Evren Somer

Direct Democracy in the Baltic States

Institutions, Procedures and Practice in Estonia, Latvia and Lithuania
I. Introduction

Within the last decades there has been a considerable rise in the use of direct democratic institutions around the world and provisions for direct democracy have increasingly been added to the constitutions of new or re-established democracies. Such an increase in the importance of direct democracy has also been seen in the Baltic states of Estonia, Latvia and Lithuania.

Indeed, the three neighbour countries do not refer to the same ethnic group nor should they be treated as a unity. However, apart from their geographical location along the Baltic Sea, they share many properties and experiences with each other that were decisive in solidifying their common Baltic identity. For centuries they were part of the Polish-Lithuanian Commonwealth and later the Russian Empire. In the aftermath of World War I and the breakup of the Russian, Ottoman and Habsburg empires, they became parliamentary democracies supplemented by different institutions of direct democracy. However, as in other European countries, Baltic democracies proved too fragile. In the context of divided societies, weak institutions and poor economies, they lasted only for a short time. In each country, crises paved the way for authoritarian regimes. Until the Soviet occupation in 1940 and 1944, none of these three countries seized the opportunity to return to democratic politics. With the Soviet incorporation, the Baltic states had become constituent republics within the Soviet Confederation for over fifty years (1940–1991) and thus subject to the Soviet Union’s ideological discourse. Not nationality, but class was the source of legitimacy for all government decisions relating to political and economic life. At the end of the communist era, all three countries marched towards democracy together and in each country

1 Butler/Ranney, Growing Use; Qvortrup, Continued Growth; LeDuc, Politics of Direct Democracy; Auer/Bützer, Direct Democracy; Auer, National Referendums; Pallinger et al., Direct Democracy; Kaufmann/Waters; Altman; Hug/Tsebelis; Serdült/Welp; Ewert, Potentiale; Neumann/Renger.
2 Ruus, Estonia; Ušacka; Krupavičius/Zvaliauskas.
3 Kasekamp, History, p. IX.
4 Ruled by Antanas Smetona in Lithuania, Karlis Ulmanis in Latvia and Konstantin Pāts in Estonia; see Komáromi, Popular law-making, p. 72f.
5 Duvold, Making Sense, p. 150; Evert, Potentiale, p. 49f.; for more history see Kasekamp, History; Tauber, Geschichte, pp. 17–33; Rozenvalds, Baltische Staaten, pp. 55–74.
6 Mole, pp. 81–119; see also Hoffmann, Baltikum pp. 309–327; Rozenvalds, Baltische Staaten, p. 59f.
referendums were an essential tool in carrying this transition through peacefully. In 1991 and in the immediate post-independence period, referendums did not only pave the way for independence but they also served to restore the statehood of the Baltic states and to re-establish national identities. In Estonia and Latvia, however, this entailed excluding very sizeable Russian-speaking minorities. At present, around a quarter of Estonia’s people and 27 percent of Latvia’s are native Russian-speakers. The number of native Russian-speakers is, however, much lower in Lithuania. It stands at 6 percent of the population.7

Today, all three countries have attained membership in the NATO and the European Union. But twenty years after the fall of Communism, their democracies are relatively young and in the process of becoming consolidated.8 Estonia, Latvia and Lithuania are still exposed to Russian pressure, for historic, geographic, linguistic and economic reasons. Furthermore, after Russia’s annexation of Crimea in March 2014 and the continuing Ukrainian crisis the Baltic trio feels increasingly uneasy and vulnerable.9 As some referendums also illustrate, Baltic emotions are occasionally driven by fears of assimilation by Russia.

Currently, in addition to parliamentary mechanisms, there is indeed a large set of direct democratic instruments available to the citizens of the Baltic states, and within the last two decades, they have been variously applied at national level. Despite this, experience with direct democracy and its institutions is comparatively limited in the Baltic context. Nevertheless, considering their historical past, we must say that democracy has been more of an exception than a rule in each country. As such, compared to Western democracies, these three countries have relatively little experience with democracy at all. Regarding direct democracy at local level neither the constitution nor legislation provide for local or regional referendums. There might be opinion polls on decisions made by local governments or meetings to discuss administrative issues or topics

8 See also DUVOLD, Making Sense, p. 244.
concerning territorial planning. In May 2009 and June 2012 there were two initiative launches on introducing the initiative right for local referendums in each administrative unit in Lithuania. However, the proponents of the proposal were not able to collect the minimum number of required signatures within the given time frame.

Of the referendums held between 1991 and 2014, only a small number succeeded; the majority were ineffective in bringing about policy changes. For the most part, referendums had been implemented by political parties to promote their particular interests. The literature on referendums in the Baltic states provides some possible explanations for such kinds of uses and the success of referendums. But in many cases, a confusing classification of referendums has been used and less attention has been paid to the institutions regulating direct democracy in the Baltic states. It should be known that the notion of a referendum can cover diverse phenomenon within a direct democracy. Depending on who can frame the question and who can trigger the process of popular decision, the character and democratic quality of a referendum can vary widely.

By taking such facts into account, this book presents a systematic comparative analysis of Baltic direct democracy from a legal perspective by specifying the political actors controlling these. It further pays attention to specific rules determining the procedures and practices of referendums and gives some possible explanations by comparing them. It has to be stressed that the present work does not aim to cover all historical events that may have shaped the current state of direct democracy in the Baltic republics. Nor does it try to explain its functioning by considering the socio-cultural aspects prevalent during the last 25 years or so. Rather, the book aims at bringing direct democratic institutions to light by classifying them systematically. It further attempts to examine formal shortcomings which are prevailing in the respective referendum mechanism, and makes some possible proposals that could contribute to better working. Thus, the book will hopefully serve as a useful starting point to scholars interested in conducting further research on direct democracy in those post-Soviet countries.

In order to meet the book’s objective, a theoretical conceptualisation of direct democracy and of its three mechanisms – required, top-down, bottom-up – in combination with the veto player model is first needed (chapter II). Following

10 Vanags/Vilka, Local democracy, p. 133.
11 See chapter V-B-15.
12 See Hoffmann, Baltikum, p. 312f.; Feldhune, pp. 77–83; Møller, pp. 281–293.
13 Biaggini, Demokratietheorie, p. 11.
this conceptualisation, a systematic legal framework of all current direct democratic institutions at national level and their practical use from 1991 to 2014 is provided for each of the three Baltic states. Here, possible causes of variation in the use and success of referendums are also discussed (chapters III, IV and V). Furthermore, to better understand the performance of direct democracy, the book makes a comparison of referendums held in Estonia, Latvia and Lithuania. By using the situation in Switzerland as a kind of quality control, chapter VI provides a comparative assessment of the quality of direct democracy in each Baltic state. The book ends with some concluding remarks in chapter VII.