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THE FORMS OF REALIZING DIRECT DEMOCRACY AND THE CONTRADICTIONS OF CONTEMPORARY LAW: CASE OF SERBIA

The article discusses the forms of realization of direct democracy in the legal system of Serbia and the contradictions observed. The starting point of the analysis is the constitutional framework, in which the importance of the people's initiative and the referendum is emphasized. Then, the legal solutions contained in the recently adopted Law on Referendum and People's initiative are analyzed in more detail. It is noted that in Serbia, a serious deficiency in the form of anachronistic legislation passed during the validity of the previous Constitution of Serbia (1990), was eliminated by the adoption of the new law in November 2021. This law undoubtedly contains more improvements compared to the „old“ law, but it does not guarantee that citizens can fully exercise the people's initiative. The recent constitutional referendum has shown that this institution has not been given the importance it deserves. It was a second-class event whose importance was not sufficiently recognized by the citizens, which was not an obstacle to amending the constitution.

Key words: Direct democracy; Referendum; People's initiative; Constitution; Serbia.

1. INTRODUCTION

In the modern state, the people have long been declared as the bearers of sovereignty. The participation of citizens in the exercise of power has varied in different epochs and social formations, depending on the political and legal character of the state, but also on the technical moment, i.e. the number of the population. This evolution can be traced from ancient direct democracy to the representative democracy, which emerged during the French

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Revolution, and continues to this day. The usual formulation of many constitutions today is that all power is derived from the people. However, direct democracy is not realistically achievable at the state level in a modern democratic state. In the second half of the 19th century and especially in the 20th and 21st centuries, certain elements of direct democracy, such as the referendum and the people's initiative, were strengthened. As a result, these elements were added to the system of representative democracy.¹

The Serbian Constitution emphasizes the role of citizens in the exercise of power. It states that sovereignty rests with citizens, who exercise it through referendums, people's initiative and freely elected representatives.² The basic form of citizens' exercise of sovereignty is contained in the principle of representation and implies the free election of representatives. It further states that no state body, political organization, group or individual may usurp the sovereignty of the citizens, and no government may be established against the free will of citizens. The constitutional provisions on the direct participation of citizens in the exercise of power could reduce the existing gap between the ideal and the actual holder of sovereignty.

In this sense, we will analyze how these provisions of the Constitution are implemented and what is the real meaning of the forms of realization of direct democracy.

2. PEOPLE'S INITIATIVE

The people's initiative is the authorization of a certain part of the electorate to initiate a procedure to amend the Constitution or to pass a law.³ It is a form of direct democracy in which citizens-submitting a proposal demanding a direct decision on a specific issue or the adoption of a law or constitutional amendment if they collect a certain number of signatures. We can distinguish two types of citizen initiative. If citizens can demand a decision without the mediation of the Parliament, it is a direct constitutional or legislative initiative. If the Parliament must first decide on the citizens' proposal, it is an indirect constitutional or legislative initiative. The citizens' initiative can be realized in two basic forms. It can be informal or formal one. The informal citizens' initiative is realized as an individual right of citizens to address the state authorities with various petitions and requests. The state authority to which such petitions are addressed is obliged to consider them, but not to initiate a decision-making process. By submitting a formal initiative, citizens set in motion a constitutional or legislative process. This is a collective right of citizens, and

¹ M. Jovičić, *Demokratija i odgovornost*, Beograd 2006, 3

² Article 2 para.1. Constitution of the Republic of Serbia, *Sl. glasnik RS*, br. 98/2006 and 115/2021.

³ R. Marković, *Ustavno pravo i političke institucije*, Beograd 2009, 212.

Parliament is obliged to consider this initiative, i.e, to respond to the people's proposal and initiate the procedure for amending the Constitution.⁴ The importance of the people's initiative lies in the fact that it formally gives citizens equal rights when it comes to setting the political agenda and that all citizens have equal opportunities to participate in public deliberations.

The people's initiative is recognized in the legal system of the Republic of Serbia at the central level, in the autonomous province and the units of local self-government. At the national level, of the people's initiative to amend the Constitution is of particular importance. At least 150,00 eligible voters may submit a proposal to amend the Constitution.⁵ Compared to the previously Constitution (1990), which required 100,00 signatures, this number has increased by 50%. This increase, in conditions where neither the size of the State nor the number of its inhabitants increases, complicates the role of citizens as initiators of constitutional change. Once the required minimum number of signatures has been collected, the process of amending the Constitution continues in the National Assembly. The proposal to amend the Constitution is adopted by a 2/3 majority of the total number of deputies. However, from the submission of the initiative to the formal adoption of a resolution on it, there are several „critical“ points, that are not defined precisely enough. Indeed, since the Constitution does not contain more detailed provisions on the content of the initiative and the way it is created, the only remaining option is to analyze the laws with lesser legal force, especially the recently adopted Law on Referendum and People's Initiative.

This law came into force at the end of November 2021, replacing the archaic 1994 law, that was passed while the Constitution (1990) was still in force and did not comply with the Constitution. The Law on Referendum and the People's initiative regulates the manner of holding a referendum and the manner of exercising the people's initiative. The right to participate in a people's initiative is available to citizens who, in compliance with election regulations, have the right to vote and permanent residence or, in the case of internally displaced persons, temporary residence, in the territory on which the referendum is called, and are registered in the electoral poll.⁶ The Law defines the people's initiative as the right of citizens to propose the adoption or amendment of the Constitution, laws, and general legal acts falling within the competence of the National Assembly,⁷ and to submit other proposals

⁴ M. Jovanović, „Oblici direktne demokratije“, *Sprška politička misao* 4/2011, 34.

⁵ Art. 203 para. 1 Constitution of Serbia.

⁶ Art. 3 Law on referendum and the People's initiative, *Sl. glasnik RS*, br. 111/2021 and 119/2021.

⁷ I.e. the statute, other regulations and general act within the competences of the Assembly of the Autonomous Province and the local self-government unit and submit other proposals in accordance with the Constitution and the law, u.e. the statute of the autonomous province and the unit of local self-government.

in accordance with the Constitution and the law.⁸ People's initiative may be submitted in the form of a general initiative or a specific initiative. The general initiative refers to the general proposal to adopt, amend or repeal a relevant law or to resolve a specific issue, provided that it indicates the direction of the amendments, or proposed solutions. The specific initiative is a proposal with a detailed proposal for a legal act together with an explanatory memorandum. The law retains the solution that citizens must form an initiative board of at least three voting members, in order to carry out a people's initiative. However, there is no longer an obligation to report the collection of signatures to the Ministry of Interior. Another important change is that the deadline for signature collection in the new law is more realistic and is 90 days.

Nevertheless, the collection of signatures can begin only after the verification of the proposal. This means that after the proposal is formulated and signed, the initiative board submits it to the Assembly, which is responsible for passing the law. Considering that the initiative must first be decided by the National Assembly before the people can decide, it is an indirect people's initiative. In the further course of the procedure, the Speaker of the relevant Assembly shall determine whether the proposal has been formulated in accordance with the law, and shall notify the initiative board thereof within 15 days. If the conditions prescribed by law have not been met, the Speaker of the Assembly shall grant the initiative board an additional period of 15 days to remedy the deficiencies.⁹ However, if the initiative board sticks to the proposal submitted, and the Speaker considers that the proposal is not formulated in accordance with the law, or does not relate to matters that do not fall within the competence of the Assembly, the Speaker is obliged to include the proposal in the agenda of the first subsequent session and inform the initiative board thereof. In this case, the assembly, as a collective body, shall decide whether to consider or reject the submitted proposal.

The initiative board may start collecting signatures as soon as it is informed by the Speaker of the Assembly that the proposal has been considered. The new law provides for the active participation of the relevant Assembly, in particular the Speaker, in the exercise of the right to submit the people's initiative. However, it is not entirely clear why the role of the Speaker of the Assembly in deciding on the proposal and reviewing it has been so strongly emphasized. The stages thus defined in the process of submitting the initiative, which precede the collection of signatures, may significantly slow down the entire process and weaken the „civic edge“. Moreover, the role of the Assembly of the proposal gives an advantage as a representative body in the implementation of the right to the people's initiative. Thus, although the current law contains some improved solutions, it is not without contradictions, which in practice may significantly hinder the realization of this right.

⁸ Art. 56 Law on Referendum and People's initiative.

⁹ Art. 60 Law on Referendum and the People's Initiative.

The initiative board may begin collecting signatures as soon as it is notified by the Speaker of the Assembly that the proposal has been considered. From that moment, a period of 90 days runs for the collection of signatures. The law regulates in detail the manner of collecting signatures, and informing citizens about the initiative and the campaign that the initiative committee may conduct on this occasion. We could see that the way of collecting signatures is regulated in a very restrictive way. The initiative board is obliged to display a copy of the proposal for which the signatures are collected at the locations where signatures are collected and not to disturb the regular use of said places or violate the rules of public order. The manner of collecting signatures is regulated to be public and to exclude the collection of signatures door-to-door or during meetings of political parties or civic. Such restrictions seem excessive, mainly because the risk of possible voter intimidation and influence is very low.¹⁰

An important innovation of the law is the obligation of the National Assembly to decide on the proposal of a people's initiative at the next sitting of the regular session, but no later than six months after the day on which the initiative was submitted.¹¹ If the Assembly adopts an initiative, the competent authority or institution is obliged to prepare a draft law and decide on it within 120 days. This solution is intended to prevent such an initiative from being ignored by the Assembly, which has often happened in the past. The purpose of these provisions is not entirely clear, and the deadline by which the Assembly must pass a resolution is unnecessarily restrictive and risks the Assembly rejecting the proposal in order to formally meet the deadline.¹² If the Assembly decides not to accept the proposal, it is required to send a reasoned decision to the initiative board and to publish it on its website. The decision of the Assembly may be appealed to the Administrative Court, which must decide within 30 days. This decision is final.

The importance of the people's initiative is difficult to assess, as there is no reliable data on the number of initiatives submitted.¹³ A poor parliamentary practice of not considering bills submitted by voters, in the absence of a government position has also been noted. Voters have become the sec-

¹⁰ European Commission for Democracy through Law (Venice Commission). Serbia Urgent Opinion the Draft Law on the Referendum and the people's initiative, Opinion No. 1052/2021 (CDL-AD (2021)033).

¹¹ Art. 69 Law on Referendum and the people's initiative.

¹² European Commission for Democracy through Law (Venice Commission) Urgent Opinion on the draft Law on the referendum and the people's initiative, CDL-AD (2021)033.

¹³ There are data that 14 legislative initiatives were submitted in the period from 2000 to 2008, and according to CRTA there were 6 initiatives in the period from 2012 to 2017. So far, only one legislative initiative has been partially successful. It is about so-called Tiana law. The Tijana Juric Foundation made a proposal to amend the Criminal Code, which was supported by over 160,000 citizens. The initiative was taken up by the government, which made minor changes and finally passed the law as a government proposal.

ond-tier of supporters by the will of political actors, not by the will of the Constitution. We hope that this practice will change with the new law.¹⁴

3. REFERENDUM

The referendum allows citizens to decide directly on important public matters, including the establishment or amending the Constitution. It is the original form of democratic decision-making and the main means of direct democracy, which is much older than representative democracy.¹⁵ Referendum is considered one of the most suitable institutes to complement the form of indirect democracy and to eliminate its weaknesses.¹⁶

The referendum can be a continuation of the constitutional or revision procedure, initiated by the citizens, or it can be called on the initiative of authorities of the competent bodies. The referendum in Serbia can be held at the national level, at the level of the autonomous province and at the municipal level. The issues in respect of which a referendum may not be called including duties from international contracts, laws pertaining to human and minority rights and freedoms, fiscal and other financial laws, the budget and financial statement, introduction of the state of emergency and amnesty, as well as issues pertaining to election competences of the National Assembly.¹⁷

The focus will be on the referendum at the national level and constitutional referendum. In its revision processes, the Serbian Constitution for referendum of citizens, distinguishing between a mandatory¹⁸ and an optional referendum. The National Assembly should adopt an act on amending the Constitution by a two-thirds majority of the total number of deputies. If the act on amending the Constitution is submitted for adoption, citizens should vote on the constitutional amendment in a referendum within 60 days from the law's adoption. The con-

¹⁴ Currently, the people's initiative related to the amendment of Law on Mining and Geological Research is underway. In the period from February to April, more than 30,000 signatures were collected, demanding a ban on geological research, exploitation and processing of boron and lithium in Serbia. It is expected that this initiative will be on the agenda of the new parliamentary legislature, that will be constituted after the recent elections in April.

¹⁵ C. Toplak, „Referendum: prednosti i nedostaci“, *Političke analize* 4/2013, 44.

¹⁶ M. Pajvančić, *Ustavno pravo*, Novi Sad 2011, 167.

¹⁷ Article 108 of Serbian Constitution.

¹⁸ The National Assembly shall be obliged to submit the act amending the Constitution to a republican referendum for confirmation if the amendment to the Constitution affects the preamble to the Constitution, the principles of the Constitution, human and minority rights and freedoms, the system of state power, the proclamation of a the state of war or state of emergency, the derogation from human and minority rights in a state of emergency or war, or the procedure for amending the Constitution. (Article.203 para.6 of the Serbian Constitution) if it proposed to amend the remaining part of the Constitution, the National Assembly may decide that the citizens also confirm this in a referendum.

stitutional amendment should be adopted if the majority of voters who participated in the referendum voted in favour of the amendment. The possible danger of such a solution is that the decision on a constitutional amendment can be made only by the small number of citizens who participated in the referendum. At the same time, this solution removes the fear that the referendum will not be successful due to the insufficient participation of citizens. This (constitutional) solution is accepted in the new law on referendum, which does not require any quorum for the validity of referendums. A majority of those who voting is sufficient.¹⁹

Is the referendum a reasonable choice in changing the constitution in a transitional society like Serbia? The referendum makes citizens an active participants in decision-making, so their role goes beyond that of voters in regular elections. The referendum is open to the entire population and everyone has the opportunity to express their opinion on the referendum topic. The constitutional referendum brings the constitutional process closer to the ordinary citizens, who recognize themselves as actors in this process and perceive the supreme legal act as the work of their own hands. Therein lies the legitimizing power of the referendum, which is stronger than that of Parliament as a representative body. Proponents of a „strong” or „participatory” democracy are in favour of extending the democratic process beyond representative democracy. They assume that active participation in collective political decision-making has a positive impact on citizens, educating them and allowing them to a share in power, and ultimately making them better citizens.²⁰

In contrast to these arguments, critics deny the referendum its democratic qualities and reject its widespread and frequent use. In a constitutional referendum, as in a referendum in general, voters vote „for” or „against”, „yes” or „no”. A referendum decision is a kind of binary opinion: yes or no, positive or negative, true or false, good or bad; it can lead to numerous simplifications and stifle democratic conversation and compromise.²¹ This means that the ballot usually does not contain the text of the constitutions with all or some paragraphs. One of the biggest obstacles to holding a referendum is the voter’s lack of competence. All voters, or at least the vast majority, cannot be expected to have the knowledge and information necessary to adopt a constitution. Careful selection of the information, „served” to citizens, that relates to the new constitution, can influence the outcome of the referendum. It could steer public opinion in the direction of the desired referendum decision. Referendum voting is not only about the issue raised, but also has a broader political and social dimension, which is particularly pronounced in the case of constitutional amendments.

¹⁹ Article 11 Law on Referendum and People’s Initiative.

²⁰ H. Kries, „Izravna demokracija: Švicarsko iskustvo”, *Anali Hrvatskog političkog društva* 1/2007, 43.

²¹ I. Grdešić, „Referendum protiv parlamentarizma”, *Političke analize* 5/2011, 46–49.

A referendum can be held and the National Assembly announces the issue within the competence of the Assembly upon the request of the majority of the total number of all deputies, and the Assembly of the Autonomous Province, i.e. the Assembly of the local self-government unit, upon the request of the majority of all deputies.²² The request to convene a referendum must contain a determination of the nature of the referendum, whether it is a mandatory or advisory referendum, and whether it is a prior or subsequent referendum. The law obliges the competent commission to adopt a law within 20 days from the day of calling the referendum, citizens about the subject or act to be decided in the referendum and to publish it in the media and deliver it to citizens. Special attention was paid to the referendum campaign. It is defined as a series of activities carried out by the referendum campaign organizer, starting from the day the referendum is called, to publicly present referendum proposals and invite citizens to vote for or against the proposed decision. The campaign includes organizing and holding meetings, advertising, production and distribution of promotional materials, brochures, leaflets and publications, publicity, use of media, marketing, PR and consulting services. Officials are not allowed to lead a referendum campaign in this capacity. The law explicitly regulates who can act as referendum campaign organizers and how they are financed. As for the referendum question, the law explicitly states that it must be clearly and unambiguously formulated, so that it can be answered either „yes“ or „no“ or „for“ or „against“. It must not be worded in a way that favours or suggests one of the possible answers.

A referendum was recently held in Serbia to amend the Constitution. On November 30, 2021, the National Assembly adopted the Decision on calling a republican referendum to confirm the Act amending the Serbian Constitution and decided to hold it on January 16, 2022.²³ It was a partial revision of the Constitution and the amendment concerned the part of the Constitution regulating the judiciary. This was the seventh consecutive referendum held

²² Article 14 Act on the Referendum and the People's initiative.

²³ The Republic Electoral Commission has determined the overall result of the referendum. The right to vote in the referendum had 6.510 323 citizens who have the right to vote and are registered voters. The total number of voters who cast their ballots was 1.995 215 (30, 65%). The number of voters who voted „yes“ is 1.189 460 (59,62%), while the number of those who voted „no“ is 785.163 (39,35%) in relation to the number of voters who voted, not in relation to the total number of voters. Based on these voting results, the Republic Electoral Commission has determined that a decision was made in the republican referendum to confirm the Act on Amending the Constitution. <https://www.rik.parlament.gov.rs/tekst/41877/rezultati-referenduma.php>, last visited 10.04. 2022.

For comparison, in the referendum held 28 and 29 October 2006, the total number of voters who cast their ballots was 3.654. 517 (54, 92%). The number of voters who voted „yes“ was 3.521.72, compared to the 97.494 voters who said „no“. <http://arhiva.rik.parlament.gov.rs/latinica/arhiva-referendumi-2006.php>.

in our state since 1990.²⁴ The mentioned constitutional amendment was carried out in the framework of Serbia's accession to the EU and was part of the Action Plan for Chapter 23. The main argument for amending the Constitution in the area of judiciary is the fact that the current Constitution gives too much space to the influence of the legislative and executive branches on the election of judicial officeholders. Under the Constitution (2006), the National Assembly elected judges for an initial probationary period of three years. The amended constitution lacks a probationary mandate for judges and places their election entirely in the hands of the High Judicial Council, whose role is to ensure the independence and autonomy of judges and courts. When it comes to the changes related to the prosecutor's office, the most significant is that prosecutors are elected by the High Council of Prosecutors instead of the National Assembly. Constitutional changes determine the Supreme Public Prosecutor's Office as the highest public prosecutor's office in the Republic of Serbia.

One of the main objections that can be raised against such a referendum is the fact that the constitutional amendment was carried out by the National Assembly, which has no representatives of the opposition and is composed mainly of representatives of the ruling political party and its satellites. The entire process of constitutional change took place under the watchful eye of the European Commission for Democracy through Law (Venice Commission), whose support for the proposed constitutional changes was the main trump card in the hands of the authorities. However, it is difficult to avoid the impression that the constitutional amendments have received little public attention, partly because of the lack of understanding of the amendments themselves, but also because of the very lukewarm referendum campaign.²⁵ Moreover, one has the impression that the government chose the timing of

²⁴ All referendums were held at the request of the National Assembly. First, a referendum was held on July 1 and 1, 1990, in which and citizens decided whether they wanted elections or a new constitution. They gave preference to the adoption of a new constitution. The adoption of the Constitution (1990) was followed by three referendums in 1992. On May 31, 1992, citizens voted in two referendums, one on state symbols and the second on the first amendment to the Constitution, which concerned the creation of constitutional conditions for calling early elections for deputies. All three referendums failed due to insufficient voter turnout. In the referendum on April 23, 1998, citizens voted on international mediation in the conflict of Kosovo and Metohija. The referendum question was: Do you accept the participation of foreign representatives in solving the problems in Kosovo and Metohija. The total number of voters who cast their ballots was 5,297,776 voters (73,05% of registered voters), of which 94,73% of voters voted „no“ and only 3,41% voted „yes“. (<http://arhiva.rik.parlament.gov.rs/latinica/arhiva-referendumi-1998.php>) As we mentioned above, a constitutional referendum was held in October 2006, in which we approved the new constitution.

²⁵ It is no exaggeration to say that the constitutional referendum was overshadowed by the trial of Novak Đoković, which took place in those days on the occasion of his participation in the Australian Open, and for which there was great public interest.

the referendum so that it could „feel the pulse” of the citizens before the announced elections in April.

In the recent referendum, the question was worded neutrally, but not precisely enough, so citizens expressed a dilemma about the changes covered by the Constitution. Many citizens expressed fear that the preamble of the constitution would be changed, especially, the part about Kosovo and Metohija. Few citizens knew which part of the Constitution was going to be amended, and a few understood the essence of the amendments themselves. In this sense, the vast majority of citizens voted in the referendum on whether they supported or opposed the current government.

4. CONCLUSION

A serious deficiency in the form of anachronistic legislation, regulating the main forms of indirect democracy in Serbia, was eliminated by the adoption of the Law on Referendum and People’s initiative in November 2021.

This law brings some innovations that should eliminate the shortcomings of the existing law. However, it does not provide strong guarantees that citizens will be able to fully exercise the right to popular initiative in the future. Numerous obstacles, particularly in the form of verification of proposals, remain. The involvement of the National Assembly in the process of submitting an initiative leaves much room for possible restrictions on the exercise of these rights that are not based on the Constitution. Citizens continue to be put second by the will of political actors, and not by the will of the Constitution.

The holding of the constitutional referendum has shown that this institution is not given the importance it should have. This referendum has clearly shown that the responsible institutions are not sufficiently prepared to explain to the citizens the meaning and purpose of the referendum, as well as the essence of the constitutional amendments. The focus of the entire constitutional revision process was in the National Assembly, and the referendum campaign was very tepid and not insufficiently enough.

LIST OF REFERENCES

Scientific works, legal documents and internet sources

1. Constitution of the Republic of Serbia, Ustav Republike Srbije, *Sl. glasnik RS*, br. 98/2006 and 115/2021;
2. European Commission for Democracy through Law (Venice Commission). Serbia Urgent Opinion on the Draft Law on the Referendum and the people’s initiative, Opinion No. 1052/2021 (CDL-AD (2021)033), [https://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-PI\(2021\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-PI(2021)015-e);

3. Grdešić, I., „Referendum protiv parlamentarizma”, *Političke analize* 5/2011;
4. Jovanović, M., „Oblici direktne demokratije”, *Srpska politička misao* 4/2011;
5. Jovičić, M., *Demokratija i odgovornost*, Beograd, 2006;
6. Kriesi, H., „Izravna demokratija: Švicarsko iskustvo”, *Anali Hrvatskog političkog društva* 1/2007;
7. Law on Referendum and the People’s initiative, *Zakon o referendumu i narodnoj inicijativi*, *Sl. glasnik RS*, br. 111/2021 and 119/2021;
8. Marković, R., *Ustavno pravo i političke institucije*, Beograd 2009;
9. Pajvančić, M., *Ustavno pravo*, Novi Sad 2011;
10. The Republic Electoral Commission, *Republička izborna Komisija*, <https://www.rik.parlament.gov.rs/tekst/41877/rezultati-referenduma.php>; <http://arhiva.rik.parlament.gov.rs/latinica/arhiva-referendumi-2006.php>;
11. Toplak, C., „Referendum: prednosti i nedostaci”, *Političke analize* 4/2013.

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ОБЛИЦИ ОСТВАРИВАЊА НЕПОСРЕДНЕ ДЕМОКРАТИЈЕ И ПРОТИВРЈЕЧЈА САВРАМЕНОГ ПРАВА: СЛУЧАЈ СРБИЈА

Сажетак

Рад се бави облицима остваривања непосредне демократије у правном систему Србије и противрјечјима која су у том смислу примјећена. Анализа полази од уставног оквира у коме је нарочито наглашен значај народне иницијативе и референдума. Затим слиједи детаљнија анализа правних рјешења која се налазе у недавно усвојеном Закону о референдуму и народној иницијативи. Примјећено је да су усвајањем новог закона у новембру 2021. године уклоњени озбиљни недостаци који су се тицали застарјелих правних рјешења која су била садржана у претходном Уставу Србије из 1990. године. Међутим, иако овај закон представља несумњиво побољшање у односу на „стари“ закон, он грађанима ипак не гарантује остваривање права на народну иницијативу. Задњи референдум о уставним промјенама показао је да овом институту није посвећена пажња коју заслужује. Напротив, схваћен је као другоразредни догађај чији значај грађани нису довољно препознали, што ипак није представљало препреку за саму измјену Устава.

Кључне речи: *Непосредна демократија, Референдум; Народна иницијатива; Устав; Србија.*