instrument for strengthening the legitimacy of the entire political system and preventing a further disconnection between the rulers and the governed. Citizens will engage if they are taken seriously, if their voice counts, if their vote is decisive. This can be guaranteed through the adoption of the full toolkit of direct democracy, as a 'natural' complement to the election of representative institutions, and with the application of rules designed to promote, not discourage, participation.

Substantive issues, no selection of persons

One of the characteristics of direct democracy is that citizens can decide on issues and content. The election of people to parliaments and governments is part of the indirect democracy. Today, in most democracies, elected politicians decide everything, while citizens decide nothing. By electing their representatives, they hand over a blank cheque. Direct democracy returns a piece of decision-making power to the citizens, always related to substantive factual issues. The character of a decision on persons and parties is fundamentally different from the character of a discussion on factual issues. For example, the answer to the question of why one person can be trusted and not another is much more difficult and, above all, less rational to justify than the decision between different legislative proposals or political projects.

The knowledge of this fundamental difference may not be very widespread, but it is important. Many people no longer want to reduce democracy to trust in a few people or a party. Rather, they trust in their own abilities and insights and are willing to get involved in complicated contexts. They demand a lot, but also allow themselves to be challenged by difficult questions. The political incompetence of citizens is a myth. Today the huge majority of the population has a higher degree of education and political awareness. This accounts for

the increasing popularity of direct democracy worldwide. In Switzerland, this is reflected in the fact that participation in referendums is now higher than the voter turnout in elections.

Those who want to democratise direct democracy in this sense, i.e. strengthen it, refine it and further increase participation, must not expand personal elections and thus personalise, simplify, scandalise politics and let it degenerate into permanent shallow casting shows, as Andreas Gross often points out. This would further weaken the power of democracy and the citizens and disempower politics in favour of the economy and the financial markets, strengthening the hierarchies and power of the elites rather than reducing them. Debates and decisions on substantive issues have a very different discursive logic than personal elections, or even grassroots and assembly democracy, which in turn can be manipulated.

Direct and representative democracy are not in contradiction to each other

Even in a direct democracy, parliamentary democracy is an indispensable, essential institution, not a contradiction. One of the quality features of a citizen-friendly direct democracy is the question of how direct democracy and the representative organs interact. Thus, in a well-designed direct democracy, parliament can oppose every popular initiative with a counter-proposal. The citizens, for their part, can counter a parliamentary decision with an alternative by means of a constructive referendum. Thus, voters always have several alternatives to choose from.

As Andreas Gross stated in his preface, the plea for more direct citizens' participation to political decision making is never a plea against representative democracy. On contrary, direct democracy makes the parliamentary democracy more representative, since initiatives and referendums systematically encourage the public debate and the confrontation between politicians and electors. Modern direct

democracy is an integrated part of the representative democracy, designed to make it truly representative.

Direct democracy deprives the politicians of the monopoly on political decisions

Direct democracy enlarges the sphere of action of the citizens, and deprive the politicians of the monopoly on political decisions, at least sometimes and for some issues. It deeply transforms the political culture. It's decisive that a minority of citizens are entitled to request such a kind of popular voting whenever they like, following the given regulations. They have the right to ask their fellow citizens on a specific act or political question, before it comes in force. The optional referendum is the last phase of the legislation process, which gives the electorate the very last word. On the other hand the initiative gives the citizens the power to turn to the general electorate with a new proposal.

This is the key for more democratic political culture. In other terms a minority of citizens is allowed to turn to the eligible citizens at large with a particular political issue. Political minorities by this simple set of rights are allowed to articulate their own proposals. They may put some questions on the agenda of general popular votes which are ignored or rejected by representative political bodies. If everybody has a right to raise his voice in politics, all citizens can feel being taken more seriously. Because democracy does not only mean the right to express its own opinion, but it means that a serious political proposal should be heard, discussed, decided upon. Thus, through direct democracy, political power is better and more finely distributed. More power remains with the citizens.

The soul of direct democracy: political communication

A referendum vote is not a survey, an instant decision, a so-called opinion poll or survey. A referendum is preceded by a long, diverse,

reflexive and communicative opinion-forming process. Speed and duration are secondary, the quality of the communication and opinion-forming processes are more important. The soul of direct democracy is the communication process. Time and again, society comes to an understanding on open controversial issues. People are not only asked, they are also listened to - exactly what most people miss in democracy today.

The quality of direct democracy depends largely on the design of the procedures, the way they are perceived and their environment, and the interfaces of direct democracy with parliament, with fundamental and human rights. The prevention of a tyranny of the majority is guaranteed by respect for fundamental and human rights as enshrined in Constitutions and international conventions. Supreme or Constitutional Courts assess the compatibility of referendum proposals and fundamental rights.

Direct democracy enables everyone to generate the attention necessary for change and prevents market and ruling interests alone from setting the agenda of public discussion and publicity. The power that citizens acquire through direct democracy is the possibility to create a public sphere even when and where those in power do not want it.

In a referendum, majorities are decisive, no vote counts more than others, and every vote counts. Those who go to the polls decide, those who stay at home leave the decision to their fellow citizens. If the whole electorate votes – the people in a “plenary session” - no turn-out quorum is required, and any participation quorum or qualified majority is out of place. Citizens in this very moment are free to decide for themselves.

Collective learning processes are promoted

A finely designed direct democracy contributes to the qualities that modern societies need most. Collective learning processes, social integration of diversity without coercion, opportunities for

identification and identity creation. Another point is the learning potential in fact-based decisions and the factual competence that can be acquired through a factual debate as opposed to a person-selection discussion.

Above all, they allow for more freedom, in the original republican sense: those who are affected by the decisions are part of the decision-making process and all have the opportunity to shape together those living conditions that affect everyone. Today, many people are more capable of doing this than 200 years ago, when these demands on democracy were for the first time formulated. The fact that many people today are not able to contribute their political skills is one of many reasons why so many people are frustrated with the prevailing democracy. Not taking them seriously and democratising democracy accordingly would also be a tremendous loss of social energy and resources. The democratisation of democratic institutions must enable society to use these energies and resources. So it is justified to say that a society with direct democracy can develop its political potential better than a political system in which only politicians rule. Apart from the citizens' direct participation to political decisions, the effect of direct democracy is also like a life-long learning about politics, about the acts, rules and regulations which affect us all.

Space for Utopia - Direct Democracy in 2040

It is the day after the European referendum vote on Moldova's admission to the European Union. With a touch of nostalgia, Benedetto Tomasi recalls 2016, when Italy had to vote on oil drilling off the Italian coast. The referendum was cancelled because the number of voters was far too low to reach the participation quorum. In Italy since 1974 some 30 single votes had failed because of this 'referendum-killing' rule. The quorum mechanism was introduced by the constituent fathers in 1948 to create a kind of 'legal number' in popular votes. Why should the people impose a quorum, Tomasi asks, when they call themselves together to decide on a rule? For 50 years, the quorum has continually blocked popular decisions and has ended up discrediting the very instrument itself, before it is finally superseded in 2025 by a parliament that was more open to direct democracy.

Tomasi, a computer engineer, remembers the archaic methods of voting back then: you had to go to a polling station, complete with paid staff, be recognised and take delivery of a mega-paper with a very long text of the law to be voted on. All this paper, the rents of the premises, the paid staff, the time spent scrutinising large envelopes of paper just to express a YES or NO on a specific issue. Benedetti shook his head as he recalled the large posters put up by the municipalities, 'Convocation of Rallies' or 'Referendum for Abrogation', with a very long text of the law, with no explanation, almost illegible to the ordinary citizen.

It took half a revolution, but Italy has finally succeeded. Calling on citizens to decide freely on a question for half a century had been an adventure of the first order. Then, until 15 years ago, it was only possible to repeal an article. Voting on a bill proposed by other citizens, or expressing an opinion on a law that had just been passed by parliament, was not allowed. Of course, the politicians thought we were half-literate, Tomasi says to himself. In fact, the political elite of the time did everything they could to hinder direct citizen participation. Imagine the way in which signatures were collected: a public official or

even a notary had to work alongside the promoters to authenticate the citizens' signatures. "There was a general mistrust of citizens,' Tomasi murmurs.

From 2025, things will finally change when it comes to participation. While other European countries were decades ahead in the development of democracy, Italy is now hurrying not to miss the train. Imagine that in 2020, it was not even possible to vote by post in Italy, let alone vote electronically online. Now Tomasi turns on his PC and opens the site of his municipality's electoral office. It is about casting a vote within a deadline, on an issue that has been discussed for months in the media, in public meetings, among friends and family. Should the EU admit a new country, Moldova? YES or NO? Tomasi had already made up his mind by reading the explanation of the question and all the clarifications in the digital voting info sent by the municipality to every citizen. He agreed, so it was a matter of entering a simple YES on the electronic voting card. After identifying himself with his I-card and PIN, Tomasi clicks his YES, confirms and closes. After two seconds he gets the email confirming that he has voted in a valid form.

A few hours after the deadline, the final results of the European referendum vote arrive. By now, the central office of the European Parliament is able to process all EU-35 data within a few hours. On the very evening of the voting day, the whole world knew: Moldova would be admitted to the EU as the 36th member. The festivities in Moldova could begin, and the Moldovans knew that from the next vote they too would be able to participate in the EU-wide digital referendums.

Basic glossary

*Direct democracy is regulated differently in different European countries and around the world, and terms and definitions often differ, leading to confusion. For this reason, organizations and scientific institutes active in this field are working to develop a unified international terminology in order to better compare the various legal instruments available at the respective national level. Civic organisations and NGOs working to promote direct democracy often take their cue from the legal situation and terminology in Switzerland, the country with the longest tradition in this field, as well as that used in Anglo-Saxon countries. But in some countries such as Italy the international terminology used in those countries has not yet become established, so there is still a need to “translate” the terms in specific legal terms in use in those countries (e.g. ‘referendum abrogativo’ = abrogative referendum or ‘popular initiative for abolishing an act’?). The following definitions recur mostly to IDEA (International Institute for Democracy and Electoral Assistance), *Global Passport to Modern Direct Democracy*, Stockholm 2017.*

Direct democracy: The instruments and regulations of direct democracy that allow citizens to decide for themselves, whenever they consider it urgent and necessary. They include first of all citizens’ initiatives proposing new laws and ‘popular referendums’ intended to stop legal decisions taken by elected representatives as well as compulsory referendums. In both cases, citizens need to enlist the support of a minimum number of citizens by gathering signatures.

Plebiscites: The plebiscite is a consultative referendum vote that starts from the top, from the president, the parliament or the government. A plebiscite can be purely advisory or have a binding effect. It is a top-down vote which shifts the responsibility for certain political acts from the rulers to the population. In general, it can be said that popular referendums und initiatives start with and serve the population, plebiscites start with and serve the ruling forces.

Finance referendum: Also “referendum on public expenditures”, relate to parliamentary decisions on public expenditures and differ from referendums on new or amended legislation. Although this form of referendum does not exist at the Swiss national (federal) level, it is widely used at both cantonal and municipal level.

Popular initiative: The popular initiative is the most important instrument among referendum rights. With this instrument citizens are granted the right to address the parliament (or regional/municipal assembly) by presenting a formal request formulated in articles. The request can be to introduce a new law, or to amend certain articles in an existing law (amending character of the initiative), or to repeal an existing law (repealing character of the initiative, →abrogative referendum). If the parliament or assembly does not accept this request of the citizens, the question must be put to polls.

Referendum: The term comes from the Latin verb 'referire', i.e. to render an account of something to someone. In a referendum, a general political question (decision taken by an elected body) is referred to those who hold sovereignty, i.e. the citizens of a state, region or municipality. There are basically two forms: mandatory (→compulsory) and →optional (facultative) referendums.

Mandatory referendum: is a popular vote where no signature gathering is required before the whole electorate is called to make its voices heard at the ballot box on a specific issue. Typically, mandatory referendums are required when issues of major importance (e.g. taxation levels or constitutional changes) are at stake. Such popular votes may be decisive (binding) or consultative (non-binding). In many countries a constitutional amendment does not come into force unless it is 'confirmed' or endorsed by the citizens in a referendum. Such referendums are not to be confused with →plebiscites, which are voluntary votes initiated by a representative body.

Optional referendum: The optional referendum is a much broader right than the mandatory type: it covers all types of law allows citizens to request a referendum vote on a law before it comes into force, whereas the latter is a referendum already provided for directly by a law in particular cases.

Abrogative referendum: This is the best known and most widely used type of referendum in post-war Italy. It was conceived as an exceptional intervention in cases where State institutions were not in harmony with the majority of the country on certain choices. In reality, it is not an 'optional referendum' and no referendum at all, according to the typology used at international level, but a popular initiative aimed at modifying or repealing ('abrogate') a specific piece of current legislation.

Consultative (advisory) referendum: A politically significant, but legally non-binding ballot decision which may include citizens who are not registered voters. This type of popular vote can in principle have a subject-matter anything with which the states concerns itself or wishes to concern itself.

Referendum (act of vote): In many countries all kinds of popular votes at the ballot box are termed "referendums". However, a clear distinction must be made between a referendum (mandatory or optional) as an instrument of direct democracy and the act of popular voting at polling stations. In a strict sense, however, referendum means the possibility of the citizens of requesting a popular vote to confirm or reject a law or other legislative act before it comes into force (this terminology is used in Switzerland, the USA and other countries).

Popular legislative initiative: is submitted by a minimum number of citizens to demand that a law be enacted, amended, supplemented or repealed. It is not automatically linked to a right to a popular vote on it (→popular initiative). In Italy at least 50,000 people with voting rights can submit a text of a law drafted in articles to Parliament for a vote. In

Italy there is no right to a popular vote if the proposal is rejected. This modest form of legislative intervention by citizens must be distinguished from the '→popular initiative' with the right to a referendum. This tool is equivalent to a mass petition. In Switzerland, this instrument does not exist, but is replaced by the →popular initiative, in which a minimum number of citizens commit the (national or cantonal) parliament to deal with their proposal within a certain timeframe. If the proposal is rejected, a referendum must be held by law in which the citizens make the final decision.

Turnout quorum: The term quorum means "minimum number". Within the voting quorum, a distinction is made between the turn-out (participation) quorum and the consent quorum. Under the various regulations in force, a referendum vote is only valid when a minimum number of voters or a minimum number of assents is reached. The 'turnout quorum' means the minimum number of eligible voters required for the result of the referendum vote to be valid. In some countries there is a 50% participation quorum, so that abstentions are considered as votes against, a rule that invites boycott campaigns, as has frequently been the case. Switzerland and the USA have no turnout quorum nor is there any turn-out quorum for elections.

Quorum of consent: Stipulates that a referendum vote is only valid when a certain percentage of the eligible voters entitled to vote have approved the referendum question (25, 50 or even 60 percent).

Signature quorum: The number of signatures required to be able to submit an application for a referendum or initiative. The minimum number of signatures (also known as the signature quorum) indicates how many citizens must sign the request for a referendum - no matter what kind - in order to start the process leading to a vote. In Italy, for example, at least 500,000 signatures are required for the current abrogative referendum, whereas 50,000 are sufficient to submit a popular initiative bill to parliament. In Switzerland, the quorum of signatures required for a popular initiative is set at 2 percent of the total

number of voters, which is currently equivalent to approximately 100,000 Swiss citizens. In other industrialised countries, the number of signatures is usually between 2 and 3 percent.

Counter-proposal: In many legal systems, the parliament is allowed to respond to a popular initiative bill with a counterproposal. In this case, in the subsequent referendum vote the citizens can choose between two proposals, the popular proposal and the one put forward by the parliament, with the possibility of the citizens to reject both of them. In some countries, the proponents of the referendum can also enter into negotiations with the parliament to achieve an agreement.

Municipal referendums: Consultative referendums and deliberative referendums are frequently held at municipal level. These referendums can be binding or non-binding on the municipal administration. Given the municipality's lack of legislative power, a citizens' initiative bill at municipal level has no grounds. So municipal referendums are held to bind the municipality on specific administrative acts or to prevent those that the majority of citizens do not like from coming into force.

Petition: Written submission with no particular form that any person may send to an authority. A petition may contain a proposal, a criticism or a request, and the subject matter may be any state activity. In Switzerland the federal authorities must acknowledge a petition, but need not respond to it. Generally, the authorities addressed are obliged to respond within a given deadline. The right to petition is not equivalent with a →popular legislative initiative.

Other participatory instruments: New forms of participatory instruments are emerging, often designed to enable public deliberation rather than direct democratic decision-making. For example, petition-style processes and citizens' assemblies, where citizens are asked to make their voice heard, are generally considered to be purely advisory mechanisms.

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Further resources

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- General information on direct democracy in Switzerland: www.swissworld.org/
- The House of Switzerland: <https://houseofswitzerland.org/swissstories/history/way-modern-direct-democracy-switzerland>
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 All referendum votes in Italy: https://it.wikipedia.org/wiki/Consultazioni_referendarie_in_Italia
 Pro-democracy activist Paolo Michelotto: www.paolomichelotto.it



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head of the South Tyrolean section of the *Society for Threatened Peoples*) and for various research institutes. Projects on comparative autonomy research with EURAC Bozen and about two years of research and project activities in Latin America, the Balkans (Kosovo, Bosnia-Herzegovina) and South Asia (Kashmir, Nepal, North East India). A series of publications on ethnic conflicts, minority rights and autonomy in various regions of the world. In 2000 Benedikter was among the founders of the "Initiative for more democracy in South Tyrol" and collaborated with a large number of initiatives, campaigns, and public awareness activities in his home region and in Italy at large. He is author of many publications about citizens' participation and direct democracy in Italian and German language.

The editor: POLITiS (Civic education and political studies in South Tyrol). A vibrant democracy needs critically thinking citizens who are committed to the common good and who want to have a say in politics and participate in shaping it. This is one of the reasons why the Greek name *polis* = citizen has been chosen for this new educational and research institution. Participation requires the necessary background knowledge, collective reflection and public discussion. Dealing with power relations and developing critical confrontation with political issues of any kind enables the citizens to qualified political commitment. POLITiS, as an independent civil society organisation committed to the common good, which is primarily intended to provide assistance to non-dominant groups in our society. POLITiS elaborates political studies mostly on South Tyrolean issues, provides civic education and consultancy to non-dominant groups and movements:

- Research on current issues affecting South Tyrolean society in the fields of social, economic and political sciences,
- Publications, public events, policy consultancy for citizens' initiatives and politically active individuals and organisations,
- a wide range of civic education activities for different target groups.

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Direct democracy, a relatively simple set of referendum rights and institutions, not only derives from fundamental political rights enshrined in international law and most Constitutions, but is the necessary complement to representative democracy. It is the second pillar of a modern representative democracy.

The book offers a broad perspective on the most important facets of direct democracy, starting with the basic intentions of referendum rights, their design, qualities, performance, players and effects on politics. In a straightforward approach the book explains why referendum and initiative with citizen-friendly regulations should be an indispensable part of any democracy around the world in the 21st century.

“Direct democracy, as opposed to purely representative democracy, enables citizens to regain a piece of sovereignty and to regain the desire and pleasure of political engagement. This is what counts, what lies at the heart of a living, participatory democracy.”

Andreas Gross, Preface