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Popular Initiative and Referendum in Switzerland (2000–2010)

Polityka i Społeczeństwo nr 9, 284-296

2012

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

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Introduction

An idea of citizens' participation in forms of direct democracy as part of the process of political decision-making constitutes a significant feature of the Swiss system (Kölz 1992: 615–620; Marczewska-Rytko 2001). In Switzerland, the institutions of direct democracy include general assembly, popular initiative, referendum and popular veto (Grabowska 2009: 108–117, 152–168, 219–229). In table 1 four types of direct democracy institutions on the federal level are listed (popular initiative, counter-draft, mandatory referendum and optional referendum – which is also called popular veto) and the frequency of their application since 1848. Indicators for the particular institutions are subdivided into four periods: 1848–1899, 1900–1949, 1950–1999, 2000–2010.

Table 1. The use of direct democracy institutions on the federal level (1848–2010)

Years	Popular Initiative	Counter-draft	Mandatory Referendum	Optional Referendum (Popular Veto)	Total
1848–1899	4	–	26	25	55
1900–1949	33	8	28	28	97
1950–1999	91	21	123	84	319
2000–2010	48	6	15	30	99

Source: The Author's own calculations basing on: *Use of DD in Switzerland*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information

Basing on the data provided in table 1 one could state that the institutions typical of direct democracy were taken advantage of in Switzerland 570 times in the period 1848–2010. Analyzing data in table 1 one could conclude that the importance of the institutions of direct democ-

racy in this country has been rapidly growing and that there is a rising trend regarding the application of the direct democracy instruments (Kauffman, Büchi, Braun 2007).

The aim of the following paper is to analyze the institutions of popular initiative and referendum in Switzerland in the years 2000–2010. The paper is divided into two parts. In the first part the institution of popular initiative is analyzed, while in the second part the analysis covers the institution of referendum.

Popular initiative

The institution of popular initiative plays an important role in the Swiss system. Most generally, it means that a group of one hundred citizens who hold suffrage may demand changes in the Constitution or propose new legal regulations and have the existing ones repealed. Popular initiative may concern both solutions to specific problems and issues which are more general in nature. After such an initiative has been articulated, it is further discussed within the Federal Council or Federal Assembly. These bodies issue formal opinions concerning the proposed solutions. At this stage alternative proposals might be put forward and all of the proposals may be elaborated in more detail. Subsequently, all of the initiatives (including counter-drafts) are presented to the Swiss society and the cantons for evaluation. The initiative is approved when it is supported by the majority of the society and the majority of the cantons.

We could distinguish an initiative which aims at adopting a new constitution and an initiative which aims at introducing amendments to the existing constitution. The first type of the initiative dates back to 1848, while the other – to 1891. Basing on art. 138 of the Constitution of Switzerland of 18 April 1999 which refers to those initiatives that aim at a complete revision of the Federal Constitution, it was decided that the right to put forward this kind of popular initiative is granted to a group of one hundred citizens. Their proposal is subsequently submitted to a vote by the Nation (*Konstytucja Federalnej Konfederacji Szwajcarskiej* 2000, chapt. 2, art. 138).

Basing on art. 139 of the Constitution of Switzerland concerning a partial revision of the Federal Constitution, it was decided that this type of a proposal may be put forward by one hundred citizens eligible to vote (*Konstytucja Federalnej Konfederacji Szwajcarskiej* 2000,

rozd. 2, art. 139). The popular initiative aiming at a partial change of the existing constitution might take the form of a general proposal or a specific draft covering the proposed provisions. In case the initiative infringes upon the consistency of the form, matter or absolute obligations stemming from the international law, the Federal Assembly may classify it as totally or partially invalid. If the Federal Assembly approves of the initiative which takes the form of a general proposal, it elaborates a revision draft modifying the constitution in accordance with the spirit of the popular initiative and then submits it to the Nation and the cantons for the vote. In turn, when the Assembly does not approve of the citizens' initiative, it presents it to the Nation for the vote without any further elaboration. In this case it is the Nation who decides whether the given initiative should be further dealt with. If the Nation's decision is positive, then the Federal Assembly drafts an adequate bill. Subsequently, the initiative in the form of a draft is again submitted to the Nation and the cantons for the vote. The Federal Assembly recommends either voting for the initiative or rejecting it. If it recommends rejecting the initiative, it may present an alternative bill (counter-draft). The Nation and the cantons simultaneously decide by vote about the citizens' initiative and the counter-draft. They may support both of the proposed bills or they may indicate which of the proposals they would prefer to support in a situation when both of them are voted through. If one of the proposals gets the majority of the citizens' votes but the other has more votes in the canton voting, none is enforced. In table 2 data are presented regarding the use of popular initiative and counter-drafts in the years 2000–2010.

**Table 2. Popular initiatives and counter-drafts
on the federal level (2000–2010)**

Years	Popular initiative		Counter-draft		Total
	yes	no	yes	no	
2000–2010	6	42	1	5	54

Source: The Author's own calculations basing on: *Use of DD in Switzerland*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information

Basing on the analysis of data included in table 2, it needs to be stated that in sum the institution of popular initiative and the counter-draft was used 54 times in the period 2000–2010. 48 popular initiatives were subject to the vote. In sum, 6 initiatives were voted through, while 42 initiatives were voted down. Regarding counter-drafts, they were

submitted to the vote 6 times. One of the counter-drafts was voted through and accepted, while 5 of them were voted down and rejected.

In table 3 details are presented as far as the accepted popular initiatives (2000–2010).

Table 3. Accepted popular initiatives (2000–2010)

Date of voting	Issue	Attendance w %	Yes-votes	Yes-votes in %	No-votes	No-votes in %
3.03.2002	Switzerland's membership in the UN	58,44	1 489 110	54,61	1 237 629	45,39
8.02.2004	Life imprisonment for perpetrators of sexual and violent crimes	45,53	1 198 867	56,19	934 569	43,81
27.11.2005	Food grown without genetic modification	42,24	1 125 835	55,67	896 482	44,33
30.11.2008	No statute of limitation for pornographic crimes against children	47,52	1 206 323	51,87	1 119 119	48,13
29.11.2009	Against the construction of minarets	53,76	1 535 010	57,50	1 134 440	42,50
28.11.2010	For deportation of criminal foreigners	–	1 398 360	52,93	1 243 325	47,07

Source: The Author's own calculations basing on: *Citizen's Initiative*, http://www.c2d.ch/synopticalresult.php?insti=26&year=2000-2009&country=1&canton=0&city=0&level=1&res=1&continent=Europe&table=country_information&sublinkname=country_information

In Table 4 details of the voting are presented regarding the accepted counter-drafts in the years 2000–2010.

Table 4. Accepted counter-drafts (2000–2010)

Date of the voting	Issue	Attendance in %	Yes-votes	Yes-votes in %	No-votes	No-votes in %
17.05.2009	For a future with alternative medicine	38,80	1283894	67,03	631560	32,97

Source: The Author's own calculations basing on: *Counter-draft*, <http://www.c2d.ch/synopticalresult.php?insti=27&year=2000-2009&country=1&canton=0&city=0&level>

=1 &res=1&continent=Europe&table=country_information&sublinkname=country_information

Referendum

Referendum is an important institution of the Swiss democracy. In Switzerland we can distinguish mandatory referendums, called also constitutional ones, and optional ones which are also called law-making referendums (Sarnecki 1989: 289–293). The institution of mandatory referendum was introduced in 1848. It is taken advantage of whenever revisions are proposed in the constitution. Since 1977 this type of referendum has also been used to decide about Switzerland's membership in supranational institutions. In art. 140 of the Swiss Constitution provisions regarding the use of mandatory referendum are laid down (*Konstytucja Federalnej Konfederacji Szwajcarskiej* 2000, chapt. 2, art. 140). The Nation and the cantons may express their will regarding the following issues: revision of the Federal Constitution; membership in an organization for collective security or in a supranational community; emergency federal laws that are not based on the Constitution's provisions and whose term of validity exceeds one year (such laws must be subject to referendum within one year since the date of being adopted by the Federal Assembly). In turn, the Nation may express its will regarding: those popular initiatives that aim at a complete revision of the Federal Constitution; popular initiatives that aim at a partial change of the Federal Constitution in the form of a general proposal that has been rejected by the Federal Assembly; the question whether a complete revision of the Federal Constitution is to be put into effect if there is no unanimity in the two chambers. To carry out the mandatory referendum it is not necessary to have citizens' signatures collected. It is carried out automatically in a way.

The optional referendum (also called popular veto) was introduced in 1874. It is tantamount to articulating opposition regarding solutions that have been adopted in the existing legal system. Therefore, this type of institution is used to oppose an established legal act. In accordance with art. 141 of the Swiss Constitution the proposal to carry out an optional referendum must be supported by a group of at least 50 thousand citizens or eight cantons (*Konstytucja Federalnej Konfederacji Szwajcarskiej* 2000, chapt. 2, art. 141). The Nation decides in this manner about the following issues: federal laws, emergency federal laws whose validity exceeds one year; international agreements. The category of international agreements includes agreements of unlimited duration which cannot be

terminated; agreements providing for accession to international organizations; agreements resulting in harmonization of law in several states. The Swiss Constitution gives the Federal Assembly the right to use the optional referendum in case of other international agreements as well. The bills put to the Nation for the vote come into force if they are supported by the majority of the voters (art. 142 of the Constitution of Switzerland).

Table 5. Mandatory and optional referendums (popular veto) on the federal level (2000–2010)

Years	Mandatory referendum		Optional referendum (popular veto)		Total
	yes	no	yes	no	
2000–2010	11	4	25	5	45

Source: The Author’s own calculations basing on: *Use of DD in Switzerland*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information

Basing on the analysis of data included in table 5 one needs to state that in sum the institution of mandatory referendum and optional referendum (popular veto) was taken advantage of 45 times in the period 2000–2010. By means of mandatory referendum 15 drafts were submitted to the vote. Out of this number, 11 drafts were accepted by the cantons and society, while 4 of them were rejected. In the same period optional referendums (popular veto) were used to decide about 30 drafts. Out of this number, 25 drafts were accepted by referendum, while 5 were rejected.

Table 6 presents a selection of issues that were subject to the vote in the form of mandatory referendum over the last decade.

Table 6. Mandatory referendums in the period 2000–2010

Date of voting	Issue	Attendance in %	Yes-votes	Yes-votes in %	No-votes	No votes in %
1	2	3	4	5	6	7
12.03.2000	Federal decree on reform of the judiciary	41,92	1 610 107	86,36	254 355	13,64
10.06.2001	Federal decree on withdrawal of the duty to have permission to create new bishoprics	42,05	1 194 556	64,20	666 108	35,80

2.12.2001	Federal decree on reducing debt	37,82	1 472 259	84,74	265 090	15,26
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
9.02.2003	Federal decree on amendment to citizens' rights	28,69	934 005	70,35	393 638	29,65
16.05.2004	Federal decree on financing old age-, widows-, orphans- and disability insurance by raising the level of VAT	50,83	756 550	31,42	1 651 347	68,58
26.09.2004	Federal decree on acquisition of citizenship rights by third-generation foreigners	53,83	1 238 912	48,37	1 322 587	51,63
26.09.2004	Federal decree on easier naturalization for young second-generation foreigners	53,82	1 106 529	43,24	1 452 453	56,76
28.11.2004	Federal decree of 19 March 2004 on the new organisation of Federal finances	36,83	1 258 895	73,81	446 662	26,19
28.11.2004	Federal decree on revision of financial compensation and distribution of charges between the Confederation and the cantons	36,85	1 104 565	64,37	611 331	35,63
21.05.2006	Federal decree on revision of the articles on education in the Federal Constitution	27,80	1 137 450	85,58	191 666	14,42
27.09.2009	Federal decree on the temporary supplementary financing of disability insurance through an increase in the value-added tax rate, as amended by the Federal decree of 12 June 2009 on the amendment of this	41,01	1 112 818	54,56	926 730	45,44

	decree					
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
27.09.2009	Federal decree on the abandonment of the introduction of a general citizen's initiative	40,43	13 007 237	67,88	618 664	32,12
29.11.2009	Federal decree for the creation of a specialist fund for duties on air traffic	52,63	1 609 682	64,99	867 113	35,01
7.03.2010	Citizen's initiative of 26 July 2007 against the cruelty of animals and for better legal protection of animals	45,82	671 731	29,50	1 605 141	70,50
7.03.2010	Federal decree of 25 September 2009 on a constitutional article concerning the research on humans	45,49	17 008 488	77,21	504 167	22,79

Source: The Author's own calculations basing on: *Mandatory Referendum*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information&tabname=results&menuname=menu&continent=Europe&countrygeo=1&stategeo=0&citygeo=0&level=1

Basing on the data included in table 6 one needs to state that in the period 2000–2010 the institution of mandatory referendum was used 15 times. In 11 cases the society and the cantons approved of the proposed changes, while in 4 cases they refused to support the changes. The attendance oscillated between 27,8 and 53,83% of citizens eligible to vote.

Table 7 presents a selection of issues that were put to the vote in the form of optional referendum over the last decade.

Table 7. Optional referendums in the period 2000–2010

Date of voting	Issue	Attendance in %	Yes-votes	Yes-votes in %	No-votes	No-votes in %
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
21.05.2000	For sectoral agreements between Switzerland	48,30	1 497 093	67,19	730 980	32,81

	and the EC and its Member States					
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
26.11.2000	Regulations concerning federal employees	41,53	1 253 995	66,83	622 381	33,17
10.06.2001	Revision concerning army and military authorities (training)	42,50	1 001 300	51,14	956 496	48,86
10.06.2001	Amendment to the law on army and armed forces	42,52	1 002 271	50,99	963 336	49,01
2.06.2002	Amendment concerning abortion	41,81	1 399 545	72,15	540 105	27,85
22.09.2002	Federal law concerning the energy sector	44,79	972 770	47,42	1 078 412	52,58
24.11.2002	Amendment to the federal law on obligatory insurance for the unemployed and insurance against bankruptcy	47,82	1 234 623	56,09	966 626	43,91
9.02.2003	Adjusting the canton's contributions to hospital costs	28,69	1 028 673	77,36	301 128	22,64
18.05.2003	Federal law on civil defense	49,50	1 829 339	80,56	441 498	19,44
18.05.2003	Amendment to the federal law regarding military administration	49,55	1 718 452	76,04	541 577	23,96
8.02.2004	Amendment concerning obligations	45,42	755561	35,93	1 347 458	64,07
16.05.2004	Amendments to regulations affecting taxation for married couples and families, private housing and stamp duty	50,84	821 475	34,12	1 585 910	65,88

16.05.2004	Occupational pension insurance	50,82	772 773	32,10	1 634 572	67,90
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
26.09.2004	Law on financial compensation for those serving in the armed forces or performing the community service alternative or in civil protection	53,80	1 417 159	55,45	1 138 580	44,55
28.11.2004	Law on research on embryonic stem cells	37,02	1 156 706	66,39	585 530	33,61
5.06.2005	Law on the registration of partnerships of same-sex couples	56,51	1 559 848	58,04	1 127 520	41,96
5.06.2005	Bilateral agreements between Switzerland and the EU concerning Schengen and Dublin accords	56,63	1 477 260	54,63	1 227 042	45,37
25.09.2005	Agreement on the free movement of persons between the EU and Switzerland	54,51	1 458 686	55,98	1 147 140	44,02
27.11.2005	Amendment of the law on employment in industry, trade and commerce (labour law)	42,31	1 026 833	50,56	1 003 900	49,44
24.09.2006	Amendment on the law on asylum	48,91	1 598 399	67,75	760 787	32,25
24.09.2006	Federal decree regarding foreigners	48,91	1 602 134	67,97	755 119	32,03
26.11.2006	Family allowances	45,01	1 480 796	67,98	697 415	32,02
26.11.2006	Cooperation with the countries of Eastern Europe	44,98	1 158 494	53,42	1 010 190	46,58
17.06.2007	Amendment of the	36,20	1 039 282	59,09	719 628	40,91

	federal disability insurance law					
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
24.02.2008	Improvement of fiscal conditions concerning business and investment activities	38,62	938 744	50,53	918 990	49,47
30.11.2008	Amendment of the federal law on narcotics	47,14	1 541 928	68,08	722 992	31,92
8.02.2009	Renewal of the agreement between Switzerland and the European Community on the free movement of persons	51,44	1 517 132	59,61	1 027 899	40,39
17.05.2009	Introduction of biometric passports	38,77	953 173	50,15	947 493	49,85
7.03.2010	Amendment to the law on occupational pension	45,75	617 209	27,27	1 646 369	72,73
26.09.2010	Revision of the law on employment insurance	–	958 333	53,39	836 683	46,61

Source: The Author's own calculations basing on: *Optional Referendum*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information&tabname=results&enuname=menu&continent=Europe&countrygeo=1&stategeo=0&citygeo=0&level=1

Basing on the data included in table 7 one needs to state that in the period 2000–2010 the institution of optional referendum was taken advantage of 30 times. In 25 cases the proposed changes were supported, while in 5 cases they were rejected. The attendance oscillated between 28,69 and 56,63% of all citizens eligible to vote.

Conclusion

The analysis regarding the institutions of popular initiative and referendum in Switzerland during the period 2000–2010 allows one to put forward a few conclusions.

First, the application of the instruments of direct democracy covers all tiers in Switzerland – from local authorities to federal authorities.

Second, it serves as an instrument of social control over representative authorities. Also, it constitutes an important factor which needs to be taken into account by the governing elite.

Third, a whole spectrum of issues might be subject to a vote that could be deemed more or less serious (from voting on social benefits to voting on the abolishing of armed forces). In practice, almost any issue may become a subject of public debate and voting. This results to a large degree from the Swiss political freedom owing to which any political issue may become a subject for citizens' initiative. In this manner, when the ruling elites are not afraid to raise issues which could turn into an obstacle possibly blocking their re-election, such elites cease to behave in a conformist manner determined by the coming elections. Besides, some issues may be taken up in spite of the political elite's stance. In addition, it is to be stressed that popular initiatives and referendums are held on a mass scale.

Fourth, we could risk a claim that in practice direct democracy is premised upon articulations of minority preferences. However, this could not be done if there were no societal consent for this type of arrangement. Citizens have opportunities to participate in the political decision-making processes. These opportunities are taken advantage of by those citizens who wish to devote their time to them, taking part in public debates and then voting. Participating in the Swiss democracy makes one frequently take a decision – often concerning very complex issues.

Fifth, the institutions of popular initiative and referendum had both a positive and a negative impact on the process of change. For example, the Swiss public opinion voted negatively about the right to construct minarets.

Bibliography

Citizen's Initiative, http://www.c2d.ch/synopticresult.php?insti=26&year=2000-2009&country=1&canton=0&city=0&level=1&res=1&continent=Europe&table=country_information&sublinkname=country_information

Counter-draft, http://www.c2d.ch/synopticresult.php?insti=27&year=2000-2009&country=1&canton=0&city=0&level=1&res=1&continent=Europe&table=country_information&sublinkname=country_information

Grabowska S., 2009, *Formy demokracji bezpośredniej w wybranych państwach europejskich*, Wydawnictwo Uniwersytetu Rzeszowskiego, Rzeszów.

- Kauffman B., Büchi R., Braun N., 2007, *Guidebook to Direct Democracy in Switzerland and Beyond*, Initiative & Referendum Institute Europe, Marburg.
- Kölz A., 1992, *Neuere schweizerische Verfassungsgeschichte. Ihre Grundlinien vom ende der Alten Eidgenossenschaft bis 1848*, Stämpfli Verlag, Bern.
- Konstytucja Federalnej Konfederacji Szwajcarskiej z 18 kwietnia 1999 r.*, 2000, Wydawnictwo Sejmowe, Warszawa.
- Mandatory Referendum*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information&tabname=results&menuname=menu&continent=Europe&countrygeo=1&stategeo=0&citygeo=0&level=1
- Marczewska-Rytko M., 2001, *Demokracja bezpośrednia w teorii i praktyce politycznej*, Wydawnictwo UMCS, Lublin.
- Optional Referendum*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information&tabname=results&menuname=menu&continent=Europe&countrygeo=1&stategeo=0&citygeo=0&level=1
- Sarnecki P., 1989, *Szwajcaria [in:] Systemy polityczne rozwiniętych krajów kapitalistycznych*, red. A. Jamróz, PWN, Warszawa.
- Use of DD in Switzerland*, http://www.c2d.ch/inner.php?table=continent&sublinkname=country_information