

Direct Democracy in Europe

Direct Democracy in Europe

A Comprehensive Reference Guide to the Initiative
and Referendum Process in Europe

Part of the Citizen Lawmaker Series of Educational Tools

Sponsored by

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Initiative & Referendum Institute Europe

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Initiative & Referendum Institute

Edited by

Bruno Kaufmann and M. Dane Waters

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What Is the Initiative & Referendum Institute Europe?

The Initiative & Referendum Institute Europe (IRI Europe) was founded in 2001 to become the premier research and educational institute on I&R in Europe. Our mission is to develop insight into the theory and practice of I&R among politicians, the media, NGOs, academics and the public throughout Europe. IRI Europe is an independent, non-partisan and non profit-making organization. We are advocates of the I&R process and we are dedicated to offering facts, promoting research, providing services to the public and bringing together key actors in the field of democracy.

The first working years were dedicated to developing new information channels, networks and educational tools. In the context of the European integration process and the debate on the European Constitution IRI Europe initiated, coordinated and evaluated major efforts to bring more participation by the citizens into the political processes on all levels—concentrating in the first hand on promoting new I&R tools and securing the quality of existing ones.

These were the main achievements of the 2001–03 period:

- IRI established a paneuropean network of I&R experts in politics, academia, media and civil society, providing meeting places, interactive communication (www.iri-europe.org) tools and an improved understanding about the potentials of direct democracy.
- With major publications as the first IRI Europe “Index on Citizenlawmaking” (featuring a ranking of I&R tools in 32 states), the “European Referendum Monitoring Report” (assessing the EU accession referendums 2003), the “IRI Europe Handbook—Transnational Democracy in the Making” (following up the EU-dimensions of the I&R process) and *Direct Democracy in Europe* (the most comprehensive reference book on European I&R) we delivered the basics for a further educated and well-informed development.
- IRI also established expert and working groups around government and parliament structures in the EU and many countries. As initiator and coordinator of the EU Convention working group on “direct democratic tools in the European Constitution” the institute was contributing to the establishment of the “European Citizen Initiative” in the Draft Constitution. In many member states IRI advised official- and non-official bodies in setting up the necessary tools for a referendum on the European constitution.

In the next three-year period (2004–06) IRI Europe will work with the following priorities:

- IRI will increase its basic commitment to offer the basics for stronger European democracy/ies by offering new tools of information and education as the multimedia, multilingual “CHDD Pocket Guide to Swiss Direct Democracy” (which will be the first comprehensive and reader-friendly insight into the most experienced I&R country in the world), the “ABC of Direct Democracy” (a new I&R learning structure) as well as improved and enlarged services on the Internet at www.iri-europe.org
- By following up the networking work inside the European Convention, where more than half of all members from 25 European states joined the call for more I&R, IRI will establish competence-centres in many countries, offering a platform for the specific needs around I&R in these countries.
- On the European level, IRI Europe will initiate a state-of-the-art expert work around the new “European Citizen Initiative” in close cooperation with the EU. Furthermore the effort to develop and establish a list of Basic Criteria for Free and Fair Referendums in Europe will contribute to quality checks of most future referendums. Finally, IRI Europe will advise and assist the development and establishment of further I&R tools in the European Constitution by the European Parliament and future Conventions.

What Is the Initiative & Referendum Institute?

In 1998, in recognition of the influence of the initiative and referendum process on America, the Initiative & Referendum Institute was founded. The Institute, a 501(c)(3) non-profit, non-partisan research and educational organization, is dedicated to educating citizens about how the initiative and referendum process has been utilized and providing information to citizens so they understand and know how to utilize the process. No other organization does what we do.

Edwin Meese, III, former U.S. Attorney General under President Ronald Reagan, had this to say about the Institute: “[T]he Initiative & Referendum Institute performs a valuable service to the nation by providing research and educational programs to protect and expand the democratic process of initiative and referendum by the people in the several states. Having this electoral ability is a critical ‘safety valve’ for effective citizenship.”

The Initiative & Referendum Institute extensively studies the initiative and referendum process and publishes papers and monographs addressing its effect on public policy, citizen participation, and its reflection of trends in American thought and culture. We also research and produce a state-by-state guide to the initiative and referendum process, and we work to educate and update the public on how the process is being utilized across the country. We analyze the relationship between voters and their elected lawmakers and when and why the people turn to initiative and referendum to enact changes in state and local law. The Initiative & Referendum Institute has garnered significant media attention. We have been interviewed or cited by almost every major media outlet in the nation as well as by dozens of other publications, newspapers and radio stations around the world.

The Institute is uniquely qualified to undertake this mission. Comprising the Institute’s Board of Directors, Advisory Board and Legal Advisory Board are some of the world’s leading authorities on the initiative and referendum process, including prominent scholars; experienced activists—who know the nuts and bolts of the process and its use; skilled attorneys; and political leaders who have seen firsthand the necessity of having a mechanism process through which citizens can directly reform their government.

Wayne Pacelle, Senior Vice President of the Humane Society of the United States, stated that “the Initiative & Referendum Institute is the only independent voice for preserving and expanding the right of citizens to make laws directly through the initiative and referendum process. This vital tool of democracy is under siege by special interests, and the Initiative & Referendum Institute is a powerful and persuasive voice for the right of I&R.” For additional information, please visit our informative website at www.iandrinstute.org.

Acknowledgments

This is the first comprehensive overview of I&R in Europe that has ever been done and is designed to complement the *Initiative and Referendum Almanac* that was produced to provide information on I&R in the United States. This Reference Guide includes European-wide analyses, reports on many countries, and an extensive amount of data about I&R in Europe and the rest of the world. The collection and preparation of this data could not have happened without the cooperation of numerous individuals who have invested many days of work on this unique project.

As front-line support we should list by name such individuals as *Andreas GROSS, Heidi Häutala, Hans-Urs Wili, Rolf Büchi and Frank Remeth*, who contributed directly and indirectly to this book with their wide-ranging knowledge, experience, and data.

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In a continent as varied and complex as Europe, it is of decisive importance to have experts in the different cultural regions. The following IRI correspondents provided us with the necessary information: *Christian Schaller (Vienna), Jos Verhulst (Antwerp), Paul Carline (Edinburgh), Nelly Sirkova (Sofia), Milan Valach (Prague), Steffen Kjærulff-Schmidt (Copenhagen), Jüri Ruus (Tartu), Dag Anckar (Turku), Carsten Berg (Paris), Ralph Kampwirth (Bremen), Georges Kokkas (Athens), Pal Reti (Budapest), Anna Olofsdóttir Björnsson (Reykjavik), Dolores Taaffe (Limerick), Roland Erne (Florence), Gita Feldhune (Riga), Algis Krupavicius (Kaunas), Arjen Nijeboer (Amsterdam), Tord Björklund (Oslo), Andrzej Kaczmarczyk (Warsaw), Elisabete Cidre (Lisbon), Horia Terpe (Bucarest), Igor Luksic (Ljubljana), Guillem Rico (Madrid), Matthias Goldmann (Stockholm), Paul Ruppen (Brig), Sigward Wohlwend (Vaduz), and Alfred Groff (Luxembourg)*.

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Introduction

The right of *initiative* is the right of citizens to put an issue onto the political agenda of a polity. The *referendum* is a ballot vote on a political issue. In both cases citizens are involved, by registering or signing an initiative and by taking part in the final decision-making in a referendum. Wherever direct democracy exists through I&R, it has not replaced representative democracy but has complemented the work of parliamentarians and political parties. Thus, direct democracy doesn't diminish the present representative democracy, but adds direct-democratic channels to that predominantly representative democracy. I&R makes a difference. I&R restores the power of the people in some measure and thus makes democracy stronger. I&R offers more and new opportunities for real citizens' participation and contributes to the restoration of democracy at the transnational level.

Almost 400 years of direct-democratic practice through I&R show that the design of the process is of crucial importance. Good I&R means a limited entry quorum for approving an initiative and no participation quorum at all for referendums. Furthermore, the outcomes of votes must be binding in order for them to be useful tools for citizens. I&R has to be clearly distinguished from plebiscites. These are votes on issues implemented from above by a government, without the support or influence of the citizens. Plebiscites have nothing to do with I&R; on the contrary, they are often used by governments which want to secure special legitimacy for their policies by bypassing existing laws and constitutional rules.

Never before in the history of Europe and the world has the legitimacy of democracy been so highly and broadly recognized, or the citizens so well prepared and competent to be involved in political decision-making—but neither has democracy ever been as greatly challenged as it is today. These challenges are both structural and conceptual. Structurally, globalization and transnational markets are undermining national democracies; conceptually, democracy is too often reduced to choices in elections between political parties which no longer offer a real choice.

It is no coincidence that since the end of the Cold War, almost 30 countries have given themselves new constitutions and only three of them did not include elements of I&R. So over the last ten years, hundreds of millions of citizens have become acquainted with direct democracy.

Old democracies, too, have begun to incorporate I&R into their constitutions: Portugal began this reform in 2000; the Netherlands have been struggling with it for many years; the Belgian parliament has just started to discuss reforms. In spite of the growing basic openness to the idea of I&R, knowledge of how to design the I&R process in the interest of the majority of the citizens is rather limited, as is insight into the political culture, the philosophy and the history of direct democracy.

The first constitutional referendum took place in North America in 1639, when a few thousands citizens accepted the *Fundamental Orders of Connecticut*. Later, the people of Massachusetts and New Hampshire were also able to decide directly on their constitutions. The concept of this new form of democracy had been established by the famous Mayflower Treaty in 1620, which outlined the foundations of American democracy.

In Europe, Geneva citizen Jean Jacques Rousseau wrote *The Social Contract*, in which he described popular sovereignty as a counter-weight to the absolute power of kings and emperors. This inspired the French revolutionaries of 1793 to introduce a new constitution with—for the very first time in history—comprehensive I&R, including an initiative right for the citizens and an obligatory referendum on constitutional matters.

From revolutionary and centralistic France, where the old undemocratic order was soon re-established by Napoleon Bonaparte, the idea of I&R moved to nearby Switzerland. Here the first nationwide referendum took place in 1803. In the new Constitution of 1848, an obligatory constitutional referendum was introduced; the right to facultative Referendum was added in 1874, and finally, in 1891, the right of popular initiative was included. The establishment of a strong I&R process was only possible step-by-step, through the pressure of strong citizens' movements.

By the end of the 19th century, the successful establishment of I&R in Switzerland inspired many center-right and center-left progressive movements to fight for the reform of representative democracy. Between 1898 and 1912, more than 22 state-level constitutions in the United States were modified in a direct-democratic direction. In Australia and New Zealand, too, the citizens obtained the empowering instruments of I&R. At the beginning of the 20th century many social-democratic and liberal politicians welcomed I&R as additional democratic instruments. However, communists on the far left and fascists on the far right were opposed, and they tried instead to kidnap the process by using plebiscites, as Hitler did several times in Nazi Germany.

The World Wars and the Cold War slowed down, if they did not stop, democratization all over the world and especially in Europe. Later, however, the European integration process in the Western part and the fall of the Berlin Wall in the Eastern part provoked a new wave of democratization with more than 30 new nationwide constitutions in this part of the world. I&R even entered into centralistic polities such as Sweden and Finland and is now seen by the World Bank as “one of the most important political developments” in the world.

Between 1990 and 2003, referendums took place in 91 sovereign states of the world, including 30 in Europe. Before making their decisions on the new EU Treaty establishing the very first European constitution, many member states, including Portugal, Spain, Luxembourg, Denmark and Ireland, held referendums. An even more dynamic development has recently taken place at local and regional polity levels: from being an almost unknown instrument, I&R has become an important issue and tool, e.g. in France, Germany, Britain, Sweden, and the Baltic States. Germany, with its population of over 80 million, is on the way to becoming the largest I&R polity so far.

Most national constitutions of today have some basic I&R provisions, but far too often these instruments are designed in such a way that they literally cannot be used by the citizens. In 60 nation states, I&R elements exist in the constitutions but have never been used.

The purpose of this Almanac is not to persuade people to support the initiative and referendum process, but to discuss the misinformation about it and give the reader a factual and historical base from which to work when debating or discussing I&R. The data contained here has been collected from numerous sources over several years. In most cases, the information is a compilation of studies, tables, books and articles: a compilation that did not exist before in any country. Though this Almanac may not contain the answer to every question you may have regarding the initiative and referendum process, it is—in our humble opinion—one of the most comprehensive sources of information currently available on this important law-making process.