

REGULAR PAPERS

REMARKS ON THE ROLE OF DIRECT DEMOCRACY IN THE PROCESS OF EUROPEAN INTEGRATION – THE EXAMPLES OF BRITISH AND HUNGARIAN REFERENDA IN 2016¹

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Abstract

The practice of using direct democracy instruments in European Union countries shows that “European” issues have become an increasingly popular subject of public debate and then of referenda. The stimulus to analyze the British and Hungarian referenda in 2016 was provided by the topicality and importance of the respective referendum issues both for the UK and Hungary, as well as for the whole European Union. The main thesis proposed in this paper is that in recent years referenda have become very popular instruments for making decisions with respect to European crises (Grexit, Brexit, migration crisis). The main objective of this paper is to answer the question about the use of referenda on the issues of European integration and about the course and consequences of the British and Hungarian referenda in 2016.

Key words: *direct democracy, the UK, Hungary, European integration*

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The practice of using direct democracy instruments in the European Union's countries shows that, alongside numerous referenda held on matters of the state, "European" issues are becoming an increasingly popular subject of public debate followed by voting. Using a national referendum to make decisions pertaining to the process of European integration is far from being a new phenomenon since a first such referendum was held as early as 1972. Since then, European integration has been the subject of nearly sixty national referenda in EU member states, candidate countries and in third countries bound with the European Union by all kinds of bilateral agreements (Switzerland, Liechtenstein). Although the majority of experiences gathered in the process of holding referenda on "European" issues are apparently positive, there have also been cases when referenda generated problems both for member states and the European Union, for example as concerned ratifying EU treaties.

The British referendum was the 58th referendum on "European" issues (pertaining to European integration processes) and the third one, following that in Greece of July 5, 2015 (on accepting financial aid on account of a financial crisis) and that in Denmark of December 3, 2015 (on advanced collaboration with the EU in justice and home affairs), where voters expressed their "disapproval" for deeper European integration. Such attitudes of societies in EU member states make it possible to state that the skepticism of European citizens towards integration processes in the Old Continent is growing, which is likely to have been triggered by the financial crisis the EU has been struggling with since 2008 on the one hand, and by the refugee crisis the EU seems unable to resolve on the other. These difficulties are probably topped by problems with the economic migration from new EU member states into some countries of the "old EU-15" which frequently translates into the "resistance" of the latter. Both the 2016 referendum in the UK and in Hungary seem to respond to the above-mentioned crises.

The European Union can be said to have accumulated somewhat traumatic experiences related to referenda on several treaties that had to be taken twice, as the first referenda held in some countries were lost by the advocates of deeper European integration [Musiał-Karg, 2014, pp. 81-82]. This can be exemplified by the common vote in Denmark in 1992 and 1993 on the adoption of the Maastricht Treaty, or the "repeated" Irish referenda on the Nice Treaty (in 2001 and 2002) and the ratification of the Lisbon Treaty (in 2008 and in 2009). Two more national referenda on the "Constitution for Europe" Treaty of 2005 should be mentioned here. Both that held in France on May 29 and that in the Netherlands of June 1 brought negative results, thereby causing a "ratification crisis" in the European Union. This made other states planning to hold referenda on the same issue (with the exception of Liechtenstein where a referendum was held on July 10) suspend voting (e.g. Great Britain). In June 2005, a "time to reflect" on the Constitutional Treaty was announced, showing that it would be practically impossible to adopt the document in the shape agreed in 2004. After the Lisbon Treaty was signed in December 2007, aiming to modify earlier EU treaties (by means of incorporating a portion of the provisions of the Constitutional Treaty, among other things), only one state, Ireland, opted to leave the decision on the ratification of the Treaty to its citizens. The first referendum was lost in June 2008, and it was followed by the next one in October 2009 bringing the approval of the matter under vote. Every time

the citizens of an EU member state rejected a treaty, the European Union was said to be witnessing an integration crisis. When another referendum was held again on the same issue in one of those states, questions were asked whether it was admissible to have practically the same referendum twice in a democratic state. Sometimes the threat of holding a referendum, as was the case when a referendum on another aid package for Athens was announced in Greece in 2011, caused turmoil on financial markets and confusion among European leaders on the one hand and political consequences, such as the dismissal of the head of government on the other (Greek Prime Minister Jeorjos Papandreu) [*Premier Papandreu...*, 2011; *Grecja: referendum...*, 2011]. Significant controversies were also stirred by the UK Prime Minister, David Cameron, who addressed British frustration with the contemporary form of the EU, announcing a referendum on whether the UK should remain in the EU.

The economic crisis undermined support for the European Union, which is frequently accused of refusing to take democratic responsibility, since the treaties are accepted by national parliaments and do not directly involve citizens in a majority of member states. Participation of eligible voters in popular votes is one of the crucial issues related to the role of sovereign nations in a democratic system. Many believe that civil involvement in the processes of political decision-making in the European Union should constitute one of the most significant elements to legitimize the activities of the EU.

THE BREXIT REFERENDUM

Since the very beginning of the UK's involvement in European integration processes, its level of Euroskepticism has been known to be higher than elsewhere. Despite having joined the Community in 1973, thereby being one of the oldest "non-founding fathers," the UK continuously debated the issue of leaving the EU, and the idea of holding a referendum kept recurring every couple of years or so. British skepticism was obvious practically from the time of accession. This attitude became apparent in the times of Margaret Thatcher, who negotiated a "British discount" in 1984, reducing the amount the UK would contribute to the EU budget. This was justified by the fact that a significant proportion of the European budget was allocated to the Common Agricultural Policy which practically did not benefit London at all.

In the early years of the UK's membership of the Community, Euroskepticism was manifested most ostentatiously by a referendum on continued membership, held on June 5, 1975 [Musiał-Karg 2008: p. 100; Musiał-Karg 2012: 206]. This was the first referendum in the UK, and the fifth in Europe, on European integration. This was also the first referendum on continued membership rather than accession to the Community. Over half of British citizens that went to the polls, in the majority of the 68 counties and over half the regions, as well as in Northern Ireland, answered the referendum question "Do you think that the United Kingdom should stay in the European Community (the Common Market)?" with a "yes." Only the Shetland Isles and western islands were against the EEC [1975: *UK embraces Europe*]. Slightly over 67% of voters were for remaining in the EEC. England, Scotland, Wales and Northern Ireland (where voter turnout was the lowest), alike supported further

integration of the United Kingdom with the remaining eight member states of the Community.

David Cameron's pre-election promise addressed the increasing criticism of EU activities voiced by a group of conservative MPs who several years earlier demanded that the UK should leave the EU. Another thing worth bearing in mind is that the number of voters expressing their disapproval for the obligation to finance poorer member states continued to grow (Wilk-Reguła). Cameron's move seems to suggest that, apart from keeping his pre-election promise, his intention was to leave the decision about continued UK membership of the United Europe to its citizens, an issue that had been under public debate for quite some time. The declaration to hold a referendum kept recurring during EU talks and was also included in the manifesto of the Conservative Party in 2015 [*The Conservative Party Manifesto 2015*: p. 30]; it was also announced by Queen Elizabeth II in her speech of May 27, 2015 [*Queen's Speech 2015*].

Faced with a whole range of crises in the EU, British politicians raised the subject of leaving EU structures, thereby confirming their considerable distance from European integration processes and taking a tactical step in their relations with the EU. "Threatening" the EU with a referendum on continued membership, the British wanted other participants of integration processes to see the British, alternative picture of integration, the European Union, and, first and foremost, the position of the United Kingdom in the EU [Musiał-Karg, Lesiewicz, 2015, pp. 117-118]. It seems therefore justified to note that the British acted as a brakeman in the process of European integration impeding or obstructing unanimous decision-making of member states.

When the date of the referendum on continued UK membership of the EU was set for mid-2016 [*Unię Europejską czeka Brexit?*, 2015; "*Independent*": *Cameron zaatakuje UE*, 2015] it meant that for nearly a whole year European leaders would have to conduct complicated and multilateral (involving practically every member state) negotiations on the future format of European integration and the reform of the European Union David Cameron's government had called for [Korteweg 2015; *Unię Europejską czeka Brexit?* 2015; Stawiski 2015]. Given the ongoing financial crisis, the threat of Grexit and the related refugee crisis, the British referendum and its potential adverse outcomes posed a huge problem for the entire EU.

On June 23, 2016, the British went to the polls to answer the question "Should the United Kingdom remain a member of the European Union?" [*Wielka Brytania: rząd podał pytanie* 2015]. While voter turnout was high (72.2%), 48.1% (16.1 mln) of voters supported continued membership while 51.9% (17.4 mln) were of the opposite opinion. Citizens of Scotland and Northern Ireland opted for continued integration whereas citizens of England and Wales supported Brexit with 53.5% and 52.5% of votes, respectively.

The British decision stirred a number of economic, political and social controversies. The first ones emerged on the day of the referendum, when stock markets across Europe fell considerably, as did the exchange rate of the British pound (on Friday, in response to the results of the referendum, the British pound lost 8% against the dollar) [*Brytyjski minister...*, 27.06.2016]. As far as political consequences are concerned, the most significant one – apart from the United Kingdom being successively excluded from various areas of EU activities – involved

PM David Cameron's announcement to step down. The Conservative leader said he would quit as PM by October.

As a consequence of the referendum, David Cameron resigned as the head of government and was replaced by Theresa May, who in October 2016 stated that the United Kingdom would commence the procedure to exit the European Union by March 2017. It should be noted that the Brexit referendum revived Scottish ambitions to regain sovereignty. The Scottish government, headed by Nicola Sturgeon, has announced its intention to hold a new referendum on independence to allow Scotland to remain in the European Union. Therefore, Scotland may become a huge problem for the United Kingdom and impede the procedure of Brexit.

REFERENDUM IN HUNGARY

Joining the EU following their political transformations was among the priorities of the foreign policies of the newly emerged democratic states in Central and Eastern Europe. Accession to the EU was therefore commonly considered an important issue that did not address individual interests, but rather concerned the future of all citizens and generations to come.

The accession referendum in Hungary was the third one to be held before the central and eastern enlargement of the European Union planned for May 2004. The question submitted to the vote read: "Do you agree that the Republic of Hungary should become a member of the European Union?" The accession referendum was subject to the general rule stipulating that the results are binding provided that at least 25% of eligible voters choose one of the options. Since 45.62% of eligible voters cast their vote, and 83.76% supported accession to the EU, the validity requirement was met (cca. 38% of the votes were for accession) [Musiał-Karg, 2008, pp. 255-266; Rytel-Warzocha, 2011, pp. 170; Podolak, 2014, pp. 254-255]. It should be noted here that voter turnout in Hungarian referendum was the lowest (considerably lower than expected) among all the accession referenda held at that time. According to a poll conducted shortly before the referendum, 64% of Hungarians declared their support for integration while 16% were against. Voter turnout was forecasted to amount to 60-70% [Sochacka, Żelazo, 2003].

Another referendum on the European Union issues was held in Hungary on October 2, 2016 on the topic of refugee resettlement. This vote was the outcome of the September 2015 decision made by the EU member states to relocate 160,000 immigrants who entered Greece and Italy to other member states over a period of two years. The participation in the resettlement program was deemed to be obligatory, with every state having been allocated a number of refugees to admit.

According to press releases from the beginning of 2015 cca. 1,000 immigrants entered Hungary every week, mainly from Serbia and Hungarian police detained ca. 67,000 illegal immigrants [Orban broni plotu..., 2015.07.01]. As a consequence, on July 17, 2015, the Hungarian government decided to close the green border between Hungary and Serbia and put up a 4m tall fence of 174km in this section. This temporary fencing off was justified with the need to observe EU requirements and protect the external border of the Schengen zone from illegal immigrants from the south. Viktor Orbán did not rule out the possibility that a wall might be erected

between two member states of Schengen zone – Hungary and Croatia [*Orban nie wyklucza budowy...*, 2015.09.03].

Next to Grexit and Brexit, the immigration crisis has recently posed the greatest challenge to the European Union. This crisis can surely be described as a stimulus to “reinforce internal solidarity and responsibility, and to intensify aid offered to the states facing the greatest risk of the influx of immigrants” [Adamczyk, 2016]. After the decision taken in September 2015 by the European Union Council [*Konkluzje Rady w sprawie ...*], followed by the decision of February 2016 [*Rada Europejska (18–19 lutego 2016)...*] on possible solutions to the immigration crisis, more and more voices could be heard saying that EU member states are not prepared to implement the activities planned. These decisions (and in particular the establishment of a permanent crisis relocation instrument for all member states) aroused opposition against admitting immigrants in some countries. Such resistance was particularly stressed by Hungary, the Czech Republic, Slovakia and Romania, whose delegates voted against the decision to relocate refugees in EU member states at a session of the Justice and Home Affairs Council on 22 September 2015. Unlike Poland and the Baltic States, which were also among the leading critics of the obligatory refugee quotas, Hungary, the Czech Republic, Slovakia and Romania demanded that decisions concerning the quotas were made on the basis of voluntary declarations by individual EU member states by the end of negotiations [Gniazdowski, 2015].

The states that were against the decisions made by the EU Council wanted, first and foremost, to strengthen the EU borders and curb the influx of immigrants. They believed that only after these priorities were achieved the issues of quotas should be discussed. “In the states that oppose the obligatory quotas to be allocated the migration crisis is the main topic of public debate and almost all political circles have backed their governments’ standpoints.” In Hungary, PM Viktor Orbán criticized “German moral imperialism as concerns the migration crisis” on September 23 [Stasik, 2015] and stated that “the EU should develop a special partnership with Russia and Turkey, who are crucial for the crisis to be resolved” [Gniazdowski, 2015].

The immigration crisis has revealed problems with maintaining solidarity and responsibility inside the EU, and on account of the referendum held there Hungary has become a symbol of protest against EU policies adopted to solve the crisis.

The government of Viktor Orbán initiated a referendum where voters were to answer the question “Do you want the European Union to be able to prescribe the mandatory settlement of non-Hungarian citizens in Hungary even without the consent of the Parliament?” For the referendum to be valid, voter turnout had to amount to at least 50% of the 8.27 mln of eligible voters. This election threshold should be considered to be extremely high given the fact that voter turnout exceeded 50% only in two out of seven referenda held after 1989 (in 1989 and 2008). Even the participation in the above-mentioned symbolic referendum on accession of 2003 was lower than 50%.

Examining the attitude of political parties to the referendum question, it should be noted that the Hungarian government encouraged citizens to vote “No,” combining immigration issues with the increased terrorist threat in its campaign. An opposition party, Jobbik, also encouraged answering the referendum question in

the negative, whereas the Hungarian Socialist Party, alongside several other parties, called for boycotting the referendum or casting an invalid vote. The Hungarian Liberal Party was for the solution proposed by the EU, as it declared its support for an open and united Europe [Pawlicki, 2016.09.30; Sadecki, 2016.10.04]. The most serious opposition of the FIDESZ party and the Prime Minister during the referendum campaign was offered by “the least serious opposition group – the satirical Two-tailed Dog Party (MKKP)” which encouraged citizens to cast invalid votes in the referendum. This party ridiculed the governmental campaign before the referendum and disseminated guidelines on 101 ways to cast an invalid vote in social media [Pawlicki, 2016.09.30].

The Hungarian PM, Viktor Orbán, frequently stated that the referendum would aid his efforts to tighten EU immigration policies. It seems, however, that he must have realized how difficult it would be to achieve the required voter turnout of 50%, as he kept remarking that the referendum would evidence whether the Hungarian society is a true community.

As announced, the government-initiated referendum took place on October 2, 2016. Given the results of the Brexit referendum and the unresolved migration crisis, the entire European community was watching the developments in Hungary and the results of the referendum there. 41.32% valid votes were cast, 98.36% of which said “No” to the referendum question. Only 1.64% of valid votes were for the quotas [National Election Office, 2.10.2016]. Although the referendum was invalid, the PM Viktor Orbán announced that amendments would be made to the Constitution on account of the desires of the majority of referendum participants who expressed a clear standpoint on the matter in question.

From the point of view of the whole European Union and individual member states, the second referendum, organized over a very short period of time in an EU member state, was a highly significant and carefully scrutinized event.

The Hungarian referendum, held shortly after the Brexit referendum in the United Kingdom, was another vote that produced a serious social schism. The Hungarian referendum was the only popular vote on the issue of immigration quotas held in the European Union which was deeply divided by the immigration crisis. Orbán based his referendum campaign on populist and xenophobic language where refugees were identified with terrorists. The fear of “refugees provided fuel to all kinds of populists. If this Hungarian experiment succeeds, extreme right-wing and populist parties in Europe will gain a strong argument in favor of closing borders. Eventually, the fundamental EU principle of unity, under which member states share not only power and prosperity but also challenges and problems, will be undermined” [Pawlicki, 2016.09.30].

The analysis of the context of the Hungarian referendum that Orbán based on social fears of uncontrolled migration shows that its main purpose was to reinforce the Prime Minister’s position in EU structures. Before the problem of the influx of illegal immigrants to the EU intensified, Viktor Orbán had little influence on EU policies. Initiating the referendum, he tried to impose a certain tone and direction of debate in the EU clearly manifesting his protest against Hungary admitting refugees to its territory. “Brussels must be stopped. We can’t allow them to force us (...) to import the bitter fruits of their mistaken immigration policies. We don’t want to and won’t import crime, terrorism, homophobia and anti-Semitism into Hungary” said

Hungarian PM [Orban o UE: nie przyjmujemy...29.02.2016]. The language of the government translated into social attitudes. According to a survey² conducted by Pew Research in spring 2016, 82% of Hungarians believed that refugees take away jobs and benefits, and 76% of respondents said that refugees increase the terrorist threat [Europejczycy: uchodźcy..., 12.07.2016]. It should be noted that the opinions of respondents to this survey in a majority of countries examined were similar to those in Hungary. In Hungary, Italy, Poland and Greece over half of respondents had negative opinions about Muslims (72% in Hungary and 66% in Poland). The least negative opinions were recorded in Great Britain, Germany and France (28-29%). In all the countries examined, people who declared right-wing attitudes were more prone to negative opinions about Muslims; they expressed greater concern with the influx of refugees and were against social diversity. Interestingly, the smallest proportion of opponents to social diversity was found in Great Britain, Sweden and Spain, where over 30% of respondents said that their countries are improving on account of diversity [Europejczycy: uchodźcy..., 12.07.2016].

OUTCOMES OF THE 2016 REFERENDA – FINAL CONCLUSIONS

The considerations presented in this paper make it possible to draw the following conclusions on the outcomes of the British and Hungarian referenda held in 2016, as well as on the role of referenda for the process of European integration:

- firstly, the results of both the British referendum on Brexit and Hungarian referendum on immigration quotas should be interpreted as symptomatic of the increasing difficulties the EU is facing when agreeing on a joint standpoint on matters that are crucial for it;
- secondly, the British referendum, which resulted in the decision that the United Kingdom should leave the European Union, is a historic referendum, both for the British, who after 43 years decided to withdraw from the process of European integration, and for the EU, whose sense has been questioned by one of the most “difficult” participants of the European project. The British referendum was the first national vote that demonstrated society’s negative approach to continued integration with the EU so clearly. Before that, negative referenda results in other countries pointed to a lack of agreement on selected issues that were not directly related to membership as such (for instance, the Euro, the Nice and Maastricht treaties, and so on). The British referendum was the first one (except for that in Greenland) to express a negative attitude of sovereign nations, thereby plunging the EU into a greater and more comprehensive crisis. Taking into account the future relations of the United Kingdom and the European Union, it should be pointed out that after the British commence the exit procedure, the process of formal departure from EU structures is going to take several years at least, and the whole procedure will be exceptionally time-consuming and complicated; the common interests of the EU and UK will have to be negotiated on practically every topic;
- thirdly, although the Hungarian referendum turned out to be Orbán’s defeat to some extent, it may bring far-reaching consequences in the form of a wave of

² The survey was conducted in April and May 2016 in Poland, Germany, Sweden, the Netherlands, Great Britain, France, Spain, Italy, Greece and Hungary.

protest from other EU member states towards the European foreign policy (in the context of the refugee crisis). The referendum was intended to ensure the Hungarian PM's strong position in the EU, making his voice on the issue of refugees louder. Although it is difficult to forecast such a result only one month after the referendum, it is not unfeasible. If the Hungarian government manages to introduce a constitutional provision that Hungary will not admit any refugees (aiming to invalidate the decision by the EU summit of September 2015), the European Union could initiate the explanatory procedure with respect to Hungary;

- fourthly, the analysis of the history of European integration demonstrates that referenda seem to be a significant instrument, applied to make decisions on difficult, complicated matters that politicians feel uneasy about, and the process of European integration has long been (starting in 1972) a topic left to be decided about by societies in many countries. On the occasion of referenda held on EU treaties, it was oftentimes discussed whether the matters stipulated in the treaties should be left to citizens of EU member states. The practice of holding referenda has demonstrated that, in the case of several referenda that brought negative results, they were repeated after some time (two Irish referenda on the Maastricht Treaty, Nice Treaty and Lisbon Treaty) yielding different results. Shortly before the British referendum of June 23, 2016, there emerged opinions that another referendum on the same issue should be held. Their advocates called for the government to introduce a provision that would require another referendum to be held if the number of votes cast for one of the answers was lower than 60% and voter turnout was lower than 75%. An internet petition to this effect that had been signed by 4.1 mln people was rejected by the British government;

- fifthly, the use of nationwide referenda both in the UK and Hungary can be approached as a tactical move by each government, desiring to exert pressure on the EU with respect to immigrants, among other things. The threats of a referendum on the potential exit of the UK from the EU have always raised concerns of other member states and EU leaders about what the process of European integration would look like after. "It was clear that one state giving up its membership of EU structures could start a domino effect. This in turn could undermine the sense of continued intensified cooperation in Europe" [Musiał-Karg, Lesiewicz, 2015, p. 126]. In the case of the Hungarian referendum, its positive and binding results could be used by other governments manifesting different opinions (or protesting) about EU policies, and an incentive to submit the issue of admitting refugees to a popular vote. Given the current problems of the EU, the risk that such decisions would be negative seems greater than in the past.

Concluding, it should be emphasized that nationwide referenda are a popular way to make decisions on European integration. Although such votes are frequently consultative and non-binding, the governments of individual states declare that they would respect the desires of their citizens and make decisions conforming to them. Although a majority of votes on European matters have typically facilitated expansion and deepened cooperation within the EU, the 2016 referenda offer an

example of the UK and Hungary “turning their backs” on the EU and the principle of united implementation of EU policies. Both referenda have become a component of debates about the need to change the European Union on the one hand and a crucial stimulus to apply concrete strategies to implement some vision of the future EU development and overcome crises (such as Brexit and its aftermath, and the refugee crisis) on the other.

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