

Referendums in Ukraine and the Baltic Countries in the First Decade of Independence: Causes and Results

Introduction

Referendum is one of the forms of direct democracy. The authorities resort to referendums for various reasons, including: the impossibility or reluctance of one of the authorized institutions to make a decision that is significant for the state; legitimization at the national level of the decision made within representative bodies (when direct democracy strengthens representative democracy); the constitutional requirement to adopt a relevant decision only in this way, etc. The procedure and questions that can and should not be put to a referendum are provided by the current legislation of the state. First of all, such laws are mostly the Constitution and the Referendum Law.

The main *method* in the study was a comparative analysis, with the help of which there was a comparison of common and different aspects, in particular, regarding the motives for holding referenda in the specified countries. The *purpose* of the study was to compare the post-Soviet countries that were the first to leave the USSR, in particular, the Baltic states and Ukraine, regarding the use of referendums as a form of direct democracy during the first major period of their restored independence. Ukraine and the Baltic countries became the first post-Soviet countries to regain their independence in the 1990s, during the Soviet Union. Being independent and democratic, these countries used the direct will of their citizens in the form of referendums to decide important issues during their state-building process.

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Ukrainian practice of using referenda

The stay of the last year of 1991 under the conditions of Soviet power led to significant changes in both political and state life in general. An attempt to soften the authoritarian regime on the part of the center itself led to a referendum on March 17, 1991, both in Ukraine and in a number of other Soviet republics. The all-Ukrainian referendum initiated by Moscow on the issue of »...preserving the USSR as a renewed federation of equal sovereign republics in which the rights and freedoms of people of any nationality will be fully guaranteed« was supported by 70.2% of participants². This referendum in Ukraine was named in honor of its main organizer and state leader M. Gorbachev – »Gorbachev«. In addition to this issue, the Chairman of the Verkhovna Rada of the Ukrainian SSR L. Kravchuk took the initiative to simultaneously put another issue to the public's discretion, in particular: »... Ukraine should be part of the Union of Soviet Sovereign States on the basis of the Declaration on the State Sovereignty of Ukraine« dated July 16, 1991. It was the so-called »Kravchuk« referendum, which was supported by 80.2% of participants³. It was a kind of competition between M. Gorbachev and L. Kravchuk in which the former wanted to restore the Union in the form of its new version (changing only its form with preserved content), and the latter wanted real independence in solving the problems of his republic, without instructions »from above«.

For both the Ukrainian authorities in Kyiv and the national authorities in Moscow, such support by the people of Ukraine for the relevant issues became a kind of impetus for further actions in terms of renewing the Union. This popular legitimization of the renewed Union prompted further consultations at the highest political level regarding the coordination of the peculiarities of the statuses of these republics, including Ukraine, as part of a single federal state. During the following months, meetings were held between political elites regarding the powers of state and republican authorities, collection, administration and distribu-

² *Derzhavotvorchyi protses v Ukraini 1991–2006* [State-building process in Ukraine 1991–2006], za red.: V. Smolii, Yu Levenets, M. Popovych, Yu. Shemshuchenko ta in. Naukova dumka 2007, p. 150. For more on referenda see: J. Marszałek-Kawa, D. Plecka (eds.), *Dictionary of Political Knowledge*, Wydawnictwo Adam Marszałek, Toruń 2019.

³ *Ibidem*.

tion of taxes, etc. In recent history, this process got its name from the meeting place of representatives authorized by the government (central and republican) in the government residence near Moscow in Novo-Ogaryovo – »Novo-Ogaryovsky«. After the settlement of compromise positions between the representatives of the signing of the new union treaty, the date of signing was set on August 20, 1991⁴.

However, there were representatives of the conservative camp who tried to sabotage the signing of the new union treaty. In order to prevent the signing of such an agreement, a day before (August 19) a group of leaders of the highest political and security agencies was created in the form of the so-called »DKNS« (State Committee on State of Emergency). They believed that the reformation and renewal of the new Union would lead to the collapse of the USSR and to their loss of their positions, and, accordingly, their influence and privileges. Therefore, these «rebels» having usurped power, declared a state of emergency in the state, which was done without a corresponding mandate from the authorities authorized to do so. At that time, the President of the USSR M. Gorbachev was on vacation in the Crimea. In the end, such a coup attempt ended for its organizers on August 21 – it failed and they were arrested and later punished for such actions.

An attempted coup d'état in the Union center undermined confidence in the authorities as a whole, which prompted a number of Union republics to secede from Moscow and declare themselves finally independent states. This is what the Baltic countries and Ukraine did. In particular, during its extraordinary session on August 24, 1991, the Verkhovna Rada of the Ukrainian SSR adopted fateful decisions: the Resolution on the Proclamation of Ukraine's Independence, as well as the Act Proclaiming Ukraine's Independence. Given that these state-building acts were the result of political compromises between right-wing and left-wing parties and their factions in the Verkhovna Rada, according to which a »republican referendum to confirm the act of declaring independence«⁵ was to

⁴ O.D. Boiko, *30 rokiv nezalezhnosti Ukrainy* [30 years of independence of Ukraine], u 2-kh t. T. 2. Vid 18 serpnia 1991 r. do 31 hrudnia 1991 r., Folio, Kharkiv 2021, p. 42.

⁵ Postanova Verkhovnoi Rady Ukrainiskoi RSR Pro proholoshennia nezalezhnosti Ukrainy [Resolution of the Verkhovna Rada of the Ukrainian SSR Proclaiming the Independence of Ukraine], Vidomosti Verkhovnoi Rady Ukrainy (VVR) 1991, № 38, st. 502.

be held on December 1, 1991. Finally, as was foreseen by the Verkhovna Rada Resolution of August 24, 1991, on December 1, an All-Ukrainian referendum was held on the confirmation of the Act of Proclamation of Ukraine's independence. According to its results, 90.32%⁶ of participants supported the decision of the parliament of August 24, 1991 regarding the independence of Ukraine. This, in the end, gave not only legal, but also legitimate reasons for many countries of the world to recognize Ukraine as an independent state. It is also worth noting that at the same time as the referendum, voting for the President of Ukraine took place for the first time, who became L. Kravchuk (1991–1994).

As a result of a significant economic crisis during this period, which was associated both with the features of the transition from a planned to a market economy, and with the lack of experience of managers in new, democratic conditions; ineffectiveness of newly created institutions of power; due to the lack of a new Constitution, etc., early parliamentary and presidential elections were held in 1994. The former Prime Minister L. Kuchma won the highest post in the state (President of Ukraine), who served for two consecutive terms (1994–1999; 1999–2005). It was under his rule that the initiative to hold a referendum was most often submitted, which was a kind of means of political pressure on the parliament.

The first case of using such influence by the president took place during the formation and approval of the Constitution of Ukraine. Newly elected in March 1994, the Verkhovna Rada of the second convocation together with the president formed the Constitutional Commission in October of that year, which was supposed to work on the draft of the Basic Law. During the creation of the corresponding project, the president convinced the parliament to grant him much wider powers than he had. The motives for such an increase in powers were to restore order in the socio-economic sphere of the country in the conditions of the current crisis. The head of state demanded that he be given the authority to lead the government, according to which the country was to become a presidential rather than a parliamentary republic. The increase in powers for the president should proportionally increase his

⁶ Vybory v nezalezhnii Ukraini [Elections in independent Ukraine], Visnyk CVK 2012, № 3(24).

political responsibility for the state of affairs in Ukraine. It was for this reason that the head of state put pressure on the Verkhovna Rada to adopt his version of the constitutional model for the country. Since the parliament did not reach such a consensus, the head of state decided in the summer of 1995 to initiate a referendum on granting him such powers at the national level. The Verkhovna Rada could not withstand this pressure from the president and on June 8, 1995 agreed to adopt the Constitutional Agreement for a year⁷, according to which the head of state L. Kuchma simultaneously managed and was responsible for the actions of the government under new (temporary) conditions for the period until the final adoption of the Constitution.

However, during the time allotted for a year, the parliament was in no hurry to adopt the draft text of the Basic Law submitted by the president's representatives in the joint Constitutional Commission. That is, in this way, the president imposed the «rules of the game» on the parliament, according to which he wanted to have a key influence on the government and the entire executive vertical of power in the country. A year passed, and the parliament was still in no hurry to approve the pro-presidential text of the Constitution, which was not favorable to it. In this regard, on June 26, 1996, the head of state, together with the National Security and Defense Council of Ukraine subordinated to him, as well as with the support of his representatives in the regions, decided on June 26, 1996 to hold a national referendum on his draft Constitution on August 25. Since the decree of the head of state regarding such a referendum was prepared and was supposed to be adopted on June 27, on that very day the Verkhovna Rada convenes to consider the joint, compromise text of the Basic Law between the president and the parliament, and without stopping (throughout the night) examines it item by item. It was under such conditions that on June 28, 1996, the Verkhovna Rada adopted the text of the new Constitution of Ukraine.

That is, during only one year (from June 1995 to June 1996), the President of Ukraine L. Kuma twice used the referendum as a form of political pressure in the form of blackmail against the Verkhovna Rada

⁷ Ukraina: politychna istoriia. XX – pochatok XXI st. [Ukraine: political history. 20th – beginning of the 21st century], Redrada: V.M. Lytvyn (holova) ta in. Redkol.: V.A. Smolii, Yu.A. Levenets (spivholovy) ta in. K.: “Parlamentske vydavnytstvo” 2007, p. 954.

in order to make the decision he needed – to form compromise »rules of the game« and approve them at the level of the new Constitution. In the end, all of independent Ukraine needed it.

The third attempt by the president to use pressure on the parliament in the form of a referendum took place already after the next regular parliamentary elections in March 1998. As a result of these elections, which were held for the first time under a mixed (majoritarian-proportional) system, in the third term of the Verkhovna Rada, a politically inconvenient situation was created for of President L. Kuchma of the configuration of forces. In addition, the next year (1999) presidential elections were held, as a result of which the current president L. Kuchma was elected for the second time as the head of state. During this period, there was a political confrontation between the president and the «left» (especially the communist) parties in the parliament. As a result, the president and his political forces in the parliament were able to change the leadership of the Verkhovna Rada and reformat the balance of power in his favor. However, even in such politically difficult conditions, on January 15, 2000, the president initiated a national referendum on institutional changes within the legislative body itself. Thus, three months later (April 16) in 2000, a national referendum was held on four issues: the right to dissolve the parliament by the president, if a permanent parliamentary majority is not formed within one month or the state budget submitted by the government is not approved within three months (result: 85.9% – »for«, 14.1% – «against»); the expediency of abolishing inviolability (immunity) from people's deputies (result: 90.2% – «for», 9.8% – »against«); reduction of the number of people's deputies from 450 to 300 (result: 91.1% – »for«, 8.9% – «against»); creation of a bicameral parliament (result: 82.9% – »for«, 17.1% – «against»)⁸. However, the decision of this referendum never came into force in Ukraine, because only 251 out of 300 required members of parliament voted for its implementation⁹. Only later, the Constitutional Court made a decision

⁸ CVK Pro pidsumky vseukrainskoho referendumu vid 16 kvitnia 2000 roku [CEC On the results of the All-Ukrainian referendum of April 16, 2000], Povidomlennia 25.04.2000, <https://zakon.rada.gov.ua/laws/show/n0002359-00#Text>.

⁹ Ukraina: politychna istoriia. XX–pochatok XXI st. [Ukraine: political history. 20th – beginning of the 21st century]. Redrada: V.M. Lytvyn (holova) ta in. Redkol.: V.A. Smolii, Yu.A. Levenets (spivholovy) ta in. K.: "Parlamentske vydavnytstvo" 2007, p. 963.

according to which the decisions of the All-Ukrainian referendum do not require any approval by state authorities, in particular the Verkhovna Rada¹⁰.

That is, during the first decade of Ukraine's independence, the question of holding a referendum was raised four times in the country's socio-political space, and three times at the initiative of the second President L. Kuchma. Out of four such referendums were held twice (in 1991 and 2000) and only once (in 1991) did it enter into force. Three times (in 1995, 1996 and 2000) referendums were an attempt by the president to put pressure on the parliament. The first two times (in 1995 and 1996) were aimed at speeding up the constitutional process and the final adoption of the Basic Law of the state, but they never happened. The 2000 referendum was supposed to split the parliament into two chambers, reduce the number of deputies by a third, and make them vulnerable (in connection with the canceled inviolability – deprived of parliamentary immunity) from law enforcement agencies controlled by the president.

Lithuanian experience of implementing referendums

After the parliamentary elections (in February-March 1990), 96 representatives of the center-right «Sayudis» movement entered the Verkhovna Rada of the Lithuanian SSR out of 133 deputies. They, during the first session of the parliament on March 11, 1990, initiated and supported the proclamation of the Act on the Restoration of the Independence of the State of Lithuania¹¹. Due to this decision, the Soviet Union imposed an economic blockade against Lithuania on April 18, 1990 in the form of restrictions on the supply of energy carriers, which lasted until June 29¹². It was then that the republic and the Union Center agreed on a temporary suspension (moratorium for one hundred days) of the Act on the Restoration of Independence adopted on March 11, and the

¹⁰ Rishennia KSU vid 16 kvitnia 2008 r. [Decision of the KSU dated April 16, 2008], №6-rp, 2008, <https://zakon.rada.gov.ua/laws/show/v006p710-08#Text>.

¹¹ Istorija Lytvy kozhnomu [The history of Lithuania for everyone], A. Bumblauskas, A. Eidyntas, A. Kulakauskas, M. Tamoshaitys, «Baltija-Druk», Kyiv 2018, p. 370.

¹² Ibidem, p. 373.

corresponding blockade was lifted. However, until the end of 1991, the Lithuanian authorities did not agree to cancel their Act of March 11, 1990, and on January 2, 1991, they officially refused to do so. Moscow reacted quite harshly to such actions of Vilnius – on January 11, 1991, it introduced its troops into the capital of Lithuania, and brutally dealt with the defenders of the parliament, the radio and television building, and the television tower. As a result of shelling of the Vilnius TV tower by Soviet armored vehicles, as well as the building of the Radio and Television Committee, which was protecting thousands of people, on January 13, 13 defenders were killed and hundreds were injured¹³. The very next month, on February 9, 1991, during a nationwide plebiscite, 90.2% of participants voted for the independence of Lithuania¹⁴.

Lithuania finally and effectively gained independence after the failure of the coup d'état in Moscow on August 19–21, 1991 in the form of a «putsch» by the Central Committee of the Communist Party of Ukraine.

After these events, the Republic of Lithuania began to be recognized as an independent country in the world. After the restoration of independence, the question of the formation of government institutions arose. Since the »rules of the game« in the system of the balance of power had not yet been finally formed, and the country remained inertial as a parliamentary republic, on May 23, 1992, it was decided to hold a referendum on the restoration of the institution of the presidency. Although 69% of its participants supported the return of such an institution to the political system of the state, due to insufficient turnout, the decision of this referendum was not adopted¹⁵.

The next plebiscite in Lithuania was a referendum on June 14, 1992 on the issue of the need to withdraw Soviet troops from the territory of the state. This decision was supported by 91.7% of the referendum participants¹⁶.

One of the most important referendums in the first years of Lithuania's restored independence, which was held simultaneously with the elections during the first round of elections to the Parliament (Sejm) on

¹³ Ibidem, p. 374.

¹⁴ Ibidem, p. 376.

¹⁵ D. Nohlen, P. Stöver, *Elections in Europe: A data handbook*, 2010, p. 1201.

¹⁶ Ibidem.

October 25, 1992, on the issue of support for the new Constitution of the Republic of Lithuania. 78.2% of the referendum participants supported the new Constitution¹⁷.

Another plebiscite, which took place on August 27, 1994, concerned the issue of privatization in Lithuania, in particular in the part of the procedure for changing privatization agreements, as well as for solving other additional problems related to this process. This referendum did not receive the required number of votes to take place (turnout – 36.9%)¹⁸.

The next two referendums in Lithuania concerned the issue of changes to the Constitution and compensation of contributions and were held on the same day – October 20, 1996. Citizens considered the issue of reducing the number of deputies of the Seimas in connection with the first referendum; elections were to take place only in the spring; state expenditures for social purposes were to be at least 50% of the state budget. The second referendum was about the payment of funds to citizens, which they lost as bank depositors during the Soviet era, from state revenues during privatization. Although the voter turnout for these plebiscites was 52%, none of the decisions received the required number of votes for approval¹⁹.

The last plebiscite held during the first decade of Lithuania's independence was a referendum on constitutional amendments on November 10, 1996, which did not receive a quorum, so its decision did not enter into force²⁰.

Thus, eight referendums were held in Lithuania during the first decade of independence. Only three of them entered into force, and the remaining five lacked the required number of votes of support and turnout for its implementation, which was more than 50% of all registered voters. The referendum of July 14, 1992 on the withdrawal of Soviet troops from the country received the most votes of support (90.7%); then – regarding the independence of Lithuania on February 9, 1991 (90.2%); then regarding the new Constitution of October 25, 1992 (75.4%).

¹⁷ Ibidem.

¹⁸ Ibidem.

¹⁹ Ibidem.

²⁰ Ibidem.

Latvian embodiment of referendums

In connection with the 'putsch' in Moscow, on August 21, 1991, Latvia adopted the fateful Constitutional Law On the State Status of the Republic of Latvia, which canceled the transitional period for the restoration of state power (which had been in effect since May 4, 1991). However, on March 3, 1991, Latvia held a plebiscite in the form of a survey on the issue of independence, during which 73.7% of participants gave a positive answer²¹. It is worth considering the fact that in Latvia during this period there were about 48% of national minorities, with 52% of native inhabitants.

On October 3, 1998, in Latvia, together with the elections to the Parliament (Sejm), a national referendum was held on the cancellation of the amendments to the Law on Citizenship adopted by the Seim on June 22, 1998 in terms of expanding the acquisition of citizenship of the country by naturalization. In particular, we were talking about children of non-citizens, as well as stateless persons, who were born in Latvia after August 21, 1991. These amendments were introduced by the government and considered by the parliament with the recommendations of the OSCE. However, 36 deputies of the Seimas opposed such amendments, and according to the law, this decision was put to a referendum by the president, since 17% of the required 10% of voters' signatures were collected in support of it. According to the results of the referendum, 44.9% were «against» such amendments to the Law on Citizenship, and 52.5% were «for» their preservation²². Therefore, the changes to the law on citizenship, which were initiated by the government on the recommendation of the OSCE and were also supported by the parliament on June 22, 1998, gained their legitimacy and entered into force.

Another referendum held in Latvia during the first decade of its restored independence was on November 13, 1999. During this referendum, the cancellation of the amendments of August 5, 1999 regarding the issue of state pensions was considered in terms of preserving, not

²¹ Neatkarīgā Cīņa, Gada 9, Martā 1991.

²² Tautas nobalsošana par likuma »Grozījumi Pilsonības likumā« atcelšanu, 1998, <https://web.archive.org/web/20160410023557/https://www.cvk.lv/pub/public/27532.html>.

narrowing, the rights of citizens. According to the results of the referendum, although 94.1%²³ of its participants were in favor of canceling such amendments, a quorum was not reached due to low voter turnout (after all, the plebiscite had less than half of the participants who took part in voting during the last parliamentary elections).

So, during the first decade of independence, three referendums were held in Latvia, among which only the second one (1998) had not only political, but also legal significance for the country. It was this referendum at the national level that confirmed the decision of the parliament and the government to expand the possibility of granting citizenship of the country under the conditions of naturalization for those who were born in this country after August 21, 1991 and at least one of the parents of such a child was a citizen of Latvia.

Estonian referendums

Together with Latvia, on March 3, 1991, Estonia held a national referendum on support for the restoration of its independence, which this country had declared on March 30, 1990 in the Decree on State Status. The decision on «restoring the independence and national sovereignty of the Republic of Estonia» was supported by 78.4% of its participants²⁴. Already in August 1991, after the 'putsch' in Moscow, on August 20, the Parliament of Estonia adopted the Decree on the State Independence of Estonia, after which this country became de facto independent.

The next political decision that required a national plebiscite was the question of the Constitution of Estonia, which was submitted to a referendum on June 28, 1992. During this referendum, 91.9%²⁵ of the participants approved the new Constitution of Estonia, which was formed by the Constitutional Assembly during the year of its activity. In addition to the Constitution, the issue of changes to the law on citizenship in terms of extending the right to vote to all citizens of the state was submitted to the referendum at that time. However, this issue did not receive the

²³ Rezultaty referendumu 1999 [Results of the 1999 referendum], 1999, <https://web.archive.org/web/20110519113511/http://web.cvk.lv/pub/public/27539.html>.

²⁴ D. Nohlen, P. Stöver, op. cit., p. 574.

²⁵ Ibidem.

required number of votes for its support (46.5% «for» such changes and 53.5% – against them).

So, the referendum in Estonia during the first decade of restored independence was about the approval of the Constitution, which defines the basic principles of the existing system of the country; the main «rules of the game» between political participants; rights, freedoms and duties and other provisions developed by the country's Constitutional Assembly in the period from August 1991 to June 1992.

Conclusions

Thus, during the first decade of regained independence, Ukraine and the Baltic countries used referendums for greater legitimization of political decisions with the aim of their further use in legal practice. At the same time, if Lithuania and Ukraine first declared their independence at the level of parliaments, and then submitted this issue to a national referendum, then Latvia and Estonia first held a plebiscite, and then finally adopted it at the level of the legislative body under new (free) conditions. Also, if Estonia and Lithuania approved their constitutions in national referendums, Ukraine and Latvia did so at the level of their parliaments. In addition, unlike the Baltic countries, only in Ukraine during this period there were as many as three attempts to use the referendum for political purposes, with the aim of pressuring the president on the parliament (two for the reasons of organizing and adopting the pro-presidential version of the Constitution and one – reducing the role of the parliament in the balance system authorities).

Biography

Boiko O.D., *30 rokiv nezalezhnosti Ukrainy* [30 years of independence of Ukraine], U 2-kh t. T. 2., Vid 18 serpnia 1991 r. do 31 hrudnia 1991 r., Folio, Kharkiv 2021.

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Abstract

This article provides a comparative analysis of the implementation of referendums in Ukraine and the Baltic states during the first decade of independence. The article contains a historical and political aspect regarding the reasons and results of referendums introduced in the specified countries. The article pro-

vides a separate analysis of the political features of the introduction of referendums in Ukraine, which consisted, first of all, of pressure from the president on the parliament, with the aim of the latter adopting decisions necessary for the head of state. Such pressure on the parliament, in the form of a referendum initiative by the second President of Ukraine, was aimed at increasing its powers, especially with regard to influence on the government, and a proportional decrease in the powers of the Verkhovna Rada. This was most clearly manifested during the period of formation and approval of the text of the Constitution of Ukraine, in which all the «rules of the game» in the aspect of checks and balances of the highest institutions of state power were to be agreed upon. The experience of the Baltic countries in the first decade of restored independence had less practice than in Ukraine regarding political confrontations between the highest bodies of state power. The Baltic countries finally agreed on the main powers of the main institutions of power during the first two years of their restored independence and confirmed them in referendums. Further, their plebiscites consisted more in solving issues of national than exclusively political importance.

Keywords: republic, party, influence, plebiscite, democracy, contract, parliament, president