

DIRECT DEMOCRACY AND THE RISE OF POLITICAL ENTREPRENEURS: AN ANALYSIS OF CITIZENS' INITIATIVES IN POST-2010 CROATIA

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Abstract The last decade saw a rise in the use of direct democracy in Croatia. The proliferation of citizens' initiatives and referendums was meant to activate politically passive citizens and to strengthen their role as controllers of the executive. Our research, based on the qualitative analysis of the legal framework on citizens' initiatives and referendums in Croatia, as well as post-2010 initiatives, showed that this was not the case. Instead, political and social entrepreneurs, both long established, like trade unions, and newly formed, like conservative civil society organizations, used the tools of direct democracy to promote their particular anti-minority, anti-government or anti-establishment agendas. They succeeded in both constraining the power of the elite through the process of getting to the referendum and wresting control over the agenda-setting process post hoc. The added value of this paper lies in showing that citizens' initiatives can succeed in getting their demands met even when they are not successful in organizing referendums, which is due to weaknesses in the legal framework surrounding referendums and initiatives.

Key words referendum, citizens' initiative, agenda-setting power, political entrepreneurs, Croatia

Introduction

In the last several decades, we have witnessed a growing citizens' disaffection with representative institutions in many liberal democracies. In response to the inability of political elites to cope with the declining political legitimacy and the erosion of democratic institutions, citizens and interest groups are increa-

singly asking for a greater direct say in democratic decision-making. Mechanisms of direct democracy are having a significant impact on the representative institutions and organizations like governments, legislatures, constitutional courts, political parties, and interest groups (Mendelsohn and Parkin 2000). However, direct democracy should not

be considered an alternative to representative democracy, but rather as an integrated part of the representative system of government (Budge 2000). On the other hand, critical voices raised against direct democracy, and especially citizen-initiated referendums, warn that they could be used as a tool for undermining stability of democratic institutions, promoting particular interests, and endangering minority rights and freedoms, ending up with a "tyranny of the majority".

In this paper we explore what happened to parliamentary democracy in Croatia since 2010 and how citizen-initiated referendums have become powerful weapons in the hands of different social groups and other political actors in the last several years. Institutionalized in the form of representative parliamentary democracy, Croatian political and party system has been relatively stable in comparison with some other post-communist countries in Central and Eastern Europe. It has managed to resist various challenges coming from major radical forces in the political arena. These mechanisms of resistance and stability were especially pronounced in the early 2000s, when the then center-left government faced a strong right-wing challenge in the form of mass protests organized by war veteran associations and strongly supported by the largest opposition party, Croatian Democratic Union (HDZ) (Dolenec 2017; Nikić Čakar 2019). These non-institutionalized and parapolitical organizations threatened to bring down the government and reverse the full-scale democratization process that started after the 2000 parliamentary and presidential elections, which had marked the end of a decade-long predominant party rule by the HDZ. However, this long-lasting structural stability of political system most seriously came into question after the accession of Cro-

atia to the European Union which has, at least indirectly, triggered a proliferation of various citizens' initiatives that led to many destabilizing constitutional and political consequences.

Starting from this context, in this article we ask what happens with representative democracy when special interest groups and political entrepreneurs start using mechanisms of direct democracy to mobilize citizens for their own particular interests. In order to answer this question, we focus on the national level citizens' initiatives and referendums in Croatia in the period after 2010. We argue that the proliferation of referendum initiatives in Croatia did not occur because of genuinely grassroots preferences, reflecting citizens' opinions on different policy issues. It is, rather, the result of a growing political impact of various interest groups and political entrepreneurs, who use referendum procedures instrumentally in order to mobilize citizens' support for their particular interests.

Contrary to some theoretical propositions, we also argue that newly empowered political entrepreneurs and interest groups significantly constrain political elites in the direct democracy process. They are taking over the control of the agenda-setting process by exerting pressure on the government to accommodate their preferences and political claims in the legislative process, even when the initiative does not succeed in mobilizing citizens or in reaching a referendum phase. This article also shows that some of these referendum initiatives were used (or were planned to be used) as a political tool against minorities and ended up in constitutionally imposing a tyranny of the majority. In an attempt to build our arguments, we are mostly relying on the qualitative analysis of the legal framework and the evidence from referendum initiatives that were trigge-

red by different actors in the 2010–2019 period.

This article is organized in five sections. It begins with a conceptual and theoretical discussion on the tension between representative and direct democracy. The second section briefly describes the constitutional and legal framework for citizens' initiatives and referendums in Croatia. The third section provides the qualitative in-depth analysis of all referendums that were initiated after a turning point in 2010 when constitutional provisions on referendums were significantly loosened. The final two sections include a comparative discussion and concluding remarks.

Theoretical framework: Direct versus representative democracy

Representative democracy feels uncomfortable with the citizen-initiated referendums since they break the conventional chain of delegation and accountability which is inherent to modern democracies. In a representative democracy, citizens delegate the responsibility of determining policy and empower their representatives to make decisions on their behalf, while at the same time they hold them to account and act as the final principal in this chain (Strøm, Müller, and Bergman 2003). On the other hand, advocates of direct democracy see directly engaged citizens as a corrective to the shortcomings of liberal representative democracy (Matusaka 2005). According to them, representative democratic institutions fail to secure the fulfilment of popular will and to take into consideration public interest in the decision-making process. Furthermore, in the last two decades democratic institutions, and especially political parties, have been faced with the failure of political legitimacy, followed by the discovery of general trends of 'parties in decline'

and 'democracy in crises' (Schmitt and Holmberg 1998; Dalton and Wattenberg 2000; Mair 2013). The solution to these problems is to "allow the direct expression of the popular will by permitting citizens to vote to determine public policy" (Haskell 2003: 3). So, by no means coincidentally, in the same period as democracy faced legitimacy crisis, we have witnessed the proliferation and the rise of referendum democracy and direct-democratic procedures all around the world (Pällinger et al. 2007; Ruth, Welp, and Whitehead 2017).

To show the values of direct democracy, its supporters argue "that it gives people the ability to enact reforms that representatives might be reluctant to consider" (Karp and Aimer 2002: 148). Starting from this perspective, we can argue that the referendum-based democracy not only gives people an opportunity to directly engage in the decision-making process and make final decisions on all important policy issues, but also serves as an instrument of checks and balances with which citizens can constrain the power of executives and legislatures and hold them directly accountable. Furthermore, proponents of referendum-based democracy also argue that direct democracy has positive effects on citizens' engagement in public affairs, making them much more politically active and giving them an opportunity to feel satisfied with decisions they make by themselves (Bowler, Donovan, and Tolbert 1998). In that way direct democracy serves as a compensating mechanism for widespread mistrust in politics in general and political parties and other representative institutions in particular, which have started to lose their social ground and legitimacy. According to Karp and Aimer (2002), by enabling greater popular control of the policy agenda and outputs, referendums have gained strong normative appeal.

When it comes to the reasons for the rise of direct democracy, Mendelsohn and Parkin (2000), while referring to other authors, put forward several arguments, such as the end of the Cold War, the signing of the Maastricht Treaty, and the expansion of the European Union. In contrast to that, Craig et al. (2000) point out that two other arguments are a much better fit for explaining these changing voters' attitudes – cognitive mobilization and political disaffection. On the one hand, this line of reasoning points to the citizens who have become much more confident in their own abilities to make decisions and more capable in dealing with complex social and political issues. On the other hand, the argument of political disaffection shows that the level of citizens' cognitive abilities is very much the same as before, but the level of their confidence in the abilities of their elected representatives to make decisions has been reduced significantly. In addition, Craig et al. point to a third argument, which proves to be very much plausible in times of growing populism in modern democracies, "in which special interest groups and political entrepreneurs have discovered new means of political access and, accordingly, have developed the tools and strategies needed to bend the use of popular political action to their own narrow purposes" (Craig, Kreppel, and Kane 2000: 26). According to this argument, it is not the citizens who are responsible for the rise of referendum democracy by asking for more direct involvement in decision-making, but political and social entrepreneurs who work within the context of general disaffection with democratic institutions and mobilize citizens for their own particular interests.

As proponents of direct democracy, Bowler and Donovan address the well-known objection to the use of referendums, namely the one that perceives re-

ferendum-based democracy as a threat to the interests of minorities, ending up in the tyranny of the majority. These critics go on to argue that in the process of direct democracy a majority has control over the drafting and the implementation of law and majority is much more intolerant than political elites, while elites have little or no influence in the process controlled by the intolerant majority voters (Bowler and Donovan 2000; see also Marxer 2012). It goes even further by saying that interests of minority groups in a society are best advocated and protected in the arena of representative democratic institutions. Legislative decision-making is oriented towards consensus-building between political parties and other political actors, serving as a gate-keeper and protector of the legitimate minority interests (Karp and Aimer 2002). Contrary to these assumptions, Bowler and Donovan argue "that nearly all forms of direct democracy require legislative elites to draft policies" and contend "that this constrains the potential for directly abusive effects of referendums on minority rights" (Bowler and Donovan 2000: 125). In their analysis of referendum practices in the USA and Switzerland, they conclude that outcomes of direct democracy are not necessarily more anti-minority than those produced by legislatures. In addition, they show how political elites who control the legislative process also control the agenda-setting in direct democracy process. So, according to them, "elite intervention is key in determining outcomes in the actual practice of direct democracy. It is therefore misleading to worry about majority tyranny without considering the role of elites in fostering tolerance. Second, in taking the paradigmatic case of the initiative process and minority rights – where elite influence is at its (relative) weakest – we show that mass opinion is not excessively into-

lerant of minority rights" (Bowler and Donovan 2000: 127).

On the other hand, several empirical studies have put forward some very convincing evidence, which supports the critique of direct democracy based on the anti-minority argument. For example, in her study of referendums and initiatives at local and state levels in the USA, Gamble (1997) concluded that there is strong evidence to support the claim that majority strategically uses referendum initiatives to constrain minority's rights and to deprive certain social groups of their legitimate rights, leading to the general conclusion that the majority tyrannizes the minority. In their re-examination of the impact of direct democracy on minority rights, especially involving the rights of the gay and lesbian community, Haider-Marke et al. (2007) conclude that minorities are more likely to lose in the process when citizens directly decide on certain issues. Christmann and Danaci (2012) go even further in their analysis of the effects of referendum-based democracy on the rights of religious minorities in Switzerland. While measuring both direct and indirect effects of direct decision-making, they conclude that all direct effects are negative, especially in the case of the Muslim minority. As for the indirect effects, they report that parliaments are inclined to make laws much more restrictive towards the Muslim minority when faced with popular initiative.

The legal framework of direct democracy in Croatia

The 1990 Croatian Constitution set up the framework for practicing referendum-based democracy in Croatia, but it enabled only facultative referendum on constitutional and legislative issues, initiated exclusively by the president or parliament (Rodin 2000). However, the legal framework had set a very high

turnout threshold, indicating that an absolute majority of voters had to turn out to vote for a referendum to be successful. It should therefore not come as a surprise that the referendum on Croatian independence and sovereignty, which was organized in mid-1991, was the only referendum held under these provisions. Although it was non-binding in character, it propelled Croatian claims for independence from the Yugoslav federation and strongly legitimized the constitutional decision made by the Croatian Parliament to declare state independence.

Although over the next twenty years there were no national-level referendums organized in Croatia, the constitutional changes in 2000 broadened the scope of the referendum's practices by institutionalizing the form of citizen-initiated referendum. The new constitutional provision prescribed that ten percent of all voters in Croatia can initiate referendum on "all issues that may be put to a referendum by the Croatian Parliament or the President" (Podolnjak 2015: 133). Whereas the high threshold for a referendum to be successful was not changed, it was virtually impossible for a citizens' initiative to set a particular issue on the referendum agenda without strong backing from one of the two largest parties.

However, it would be wrong to assume that, because of these very restrictive provisions, there had been no attempts coming from particular social groups to initiate decision-making through referendum on certain issues in the last decade. In 2001 the war veteran associations collected more than 400,000 signatures for a referendum petition, asking for more protection and an increase in their constitutional and social rights. Despite the strong pressure, the centre-left parliamentary majority rejected their petition, referring to the unclear

and incomplete provisions of the Referendum Act. In mid-2010 trade unions collected more than 800,000 signatures, asking for a referendum directed against the government amendments to the Labour Law, which envisioned the reduction and limitation of workers' rights. Confronted with strong pressure from the trade unions and general discontent, the centre-right government withdrew its proposal, and, in the end, the Constitutional Court ruled that the referendum initiative had lost its ground.

The turning point in the proliferation of citizens' initiatives in Croatia occurred in 2010, when political elites from major parties reached a consensus on constitutional changes, aimed primarily at securing Croatian membership in the European Union. Faced with declining support for Croatia's membership in the EU, political elites agreed to loosen the constitutional provisions on referendums by eliminating the absolute majority turnout threshold. Instead of the requirement that an absolute majority of voters (50% plus one) need to turn out to vote for a referendum to be legally binding, the new constitutional provision states that a decision made on the referendum is binding only if it gets the majority of the votes cast. Podolnjak (2015: 134) argues that "the intention of the constitution makers was only to facilitate the decision on the future EU membership referendum, but the consequences have been much larger. It is important to state that it is now much easier to reach any decision in a state referendum, even to amend the Constitution itself, by a simple decision of the majority of the votes cast".

An analysis of citizens' initiatives in Croatia after 2010

The true nature of the impact that citizens' initiatives could leave in the political system based on representative

democracy was only realized after the constitutional changes of 2010 (Butković 2017). After the successful initiative to amend the Constitution with the heteronormative definition of marriage, which was put to the citizens on 1 December 2013 (and duly won), the floodgates of citizens' initiatives seemed to have opened for good. Some of them were a continuation of the "In the Name of the Family" group work of mainstreaming their presence in the political life of Croatia, some were used by ideological opponents of the then-centre-left government or para-NGO proxies of the then-opposition HDZ, while some other were a response of societal and interest groups and non-attached citizens to the growing lack of trust in the political elites at all levels of the political systems. Hence, some were anti-minority, some were anti-government, while others were anti-establishment in nature. A more in-depth look into each will show their similarities and differences, especially regarding the actor and their motivation.

The Marriage Initiative/Referendum

The first citizens' initiative after the constitutional changes was also the most successful one in terms of its long-term consequences and its intention. The intent of the initiative was to constitutionalize the institution of marriage as a union between a man and a woman. The organizer was an up to that point not widely known civil society organization, "In the Name of the Family", and part of a much wider religious-political social movement (Petričušić, Čehulić, and Čepo 2017), that had been active in Croatia even before independence, but which had grown in strength in the last decade.

There was no direct policy change that legitimized the demands of the initiative. The Government had not brought any

legislative proposals that would change the long-standing legal norm that limited the use of marriage to heterosexual couples. Nor were there any relevant calls by LGBTIQ* activists or any other civil society organization in that regard. The organizers of the initiative insisted that they were acting pre-emptively, as they wanted to stop the spread of policies to liberalize the institution of marriage that was coming from the West. The position of the Government, which at the time was led by Social Democrats (SDP), was ambivalent at best. The activities of the Government after the collection of signatures were all but non-existent. Several civil- and LGBT-rights organizations argued in the Court that the referendum should not be allowed to go forward, but the Court upheld the referendum's place on the ballot.

The short-term success of the initiative was visible in the referendum being organized and in the organizers succeeding in changing the Constitution. In the end, only 37,68 percent of voters turned out, and the result confirmed many analysts' predictions: support for the referendum enshrining heterosexual marriage in the constitution won 65,87 percent of the vote. Only citizens in two out of 20 Croatian counties voted against the referendum, as did citizens in less than 50 out of more than 500 municipalities. This was, also, the lowest turnout for a major election in over 20 years of Croatian democracy.

The long-term influence of the initiative was much more ambivalent. Although successful, this referendum did not work as a complete constraining force on the powers of the political elites. Although it might have done so in the future, the Government had no intention of changing marriage laws at that point in time. Nor was Parliament stopped in the wake of the referendum's success as the ruling majority promptly decided

to introduce the life partnership bill, in which almost all the rights that married couples already enjoyed were enshrined for same-sex couples, except the right to adopt children (though if one partner had children, the other one would still have the right to become their guardian). One can argue this was a response to the actions of the "In the Name of the Family" organization, and a way for the political elite to take back the power it had lost through the referendum – a *post hoc* agenda-setting under changed circumstances.

The Cyrillic Use Initiative

In December 2013 the "Committee for the Defence of Croatian Vukovar", a group of predominantly war veterans' associations, collected more than 600,000 signatures demanding a referendum on changing the Constitutional Law on the Rights of National Minorities. The intent was to curtail the rights of national/ethnic minorities to use their language and script as an official language in those municipalities where they represent at least a third of the population, as it stood at that point. They proposed the threshold to be raised to fifty percent. As it focused on curtailing the rights a minority already held, specifically the Serb minority in the Croatian town of Vukovar, the initiative was obviously anti-minority in nature.

The spark that legitimized the demand of the initiative was the decision of the Government, after the 2011 census showed that the Serb minority accounted for more than a third of the population in Vukovar, to respect the Constitutional Law on the Rights of Minorities and to start with the procedure of introducing bilingual (Croatian and Serbian) and dual script (Latin and Cyrillic) names on government buildings. The referendum was a way for the organizers, represented by war veterans'

organizations, to constrain the Government in its intent.

The centre-left government was strongly opposed to any change in the constitutional rights of minorities. The ruling majority in the Croatian Parliament did ask the Government to check the eligibility of the initiative, with the Ministry of Administration deciding in July that the initiative had more signatures than the prescribed ten percent of total voting population. Parliament then asked the Constitutional Court to rule if the referendum question was constitutional. In August 2014 the Constitutional Court ruled the question unconstitutional, as it infringed on constitutionally guaranteed minority (in this case national minority) rights and prohibited the referendum to proceed.

As the referendum did not take place, one cannot observe its direct nor indirect effects, but the initiative alone had consequences, both in the short and in the long run. Although the referendum did not take place and the government did not change the legislation in line with the demands of the organizers, the situation on the ground points to a victory for the organizers. As of 2019, there has been no enforcement of the constitutional right of the Serb minority to use their language and script. In addition, the local government of Vukovar, led by the HDZ majority, and dominated by right-wing political forces, changed the municipal statutes, which previously enshrined bilingual rights of local population, by abolishing it.

The so-called Cyrillic referendum – whose name stems from the fact that the initiative primarily focused on stopping the introduction of bilingual street and government building names in Vukovar, a town in Eastern Slavonia heavily destroyed and then occupied after a three-month siege – was used by repre-

sentatives of some veteran organizations (aligned with the HDZ, which at first supported, but then was against the referendum) to constrain the power of the political elite.

The initiative obviously went against the interest of minorities, specifically the Serbian national minority; hence, it had an anti-minority agenda. Moreover, although the Government had no way of stopping it, Parliament did, showing at least indirect control of the agenda-setting process by the political elites. Parliament ignored the question for as long as it could, using all resources at its disposal, but in the end resorted to the court to stop the unwanted policy. However, as there are no bilingual signs in Vukovar as of 2019, we can conclude that their agenda-setting powers have been stopped in their tracks concerning this particular issue.

The Outsourcing Initiative

The global financial crisis hit Croatia especially hard, with the GDP falling by more than six percent in both 2009 and 2010. The government was trying to find ways to slash expenditures without introducing heavy austerity measures seen elsewhere in Europe. One of the proposals was to outsource all auxiliary positions in public companies and government offices (janitors, maintenance, cleaning staff). Considering it a part of the neoliberal agenda of precarization of work, trade unions started an anti-outsourcing initiative, and by July 2014, gathered more than 600,000 signatures asking for the policy to be put to the referendum. They were confident the people would vote against the deterioration of workers' rights and support a trade union-backed law that would ban outsourcing of all work in the public sector. Faced with strong opposition from trade unions, the centre-left government withdrew the proposed bill, but the organi-

zers still pressed for the referendum to proceed unimpeded. Parliament went through the usual motions, asking the Government to check if the initiative fulfilled all the necessary criteria, after which it sent the question to the Constitutional Court asking it to check the constitutionality of the initiative. Although confirming that the procedural pre-conditions were met, the Constitutional Court ruled against the referendum, stating that on the substantive level it was unconstitutional (USUD 2015a).

The Outsourcing Initiative was an obvious case of interest groups (trade unions in this case), stopping a government's right to initiate new legislative acts. In that regard, having in mind that the Government withdrew the bill before Parliament could debate and adopt it, the initiative was used to constrain the power of the political elite to govern as they saw fit. This can be viewed as a win for the organizers, despite their inability to get their own bill through to the referendum due to the Constitutional Court's ruling.

Similar to the previous initiative and the original one, animating more than 600,000 people to give their time in order to sign the initiative's request showed what great impact the initiative(s) had on the will of the people to exert their power in the political arena beyond the usual activities of voting and protesting. The number of signatures collected, if translated into a number of "votes" gained by a political actor, is a respectable force, with only the two major parties being able to gather as many (and then some) during general and presidential elections. But, as was the case with the Cyrillic Initiative, the outsourcing one also failed at the very last hurdle. The Constitutional Court declared it unconstitutional, stopping the referendum in its tracks. Political elites, in that regard, controlled the agenda-setting but only

post hoc and only by sacrificing their right to a legislative initiative in the first place.

Because the referendum has not taken place, we cannot say what direct effects it would have produced. However, one of the main indirect effects is that the government has once again seen the power of trade unions, which can hamper any future action of the government to alter radically workers' right of public and state-employed workers. This was not the first time the government tried to change employment rules and the trade unions threatened with a referendum if it came to that.

The Highway Monetization Initiative

The second in the tandem of the 2014 initiatives that dealt with the actions of the Government trying to use (neo)liberal recipes to recover public finances, was the initiative to stop the monetization of most of the Croatian highway system. The system was built predominantly with public money, raised by taking loans from international financial institutions and markets. Due to high levels of corruption, graft, and nepotism, the state company that managed highways was heavily indebted, with the state guaranteeing for all its liabilities toward creditors. The Government decided not to privatize the highway system, but to "monetize" it, meaning to give it to a private investor under concession. The toll-workers' unions (which would be the hardest one hit, as they account for the majority of the system's expenses) collected more than 530,000 signatures, signalling several things to the Government. First, that trade unions in state- or publicly-owned entities still matter (similar to the outsourcing initiative outcome), and second that the anti-neoliberal attitudes are particularly strong among a subset of Croatian population.

The initiative, led by trade unions and some left-wing civil society organizations managed, in the end, to collect the necessary number of signatures, which was verified by the Ministry of Administration at the request of Parliament. After the organizers insisted that the referendum go through, Parliament consulted the Constitutional Court, which decided the same way as in the Outsourcing Initiative – the referendum initiative was procedurally constitutional but failed on the substantive level (USUD 2015b). Hence, no referendum occurred in that situation either.

Despite failing to reach the final goal, this initiative as well constrained the power of the political elites by forcing the Government to abandon the model of dealing with the debt of publicly owned highways management firm. Monetization did not take place and in that regard the initiative was successful even without the referendum. Nevertheless, the political elites continued to control the agenda-setting process partially: first, by Parliament's decision to ignore the calls for the referendum to proceed anyway; and second, by the Constitutional Court's rejection of the organizer's calls to stop the Government from doing any policy activities concerning monetization before the referendum took place.

From the perspective of the short and long term effects of the initiative, although one could argue that none can be seen because the government chose to ignore the demands of the organizers to put the question to a referendum, any further backtracking of a government faced with the popular rejection policy proposals will invite future initiatives dealing with similar questions to look for solutions in the direct democracy toolbox. This further moves the power of agenda setting from the government towards social entrepreneurs, at least in

the field of public enterprises and labour issues.

The Preferential Voting Initiative

The two anti-(neo)liberal initiatives were a short respite from yet another initiative organized by the "In the Name of the Family" organization, which turned into quite a social entrepreneur. This time, the conservative NGO asked for a referendum through which the citizens would be able to decide whether to change the electoral rules. They asked for the introduction of preferential voting, opening what until now had been closed party lists. In addition, they wanted a reduction of the number of electoral units, the lowering of the threshold from five to three percent, and a ban on pre-election coalitions.

Despite their success with the original initiative, and heavy media campaign, "In the Name of the Family" collected only 380,649 signatures. This was deemed insufficient by the Ministry of Administration, as it came short of more than 400,000 signatures needed to surpass the threshold of at least ten percent of all voters with permanent residency in Croatia. The organizers contended that they collected more than ten percent of signatures of the voting population living in Croatia. However, the Constitutional Court ruled that the organizers needed signatures of at least ten percent of population with permanent residency in Croatia and decided that at that moment, the number needed to be reached was a bit more than 408,000 (USUD 2014). Hence, the organizers failed and the initiative did not proceed. The political elite in the end did not have to act in any significant manner in order to maintain control of the process. The Ministry of Administration issued a statement saying the initiative failed to collect enough signatures in the allotted amount of time, while rejecting the rea-

soning of the organizers on the interpretation of the "ten percent of the voting population" rule.

This was the first initiative in the two-year period of intense signature collecting, which failed to surpass at least the first hurdle of getting enough support from the citizens. Although its main goal was to constrain the power of the political elite to reform electoral law, by enshrining certain elements of it in the Constitution, in the end the citizens showed a lack of interest in the highly specific, and quite complex question, allowing the political elite to continue determining the ways in which to modify electoral laws. With that in mind, the government did try to blunt the force of the initiative, by accepting that some changes were needed. Hence, they proposed the introduction of preferential voting in general elections (after previously being introduced in the elections for the European Parliament), by giving one preferential vote to each citizen to elect a candidate from the list they decided to vote for.

Such a decision had many, both positive and negative effects, which can be viewed as a way in which the initiative, although failed, indirectly influenced the future process in that field. Looking at the positive effects, the citizens got more power to overrule the intentions of party leaders by voting for candidates further down on the electoral list, possibly marginalized by their party leadership. However, for now, the negative side effects outweigh the positive ones. Since the introduction of preferential voting, we have seen a dramatic drop in the number of women in Parliament. With the general elections of 2015, that number was around twenty percent, but after the general election of 2016, it fell to only fifteen percent. Preferential voting has also helped some radical candidates, who might not have been elected

if the lists had remained closed. Current (post-2016 elections) Parliament will see at least two and possibly more candidates that espouse not only illiberal but also antidemocratic political attitudes, and that are supporting the governing majority. In that regard, even though the initiative failed, it managed to change the discourse on the electoral law, force some changes and get some of its preferred candidates elected to Parliament. A success in failure *par excellence*.

The People Decide Initiative

In May 2018, a citizens' initiative "The People Decide" wanted to put a question of a "just electoral system" to the referendum. They claimed that the current electoral law – proportional representation, with candidates elected from a closed list, with citizens having a single preferential vote whose power kicks in only after a candidate has received more than ten percent of votes of the entire list – does not allow for efficient representation of the interests of the people. For initiative organizers, all woes currently plaguing Croatian society could be linked to estranged elite not being bound by electoral results to the interests of the citizens they serve. The organizers were a usual mix of marginal right-wing and populist parties, conservative civil society organizations, and individuals, some of whom tried and failed to change the electoral rules through the previous Preferential Voting Initiative. The government, which at the time was led by centre-right HDZ, was opposed to any changes in the electoral law, although they acknowledged the need to reform some parts of it.

The activities of the organizers after the collection of signatures brought into question the legitimacy of the initiative and the process as a whole. After the official period for signature collection ended, the organizers held the signature

lists for several weeks, without officially announcing the number of collected signatures or the date when they would transfer the lists to Parliament for verification. They maintained that the law neither stipulated nor prescribed a deadline, so they were within their right to decide on their own. The critics accused them of covertly collecting more signatures past the deadline, as they knew that the number they collected was insufficient to trigger a referendum. The activities of the government after the collection of signatures reflected the latter opinion. Because there were suspicions of foul play, the Ministry of Administration took their time in verifying all the signatures. In the end, and after continued criticisms by the organizers that the Ministry was acting in bad faith, the final tally decision by the Ministry was that the initiative had not collected enough signatures and that the referendum procedure would not continue. The organizers asked the Constitutional Court to intervene, because the Ministry did not allow them to observe the tallying, but were rebuffed as their complaint lacked merit (USUD 2018a).

In the short run, hence, the initiative did not have any impact. It helped raise the profile of some political and societal actors a bit, but its demands were ignored by the Government. In the long run, the influence could be more visible and linked to further deterioration in the trust the citizens are showing towards the political system of Croatia.

The Truth about the Istanbul Convention Initiative

At the same time the People Decide Initiative was being organized, another citizens' initiative organized by a coalition of conservative actors of a religious political social movement was gathering speed. The organizers of The Truth about the Istanbul Convention

Initiative were insisting that the ratification of the Istanbul Convention would introduce "gender ideology" in Croatia, thus endangering traditional Croatian values and undermining Croatian family amidst the demographic crisis sparked by lacklustre fertility rates and widespread emigration. The spark that legitimized the demand of the initiative was the intention of Parliament to ratify the international agreement on combating violence against women and girls and the government's support for it. The position of the HDZ Government was a strong opposition towards the initiative and insistence that the ratification does nothing more than what is already enshrined in the Croatian legal framework.

The activities of both the organizers and the Government after the collection of signatures mirrored those of the previous initiative. In the end, the Government deemed that the initiative had not collected enough signatures and, therefore, stopped all further activities. The initiative organizers turned to the Constitutional Court claiming that the Government had acted in bad faith during the signature verification process by not allowing them to have observers overseeing the tallying process. As in the previous case, the Court rebuffed them (USUD 2018b).

Both short- and long-term influences of this initiative are the same as the previous one. There is a slight difference though. While the previous one had no success in transposing any of the demands into constraining mechanisms for the government's decision-making powers, this one scored a symbolic victory when the Government introduced the Interpretive Statement. It was a non-binding document focused on the Government's rejection of any activities linked to "gender ideology" that the Convention espouses (although the Convention espouses no gender ideo-

logy, as such ideology does not exist). In this way, the Government legitimized the organizers' claims that their intention was not to stifle women's rights, but to defend traditional values against ideological warfare.

The 67 is Too Much Initiative

The spring of 2019 saw a rerun of 2010 and 2014 government-vs-trade unions confrontation, this time around reforms in labour and pensions legislation. The coalition government led by HDZ proposed a policy reform based on extending the working age to 67 (from 65 where it currently stands) and on penalizing all those planning to retire early. The organizers were trade unions, this time supported by leftist and liberal civil society organizations as external actors. The three trade unions that initiated the process already had experience with this kind of initiatives, since their three previous attempts (one in 2010 and two in 2014) were successful in stopping the reform intentions of the governments that put them forward. The newest one succeeded in doing the same.

The initiative was ignited with the intention of the Government to change the minimum age for retirement and to slow down early retirement through increase in penalization. The Government declined to negotiate with trade unions and ignored their protests and demands even after street demonstrations were organized. The position of the Government was a strong opposition against the initiative and an insistence that the pensions system would not be able to bear the pressures of an aging population and that therefore reforms were needed. The minister responsible for labour and pension issues insisted that the reform was necessary to stop the collapse of the system but declined to include the reform of pensions acquired under preferential circumstances (predominantly

those for politicians and war veterans) in the reform package.

The activities of the organizers after the collection of signatures ranged from insisting that the Government's proposals were illegitimate because of the strong support the public showed for the initiative during the signature-collecting process to demanding the referendum take place even after the Government decided not to proceed with the reforms, similarly to the 2010 trade union's initiative. The activities of the Government after the collection of the signatures showed initial confusion, then acquiescence to the demands of the organizers. The Government not only stopped the reforms they insisted were necessary and unavoidable but they also accepted all of the demands the organizers set forward despite earlier public statements that organizers' demands would cause the system to collapse even sooner. The embattled minister was replaced in a government reshuffle a couple of weeks later and the new minister assured the public that he would work with the organizers on finding the common grounds.

The most visible short-term success of the initiative was to stop the reforms that would unduly burden certain segments of the working population and would discriminate against older workers. Furthermore, by showing the strength of 750,000 signatures that the public gave them, the trade unions forced the Government to accept all the organizers' demands. The long-term successes are even more pronounced, as the backtracking by this government made it the third that had to give up reforming labour legislation under severe pressure by interest groups. This, once again, shows how the agenda-setting powers of the government – be it centre-left or centre-right – have been severely curtailed in one of the most important policy areas.

Discussion

In this section, we focus on the comparative analysis of outlined cases and on answering the research questions set in the introductory section. The analysis focuses on the profiling of political and social actors who used the citizens' initiative as well as on finding out the motivation behind their intent on using the mechanisms of referendum democracy. It also gauges the effect of the initiative at the level of citizens' engagement, as well as its success in constraining and controlling the agenda-setting power by the executive/elite, before (*ante hoc*) and after (*post hoc*) the initiation of the referendum process (see Table 1).

Taking into account the actors, i.e. who used the initiatives and against whom they were organized, our analysis has shown varied results, which could be boiled down to – mainstream, established interest groups (trade unions) and new powerful right-wing actors (war veterans' organizations and religious political social movement). The trade unions and conservative civil society organizations were successful users of citizens' initiatives because they have sufficient financial and organizational capacities to deal with complex intricacies of the entire process. They can also mobilize a critical part of the public either on their own (trade unions can get workers on the streets and can count on them to support their activities) or through powerful proxies (conservative civil society organizations and war veterans' groups could count on the support of the Catholic Church and even on HDZ at times). Other actors lacked such a developed network of support in finances and personnel and were less likely to engage in signing citizens' initiatives or referendums, except as "junior partners". Therefore, except as marginal actors supporting one of the organizers, there are no relevant political parties as instiga-

tors, nor have we seen a rise in genuine *ad hoc* grassroots citizens' network built around a common idea they want to put on a ballot. The Government's role in using referendums as a legitimizing tool for their preferred policies was also missing.

The motives of the actors could be explained as maintaining anti-minority, anti-government or anti-establishment agendas. Although at first it might seem as if the intent of the political and social entrepreneurs in using initiatives was aimed at minorities, with the first two post-2010 initiatives being organized against the rights of the LGBTIQ* and the Serb minority, respectively, the analysis of the entire set of initiatives showed that minorities were only used to legitimize the actors and their use of the tools of direct democracy in the eyes of the citizens. To put it bluntly, the organizers needed an easy target, a societal group weak and ostracized enough that their intention to curtail the rights of that group would fall on the fertile ground among Croatian population. The LGBTIQ* and the Serb minority groups were therefore used as the most obvious targets. Once the anti-minority agenda introduced the direct democracy toolbox as a valid and easy way for citizens and interest groups to curtail the activities of the government, they evolved into mechanisms for the promotion of an anti-government agenda. This was the dominant motivation of the majority of citizens' initiatives analysed here. In the age of populist revival and the return of the demagogues, it did not take long for this mechanism to commence with full-scale anti-establishment narrative. However, these types of initiatives were rare, with a narrow focus on electoral rules and usually less successful. In fact, if we analyse them by the level of success, those initiatives that were motivated by the anti-government agenda had the

Table 1. Overview of citizens' initiatives in Croatia 2011–2019.

Initiative	Type of organizer(s)	Constraining the power of the executive/elite (ante hoc)	Effects on citizen engagement	Motivation of the organizer	Control of the agenda-setting by the executive/elite (post hoc)	Success of the initiative
The Marriage Initiative	conservative civil society organization	yes	medium	anti-minority	none	FULL
The Cyrillic Use Initiative	war veterans organizations	no	medium	anti-minority	high	PARTIAL
The Outsourcing Initiative	trade unions	yes	medium	anti-government	diminished	PARTIAL
The Highway Monetization Initiative	trade union	yes	medium	anti-government	diminished	PARTIAL
The Preferential Voting Initiative	conservative civil society organizations	partially	small	anti-establishment	diminished	PARTIAL
The People Decide Initiative	conservative civil society organizations	no	small	anti-establishment	high	NO
The Truth about the Istanbul Convention Initiative	conservative civil society organizations	no	small	anti-establishment	diminished	PARTIAL
The 67 is Too Much Initiative	trade unions	yes	medium	anti-government	diminished	PARTIAL

Source: authors.

highest rate of success. Also successful, but to a lesser scale, were initiatives with an anti-minority agenda, while those led by the anti-establishment agenda were the least successful.

From the point of view of the intent and the opportunity of the initiative organizers to constrain the power of the executive/elite, the initiatives had a mixed success. Concerning the intent, all of the initiatives wanted to constraint the power of the executive/elite in one way or another. They tried to do it *pro futuro*, as in the case of the Marriage Initiative, which was aimed at stopping any future government's attempts at liberali-

zing marriage legislation. They also tried to do it by enshrining the *status quo*, as in the case of all trade union-led initiatives, which were focused on stopping the executive's attempts to introduce (neo)liberal economic reforms. Some initiatives were aimed at constraining the power of the executive/elite by forcing it to renege on either domestic or international obligations, as was the case of Cyrillic Use and The Truth about the Istanbul Convention initiatives. In the end some of the initiatives, and the least successful ones at that, also intended to constrain the power of the executive/elite by changing the rules under which

the executive constitutes itself, i.e. the structural elements that define who gets to be a part of the elite. These were the initiatives that focused on electoral reforms.

When our focus moves from the intention of constraint to the actual opportunity or the level of success the initiatives had in constraining the power of the executive/elite, the results our analysis offered were mixed. All initiatives could be grouped in two separate camps. With the exception of the Preferential Voting Initiative, which was partially successful in constraining the power of the executive/elite by making it to conditionally accept one of their demands – a single preferential vote despite the failure to collect enough signatures – the rest of the initiatives are divided into successful and unsuccessful camps. In the successful camp were all three of the trade unions initiatives and the Marriage Initiative. They managed to force the executive either to maintain the *status quo* (in the case of three trade union initiatives) or to make it harder for future governments to act without constraint concerning marriage legislation. The unsuccessful camp gathers three initiatives that either failed to obtain enough signatures to proceed further or were stopped by the Constitutional Court. Although some of them were successful in the long run (e.g. as of 2019 there are still no bilingual signs in Vukovar), none of them constrained the power of the executive/elite in such a way that would allow us to pronounce them even partially successful. The government, the public at large, and other political and social entrepreneurs mostly ignored their demands.

Taking into account the effect of the initiative on citizens' engagement, we assessed that it was ranging from little to, at best, medium effect. Thus, the entire revival of direct democracy had not

made citizens more politically active. Besides getting the citizens to sign some initiatives' requests for a referendum, no other examples of citizens' engagement have been observed. The only successful initiative that ended in a referendum saw the lowest turnout for a national-level vote since Croatia's independence. Initiatives that were ignored or stopped by the government could not count on citizens to put further pressure on the elite through protests and civic disobedience (with a partial exception of the trade unions but only to a certain degree). Nor did the levels of political apathy and disinterest of citizens in the political process drop in the last decade while different interest groups were using tools of direct democracy. The initiatives did not yield the expected influence on citizens' engagement and participation because political entrepreneurs were not actually interested in engaging citizens profoundly, besides instrumentalizing them for their own particular interests.

When the control of agenda setting by political elites is taken into consideration, the result was mixed once again but pointing towards a greater success of political and social entrepreneurs to wrest the monopoly over agenda-setting power from the government. Most of the societal actors organizing initiatives had at least partial success in hijacking the power of the political elite to set the agenda on their own, i.e. in most cases we saw that the government's monopoly over agenda-setting had diminished. This occurred in all but two cases. Only after the Constitutional Court stopped the Cyrillic Use Initiative and the Ministry of Administration ruled that the People Decide Initiative did not gather enough signatures was the government able to reassert its control over the question of constitutional rights of the minorities and electoral reform, respectively. In all other cases not only did the

government have to cede some control over which questions to put on the agenda to other actors, but had in some cases completely lost the opportunity to set the agenda. An example of the latter is the Marriage Initiative, the only one that ended in a referendum. The referendum results meant that the executive could not ignore the demand of the organizers or stall the process of implementation of the decision. The constitutional changes citizens voted on and supported happened automatically after the end of the referendum process, according to clarification by the Constitutional Court (USUD 2013). However, the Government was free to use its agenda-setting powers by legislating policies that would have a similar effect but would not encroach on a policy that was decided at the ballot box. This was the case when the SDP-led Government introduced and adopted legislation on life partnerships for LGBTIQ* couples, giving same-sex couples almost all the rights that the heterosexual couples already had through the institution of marriage. This allowed the Government to maintain at least some, if diminished, control over an important policy area.

Finally, this calls for an overall assessment of the initiatives taking into account all variables and based on the reasoning that an initiative is successful when it puts a question to public vote through a referendum and when it changes a government's policy or sets its own agenda. When put this way, only the Marriage Initiative could be seen as a complete success, as it was the only one that actually resulted in a referendum. It constrained the power of the executive *pro futuro*, had a large effect on citizens' engagement, at least in the preliminary steps of signature collection if not during the actual referendum turnout, and despite its anti-minority motivation had an indirect consequence of diminishing

the agenda-setting monopoly of the government.

This does not mean that other initiatives, which did not culminate in a referendum, were unsuccessful. It is important to bear in mind that the referendum is merely a tool an actor uses in order to stop, set, or change a policy agenda. The ultimate goal of initiative organizers is for their policies to become the law. If they are not able to do it, then the success can be also gauged by how influential they were in obstructing, stopping, or modifying a government's or elite's preferred policy. With this in mind, we concluded that almost all initiatives were at least partially successful in the end. Almost all of them succeeded in either stopping the policy preferred by the government or influencing the established elites into adopting some of the demands of the organizers. Of all eight initiatives, we deemed only one unsuccessful. The People Decide Initiative neither gathered enough signatures, nor indirectly constrained the power and wrested control over the agenda-setting by making the executive adopt some of their demands.

Between the most successful one – the Marriage Initiative – and the unsuccessful one – the People Decide Initiative – were all of the other initiatives whose level of success varied greatly but which were at least partially successful in turning their demands into *de facto* if not *de iure* state policies. The Cyrillic Use Initiative organizers prevented the introduction of bilingual signs even if the Court stopped the referendum. No government since was interested in revisiting the issue, including those that had the Serb minority party as a part of the governing majority. Even the Truth about the Istanbul Convention Initiative scored a symbolic win as the Government introduced the Interpretive Statement, noting that by ratifying the

Istanbul Convention Croatia does not accept any element of "gender ideology". Three trade union-led initiatives were partially successful as they forced the Government to retreat from its preferred policy positions and to abandon the reform agenda on labour rights, pensions, and public jobs reforms altogether, even when the Government ignored their insistence on holding the referendums.

Conclusion

The first two decades of Croatia's independence saw only sporadic use of referendum initiatives as a decision-making tool. For the better part, these were a tool used at municipal or county level, the only exemption being the 1991 plebiscite on the relations between Croatia and the Yugoslav Federation. A few citizens' initiatives that happened in that period came after the year 2000, as political and social entrepreneurs showed a growing interest to use the tools of direct democracy at their disposal. These initiatives also depict the governments' lack of interest to accommodate the demands of those political and societal actors and their intent to keep their monopoly on agenda setting intact. As our analysis showed, this situation completely changed post-2010 and following the constitutional changes introduced by the party consensus in order for the EU accession referendum to be successful.

Croatian democracy has changed profoundly since 2000, while the political system has hardly changed at all. Small reforms that governments instigated independently, or as a reaction to other actors' pressure (e.g. introducing preferential voting, abolishing the turnout threshold for referendums, etc) nonetheless brought about great changes in the trajectory of Croatian democratic development. One major reason for this lies in two different, but interlocking circumstances. The first one is the growing

lack of citizens' trust in the political elite, the media and other societal actors, including the European Union. This was then partially used by the political and social actors, who instrumentalized citizens' disaffection with the elite, in order to further their particular interests.

The second one is the emergence of political and social entrepreneurs, both well established and new, who filled the ever-increasing void between the citizens and their elected representatives. "In the Name of the Family" as the original, and the most powerful one, took advantage of constitutional and legal requirements, found an easy target in a marginalized group, raised its own profile by railing against a question nobody even put forward, and, by tapping into the resentment of the populace, won their battle. Hence, they showed the way for other interest groups and civil society organizations to confront the government on certain issues. All of them worked in a similar fashion. First, they would criticize the government's handling of a question of particular interest to them. Afterwards, they would start collecting signatures, usually by aligning themselves with some powerful state, para-state or societal actor (the opposition, war veterans, the Catholic Church, etc.), while also using the media to rally the people for their cause. Then, they would exert pressure on the government to verify as fast as possible the elements of the initiative (number and validity of signatures collected, the constitutionality of the referendum question, etc.).

The government's response, on the other hand, was different in almost every case. They would either ignore the demand as long as possible or would quickly proceed with signature verification. Parliament would ask the Constitutional Court to rule on the constitutionality of the referendum question in one case, but would fail to do so in another. The

Court would decide quickly on some points, but would deem itself unable to decide on others. However, in almost all cases, the Constitutional Court in its decisions showed an interest in supporting "growing limitations to the popular referendum institute" (Horvat Vuković 2016: 833).

Although theory asserts that the political elite who controls the legislative agenda also controls the agenda-setting process in referendums, our cases therefore show a constant struggle of the po-

litical elite (the parliament and the government) to maintain the control over the agenda-setting process. In most cases they were successful, usually due to the rulings of the Constitutional Court, but even in those examples when they were unsuccessful (like in the case of the Marriage Referendum), they mitigated that temporary loss of political control by putting proposals on the agenda that would limit the repercussions of the referendum decision, or would limit future success of similar initiatives.

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Izravna demokracija i uspon političkih poduzetnika: analiza građanskih inicijativa u Hrvatskoj poslije 2010.

Sažetak U posljednjih deset godina učestala je uporaba instituta izravne demokracije u Hrvatskoj. Pretpostavlja se kako bi povećanje broja građanskih inicijativa i referenduma trebalo potaknuti značajnije aktiviranje politički pasivnog građanstva i ojačati njegovu ulogu kontrolora izvršne vlasti. Naše istraživanje, utemeljeno na kvalitativnoj analizi pravnog okvira koji uređuje pitanja referenduma i građanskih inicijativa u Hrvatskoj i samih inicijativa nakon 2010, pokazalo je da nije tako. Politički i društveni poduzetnici – bilo da je riječ o etabliranim akterima, poput sindikata, bilo o novim akterima, poput konzervativnih udruga civilnog društva – koristili su mehanizme izravne demokracije kako bi promicali partikularne interese utemeljene na agendama usmjerenima protiv manjina, vlade i političkog establishmenta. Ti su akteri uspjeli zauzdati moć vlade, odnosno političke elite ante hoc, i ograničiti njezin monopol u kontroli dnevnog reda post hoc. Postojećoj literaturi o tim temama ovaj rad pridonosi tako što pokazuje kako se zbog slabosti u pravnom normiranju građanske inicijative vlada, odnosno političke elite mogu natjerati da pristanu na uvjete inicijatora čak i onda kada je inicijativa neuspješna u svojem izvornom naumu – održavanju referenduma o nekom pitanju.

Ključne riječi referendum, građanska inicijativa, postavljanje dnevnog reda, politički poduzetnici, Hrvatska