



**Direct Democracy in Central and Eastern Europe after 1989:
Formal-Legal and Practical Aspects. The Political Analysis**

**Demokracja bezpośrednia w Europie Środkowej i Wschodniej
po 1989 roku: wymiar formalnoprawny i praktyczny. Analiza
politologiczna**

REPORT

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The aim of the research grant was the holistic and interdisciplinary political analysis of direct democracy in the Central and Eastern European countries after 1989. Studies covered the following 21 countries: Albania (the Republic of Albania), Belarus (the Republic of Belarus), Bosnia and Herzegovina, Bulgaria (the Republic of Bulgaria), Croatia (the Republic of Croatia), Czechia (the Czech Republic), Estonia (the Republic of Estonia), Hungary, Kosovo, Latvia (the Republic of Latvia), Lithuania (the Republic of Lithuania), Macedonia (the Republic of Macedonia), Moldova (the Republic of Moldova), Montenegro, Poland (the Republic of Poland), Romania, Russia (the Russian Federation), Serbia (the Republic of Serbia), Slovakia (the Slovak Republic), Slovenia (the Republic of Slovenia) and Ukraine. Three research hypotheses were verified in the research process:






- 1) direct democracy functions in the Central and Eastern European countries both in the formal-legal and practical dimension at the national and local level;
- 2) the use of instruments of direct democracy in the process of exercising power is an indicator of the political awareness of the Central and Eastern European societies;
- 3) the process of accession of the Central and Eastern European countries to the European Union had an impact on the development of direct democracy in these countries (in the formal-legal and practical aspects).

In order to verify the formulated research hypotheses in the research process used the methodology characteristic of social sciences, especially political science: the

elements of system analysis, a genetic method, a decision method, an institutional-legal method.

The provisions concerning the principles of the functioning of direct democracy in the Central and Eastern European countries are contained in the constitutions and other relevant regulations of individual countries. The studies conducted so far show that except Kosovo, the Central and Eastern European countries use in practice the institution of the national referendum. Altogether, 99 nationwide referendums were held between 1989 and 2017 (the full specification is presented below, as for December 2017).

Table 1. National referendums in Central and Eastern European countries (1989-2017)

<ul style="list-style-type: none"> •Total number of national referendums: 3 •National referendums per individual year: 1994 (1), 1997 (1), 1998 (1) 	<ul style="list-style-type: none"> •Total number of national referendums: 3 •National referendums per individual year: 1995 (1), 1996 (1), 2004 (1) 	<ul style="list-style-type: none"> •Total number of national referendums: 5* •National referendums per individual year: 1991 (1), 1992 (1), 1993 (1), 1994 (1), 2016 (1)
<p>Albania</p> 	<p>Belarus</p> 	<p>Bosnia and Herzegovina</p> 
<ul style="list-style-type: none"> •Total number of national referendums: 3 •National referendums per individual year: 2013 (1), 2015 (1), 2016 (1) 	<ul style="list-style-type: none"> •Total number of national referendums: 3 •National referendums per individual year: 1991 (1), 2012 (1), 2013 (1) 	<ul style="list-style-type: none"> •Total number of national referendums: 1 •National referendums per individual year: 2003 (1)
<p>Bulgaria</p> 	<p>Croatia</p> 	<p>Czechia</p> 

* Referendums held in the Serb Republic, one of the three constituents of Bosnia and Herzegovina, were taken into account.

- Total number of national referendums: **4**
- National referendums per individual year: 1991 (1), 1992 (2), 2003 (1)

Estonia



- Total number of national referendums: **7**
- National referendums per individual year: 1989 (1), 1990 (1), 1997 (1), 2003 (1), 2004 (1), 2008 (1), 2016 (1)

Hungary



- Total number of national referendums: **0**
- National referendums per individual year: -

Kosovo



- Total number of national referendums: **9**
- National referendums per individual year: 1991 (1), 1998 (1), 1999 (1), 2003 (1), 2007 (1), 2008 (2), 2011 (1), 2012 (1)

Latvia



- Total number of national referendums: **12**
- National referendums per individual year: 1991 (1), 1992 (3), 1994 (1), 1996 (3), 2003 (1), 2008 (1), 2012 (1), 2014 (1)

Lithuania



- Total number of national referendums: **2**
- National referendums per individual year: 1991 (1), 2004 (1)

Macedonia



- Total number of national referendums: **3**
- National referendums per individual year: 1994 (1), 1999 (1), 2010 (1)

Moldova



- Total number of national referendums: **2**
- National referendums per individual year: 1992 (1), 2006 (1)

Montenegro



- Total number of national referendums: **5**
- National referendums per individual year: 1996 (2), 1997 (1), 2003 (1), 2015 (1)

Poland



- Total number of national referendums: **7**
- National referendums per individual year: 1991 (1), 2003 (1), 2007 (2), 2009 (2), 2012 (1)

Romania



- Total number of national referendums: **2**
- National referendums per individual year: 1993 (2)

Russia



- Total number of national referendums: **1**
- National referendums per individual year: 2006 (1)

Serbia





Figure 1. National referendums in Central and Eastern European countries (1989-2017)

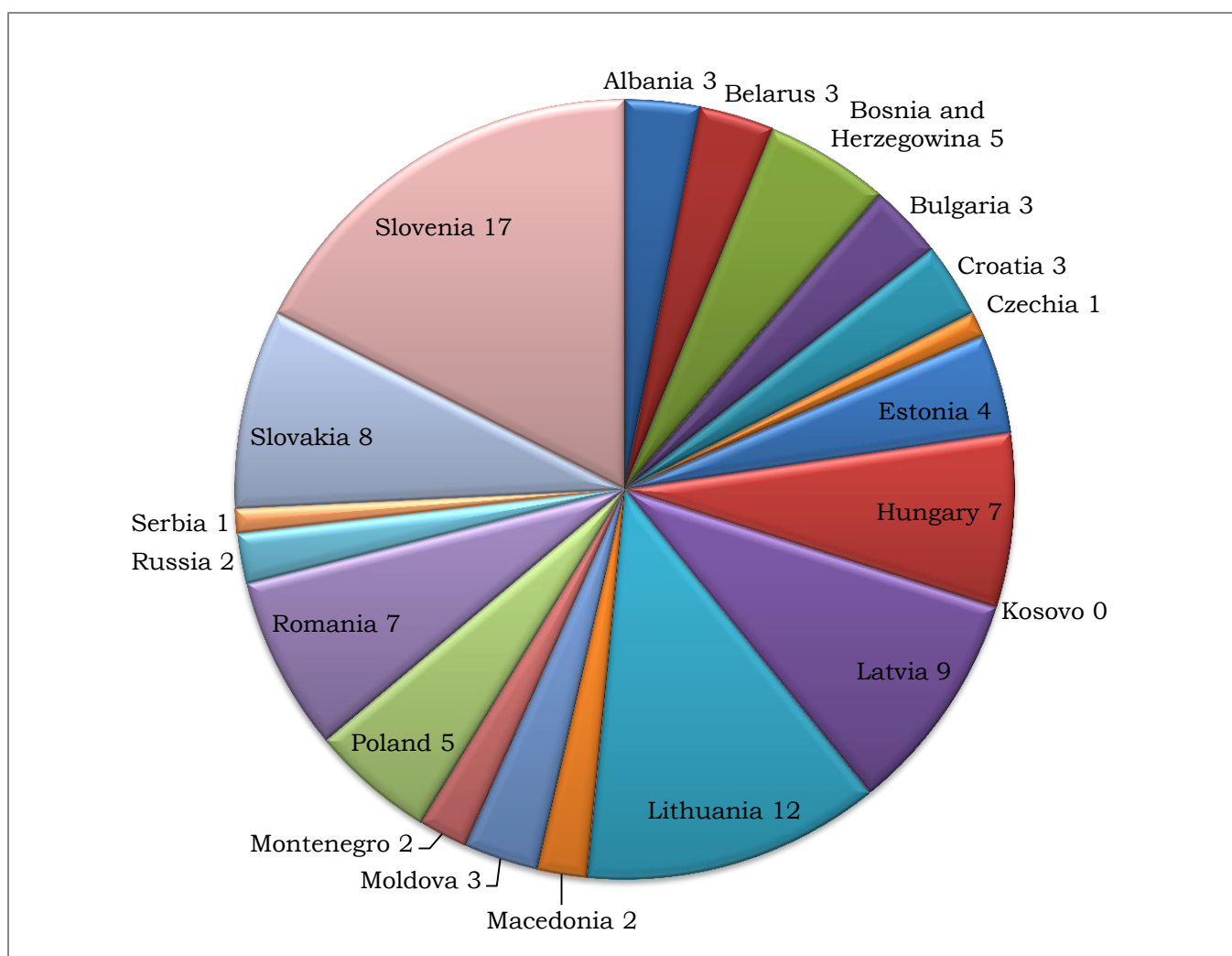
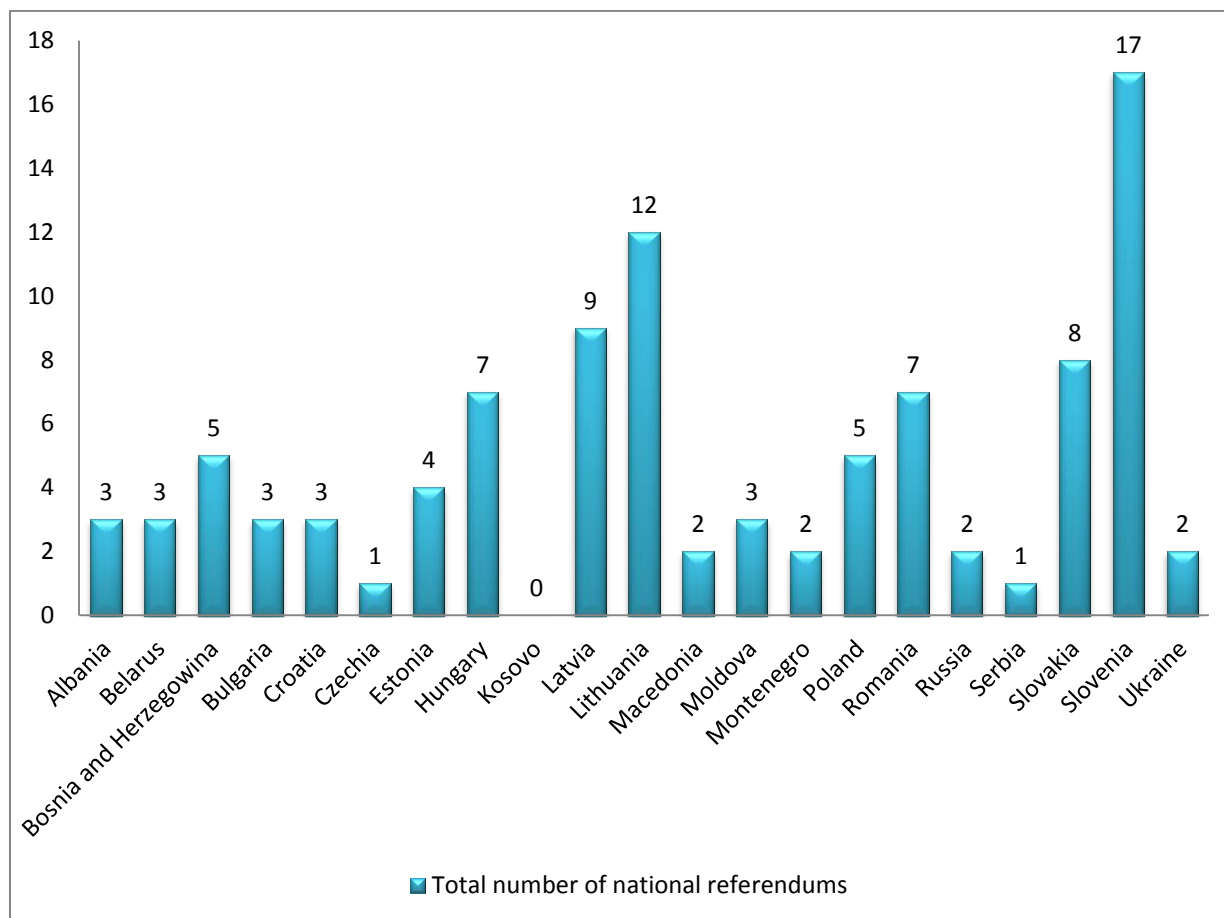


Figure 2. Total numbers of national referendums in Central and Eastern European countries (1989-2017)



Most votes in national referendums were held in Slovenia (17), Lithuania (12) and in Latvia (9). One referendum was held in the Czech Republic and one in Serbia. None was held in Kosovo. In general, in the Central and Eastern European countries between 1989 and 2017 there was a constant tendency for holding several nationwide referendums each year (the mean being 3.4 referendums per year for 1989-2017). In this respect, the most significant was the year 2003, in which 11 referendums were held. This was directly connected with the process of accession of some Central European countries to the European Union structures and the consequent holding of accession referendums. In 1991, 8 referendum votes were held, mostly related to the declaration of independence. In 2002 and in 2017 no national referendum was held in the Central and Eastern European countries.

Figure 3. Total numbers of national referendums in Central and Eastern European countries (1989-2017)

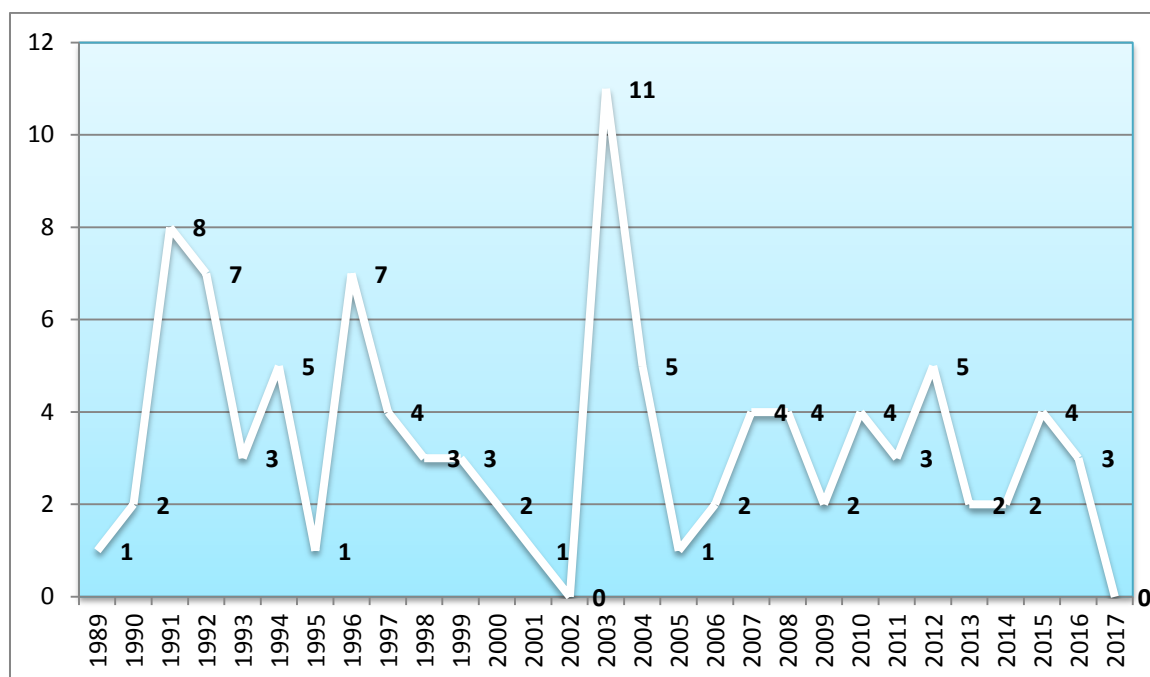
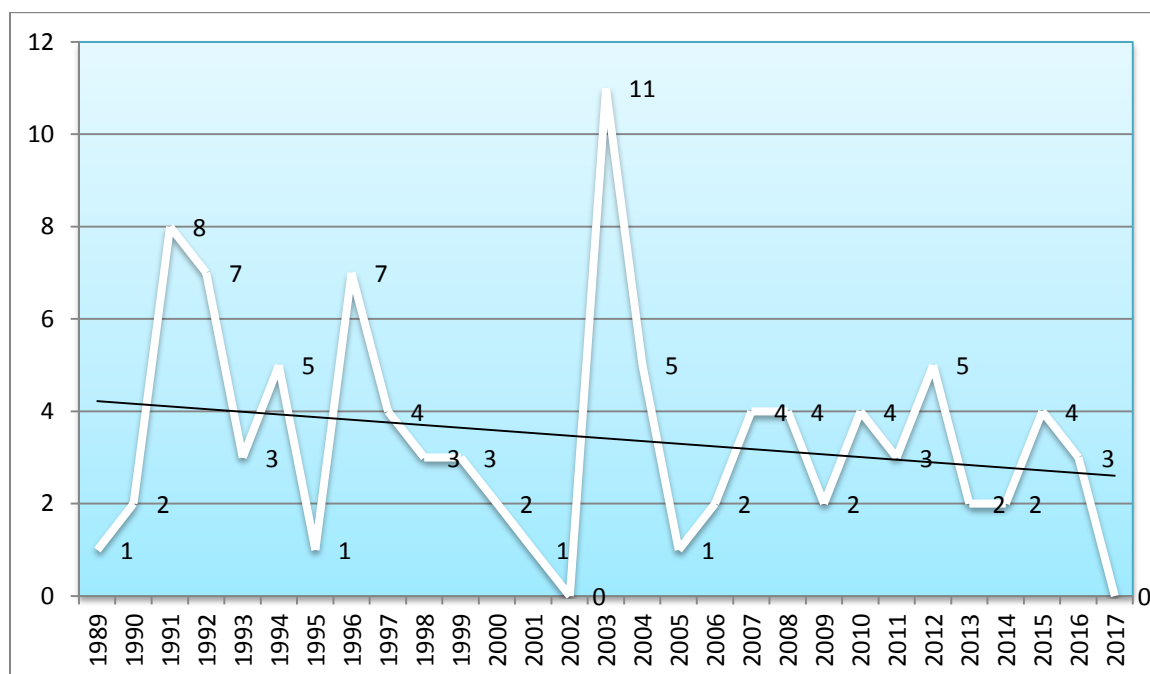


Figure 4. Linear trend line of the number of nationwide referendums in the countries of Central and Eastern Europe (1989-2017)



The linear trend line of applying nationwide referendums is decreasing. In 1989, the line was located above 4 national referendums per year, while in 2017 it fell below 3 national referendums.

On the basis of the conducted studies it should be said that the subject of voting in referendums was also the matters associated with the Constitutions, their adoption, or with the introduction of amendments. That is why the best-known type of referendum is a constitutional one. A large portion of the held referendums pertained to the question of independence and territorial changes. The issues voted on were also those concerning the political system of a country, amendments to and introduction of laws, and expression of confidence to the head of state. Important subjects of votes were the questions connected with entry in supranational communities and ratification of international treaties. Social problems as well as those associated with the sphere of morals were voted on in referendums. A significant role is also played by referendum votes concerning the use of advanced technologies (first of all nuclear energy). The dominant tendency is to formulate one question in a referendum. The number of referendums in which several questions were put to the vote is relatively small. A full list of the questions voted on in referendums is contained below.

Table 2. The subjects and results of national referendums in Central and Eastern European countries (1989-2017)

Country	Year of referendum	Subject of a national referendum	Referendum result
Albania	1994	Constitutional referendum	Binding
	1997	Changing of the electoral system	Binding
	1998	Constitutional referendum	Binding
Belarus	1995	Amendments to the Constitution; assessment of the State's economic policy	Binding
	1996	Amendments to the Constitution; land transactions; repeal of death penalty	Binding
	2004	Amendments to the Constitution	Binding
Bosnia and Herzegovina*	1991	Declaration of sovereignty of the Serb Republic	Not binding
	1992	Independence referendum	Binding
	1993	In the Serb Republic, against the peace treaty	Not binding

	1994	In the Serb Republic, against peace agreements	Not binding
	2016	The establishment of 9 January the Holiday of the Serb Republic	Binding
Bulgaria	2013	Building a New Nuclear Power Plant	Not binding
	2015	Remote voting referendum	Not binding
	2016	Changing the electoral system	Not binding
Croatia	1991	Independence referendum	Binding
		The remaining of Croatia as a federal state in the structures of Yugoslavia	Not binding
	2012	EU membership	Binding
	2013	Definition of the institution of marriage as a union between a man and a woman	Binding
Czechia	2003	EU membership	Binding
Estonia	1991	Independence referendum	Binding
	1992	Amendments to the law on citizenship	Binding
	1992	Constitutional referendum	Binding
	2003	EU membership and amendments to the Constitution	Binding
Hungary	1989	The status of the Hungarian Socialist Workers' Party and Workers' Militia	Binding
	1990	Direct presidential election	Not binding
	1997	NATO membership	Binding
	2003	EU membership	Binding
	2004	Public health service and dual citizenship of Hungarians	Not binding
	2008	The abolishment of contributions in the health service and in higher education	Binding

	2016	Immigration quotas	Not binding
Kosovo	-	-	-
Latvia	1991	Independence referendum	Binding
	1998	Repeal of amendments to the law on citizenship	Binding
	1999	Repeal of the reform of the pension system	Not binding
	2003	EU membership	Binding
	2007	Repeal of amendments to the law on State Security Services and repealing of amendments to the law on State Security Agencies	Not binding
	2008	Restriction on pay increases in public administration	Not binding
	2008	Amendments to the Constitution	Not binding
	2011	Dissolution of Parliament	Binding
	2012	Amendments to the Constitution	Not binding
Lithuania	1991	Independence referendum	Binding
	1992	Restitution of the Office of President	Not binding
	1992	The withdrawal of Soviet troops	Binding
	1992	Constitutional referendum	Binding
	1994	Adoption of the law on illegal reprivatization, accounts, infringements of legal order	Not binding
	1996	The compensation for banking property lost as a result of privatization	Not binding
	1996	Amendments to the Constitution	Not binding
	1996	Amendments to the Constitution	Not binding
	2003	EU membership	Binding
	2008	The further functioning of the nuclear plant in Ignalina	Not binding

	2012	Construction of a new nuclear reactor in the Visaginas Nuclear Power Plant	Binding
	2014	Amendments to the Constitution	Not binding
Macedonia	1991	Independence referendum	Binding
	2004	Administrative division	Not binding
Moldova	1994	Independence referendum	Binding
	1999	The change of the government system	Not binding
	2010	Direct presidential election	Not binding
Montenegro	1992	The remaining of Montenegro within Yugoslavia as an equal sovereign subject	Binding
	2006	Independence referendum	Binding
Poland	1996	Universal enfranchisement of citizens	Not binding
	1996	The use of State property	Not binding
	1997	Constitutional referendum	Binding
	2003	EU membership	Binding
	2015	The introduction of single-seat constituencies in the elections to the Sejm; the question of financing political parties from the State budget; interpretations of the rules of tax law	Not binding
Romania	1991	Constitutional referendum	Binding
	2003	The revision of the Romanian Constitution	Binding
	2007	The reform of the Romanian voting system	Binding
	2007	The dismissal of the President of Romania, Mr. Traian Băsescu	Binding

	2009	The reform of the Romanian Parliament – the adoption of an unicameral Parliament	Binding
	2009	The reform of the Romanian Parliament – the reduction of the number of parliamentarians	Binding
	2012	The dismissal of the President of Romania, Mr. Traian Băsescu	Binding
Russia	1993	Confidence to Boris Yeltsin; assessment of the State's socio-political policy	Binding
		Early presidential and parliamentary elections	Not binding
	1993	Constitutional referendum	Binding
Serbia	2006	Constitutional referendum	Binding
Slovakia	1994	Disclosure of previous transactions relating to privatization	Not binding
	1997	Direct presidential election; the deployment of nuclear weapons; NATO membership; the establishment of military bases	Not binding
	1998	Non-privatization of strategically important companies	Not binding
	2000	The early election of the National Council	Not binding
	2003	EU membership	Binding
	2004	Early elections	Not binding
	2010	The abolishment of the TV and radio license fees; the restriction of parliamentary immunity; the reduction of the number of MPs; the fixing of the maximum prices of government vehicles; the introduction of e-voting; the change in the press law: the abolishment of the right guaranteeing the automatic right of answer for politicians	Not binding

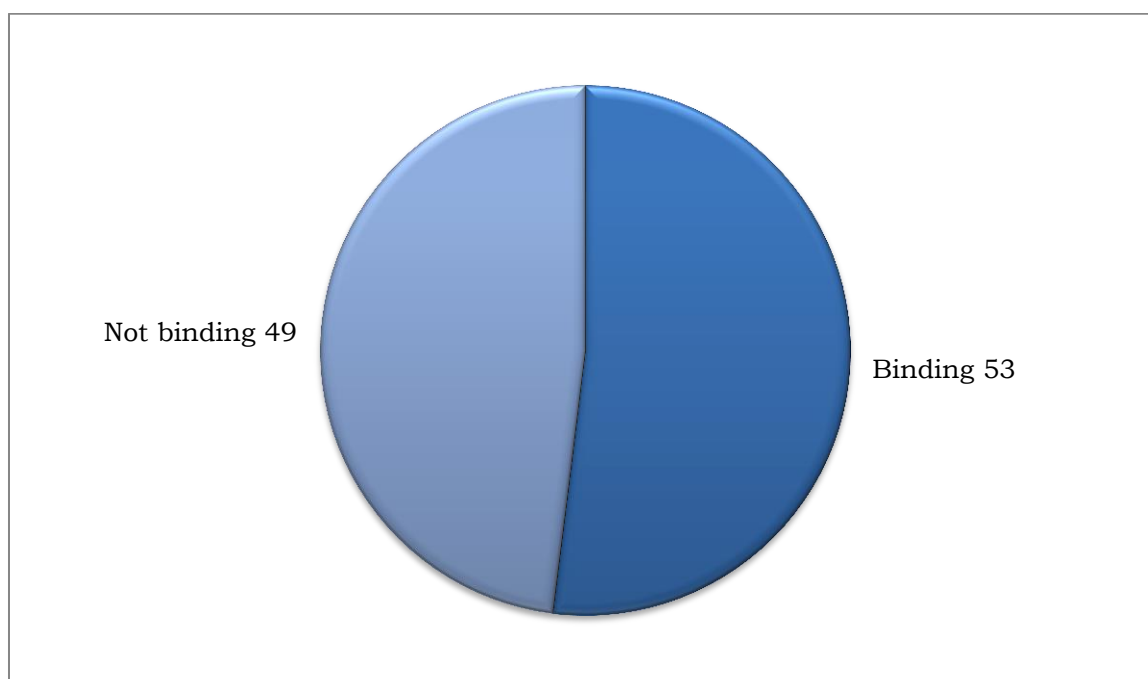
	2015	Same-sex marriage; adoption of child by homosexual couples; sex education in schools	Not binding
Slovenia	1990	Declaration of independence	Binding
	1996	Changes in the election system of the Parliamentary Assembly	Not binding
	1999	The third power plant TET3	Not binding
	2001	Artificial insemination of unmarried women	Not binding
	2003	The refunding of too high telephone charges	Binding
		No to the division of railways	Not binding
	2003	NATO membership; EU membership	Binding
	2003	10 shopping Sundays a year	Binding
	2004	Restoration of fundamental rights to ethnic minorities	Not binding
	2005	Regulations on broadcasting by public television and radio	Binding
	2007	The law on the transfer of ownership of insurance	Not binding
	2010	International arbitration in a border dispute with Croatia	Binding
	2010	Regulations on broadcasting by public television and radio	Not binding
	2011	The right to work part time	Not binding
	2011	The law on the protection of legal documents and archives; pensions and insurance for the disabled; prevention of illegal employment	Not binding
	2012	Amendment of the Family Code granting marital rights to same-sex partnerships, including the right to adopt children	Not binding
2014	The law on the protection of legal documents and archives	Not binding	

	2015	The same-sex marriage	Not binding
Ukraine	1991	Independence referendum	Binding
	2000	Reform of the political system	Not binding

* Referendums held in the Serb Republic, one of the three constituents of Bosnia and Herzegovina, were taken into account.

It should be said that the majority of the held referendums were binding (53 referendums). The referendums that are not binding are those resulting from the too high validity threshold of a referendum, low voter turnout, intricacies and complexities in the formulation of referendum questions, and from campaigns discouraging people from voting, as well as from the fact that citizens did not have the habit of participating in referendums.

Figure 5. The number of referenda according to the criterion of binding and not binding votes



The number of referendums does not add up with the total of 99 referendums in Central and Eastern Europe carried out after 1989, because in three cases: in Croatia (in 1991), the Russian Federation (in 1993) and in Slovenia (in 2003), voting the referendum was composed of several questions and the result was binding for some of the questions, and in the case of the others it was not binding. In relation to the above, the total number of decisions of referenda according to the binding / non-binding criterion was 102.

As far as the practical application of other forms of direct democracy in Central and Eastern Europe are concerned, the situation differs in individual countries.

The research process allowed the verification of the first research hypothesis that direct democracy functions in the Central and Eastern European countries both in the formal-legal and practical dimension at the national and local level. The institutions of direct democracy (the referendum in the vast majority of cases) have been defined in the legal systems of individual countries. These regulations are contained in the Constitutions and in the lower-order laws and acts. This means that the institutions of direct democracy are a permanent element of the legal systems in the Central and Eastern European states. In the course of studies it was found that legal provisions do not translate into the practical dimension both at national and local levels. In the majority of the countries (except Kosovo) the institutions of direct democracy are utilized in practice (especially in Slovenia, Lithuania, and Latvia regarding the nationwide referendum) at the national level. At the local level, however, the institutions of direct democracy are not so widely applied. In selected countries, these types of institutions are not used at all or the authorities deliberately prevent them from being utilized. Taking into consideration the use of institutions of direct democracy in the practical dimension, it should be said that in the Central and Eastern European countries the institutions of direct democracy are complementary to the prevailing indirect democracy.

It should be also said that the first research hypothesis was positively verified in formal and legal terms, both at the national and local level. It was also affirmatively verified in the case of practical dimension at the national level despite a limited scope of reference to the institutions of direct democracy. The first hypothesis was confirmed only partly in the practical dimension at the local level.

In the case of the second research hypothesis on the relationship between the state of citizen awareness and the development of institutions of direct democracy in the Central and Eastern European countries, it should be said that it was positively verified only partially. To the citizens and political elites of some countries in the region (Belarus, the Czech Republic, Kosovo, Moldova, Montenegro, Russia, and Ukraine) the institutions of direct democracy are not important or they serve to accomplish particularistic political interests of those in power. The awareness of decision-making mechanisms is very low among the citizens. A significant limitation is the citizens' passivity and their lack of trust in the advisability of using the institutions of direct democracy.

In the countries like Estonia, Lithuania, Latvia, and Slovenia the use of the institutions of direct democracy is closely related to citizen awareness. This connection, although to a smaller extent, is also observable in the case of Albania, Bosnia and Herzegovina, Bulgaria, Macedonia, Poland, and Serbia. To some extent, citizens identify the institutions of direct democracy (especially the referendum) with the realization of the principle of national self-determination. With the use of a referendum at some stage of the independence process, legal solutions of this type are applied more often.

It should be also emphasized that in the case the Central and Eastern European countries we are dealing with great differences in political consciousness, which even determine a specific attitude to direct democracy. In the countries of the former Soviet Union, two opposing attitudes can be distinguished: on the one hand there is the high citizen awareness and political activity of the citizens of the Baltic states (Latvia, Lithuania, and Estonia), which translates to some extent to the use of the institutions of direct democracy, while on the other hand, the majority of Ukrainian, Russian, and particularly Belarusian citizens display passive attitudes, which are utilized by political elites. The state of citizen awareness is an exemplification of historical and national determinants. It should be said therefore that the second hypothesis was confirmed only in some of the countries in question, while in others it was verified negatively.

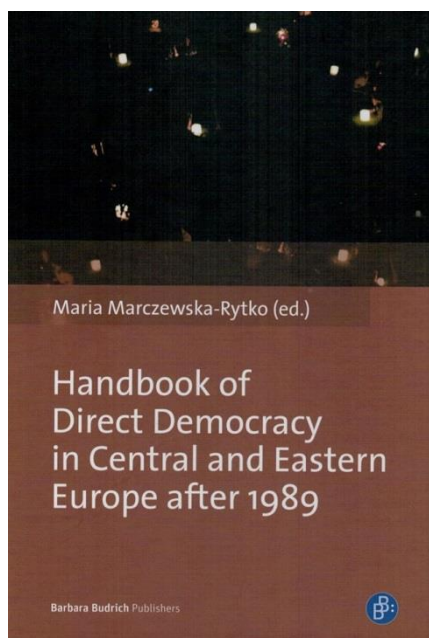
The third research hypothesis, which assumed that the process of accession of the Central and Eastern European countries to the European Union had an impact on the development of direct democracy in these countries (in the formal-legal and practical aspects), was partly confirmed only in some Central and Eastern European states. This is largely due to the different situation of the countries in this part of the world at the political and international level. Some countries in the region successfully applied to the European structures, and became members of the European Union. A large portion of these countries confirmed the entry into the EU structures by gaining their citizens' support in the accession referendums (Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia). The countries which gave up the idea of support through a referendum for the approval of the accession decisions by the parliaments of these countries (Bulgaria, Romania) remained in the minority.

The EU accession by the countries of the region did not generally influence the increase in the number of referendums. In the case of the countries that joined the EU in 2004 (Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, and Slovakia), 38 referendum votes had been held by 2003 (inclusive) while after 2004 the referendums were held 25 times. A quantitative increase took place in the case of Latvia and Slovenia while there was a quantitative decrease in the other cases. With regard to the countries admitted to the EU in 2007 (Bulgaria, Romania), there was a growth in the use of referendums. In the case of Croatia which joined the EU in 2013, it should be pointed out that only one national referendum was held after the accession to the European Union structures. The foregoing results show that it is difficult to observe that EU membership should directly translate into the growing use of the referendum institution in the EU Member States in the region in question. However, it should be stressed that the accession to the EU structures influenced the development of democracy regarding the access of the citizens of the foregoing countries to the European Citizens' Initiative.

We should also single out a group of countries that have made endeavors at different times to join the European Union structures. They are first of all Ukraine, and Albania, which has been a formal candidate for EU membership since 2009. There is also a group of countries that are not likely to be admitted to the EU in the foreseeable future. We also need to mention the countries that are not the states

with the systems of liberal democracy (Belarus, Russia). It should be emphasized that the third research hypothesis was not confirmed in the case of Czechia, Kosovo, Macedonia, Moldova, and Slovakia.

The forms of direct democracy – particularly after 1989 – arouse considerable interest on the part of the Central and Eastern European countries, which is manifested *inter alia* in the ongoing public debate on the role of citizen's participation in decision-making processes. It appears that the transformation processes in this part of Europe have become a spur to the broader use of the forms of direct democracy than was previously the case (especially the institution of the referendum). The institutions of direct democracy are perceived as important tools in the empowerment of the society as well as in creating and shaping the civil society. The previous practice of using the forms of direct democracy in the Central and Eastern European countries shows that it may be a long-term process.



Detailed research results were published in *Handbook of Direct Democracy in Central and Eastern Europe after 1989*, ed. M. Marczewska-Rytko, Barbara Budrich Publishers, Opladen, Berlin, Toronto 2018, pp. 351, ISBN 978-3-8474-2122-1.