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LOCAL REFERENDUM: THE PERSPECTIVES OF A FORGOTTEN LEGAL INSTRUMENT

Abstract:

Direct democracy is generally represented by national referenda, when the whole population of a country could decide on a particular matter, or could express an opinion. However, in most of the democratic countries, the local communities, regions or townships have also the right to hold referenda from local issues, such as the planned construction of new industrial facilities, or from investments with remarkable environmental impact. These referenda are subject to similar legal framework, than national referenda, but their inherent character is different: this local legal instrument does not constitute essentially the expression of the popular sovereignty, but it creates a tool for the citizens to participate at the self-governance of the local community. Due to this ambiguity, local referenda shall be distinguished clearly from the national level of direct democracy: the legal background, the special campaign, and the remedies of local referenda shall be analysed in depth. Moreover, to outline the different models in this regard, a comparative research would be also crucial to provide an overarching picture from local referenda across Europe.

As the outcome of our research, we would provide a deeper understanding of local referendum as an underestimated instrument of direct democracy, and we would conceptualize, how this constitutionally acknowledged legal framework could serve the interest of the citizens and the local communities more efficiently. For this purpose, certain points would be highlighted for consideration for future constitution-making processes. Our research would cover a field, which has been little researched, and it would be based on three strands of literature, which has been rarely used by this integrated manner. Firstly, we would rely on contributions from direct democracy, which give us some sense from the general character of this forgotten legal instrument. Secondly, the literature from the self-governance would be also referred, as local referenda shall be evaluated primarily within this concept. Thirdly, sources directly linked to local referendum would be also revealed from various European countries, where this concept plays a significant role to decide particular issues.

Keywords:

Referendum
Direct democracy
Self-governance
Popular participation
Constitutional law

JEL Classification: K00, K10, K39