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## Referendum as a direct democracy tool in successor states of former Yugoslavia<sup>1</sup>

**Abstract:** Changes that have occurred in 1989–1991 ended the bipolar division of the world and commenced a new wave democratic transformation. In the early 1990s, the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) brought a number of changes to the region. Some of the changes were decided via the referendum which seems to be an exceptionally important tool in the process of democratic transformations in CEE. The article focuses on the institution of a nation-wide referendum in successor states of former Yugoslavia: Bosnia and Herzegovina, Croatia, Montenegro, Kosovo, North Macedonia, Serbia, and Slovenia. The main purpose is to provide an answer to the question about the role of this particular tool in these states and define directions for further use of referendum in this part of Europe. To meet its research objective, the article uses systemic analysis and institutional and legal approach, and statistics on results of national referendums in the countries concerned.

**Key words:** referendum, direct democracy, Bosnia and Herzegovina, Croatia, Montenegro, Kosovo, North Macedonia, Serbia, and Slovenia, former Yugoslavia

**D**irect democracy, or a set of procedures that empowers citizens to participate in decision-making at the state level, is considered to be the purest form of democracy, as the people can decide themselves about the functioning of the state. The majority of contemporary states in the world decided, however, to support representative democracy. Many of them complements representative democracy procedures with certain forms of direct democracy, e.g. popular initiative, plebiscite, recall, and referendum.

These instruments play a major role in state governance are an important component of representative democracy. We should also remember that a number of political systems have direct democracy declare in their constitutions, but only a few of them subscribe to it.

According to Mariusz Jabłoński, “referendum is considered to be the main institution of [direct – M. M.-K.] democracy, since it enables all eligible voters to participate in decision making at the state level” (Jabłoński, 2001, p. 10). It is understood that refer-

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endum is a popular vote instigated as prescribed by the law, where all eligible citizens (active suffrage) express their opinions and decide on matters that are particularly important for the state.

The increased interest among European states to use referendum results primarily from the nature of political changes that have taken place in the Old Continent. It is remarkable that a growing interest in the forms of direct democracy can be observed not only in western European states but also in Central and Eastern Europe. Moreover, the interest is characteristic for EU Member States which use the tool to decide on European-wide issues.

In comparison to Western Europe, CEE countries do not have a major experience in using referendum, which is the result of a multiple year operation in the socialist system. To a large extent, the two world wars and the Cold War slowed down democratic processes and sometimes brought them to a halt all over the world. This is particularly visible in Europe. In Europe, system transformation and integration initiated a new wave of democratic changes, and one aspect of the process was the application of direct democracy procedures.

Now – more than 30 years after the fall of the Berlin Wall – one of the most important objectives in former socialist states was to promote democratic processes through, among other things, the actual recognition of political and civil rights. Thus, the institution of referendum seems to be an exceptionally important tool. The article focuses on the institution of a nation-wide referendum in successor states of former Yugoslavia: Bosnia and Herzegovina, Croatia, Montenegro, Kosovo, North Macedonia, Serbia, and Slovenia. The main purpose is to provide an answer to the question about the role of this particular tool in these states and define directions for further use of referendum in this part of Europe. To meet its research objective, the article uses systemic analysis and institutional and legal approach, and statistics on results of national referendums in the countries concerned.

The motivation to deal with the issue of direct democracy originated from the fact that in recent years, European states increasingly often attempt to solve their national problems through referenda. Moreover, the deepening EU integration has brought democracy as one of the most prominent challenges not only from the point of view of an individual state, but essentially from the point of view of the growing European Union as a whole. Therefore, the institution of referendum may play a pivotal role in the process of integration in Europe, also in the successor states of former Yugoslavia.

### **Transformation of the 1990s**

Changes that have occurred in 1989–1991 (represented by symbolic round table talks followed by partially free election of 4<sup>th</sup> June 1989 in Poland, fall of Berlin wall, and collapse of Soviet Union) ended the bipolar division of the world and commenced a new wave democratic transformation. In the early 1990s, the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) brought a number of changes to the region. The map of Europe saw new states, such as Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia (Serbia and Montenegro combined), Macedonia, and Slovenia. In 1991, three out of six Yugoslav republics unilaterally declared independence following refer-

enda<sup>2</sup> with the Republics of Croatia and Slovenia on 25<sup>th</sup> June, Republic of Macedonia on 17<sup>th</sup> September, and the Republic of Bosnia and Herzegovina on 3<sup>rd</sup> March 1992 (Lubik-Reczek, 2011, pp. 27–34). The independence of Macedonia involved a controversy over the name of the country and the conflict with Greece. Finally, on the international arena, Macedonia used the name of the former Yugoslav Republic of Macedonia (FYROM), a name which was acceptable for Greece. However, the decision was contested by Serbia which together with Montenegro decided to establish the FRY on 27<sup>th</sup> April 1992. This terminated the functioning of the SFRY. The above-mentioned decision did not solve the issue of the country's name. The Greek veto delayed the recognition of the Republic of Macedonia by the European Union and the UN. Finally, on 8<sup>th</sup> April 1993, Macedonia was accepted to the UN as the former *Yugoslav Republic of Macedonia* (Stawowy-Kawka, 2000; Polkowska, 2000; Koseski, 2013). According to provisions of a temporary agreement of 13<sup>th</sup> September 1995, Greece recognised the functioning and independence of Macedonia. Both parties recognised the permanent nature of the then borders and waived any territorial claims. 11<sup>th</sup> January 2019 brought a breakthrough in relations between Macedonia and Greece with the Macedonian Parliament adopting an amendment to their constitution to allow for the change of the name of the country to the Republic of North Macedonia. The new name was to end one of elementary political disputes at the Balkans which paralysed the region and was a source of instability. In result of the transformation process, only Serbia and Montenegro remained as part of the dissolved Yugoslavia. Then, in April 1992, the two republics established a new state, the FRY. Serbia and Montenegro were the last republics which based on an agreement of 14<sup>th</sup> March 2002 stayed together after the dissolution of Yugoslavia. The agreement provided for the establishing of a new state. Serbia and Montenegro were to set up a federation of “Serbia and Montenegro” (Lubik-Reczek, 2011, pp. 47–48). In the referendum of 21<sup>st</sup> May 2006, citizens of Montenegro decided on the establishing of an independent state. On 3<sup>rd</sup> June 2006, Montenegro declared independence and two days later the Republic of Serbia was formed.

In 1991–1999, another issue was the status of Kosovo, which was a contentious territory claimed by Serbs and Albanians (Bujwid-Kurek, 2008, p. 195). The independence of Kosovo was proclaimed on 17<sup>th</sup> February 2008. Since 1945, Kosovo has been a part of Yugoslavia. In 1990, in result of independence declared by the parliament of Kosovo, the autonomy of the region ceased to exist on 28<sup>th</sup> September 1990. This exacerbated the conflict with Serbia in the 1990s. In the middle of 1999, Kosovo became an autonomous Serbian region under the administration of the UN. Negotiations over the status of Kosovo under the UN auspices failed to produce desired effects. On 17<sup>th</sup> February 2008, the Parliament of Kosovo unanimously adopted a declaration of independence, which was contested by the Parliament of Serbia on 18<sup>th</sup> February 2008. The latter considered it to violate the international law (Lubik-Reczek, 2011, pp. 43–44). The compliance of the Kosovo declaration of independence with the international law was finally decided by the International Court of Justice in The Hague on 22<sup>nd</sup> July 2010. The court decided that the declaration of independence was not illegal, as the international law did not prohibit such a declaration (*Accordance with international law...*).

<sup>2</sup> More about results of referenda in the further part of the article and: Dziak, 1994, pp. 45–46; Moore, 1993.

It is worth emphasising that states formed after the dissolution of Yugoslavia adopted the republican form of government. According to Jacek Wojnicki, democracy was a strategic choice for the former Yugoslav republics. However, this process was overshadowed by the creation of new states (Wojnicki, 2009).

Now, all these states have adopted statutory procedures that enable them to resort to referendum, and nearly all of them have tried this in practice. Moreover, many states, which previously did not use referendum, have recently tried to find solutions to nation-wide problems through this type of vote.

### **Direct democracy in constitutions – a formal and legal dimension**

Constitutions of all states which succeeded the SFRY are modern acts of law that refer to European democratic tradition. In many instances, the adoption of a constitution concluded their process of establishing sovereign states on the debris of the former federation. Stanisław Gebethner emphasises that the new basic laws adopted shortly after the states proclaimed independence have become an indispensable tool in their fight for sovereignty and an integral part of the state formation process. Provisions on sovereignty and independence play a predominant role in all these constitutions (Gebethner, 1998, p. 11). According to the basic laws, the Sovereign are the citizens who exercise power through their elected representatives or directly by expressing their will in a referendum or a popular initiative. The engagement of citizens in decision-making is a notable part of the European heritage. Referendum as the most common institution has become one of ways to complement representative democracy in Europe (Musiał-Karg, 2008).

The Constitution of Bosnia and Herzegovina of 1995 is a unique document attached to the Dayton Agreement, an agreement which ended the war in former Yugoslavia. The constitution does not provide for any institution of direct democracy except for public consultation, and there is no reference to referendum (Sochacki, 2015, p. 118). However, provisions that refer to direct democracy can be found “in the laws, especially in the norms that are binding in the Serb Republic and at the local level”. However – as Andrzej Piasecki states – it is not the law that sets political standards in Bosnia and Herzegovina, which is also true for direct democracy” (Piasecki, 2018, pp. 47–48). It is worth mentioning that still before the basic law was adopted, a referendum took place in this part of the former Yugoslavia on 1<sup>st</sup> March 1992. In the referendum, nearly all eligible citizens voted for independence. However, Bosnians and Serbs boycotted the vote.

In the Republic of Croatia, the civic participation in state governance is regulated by Article 1 of their Constitution, which reads “The People exercise through their elected representatives and direct popular vote”. Moreover, Article 87 precisely refers to referendum. It can be requested by the President of the Republic upon the motion of the Government countersigned by the Prime Minister. The motion may apply to the amendment of the Constitution or any other matter that is considered important for independence, unity and existence of the Republic. The Croatian basic law provides for referendum to be set up in several ways. Article 87.1 establishes the institution of a facultative referendum – managed by the house of representatives – on the amendment of the Constitution, draft law or any other issue within the competence of the house. According to the Con-

stitution, referendum is the last formal step required to decide on any association formed between Croatia and other countries. In all the above instances, referendum is considered valid if the majority of eligible voters participated in it and the decision is made based on the majority of votes (Musiał-Karg, 2008, p. 193).

Montenegro and Serbia were the last two republics which remained as a federation after the dissolution of the former Yugoslavia. Their relationship had features typical for confederation with some elements of federation. Although in Serbia and Montenegro – a state created on 4<sup>th</sup> February 2003 to succeed the Federal Republic of Yugoslavia – no national referendum had been held until the end of 2005, their Constitution included an important declaration that 3 years into the functioning of the state a referendum would be held on the future of Serbia and Montenegro. To promote sovereignty among citizens of Montenegro, Premier Djukanović promised visa-free travelling, faster integration with the EU, and a new Montenegro without ethnic divisions. The referendum, which was to decide whether Montenegro stays or leaves the federation, was held on 21<sup>st</sup> May 2006. The electoral committee confirmed that supporters of Montenegro independence won. The President of Serbia Boris Tadić recognised the independence of Montenegro (Musiał-Karg, 2008, pp. 192–193). The referendum was winning for those who opted for independence: 55.5% of voters were for Montenegro leaving the federation with Serbia (Bujwid-Kurek, 2008, p. 182). On 3<sup>rd</sup> June the Parliament of Montenegro proclaimed independence.

The Constitution of the Republic of Montenegro became effective on 9<sup>th</sup> October 2007 after the Montenegro independence referendum held on 21<sup>st</sup> May 2006. The Constitution includes several references to the institution of referendum. Article 82 reads that the Parliament may announce a national referendum, and a relevant motion requires at least 25 members of parliament, President of Montenegro, government or at least 10% of eligible citizens (Article 93). However, Article 157 reads that the amendment of certain basic provisions, such as Article 1 (The State), Article 2 (Sovereignty), Article 3 (State territory), Article 4 (State symbols), Article 12 (Citizenship), Article 13 (Language and alphabet), Article 15 (Relations with other states and international organizations), Article 45 (Electoral right), and Article 157 (Confirmation in the referendum), shall be final if minimum three fifths of all voters support the amendment in the national referendum.

The Constitution of the Republic of Kosovo became effective on 15<sup>th</sup> June 2008. As regards direct democracy, the Constitution refers to referendum several times. Article 1.1 reads “The sovereignty of the Republic of Kosovo stems from the people, belongs to the people and is exercised in compliance with the Constitution through elected representatives, referendum, and other forms in compliance with the provisions of this Constitution” (*Constitution of the Republic of Kosovo...*, op. cit., Article. 1.1). Article 81 lists the most important issues that can be decided through referendum. These include municipal borders, local government, local elections, use of the language, protection of the national heritage, freedom of religion, access to education, state symbols, and national holidays (Article 81.2). Moreover, the Constitution authorises the Assembly of Kosovo, President of the Republic of Kosovo and the Government to request the Constitutional Court to decide on compliance of referendum planned with the Constitution (Article 113.3). Apart from referendum, Article 79 provides for a legislative initiative that can be instigated by the head of state, government, members of parliament or at least 10 thou. eligible citizens.

*The Constitution of the Republic of Macedonia* states that sovereignty in the state “derives from the citizens and belongs to the citizens” (Constitution of the Republic of Macedonia, 1998). The document refers to forms of direct and indirect democracy, including referendum and other ways of expressing the will of citizens. The Constitution vested broad competences in the Assembly of the Republic of Macedonia (Wojnicki, 2008). According to Article 68, these include among other things the announcement of a referendum. A referendum resolution needs to be adopted by the simple majority of votes, and the outcome is valid if the referendum involves at least a half of eligible voters. Moreover, the Assembly of the Republic of Macedonia is required to instigate referendum upon the motion supported by 150 thousand citizens. The outcome of such a referendum is also binding. Additionally, the Constitution of the Republic of Macedonia foresees that a referendum is needed in case the Assembly decides to change state borders. The outcome of the referendum is valid provided the majority of voters participating in the referendum supports the position of the Assembly (Wojnicki, 2008). In the same vein, decisions are made regarding association in a union or community with other states (Art. 120.3). Thus, two types of referendums can be held in the Republic of Macedonia. A consultation referendum may decide on any important matter for the society, whereas an obligatory referendum decides on changes of borders and association or dissociation in a union or community with other states. Detailed provisions on the referendum procedure are included in the *Referendum and Popular Initiative Act*. Apart from referendum, the Macedonian Constitution provides for one more form of direct democracy, which is the legislative initiative (Article 71). According to Article 71, a legislative initiative can be put forward by members of the Assembly, government, and at least 10 thousand eligible citizens.

In Serbia, the most important act that determines the political system in the Republic of Serbia is the Constitution of 30<sup>th</sup> September 2006 (Bujwid-Kurek, Mikucka-Wójtowicz, 2015, p. 239). The Serbian Parliament unanimously adopted the Constitution after a referendum held on 28<sup>th</sup> and 29<sup>th</sup> October 2006 (Bujwid-Kurek, Mikucka-Wójtowicz, p. 240). The Constitution became effective on 10<sup>th</sup> November 2006. Its Article 2 reads that sovereignty is vested in citizens who exercise it through direct and indirect forms. The Sovereign are the citizens who exercise their power through referenda, popular initiatives, and while electing their representatives. According to Article 105 of the Constitution, by the majority of votes of all deputies, the National Assembly decides on referendum and national initiative. It is worth mentioning that the motion of deputies or at least 100 thousand voters may be valid to announce a national referendum. Such a referendum may deal with matters of international agreements, human rights, minority rights and freedoms, taxation and finance law, state budget, state of emergency, and amnesty, as well as the performance of election competences of the National Assembly (Bujwid-Kurek, 2012). At the state level, amendments to the Constitution should be made through referendum. This has been regulated in Chapter IX Article 203. In case changes proposed in a draft law refer to preamble, rule of law, and civil and minority rights and freedoms, the National Assembly is required to call a national referendum. The referendum needs to take place not later than 60 days from the adoption of the law. The amendment is approved provided the majority of participating voters support the amendment.

In a similar vein to other constitutions in post-socialist states, the Constitution of the Republic of Slovenia of 23<sup>rd</sup> December 1991 is based on democratic ideas and rules



included in other constitutions in Europe. As emphasised by Sławomir Patyra, the principle of direct democracy has been highlighted in the Slovenian Constitution (Patyra, 2002, p. 223). The Sovereign has two basic instruments available to participate in decision-making related to the most important matters of the state policy. These are national referendum and legislative initiative. The Constitution foresees two types of referendums: legislative referendum and constitutional amendment referendum. The first type can be called by the National Assembly (Državni Zbor) upon its own initiative. It is mandatory to call a referendum when it is requested by at least  $\frac{1}{3}$  of deputies, State Council (Državni Svet) or 40 thousand voters. A proposal to be decided in a referendum is adopted if supported by the majority of participating voters. Although a binding legislative referendum is defined in Article 90, the amendment to the Constitution (entitled "European Union") of 7<sup>th</sup> March 2003 introduced an optional referendum vesting sovereign right in an international organisation. Detailed of voting are defined in the act of the National Assembly (Art. 90.5). According to Article 170, in the same vein as in the case of a legislative referendum, the constitutional referendum is optional. Slovenian citizens may initiate the procedure to amend the Constitution. Article 168 states that a relevant motion can be put forward to the National Assembly by a group of at least 30 thousand voters and at least  $\frac{1}{3}$  of deputies. Then, the National Assembly needs to call a national referendum (Article 168.1 and Article 170.1). For the draft bill to be adopted two requirements need to be met: (1) the majority of voters need to be for the amendment, and (2) the majority of eligible voters need to participate (Zieliński, Bokszczanin, Zieliński, 2003, p. 62). The requirements highlight the significance of the Constitution and for this reason more rigorous procedures are in place if compared to a legislative referendum.

### **Referendum as a direct democracy tool – practicality**

The recent changes of political systems in the CEE states prompt the discussion on the development of democratic institutions in this part of the continent. For this reason, this part of the article is going to focus on the role of national referends in successor states of former Yugoslavia.

Almost 30 years into the system transformation turned out to be sufficient for many CEE states to make a tremendous progress in using the institution of referendum at the national level. However, some of the states had used referendum many years earlier.

Undoubtedly, after 1991, in this part of Europe, it was typical for the states to adopt new constitutions through popular vote. The recent period, since the EU accession of ten states from the CEE region, has revealed yet another trend, namely to call referends to decide on the European integration.

### **Referendums on independence**

Independence referendums represent an important democratic tool in the process of changing political systems in countries of the former Eastern Bloc. In several of them, independence referendums started political and social changes. It should also be men-

tioned that the core idea of voting on independence is a legitimate confirmation of the citizens' will to change their political status. In general, the outcome of the voting is not binding. However, once citizens express their will, the government decide according to the will expressed by voters.

In Central and Eastern Europe, referendums called in the early 1990s changed the status of specific territories, from associated to sovereign states. In this context, it is justified to claim that the institution of referendum was tool used by citizens of the former socialist bloc – the Balkan states included – to change their political systems and abandon their socialist past.

The first independence referendum was held in Slovenia on 23<sup>rd</sup> December 1990. At the same time, it was the first referendum in the country.<sup>3</sup> The Slovenian referendum triggered a wave of independence referendums in Central and Eastern Europe.

Table 1

### Independence referendums in successor states of former Yugoslavia

State	Date	Topic	Turnout (%)	Yes (%)	No (%)	Result status
Slovenia	23.12.1990	– independence	93.31	95.71	4.29	adopted
Croatia	19.05.1991	– independence,	84.94	93.24	6.76	adopted
		– stay as part of Yugoslavia	84.94	5.50	94.50	rejected
Macedonia	08.09.1991	– independence	71.85	95.09	4.91	adopted
Bosnia and Herzegovina	01.03.1992	– independence	62.45	99.69	0.31	adopted
Montenegro	21.05.2006	– independence	86.49	55.49	44.51	adopted

Source: Research Centre on Direct Democracy, <http://c2d.ch/>, 27.02.2022.

In 1991, other independence referendums were held in Croatia and Macedonia, and in March 1992 in Bosnia and Herzegovina. After this wave of independence referendums, no other voting on the matter took place. Yet another, and the last known, independence referendum in the region was held in Montenegro on 21<sup>st</sup> May 2006. Following its outcome, Montenegro separated from Serbia.

High voter turnout at independence referenda was a proof of a major mobilisation of citizens in the countries concerned. Their participation varied from about 62% to over 93%. Moreover, participating citizens voted unanimously. In five out of six referendums answers “Yes” accounted for mover 93%. During the 1991 referendum in Croatia voters decided to leave Yugoslavia. The outcome of the latter is an exception among independence referendums. In this referendum, 55% of voters opted for independence.

Yet another characteristic feature of the independence referendums was their *domino effect*. The referendums were held shortly one after another and the outcome in one country influenced the outcome in other countries. We should remember that referendums in the countries concerned coincided with independence referendums in former republics of the Soviet Union.

<sup>3</sup> According to Igor Lukšić and Andrej Kurnik, the first experience Slovenia had with referendum was in 1919. The traumatic experience took place shortly after the First World War ended when Slovenians joined the kingdom of Serbs, Croats and Slovenians. Then, a referendum was held on determining borders between Austria and territories inhabited partially by Austrians and Slovenians. The referendum decided that the territory would belong to Austria (Lukšić, Kurnik, 2001, p. 192).



Lessons learned from the independence referenda are an important input into the discussion on direct democracy in the middle and eastern parts of the continent, including successor states of former Yugoslavia. Their analysis enables us to conclude that unambiguous voter decisions in all the referendums changed the political map of the world and several new states were established in Europe. The successor states of former Yugoslavia are the good evidence of that.

### Referendums to *deepen* transformation

The second category of referendums held in the successor states of former Yugoslavia after 1990 (as in other CEE countries) can be described as popular votes that *deepened* changes. This qualification is added to emphasise that further referendums were designed to strengthen and deepen changes that started in the 1990s. These primarily include referendums that adopted new constitutions, system-oriented referenda, e.g. referendum on the system applicable to parliamentary elections, election of the president, and reforms, such as privatisation and social insurance systems.

The majority of *deepening* referenda were held in the 1990s. We should also add to this category a constitutional referendum in Serbia held in October 2006. It was called five months after the independence referendum in Montenegro. Statistics regarding *deepening* referendums are shown in Table 2.

Table 2

#### Deepening referendums in the successor states of former Yugoslavia

Country	Date	Topic	Turnout (%)	Yes (%)	Result status
Slovenia	08.12.1996	– parliamentary election (3 proposed systems) A. proportional; B. German model; C. French model	37.94	14.38 44.52 26.19	all rejected
Serbia	29.10.2006	– constitution	55	53	accepted
Macedonia	07.11.2004	Local Self-Government according to 1996 Laws	26.58	94.01	invalid
North Macedonia	30.09.2018	Agreement between the Republic of Macedonia and Greece on the change of name to “Republic of Northern Macedonia”	36.89	91.46	Non-binding

Source: Research Centre on Direct Democracy, <http://c2d.ch/>, 27.02.2022.

The analysis of the *deepening* referendums show that they focus on relatively narrow scope of matters and they are small in number. If compared with referenda held in other CEE states, the range of matters decided is much wider: constitution, political system, withdrawal of the Russian army, and privatisation. It is worth noting that the referendums did not have the *domino effect*, that could be seen in the case of the independence referendums (Musiał-Karg, 2016, pp. 48–49).

The most vivid feature of the *deepening* referendums was much lower voter turnout than in the case of independence referendums. The independence referendums attracted more than 90% of eligible voters, whereas referendums which took place later 30–40%.

This was the reason why some of the referendums failed to produce valid results. It is worth noting that the Serbian referendum on adopting a new constitution had the highest turnout.

Yet another important feature of the *deepening* referendums was much smaller voter support for the proposed changes. Voters showed more ambiguous attitudes to the matters in question than in the case of the independence referendums.

### Referendums on the accession to the European Union

EU accession referendums played a tremendously important role in democratic transition in Central and Eastern Europe. For the first time in this part of Europe referendums were called in 2003 with the largest EU enlargement.

Accession to the EU was seen as a symbolic entry to the group of western democracies, and since the beginning of the transformation, it was one of priority goal of foreign policy in countries of the former Eastern Bloc. Accession to the EU was considered fundamental and the accession referendum in each country (in 2003, referendum was called by 9 out of 10 CEE candidate countries) was something unique, and the outcome historical and irreversible. The turnout was expected to be high and just as the support for EU accession among voters (Musiał-Karg, 2008, p. 287).

Slovenia was the first of the successor states of former Yugoslavia to join the EU, and the accession referendum was held in march 2003. Croats joined the EU in 2013, and their referendum took place in January 2012.

Table 3

EU accession referendums

Country	Date	Topic	Turnout (%)	Yes (%)	Result status
Slovenia	23.03.2003	– EU accession	60.43	89.64	accepted
Croatia	22.01.2012	– EU accession	43.51	66.27	accepted

**Source:** Initiative & Referendum Monitor 2004/2005, p. 9; IRI Europe, 2003; M. Musiał-Karg, 2008, pp. 284–294; Musiał-Karg, 2016.

Both referendums resulted in an unequivocal support for the EU membership. In each of the countries, more than 50% of participating voters supported the accession and the turnout was one of the highest (after independence referenda) in the history of both countries.

The two accession referendums approved the accession and Slovenia Croatia became EU member states, respectively on 1<sup>st</sup> May 2004 and 1<sup>st</sup> July 2013. It should be added that after 2003 the only new member state that decided to call accession referendum was Croatia (Bulgaria, Romania, Croatia). In Croatia, the referendum coincided with the financial crisis, and the public showed much concern about the process. Voter turnout was the lowest of all accession referendums in the CEE.

Summarising, it should be emphasised that accession referendums of 2003 and 2012 were particularly important for future member states from Central and Eastern Europe, for they were seen as a “closure of their relations with the former Eastern Bloc”. They

were the final step on the way. Moreover, in the majority of the states, the accession referendums were the first to deal with a strictly “European” dimension.

### Slovenia – a leader in the region

It is worth highlighting that Slovenia is in the forefront of CEE countries (former Yugoslav states including) regarding the number of issues decided through referendums. Although the turnout in public elections was typically around 30%, voters were eager to express their opinion on matters of particular importance for the state. Undoubtedly, the referendum of 1990 (independence) and of March 2003 (EU and NATO accession) should be considered some of the most important developments in the history of the Republic of Slovenia. At that time, the referendums had possibly the highest turnout of 60.44%, whereas the lowest turnout (11.74%) was with the referendum of 2014 related to the Act on legal protection of documents and archives. This was the result of multiple elections organised that year (elections to European Parliament, National Assembly and local governments). The government of Slovenia recognised the value of direct democracy and its institutions, such as referendum and initiative. They followed the pattern of more experienced European countries which included these democratic tools among state institutions.

Table 4

#### Referendums regarding other issues in Slovenia

Proposal against the construction of a third steam electricity power plant TET3	10.01.1999
Artificial insemination for unmarried women	17.06.2001
Full reimbursement of overpaid telephone fees	19.01.2003
Proposal against the planned restructuring and privatization of the national railways	19.01.2003
Accession to the NATO	23.03.2003
Only ten Sunday opening days per year	21.09.2003
Renewed residency rights for former minorities stemming from former Yugoslav autonomous republics	04.04.2004
Regulation of the Slovenian public broadcaster (RTV)	25.09.2005
Law on transfer of ownership of insurances (35% shares into national fund)	11.11.2007
Border Arbitration Agreement with Croatia	06.06.2010
Regulation of the Slovenian public broadcaster (RTV)	12.12.2010
Law on part-time work	10.04.2011
Law on the protection of legal documents and archives	05.06.2011
Law on pension and invalidity insurance	05.06.2011
Law against illicit work	05.06.2011
Family Code	25.03.2012
Law on the protection of legal documents and archives	08.06.2014
Introduction of same-sex marriage	20.12.2015
Construction and Management of a second railway track between Divača and Koper	24.09.2017

Source: Centre for Research on Direct Democracy, <https://c2d.ch/country/SI>, 18.03.2022.

The analysis of data included in Table 4 enables us to conclude that Slovenians have been frequently resorting to direct democracy tools, and more specifically referendum.

The tool has been used every two years. However, the amendment of Art. 90 of their Constitution reduced the number of motions to call referendum. Citizens thoroughly examine issues that prefer to resolve through national voting. It should be emphasised that nearly two thirds of issues voted in referendums have been rejected. Yet another interesting fact is that the referendums are marked by low turnouts. According to the Slovenian law, there is no specific turnout level for a legislative referendum to be valid (except constitutional referendum). Results of the referendum are binding provided one fifth of participating voters vote for (or against). Only two referendums had their turnout exceeding 50% which is an indication of the shortage of civic engagement into public life.

The understanding of reasons behind the use of a national referendum in political decision-making in Slovenia enables to conclude that Slovenians will continue to use the tool. EU accession is of particular importance here, as the adjustment to EU requirements is very likely to promote the use of the instrument in the future. On the one hand, the first major step on that path was certainly the supporting outcome of the EU accession referendum. On the other hand, direct democracy might produce some limiting factors in this young republic. This may be related to the shortage of democratic experience and habits, as well as behaviours among politicians and members of the society. The referendum of April 2004 on fundamental rights of minorities is a good example of the above.

### Conclusions

Conclusions listed below result from the analysis of the use of referendum and lessons learned by the successor states of former Yugoslavia. Firstly, in the countries concerned, the institution of referendum is used to decide on the most important political matters. Unique historical matters decided through referendum include independence and EU integration (EU accession). Secondly, referendums dealing with such fundamental issues as independence and EU accession typically involved high voter turnout (e.g. independence referendums: from 62.45% to 93.31%) and unanimous position presented by eligible voters. Thirdly, it seems that the institution of national-wide referendum fits well into political and legal systems in former Yugoslav states, as the majority of constitutional acts contain possibility to resort to referendum. Fourthly, in former Yugoslav states, referendums have been called quite often, in particular in Slovenia. Although democracy as a form of governance has been developed in western states, it also became very popular in this region. This is supported by the fact that all countries of the region used referendum at least once. Fifthly, despite the use of referendum to decide on crucial matters, it is hardly possible to state that the use of this institution has a proven practice.

While examining specific features, the comparison of reference sources mentioned in the article enables to distinguish differences between specific types of voting. The most outstanding element is the scope of referendums. Whereas independence and accession referendums apply to a single precise issue, *deepening* referendums involve a much wider range of issues, e.g. issues related to the constitution or the political system, and social and moral issues.

In the successor states of former Yugoslavia, the analysis of referendum topics reveals three types: independence referendums (system transformation, commencement of

transformation), *deepening* referendums on constitution, political system, privatisation (deepening and strengthening of changes, further reforms), and accession referendums (in Slovenia and Croatia only). The division reflects trends observed in the entire region of Central and Eastern Europe.

Summarising, we should state that the multiple-year experience (since early 1990s) in using referendum in the states that succeed former Yugoslavia proves that the tool is important for the empowerment of citizens but only regarding matters of the top priority, crucial and historical for the functioning of the state. Matters such as independence, constitution, and system reforms are decisive for the state. Therefore, the decision-making through referendum in a historical moment seems justified, as confirmed by the practise in the majority of former communist states of the Eastern Bloc. The same applies to accession referendums. Among states that succeeded former Yugoslavia, both Slovenia and Croatia called referendums on the future accession to the EU. Therefore, we may expect similar referendums to be held in the case of further enlargement involving former Yugoslav states. All the more, on 4<sup>th</sup> March 2020 ministers responsible for European affairs granted their political consent to commence accession negotiations with Albania and North Macedonia, whereas on 25<sup>th</sup> March conclusions pertaining to the enlargement, stabilisation, and association were formally adopted in writing. Finally, on 26<sup>th</sup> March 2020, these were approved by members of the European Council.

We may conclude that despite rather modest experience in direct democracy in former Yugoslav states, the latter used referendums to decide on fundamental issues, and the EU integration process may encourage the further use of referendums. An unrivalled leader in this group of countries is Slovenia as regards the frequency and the number of matters settled in national referendums.

### Bibliography

- Accordance with international law of the unilateral declaration of independence in respect of Kosovo* (Request for Advisory Opinion), <http://www.icj-cij.org/docket/files/141/16010.pdf>, 7.02.2022.
- Alliance offers partnership to Bosnia and Herzegovina, Montenegro and Serbia*, <https://www.nato.int/docu/update/2006/11-november/e1129e.htm>, 10.02.2022.
- Antoszewski A., Herbut R. (eds.), (1992), *Systemy polityczne demokracji zachodnioeuropejskich. Wstęp do analizy porównawczej*, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław.
- Bačić A. (2002), *Komentar Ustava Republike Hrvatske*, Pravni fakultet u Splitu, Split.
- Bibić A. (1993), *The Emergence of Pluralism in Slovenia*, "Communist and Post-Communist Studies", no. 4.
- Bilski R. (1998), *Nie strzelajcie do nocnego ptaka. Balkany 1991–1998*, Presspublica, Warsaw.
- Bujwid-Kurek E. (2008), *Państwa poługosłowiańskie. Szkice politologiczne*, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków.
- Bujwid-Kurek E. (2012), *Serbia w nowej przestrzeni ustrojowej: dzieje, ustroj, konstytucja*, Księgarnia Akademicka, Kraków.
- Bujwid-Kurek E., Mikucka-Wójtowicz D. (2015), *Transformacja ustroju politycznego wybranych państw Europy Środkowej i Południowo-Wschodniej. Podręcznik akademicki*, Wydawnictwo Libron, Kraków.
- Constitution of the Republic of Macedonia*, [https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns\\_article-constitution-of-the-republic-of-north-macedonia.nspx](https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx), 13.01.2022.

- Constitution changed: from semi-presidential into parliamentary system*, www.hina.hr, 10.02.2022.
- Constitution of the Republic of Kosovo*, <http://www.kryeministri-ks.net/repository/docs/Constitution-1Kosovo.pdf>, 13.01.2022.
- Czarnogóra w Radzie Europy*, Council of Europe, <http://www.coe.int/>, 10.02.2022.
- Dziak W. (1994), *Bośnia i Hercegowina*, in: *Europa Środkowo-Wschodnia 1992*, Warsaw.
- Gebethner S. (1998), *W poszukiwaniu kompromisu konstytucyjnego: Dylematy i kontrowersje w procesie stanowienia nowej Konstytucji RP*, Elipsa, Warsaw.
- Gibas-Krzak D., Krzak A. (2010), *Południowosłowiańska mozaika. Charakterystyka geograficzno-polityczna państw postjugosłowiańskich*, Volumina.pl, Szczecin.
- Grdešić I. (1991), *Wybory w Chorwacji. Polityczne konsekwencje ordynacji wyborczej*, in: *Wybory i narodziny demokracji*, ed. J. Raciborski, Scholar, Warsaw.
- Initiative & Referendum Monitor 2004/2005. The IRI Europe Toolkit for Free and Fair Referendums and Citizens' Initiatives*, ed. B. Kaufmann, Amsterdam.
- IRI Europe (2003), *Ten referendums on Europe in Europe. IRI Europe Referendum Monitoring Report*, October 2003, IRI Europe, Tartu.
- Izborni zakon Bosne i Hercegovine* (Prečišćeni tekst) (2006), "Službeni glasnik BiH", no. 24, <http://www.izbori.ba/documents/ZAKONI/POIZpw110508.pdf>, 11.02.2022.
- Jabłoński M. (2001), *Referendum ogólnokrajowe w polskim prawie konstytucyjnym*, "Prawo CCLXXIV".
- Konstytucja Bośni i Hercegowiny* (2015), in: Sz. Sochacki, *Bośnia i Hercegowina 1995–2012. Studium politologiczne*, Wydawnictwo Adam Marszałek, Toruń.
- Konstytucja Republiki Chorwacji* (1996) wstęp A. i L. Garlicy, Wydawnictwo Sejmowe, Warszawa.
- Konstytucja Czarnogóry, The Constitution of Montenegro*, <https://www.skupstina.me/en/the-constitution-of-montenegro>, 10.02.2022.
- Konstytucja Republiki Macedonii*, Wstęp – J. Jackowicz, Wydawnictwo Sejmowe, Warsaw 1999.
- Konstytucja Republiki Serbii*, (2018), Wydawnictwo Sejmowe, Warsaw.
- Konstytucja Republiki Słowenii* (1994), Wstęp – P. Winczorek, Wydawnictwo Sejmowe, Warsaw.
- Koseski A. (2013), *Macedonia: od republiki związkowej do państwa unitarnego*, in: *W bałkańskim kręgu*, Oficyna Wydawnicza Aspra-JR, Warsaw–Pułtusk.
- Kuczyński M. (1994), *Krwawiąca Europa. Konflikty zbrojne i punkty zapalne w Europie*, Dom Wydawniczy Bellona, Warszawa.
- Lubik-Reczek N. (2011), *Państwa postjugosłowiańskie wobec członkostwa w Unii Europejskiej i NATO. Analiza porównawcza*, Wydawnictwo Adam Marszałek, Toruń.
- Marković G. (2009), *Ustav Bosne i Hercegovine*, in: S. Gavrić, D. Banović, Ch. Krause, *Sarajevo. Uvod u politički sistem Bosne i Hercegovine-izabrani aspekti, Member States, Montenegro*, United Nations, www.un.org, 10.02.2022.
- Musiał-Karg M. (2018), *Referenda w państwach europejskich. Teoria, praktyka, perspektywy*, Wydawnictwo Adam Marszałek, Toruń.
- Musiał-Karg M. (2016), *The Role of National Referendum in Central and Eastern European Countries. Selected Experiences*, "Środkoeuropejskie Studia Polityczne", no. 3, pp. 41–57, <https://doi.org/10.14746/ssp.2016.3.2>.
- Muś J. (2007), *Konstytucja Bośni i Hercegowiny jako czynnik stabilizujący*, "Międzynarodowy Przegląd Polityczny", no. 4.
- Moore P. (1993), *The Widening Warfare in the Former Yugoslavia*, "Radio Free Europe Research Report", vol. 2, no. 1.
- Patyra S. (2002), *Republika Słowenii*, in: *Ustroje państw współczesnych 2*, Lublin.
- Piasecki A. (2018), *Direct Democracy in Bosnia and Hercegovina*, in: *Handbook of Direct Democracy in Central and Eastern Europe after 1989*, ed. M. Marczewsak-Rytko, Barbara Budrich Publishers, Opladen–Berlin–Toronto.



- Podstawowa Karta Konstytucyjna o Suwerenności i Niepodległości Republiki Słowenii*, <http://libr.sejm.gov.pl/tek01/txt/konst/slowenia-1.html>, 10.02.2022.
- Polkowska A. M. (2000), *Macedonia*, Agencja Wydawniczo-Reklamowa Alta 2, Wrocław.
- Promjena Ustava Republike Hrvatske* (2000), "Narodne novine", no. 113.
- Promjena Ustava Republike Hrvatske* (2001), "Narodne novine", no. 28.
- Reynolds P. (2008), *Legal furore over Kosovo recognition*, 16.02.2008, BBC, <http://news.bbc.co.uk/2/hi/europe/7244538.stm>, 7.02.2022.
- Sokół W., Żmigrodzki M. (2005), *Systemy polityczne państw Europy Środkowej i Wschodniej*, UMCS, Lublin.
- Stawowy-Kawka I., (2000), *Historia Macedonii*, Zakład Kartograficzny Sygnatura, Wrocław.
- Szpała M. (2019), *Macedonia: parlament za zmianą nazwy państwa*, OSW, Warszawa.
- Tanner M. (1997), *Croatia. A Nation Forged in War*, London.
- Ustav Bosne i Hercegovine*, [https://www.ustavnisud.ba/public/down/USTAV\\_BOSNE\\_I\\_HERCEGOVINE\\_bos.pdf](https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_bos.pdf), 10.02.2022.
- Ustav Republike Hrvatske* (1990), "Narodne novine", no. 56.
- Ustavni zakon o izmjenama i dopunama Ustava Republike Hrvatske* (1997), "Narodne novine", no. 135.
- Ustavni zakon o privremenoj spriječnosti Predsjednika Republike Hrvatske za obavljanje dužnosti* (1999), "Narodne novine", no. 123.
- Wojnicki J. (2009), *System konstytucyjny Macedonii*, Wydawnictwo Sejmowe, Warsaw.
- Wojnicki J. (2008), *Zgromadzenie parlament Macedonii*, Wydawnictwo Sejmowe, Warsaw.
- Wojnicki J. (2019), *Ewolucja systemu partyjnego Republiki Macedonii Północnej*, „Wschodnioznawstwo”, pp. 23–34.
- Zieliński E., Bokszezanin I., Zieliński J. (2003), *Referendum w państwach Europy*, Fundacja Europea, Warsaw.

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## Referendum jako narzędzie demokracji bezpośredniej w państwach byłej Jugosławii

### Streszczenie

Zmiany, które nastąpiły w latach 1989–1991, zakończyły dwubiegunowy podział świata i zapoczątkowały nową falę demokratycznych przemian. Na początku lat 90. rozpad Socjalistycznej Federalnej Republiki Jugosławii (SFRJ) przyniósł szereg zmian w regionie. O niektórych z nich zdecydowano w drodze referendum, które wydaje się być niezwykle ważnym narzędziem w procesie przemian demokratycznych w Europie Środkowo-Wschodniej. Artykuł koncentruje się na instytucji referendum ogólnokrajowego w państwach sukcesorach byłej Jugosławii: Bośni i Hercegowinie, Chorwacji, Czarnogórze, Kosowie, Macedonii Północnej, Serbii i Słowenii. Głównym celem artykułu jest udzielenie odpowiedzi na pytanie o rolę tego szczególnego narzędzia w tych państwach oraz określenie kierunków dalszego wykorzystania referendum w tej części Europy. Aby zrealizować cel badawczy, w artykule wykorzystano analizę systemową i podejście instytucjonalno-prawne oraz dane statystyczne dotyczące wyników referendum ogólnokrajowych w omawianych państwach.

**Słowa kluczowe:** referendum, demokracja bezpośrednia, Bośnia i Hercegowina, Chorwacja, Czarnogóra, Kosowo, Macedonia Północna, Serbia, Słowenia, była Jugosławia

