"CROWNING OF THE DEMOCRATIC EDIFICE"? – PUBLIC DISCOURSES ON REFERENDUMS IN LUXEMBOURG SINCE THE FIRST WORLD WAR

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Abstract: The contribution gives an oversight over the four series of referenda that have taken place in Luxembourg since the introduction of universal suffrage in 1919. For each date, the historical background, the main actors, the controverse positions as well as the impact on Luxembourgish society are explored. Thereby, the article shows the political processes linked to the organisation of referenda. At the same time, it presents the evolution of the discourses in Luxembourg on referenda as an expression of political conflicts as well as more generally on referendum as a political instrument. Referenda seem to have been used on one hand in situations where parliament could not play its role or was suspected not to be willing to do so, on the other hand to clarify questions that seemed so important that the voters had to be asked directly for their opinion. Whereas the current conclusion that referendum campaigns contribute to show or even to deepen societal polarisations is true also for the grand-duchy, one of the more notable findings of the Luxembourgish case is that this has not retained, at least in the last decades, the utilisation of the instrument of referendum. Especially concerning matters linked to the subject of democratic or state structures, the government seems to have preferred to let the voters give their point of view, although the risk of polarisation was given and new anti-government movements often grew from the referendum campaigns. In contrast to the relative success of the referendum in the last hundred years, other instruments of direct political participation have been sparsely developed.

Introduction

Since the introduction of universal suffrage in Luxembourg in 1919, the grand duchy has been the site of a handful of national referendums in 1919, 1937, 2005 and 2015, which places it, in the European context, among the sporadic users of this practice (Morel, 2019: 47–64). Before examining some of the Luxembourgish referendums in more detail from a historiographical point of view, pondering their historical context as well as the much-debated controversial principles they were based on and the changing societal image of the referendum as an instrument of (semi-)direct democracy, the paper will briefly outline the historical significance of the referendum and the scientific interest it has attracted.

As described by Antoine Chollet, the first constitutional referendums were held in the USA, and the idea was taken up by the French Revolution. After the revolutionary era however, the instrument lost its importance, and was even discredited by the pseudo-democratic plebiscites of Napoleon III. The history of the referendum was then written above all in Switzerland, where the 19th century saw the development, influenced by the French Revolution, of new mechanisms of direct democracy, especially on a communal and cantonal level. It was only at the end of the century that the idea of the referendum was picked up again in the USA (Chollet, 2019: 59–66; Hamon and Passelecq, 2001: 5–6; Morel, 2019: 75–103). In parallel, scientific literature on this instrument also appeared notably in the USA, the United Kingdom and in France, dealing with its legal form as well as its political impact. Scientific interest has been renewed since the last third of the 20th century, against the background as well of decolonisation and the fall of the Berlin Wall, as of stronger demands for political participation (Morel, 2019: 39–53)[1]. Since the beginning of the 21st century, scholars have begun to focus on national referendums on European questions called with increasing frequency (Esposito, 2006)[2].

In Luxembourg, more elaborate analyses of the subject appeared as late as the last third of the 20th century. The first deeper historiographical analysis, which is still of value today, was written in 1970 by the Belgian historian Nicole Verougstraete-Comeliau, critically examining the referendums of 1919 in the political context of post-war

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1 On constitutional referendums in former colonies and former Eastern Bloc states of the, see (Tierney, 2014); for examples of the renewal of semi-direct democracy in the Western world (Delpérée, 1985).

2 On the French example, see (Morel, 2019: 129–133).

Luxembourg (Verougstraete-Comeliau, 1970)[3]. Her Luxembourgish colleague Christian Calmes followed in 1979 with an analysis of the parliamentary debates on these referendums (Calmes, 1979). The influence of demands for a more participatory democracy was put in evidence in several brochures and dossiers (Direkt Demokratie, 1996; Forum, 2001). A number of publications were issued in the context of commemorations of the referendum of 1937: in 1967, 1977, 1987 and 1997 for instance, articles appeared in several journals and periodicals, mainly arguing that the outcome of the 1937 referendum had been a victory of democracy.[4] At the same time, the first academic papers were also published, often from a legal point of view (Bonn, 1968; Huss, 1988; Biever, 1990). But it was only in the aftermath of the referendum of 2005 that the issue was studied with a resolutely scientific focus, mostly from a legal or political science perspective (Dumont et al., 2007; Gerkrad et al., 2010; Dormal, 2014; Dormal, 2016; Kies et al., 2019). In the field of historiography, some historians have mentioned referendums in their analyses of the revolutionary/republican movement of 1918/1919.[5] The legal scholar Luc Heuschling set his questioning of the dominant discourse on the consultative character of the Luxembourgish referendum into a historical framework, and the political scientist Michel Dormal, in his doctoral thesis, also touched on the referendums of 1919 and 1937 (Heuschling, 2015; Dormal, 2017: 176–181, 312–319). However, Ben Fayot's short comparison of the referendums of 1919, 1937 and 2005 remains the only attempt to analyse the historical evolution of the Luxembourgish referendum practice as a whole (Fayot, 2006).

Why did Luxembourg introduce this instrument in the first place? Luxembourgish politicians knew about popular consultation because it had been used in other countries. They were especially familiar with French plebiscites under Napoléon III, however, they reflected badly on the practice. In contrast, the example of Switzerland constructed a positive image of the referendum as an element of direct democracy, and it was actually studied by the Government and the State Council during the preparation of the Constitutional reform aimed, among other things, at introducing universal suffrage.[6]

Unlike the Socialists and Liberals, who had praised the instrument in the constitutional debates during the First World War, the Catholic-leaning Party of the Right did not push for the introduction of the referendum in its proposals on the reform of the electoral system be-

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3   Apart from this author, who lived in Luxembourg at that time, there has been no international scientific interest for the Luxembourg case.

4   For instance: (Cerf, 1967; Kieffer, 1967; Koch-Kent, 1982; Forum, 1987; Trausch, 1987; Tageblatt, 1997).

5   See for instance (Collart, 1959: 317–322).

6   ANLux, AE-00182-06, Telegram of Prime Minister Reuter to the Luxembourgish Legation in Berne on behalf of State Council, s.d., probably end of November 1917.

fore 1918, when it first came into power.[7] Since from 1918 until 2013, the Party of the Right and its successor, the "Christian-Social People's Party" (CSV), were nearly always the strongest party, the referendum was, ironically, most often used by the Catholic politicians, the referendum of 2015 being the first ever to be held under a coalition excluding their party. Another thing to note is that all national referendums have been initiated by governments, sometimes on the demand of parties or pressure groups, but not on the basis of petitions by population movements.[8] The amendment to the 1919 Constitution which provided for the organisation of referendums and introduced the concept of a popular initiative was not drafted until 2005 (Loi, 2005, art. 3)[9]. Although MP Hubert Clément of the Workers' Party included the option of popular initiative in his 1935 legislative initiative for a law on referendums, this idea was never seriously discussed until the end of the 20th century (Proposition de loi, 1935)[10]. Apart from the referendum, other instruments of direct participation have rarely been put in practice until the 21st century, and even then mostly on a communal level, and representative democracy was thus rarely disturbed by new, more direct forms of democracy.[11]

Referendums of 1919

As early as 1917, a staunchly republican Luxembourgish colony in Paris criticised Luxembourgish monarch grand-duchess Marie Adelheid's teutophilia, and asked for a popular consultation on the future form of the Luxembourgish state.[12] In December of the same year, when

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7   In 1914, Catholic politicians founded the *Rechts-Partei* (*Party of the Right*), which was renamed *Chrëschtlech-Sozial Vollékspartei* (*Christian-Social People's Party*) after the Second World War. The referendum is not mentioned in two important brochures edited by the Party of the Right. (Luxemburger Katholischer Volksverein, 1911; Mack & Luxemburger Katholischer Volksverein, 1916).

8   The constitutional amendment introduced in 1919 did not specify the character of the referendum but referred to a law which should fix the conditions under which the electors may "be called" to express their will (Constitution, 1919, art. 52).

9   On the question of whether the Luxemburgish referendum as defined in the Constitution of 1919 was meant as decisional or consultative, see (Heuschling, 2015).

10   Clément also mentioned the "*Initiative populaire*" and the "*veto populaire*". He understood these instruments as elements of "semi-direct government". The Socialist Party had renamed itself to theWorkers' Party in the 1920s. After the Second World War, its name was changed into *Letzebuerger Sozialistesch Aarbechterpartei* (Luxembourgish Socialist Workers' Party, LSAP). To facilitate reading, the name Workers' Party is used throughout the article.

11   The instrument of the petition is experiencing a revival in the form of the e-petition. See (Kies, 2019).

12   ANLux, AE-00681, Les Luxembourgeois de Paris demandent la déchéance du régime grand-ducal. In: Le Petit Parisien, 18.5.1917 [Typed Copy].

Parliament started to discuss the constitutional reform, the Liberals described the referendum in their proposals as follows: "The crowning of the democratic edifice requires the introduction of the referendum, partly to allow the people to ratify or reject an action by the legislator, and partly to prevent the destiny of the Luxembourgish people being decided without their consent".[13] In April 1918, the left liberal newspaper "*Tageblatt*" proclaimed that through the referendum, "the will of the people [...] appears in the purest and most sincere form".[14] In the summer of 1918, the Democratic Clubs close to the Liberal Party still demanded that the referendum be inscribed in the Constitution (Tageblatt, 1918: 2), and in spring 1919, the socialist members of parliament suggested to integrate the referendum in the constitutional article on suffrage, a proposal that was unanimously adopted in Parliament.

However, the 1919 referendum on the retaining of the monarchy was decided before the legal framework for the introduction of universal suffrage was put into place, during one of the most serious internal crises the grand-duchy had ever experienced. Directly after the end of the First World War, in the light of social and political demands by some Workers' and Peasants' Councils, there was a political movement in favour of the abolition of the monarchy or at least of the Nassau-Weilburg dynasty. But neutral Luxembourg's raison d'être as a state was also questioned by the Allied Forces, since Luxembourg accepted German occupation during the war without too much protest. The referendum had already been announced by the government in the form of a poster released on Armistice day. It said that the government, in consultation with the monarch, was going to put the question of the future form of government "entirely in the hands of the Luxembourgish people". In the following days, the idea of a referendum also played a role in the fierce parliamentary debates centred around the question which form of government was most suitable for the small country: the monarchy or the republic. But the abdication of the dynasty was put to the vote and was rejected by a small margin. The proposal to organise a referendum on the question was then a compromise which everybody, from the right to the left, could accept.

When the prime minister Émile Reuter (Party of the Right) introduced the idea of a referendum in parliament,[15] he also linked it to the principle of the right of peoples to self-determination, very much en

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13   ANLux, AE-00187-05, Propositions tendant à l'introduction du suffrage universel et à la révision des dispositions afférentes de la Constitution. All translations of French and German citations by the author.

14   Cited in: (*Verfassungsreform*, 1918: 39). However, the Liberals agreed to withdraw this proposal, first because the State Council was against it, and second in order to get a qualified majority on other points.

15   Since 1857, the term '*ministre d'état*' designated the function of the head of government. In 2018, it was changed to 'premier ministre'. (Arrêté grand-ducal, 2018).

vogue at the time.[16] As in other European countries, the impact of the Wilsonian doctrine of self-determination influenced the governmental plans for the 1919 referendum in Luxembourg.[17] Although the Socialists and the Liberals had advocated for the instrument of the referendum before, they quickly opposed its use in this specific case, fearing that they might lose the forthcoming battle. Especially the Liberals were alarmed by Reuter's pronouncement that women should also vote. One element of the argumentation of the liberal and socialist speakers was that a parliament still elected under a census system could not bring about a referendum and that only a new chamber, constituted after the introduction of universal suffrage, should decide on this matter. Another point, made mostly by Socialists, was that the referendum had only a consultative status and that its outcome might not be followed by the government.

The roles were thus somewhat reversed: the left that had traditionally stood for universal suffrage and strengthening of democracy was now voicing reservations, whilst the Catholic right that had been reluctant about the introduction of universal suffrage before the war now wanted to allow, for the first time in Luxembourgish history, the entire adult Luxembourgish population, male and female, to express itself politically. While the referendum for the Party of the Right clearly had a strategic benefit of embarrassing the left, Reuter may not have seen this in the beginning, and he may have wanted to gather a parliamentary majority as large as possible around his proposal in order to impress the Allied Forces.[18] The referendum served to stress the legitimacy of an independent Luxembourg at a time when different powers, especially Belgium, were trying to win support for an annexation of the grand-duchy. At the same time, among the proponents of a republic, most of them left-wingers, some had a strong desire for Luxembourg to become a French Département.

In January 1919, the republican movement that had been gaining support was presented with a fait accompli with the abdication of Marie Adelheid, brought about by the government and immediately followed by the accession to the throne of her sister Charlotte. The referendum project was however retained, and a second set of questions on forming a new economic union with a neighbouring country was added on the ballot, as Luxembourg had left the German Zollverein. In the course of the following months, the Party of the Right campaigned both for the referendum as an expression of Luxembourg's desire for

16   See also ANLUX, CdD-2027, Projet de Loi concernant l'organisation d'un referendum en conformité de la résolution adoptée par la Chambre des Députés à la séance du 13 Novembre 1918.

17   On the plebiscites taking place in the aftermath of the First World War in other parts of Europe, however in quite different political contexts, see (Whelan, 1994; Qvortrup, 2017: 551–552).

18   See (Wagener, 2019: 58).

self-determination and for the retaining of monarchy. It tried to mobilise the voters, especially the new female ones, with the argument that a vote for Charlotte was a vote for independence.[19] The liberals and leftists for their part failed to formulate a coherent position. Some of them called for abstention, to show that the referendum was biased. Others, mostly Socialists, still campaigned for the Republic, demonstrating that they had not given up the instrument of the referendum entirely.

The outcome of the 1919 referendum was a massive yes – 78 percent of the valid votes – for the monarchy under the new Grand Duchess Charlotte. The campaign of the Party of the Right had succeeded, but the referendum helped widen the gap between the right and the left, many liberals and socialists remaining more or less openly republican in the following years, and even attacking monarchy in parliament.[20] In subsequent years, their failure in the streets and at the polls brought the republican cause into disrepute, and with it the referendum (Wagener, 2012: 26–27)[21]. Nevertheless, the experience of 1919 did not lead them to question the instrument of the referendum. As for the Party of the Right, it did not promote the referendum very enthusiastically in the aftermath of 1919 (Zentrale der Rechtspartei, 1920)[22].

Referendum of 1937

Hubert Clément's above-mentioned legislative initiative of 24 January 1935 aimed at completing a parliamentary system that was already seen as weakened in Luxembourg as well as in other European countries. He referred notably to a specific disposition on parliamentary elections: they had to take place every three years in two of the four constituencies in rotation, which prevented radical changes in the composition of parliament and made a coalition change difficult. In his eyes the referendum was a way to avoid a situation where the parliamentary majority "might give way, divest itself of its powers or suspend its activities under circumstances that require a heightened sense of vigilance and

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19   On the question of the role of women in the 1919 referendum on monarchy, see (Wagener, 2021).

20   On the side of the Socialists, this was for instance the case with the deputy Marguerite Thomas-Clement (Wagener, 1997: 105). See also examples in the column *Kritik der Zeit* in the *Proletarier*, official organ of the Free Unions (Proletarier, 1923/24).

21   The official organ of the Socialist Party was called Soziale Republik until 1924, when the name of the party changed, the publication was renamed to *Arbeiter Zeitung*.

22   In 1921, state minister Reuter submitted a draft bill for the organisation of referendums, which was ignored. ANLux, AE-00299, letter to the State Council, 1 May 1921.

a broadened scope of responsibilities and constitutional prerogatives". In this, Clément merely followed a number of European politicians and publicists who had been claiming since the 1920s that the referendum could be an answer to the growing criticism of parliamentarism.[23] In fact, the questioning of the efficiency of the parliamentary system by politicians and pundits had already started at the end of the 19th century, and several reforms geared towards modernisation had been suggested, such as the introduction of the proportional electoral system, universal suffrage or the referendum. During the 1920s, the criticism became stronger, including in Luxembourg itself, but the usefulness of the referendum was never put into doubt. On the contrary, although the Socialists had been defeated in 1919 on the issue of the republic, a party meeting in 1930 ended in a resolution demanding that the socialist group in parliament submit a draft bill for the organisation of referendums in order to "guarantee that the people have the final say in all matters of national interest" (Tageblatt, 1930).

The archives show that the government was also working on the question of the design of the instrument of the referendum since 1930.[24] However, it was the evolution of the project for the Law on Political and Social Order that gave a new dynamic to the question: the draft bill of the so-called *Maulkorbgesetz* ("muzzle law"), that had first been mentioned in Parliament by prime minister Joseph Bech in 1933 and was to be officially motioned by the government shortly after Clément's initiative, on 2 May 1935.[25] The first version of the bill contained a passage on the extension of governmental powers. In addition, it allowed the government to take measures against anti-constitutional forces.[26] However, the bill was then split in two: one on the discretionary powers for the government, and one on the Law on Political and Social Order. The latter provided in its last version for the outlawing of the Communist Party and banning of communist as well as any other

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23   For France see: (Roussellier, 2002); for Luxembourg: (Dormal, 2019).

24   In 1931, the Workers' Party representative Pierre Krier, demanding a draft bill for the referendum, underlined that he had already done so the year before. The insistence of the Workers' Party seems to have led the government to draft the text, see ANLux, AE-00299, notes "Le referendum dans le Grand-Duché. Rapport préliminaire. État actuel et projet d'avenir" [15 December 1930] and "Introduction du Referendum" of 30 March 1932 by Albert Wehrer, Government counsellor. As a member of parliament, Bech had been implicated in the debate on the referendum in 1919. See (Heuschling, 2015: 25–26).

25   Jeudi, 9 novembre 1933 (3e séance). In: Compte rendu des séances de la Chambre des Députés (CCR), 9.11.1933, p. 84, intervention Joseph Bech; Mardi, 14 ovembre 1933 (4e séance), in CCR, 14.11.1933; Projet de loi ayant pour objet la défense de l'ordre politique et social, 3.1.1935; Loi (1937). The draft bill may have been elaborated already in 1932, see (Trausch, 1987: 8).

26   For a recent presentation of the Muzzling Law project, linking it to the prime minister's tentative to use of the dictatorial powers introduced in 1915, see (Scuto, 2013).

groups that aimed to change the Constitution or impede the functioning of the constitutional institutions by force.[27] In July 1935, the idea of holding a referendum to settle the matter was put forward by a socialist representative in parliament, however, the bill was only debated in Parliament in April 1937 (Fayot, 2005: 25).

Meanwhile, a large campaign against the muzzle law had started as early as 1936, mainly led by left Liberals, left wing students, syndicalists and militants of the Workers' Party as well as the Communist Party itself. The National Democrats, a new far-right opposition party, joined the movement as well.[28] It seems that even Catholic voters were sceptical about the draft bill. The movement gained considerable momentum in the beginning of 1937 and succeeded in mobilising the whole society. The Workers' Party was divided: its moderate leaders refused to work together with Communists, who in the long run hoped for the emergence of a government modelled on the French Popular Front (Die kommunistische Gefahr, 1987). Nevertheless, the Workers' Party opposed the muzzle law. Although the movement grew stronger in the run-up to the vote, the majority in Parliament felt that its electoral base was strong enough to put the question to the test. According to a report by the Central Section[29], the draft bill corresponded with the ideas of the vast majority of the people, and the body therefore did not hesitate, when the proposal was made by the unions, to suggest to Parliament and the government to hold a referendum, "in order to allow all Luxembourgers to speak out for the defence of the Constitution against all revolutionary and subversive movements".[30]

This time, no political forces questioned the instrument of the referendum. On the contrary, whereas the governmental parties wanted to use it to strengthen their political position, the opposition – from left to right – saw in it a strong weapon to mobilise the voters. Jängi Fohrmann, parliamentary representative of the Workers' Party, even stated: "*We have always stood for popular consultation*".[31] The bill was put to the vote on 7 May 1937, shortly before the elections scheduled for

27 Projet de loi, portant organisation du referendum du 6 juin 1937. Avis du Conseil d'État, 4.5.1937. In: CCR, Séance 1936–37, Annexes, n° 28.

28 The National Democrats also agitated in favour of the instrument of the referendum, declaring that it offered the people "the only way directly to take a position on important problems and break the power of the party bigwigs". Luxemburger Volksblatt (1936).

29 In some countries, sections were the predecessors of parliamentary committees.

30 ANLux, CdD-2583, Bech, Joseph, Projet de loi portant sur l'institution d'un referendum sur l'entrée en vigueur de la loi décrétant la dissolution du parti communiste et des groupements et associations qui, par violences ou menaces, visent à changer la Constitution ou les lois du pays, Dépêche au Conseil d'État, 28.4.1937.

31 Cited after (Fayot, 2005: 16).

6 June 1937, and the referendum was conducted together with them. The law had been adopted in parliament by a comfortable majority, but on that fateful day, the Party of the Right and the moderate Liberals had to acknowledge their defeat, although the referendum resulted in a victory for 'No' by only 50.67 percent of valid votes (Fayot, 2005, p. 25). In contrast to 1919, the massive intervention of the dominant press and even the government itself in favour of the 'Yes' camp did not succeed in securing a majority for the bill (Gouvernement, 1937).

Similarly to 1919 however, the referendum of 1937 also contributed to polarisation in society: the campaign had been a tug-of-war between the proponents of 'Yes' and 'No'. Although it seemed that this ideological gap was closed in the autumn of the same year when the Workers' Party first entered government and Catholics, Liberals and Socialists had to find a way to co-exist politically, the new government majority was tenuous, and for the Party of the Right the fact that it had to co-operate with the Socialists was a tough pill to swallow.[32] Bech, who resigned after the failure of the referendum, took the post of minister for external affairs in the next government and continued his career during exile and after the war. The war also put a stop to Bech's authoritarian endeavours.

The bill of 1937 has often been linked by historians to Bech's strong anti-communism (Worré, 1987). The idea of banning the communist organisations has to be seen in a broader European context, where the strengthening of communist parties was an expression of the appeal the communist model had gained as an alternative to representative democracy. At the other end of the political spectrum, authoritarian states had started to put laws into place in order to destroy communist parties which they counted among their most dangerous enemies. However, since the Bolshevik Revolution, anti-communism was very common among the leaders of liberal democracies as well, and it even intensified with the advent of popular front-type governments in Europe.[33] The outcome of the referendum did not lead to abatement of anti-communist tendencies among the main political forces, and in 1940 the Workers' Party itself worked on measures against communists, but the outbreak of the Second World War thwarted this plan. This fact was occulted in later commemorative publications of the left, where the 'No' in the referendum was described as a sort of resistance movement *avant la lettre* (Dondelinger, 1987).

32   For instance, the 'war on flags' continued even after 1937, because Catholic priests banned the flying of red flags at the burials of members of the leftist unions (Signal, 1938). On the crisis of government after the referendum, see Fayot, 1979: 431–437; Trausch, 2008: 233–236, 238–239).

33   In Switzerland, the Communist Party was forbidden in 1940 (Zimmermann, 2019). For a transnational view on anti-communism, see (Stone and Chamedes, 2018).

Referendum of 2005

The gap of nearly 70 years between 1937 and 2005 is a sign of the misgivings stemming from the practical experiences with the instrument of the referendum before the Second World War.[34] In 1987, the leading Luxembourgish historian Gilbert Trausch stated that the instrument of the referendum was dead: "What government would still dare let the people settle a burning issue directly?" (Trausch, 1987: 8–9; Fayot, 2006, pp. 81–84). But the 1970s and 1980s saw the rise of opposition parties and movements that presented the referendum as a means to achieve more democracy, either in terms of the sovereignist understanding of popular participation, as was the case with the small right-wing populist party *Aktiounskomitee fir Demokratie a Rentegerechtegkeet* (ADR), or in the sense of grassroots democracy favoured by the Green Party (Fayot, 2006: 12–13; Heuschling 2015: 27, fn. 148). Left activists, however, have called for 'basic democracy' through citizens' assemblies with decision-making powers, and criticised the instrument of the referendum as pseudo–democratic.[35] New parties built up electoral pressure that forced the political majority in Luxembourg to react. Based on the idea of using the referendum more broadly, a legislative framework was created for communal-level referendums in 1989, and from 2003 to 2005 dispositions were taken for national referendums by parliamentary or popular initiative on constitutional and legislative questions.[36]

Still, the Luxembourgish historian and socialist Member of Parliament Ben Fayot wrote about the 2005 referendum: "In our country there is, apart from the obligatory hats-off by the parties for participatory democracy, no indication of a profound evolution of our political system. In particular, the exceptional nature of the referendums makes it difficult to see such an evolution." (Fayot, 2005: 20)

Today, one could take the Luxembourgish referendum of 10 July 2005 on the European Constitution Treaty (ECT) as a sign of a new dynamic which continues to this day. That referendum may be placed in the context of a series of referendums on the same question that were held in different countries of the EU at that time. One may set all the referendum campaigns in European member states, as does Gilles Ivaldi for France, in relation to the "*development of anti-establishment attitudes in the public and the rise of anti-system parties on the margins*

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34 For such an interpretation see Bonn (1968), p. 28–29. Heuschling speaks of a "barren spell" (Heuschling, 2015: 27–28). Apart from the Workers' Party initiative to clarify the conditions of the referendum in the Constitution of 1948 (Heuschling, 2015: 27, fn. 147), the only known initiative is a failed one from 1950, started by a peace movement for holding a referendum on the prevention of the introduction of compulsory military service (Mouvement pour la paix, 1950).

35 For the split in the grassroots movement on that point, see (Morel, 2019: 183–184).

36 Loi communale du 13 décembre 1988. In: Mémorial A (13.12.1988) 64, p. 1221–1237, here p. 1225, art. 35; Loi du 4 février 2005 relative au référendum au niveau national. In: Mémorial A, (3.3.2005) 27, pp. 547–562.

of the political system, since the late 1980s". But the same author also stresses (for France) that "*in many respects, the rejection of the ECT in 2005 was first and foremost a retrospective vote on the process of European integration itself, and the unilateral termination by a majority of voters of the social welfare and economic growth confidence pact that they had made with their national political elites on the occasion of the Maastricht Treaty referendum in 1992*".[37] One is tempted to add, for Luxembourg at least, that the Maastricht Treaty provoked fundamental objections to the European integration process as early as 1992.

But it was only when the question of the European integration became a pressing issue that the idea of a popular consultation regained the interest of the government coalition. The idea was first suggested in Luxembourg at the beginning of 2003 by the ADR that was very much in favour of referendums.[38] It was based on a critical attitude towards the proposed content of the European Constitution as well as on the form of the process of elaboration of the text, which was considered undemocratic (Fayot, 2006: 16–17). When the Workers' Party also asked, immediately after the European Convention had finished its work on the text of the Constitution, for a referendum in its support, the government, a coalition of the CSV and the Workers' Party, announced its willingness to consult the population on this matter (Fayot, 2006: 27).

This time, the government had all the parties represented in parliament on its side for the support of 'Yes' to the European Constitution, except for the populist ADR and The Left, a party situated to the left of the Social Democrats. Although the Green party was split internally on this question, the 'Yes' camp prevailed. The Communist Party, which had no parliamentary representative, pushed for 'No'. In addition to the political parties, the *Comité pour le NON à la Constitution européenne* was formed as early as June 2004; it was made up of representatives of leftist and alternative NGOs that had emerged from pacifist, social, environmental and internationalist movements, and it quickly succeeded in becoming a central actor in the debate (Dumont et al., 2007: 22–23). Only one month before the referendum, on 10 June, the *Comité pour le Oui à la Constitution*, comprising 66 public figures, tried to start its own campaign for 'Yes'.[39]

Few public actors spoke out against the use of the referendum in this matter in 2005, and the instrument seemed to have become a legitimate way of resolving political questions. But during this referendum campaign it became clear that the legal framework of the instrument

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37 (Ivaldi, 2006: 2). See also (Morel: 150–163). However, the Luxembourgers seem more enthusiastic about the ECT than other Europeans. (Eurobaromètre Flash, 2005: 19).

38 The party changed its name to *Alternativ Demokratesch Reformpartei* in 2006.

39 See (Forum, 2005; Dumont et al., 2007: 64).

was insufficient. In a post-referendum poll, two thirds of the persons interviewed thought that the debates on the European Constitution had started too late (Eurobaromètre Flash, 2005). Also, no specific neutral institution had been put in place to organise and control the campaign. Thus the privileged position of the government and the political majority as regards the process of public opinion-making turned into an argument for the adversaries of the referendum: the referendum, so they claimed, was not taking place under conditions of equity.

'Yes' won 56.52%, quite a meagre advantage over 'No'. What seemed easy pickings for the government in the beginning, turned out to be a neck-and-neck race in which the prime minister Jean-Claude Juncker (CSV) felt he had to threaten to resign in case 'No' won in order to convince his supporters. The debate on the European Constitution managed to unleash a passionate debate on Europeanism for the first time in Luxembourgish history. A sociological study on the campaign for and the outcome of the referendum characterises 2005 as "one of the most European years of Luxembourg's history" (Dumont et al., 2007: 9–10). However, the referendum also remains in collective memory as an expression of the weakening of Luxembourgish attachment to Europe, and, more specifically, as an opportunity for the opponents of liberalisation and social dumping, be they right or left, nationalist or internationalist, to make their voice heard.

Referendums of 2015

What was novel about the referendums that took place 10 years later was that they were held shortly after a fundamental political change – a coalition of the Liberal Party, the Green Party and the Workers' Party was formed and, rather surprisingly, put an end to the former coalitions with the CSV as the dominant partner. The Christian-Socialists now made up the larger part of the opposition. After that fundamental political shift, the new government was in a pioneering spirit and wanted to gain support for several fundamental changes in the political system of Luxembourg. Three questions were put forward on 7 June 2015: lowering the minimum voting age to 16, voting rights for parliament, under certain conditions, for non-nationals and limiting the term of office of government members to ten years. As announced officially, the referendum was to be a first step in a more general constitutional reform, based on consultation with the public.[40]

The idea of extending the voting rights was not new in Luxembourg, it had already been discussed on a communal level in the 1980s in the light of the fact that a high percentage of non-Luxembourgers

40 A constitutional referendum was to take place in 2019, but this plan was scrapped when the CSV refused to support the project – as all constitutional changes required a qualified majority in parliament. (Kies et al., 2019: 222).

lived in the country. At present, 47 percent of the population do not have Luxembourgish citizenship. Under the influence of the Maastricht Treaty, voting rights have been extended step by step, so that today it is possible for non-Luxembourgers and even non-EU citizens to vote in local as well as EU Parliament elections under certain conditions, mostly involving a qualifying period of residence. The proponents of the extension of voting rights for parliament elections likewise argued for equality for all residents, while those who wanted to keep the status quo evoked the sovereign rights of Luxembourgers.

The platform for 'Yes' gathered NGOs working with migrants or in the field of culture, Christian unions as well as leftist ones, and even the Bishop of Luxembourg stood for an extension of voting rights. The business world, confronted with chronic workforce shortage, was also in favour of 'Yes'. Michel Wurth for instance, the then president of the Chamber of Commerce, thought that it could give Luxembourg a strong positive image vis-à-vis workers and investors from abroad: "*It is time to tell these employees and these investors that we have trust in them and that we want them to participate in the democratic process*" (Michel Wurth, 2015). But the business leaders also saw the residential voting rights as a means as to weaken the influence of Luxembourgish voters, who were in large part civil servants with high salaries and pensioners.

In the realm of civil society, a right-wing 'No' platform called Nee2015.lu succeeded in gaining the support of large swathes of society through a social media campaign (Pauly, 2019: 232)[41]. The strong Union of Civil Servants was also against the referendum proposal. Leftist unions abstained from campaigning, fearing they could alienate their Luxembourgish members. To a lesser extent, their abstention may also have been connected to the fact that economic and industrial patrons were in favour of 'Yes'.[42]

The official divide between the Yes and No camps largely followed the divide of the political landscape. But the outcome of the referendum showed that a large part of the voters of the ruling coalition parties did not agree with the progressive ideas that were on the ballot. The lowering of the minimum voting age received only 19 percent of support, voting rights for non-citizen residents only 22 percent and the limiting of terms of office for government officials only 30 percent. Extending the right to vote for parliament were seen by both sides as a way to influence politics, and the outcome of the referendum reinforced the political status quo. Luxembourgish voters were not inclined to give up their political privileges vis-à-vis non-Luxembourgish people. While it

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41 The person behind this platform later joined the populist ADR party and was elected member of parliament in the elections of 2018.

42 On the phenomenon of 'shift of issue', where voters answer a question other than the one that is actually posed, see (Morel, 2019: 232–236).

was especially this question that polarised Luxembourgish society, the other two proposals clearly did not gain strong support either.

As in 2005, nobody questioned the use of the referendum as such, except the Communist Party which called for abstention (KPL, n.d.). Although its argumentation was that the referendum questions were biased, one can also ask if this party, like the left unions, feared the possibility of estranging its voters who would not approve of a more democratic voting system. From the scholarly corner, the government coalition was criticised for not having put in place citizen forums in preparation of the referendum (Bumb, 2015).

Analysts have stated that the outcome of the referendum of 2015 showed a deepening of the gap between the so-called establishment on the one hand and an aggrieved majority on the other, but also concluded that most of those in favour of double nationality could not be characterised as xenophobic (Kies et al., 2019: 14–15). Yet, the referendum also made visible the political power of 'native' Luxembourgers, in spite of the fact that they were on the verge of becoming a minority group. This illustrates, quite starkly, a general characteristic of the referendum as such, namely that one part of the population takes a decision which may concern all habitants.[43] However, the issue remains on the table to this day, and NGOs fighting for migrants' rights as well as some political parties continue to point to the exclusion of nearly half of the adult population, speaking of an 'Apartheid' system. Even some public figures with Christian-Socialist leanings have declared themselves in favour of an extension under certain conditions (Pauly, 2019: 233).

Conclusion

In the light of this analysis, what do the Luxembourgish referendums represent? To grasp their historical meaning, four aspects should be stressed: they are quintessentially European debates and developments, they mirror the gap in the understanding of democracy between the pre-war era and the subsequent decades, they reveal the evolution of the understanding and the practice of semi-direct democracy, and they render visible the fact that political governance oscillates in the field of tension between agitation and appeasement.

Although the Luxembourgish referendums are at first glance milestones in a specific national history, they must be interpreted in a European and international context. The political consultation of 1919 was a means to avoid loss of statehood, which was a risk directly linked to the outcome of the First World War and was shared by several countries. The 1937 referendum mirrors the danger of communism

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43   For more on this, see (Morel: 210).

perceived by many governments of the time, whereas the 2005 one was just one element in a series of national consultations on the ECT. If the larger context is evident for these three, it is less so for the referendums of 2015. However, the question of extending the voting rights is becoming a preoccupation in other countries as well. While voting at 16 years of age is already a reality in some areas, suffrage rights of non-nationals have sometimes been introduced on a communal level after the Maastricht process. The question of who constitutes the electorate in a country, of particular topical interest in Luxembourg, is becoming an issue elsewhere as well with the increasing mobility inside and outside Europe, and the debates in the grand-duchy may be a foretaste of questions that will impose themselves on an international level in the long run.

One salient aspect on the Luxembourgish referendums is that most of them had to do, though in very different ways, with certain aspects of democracy: from the form of government (1919) over the acceptance of political pluralism (1937) to the distribution of political decision-making between the European and the national level (2005) to the question of universality of suffrage (2015). But there is one clear factor of separation between the referendums of 1919 and 1937 on the one hand, and the 2005 and 2015 ones on the other. The former were conducted by the government following the conservative logic of stabilising the system, be it to maintain the monarchy or ban the Communist Party. In the latter we can see much more of logic of transformation: although most Luxembourgers had always seen themselves as Europe-friendly, accepting the European Constitution through the referendum of 2005 was a step in a new direction, with certain risks attached. This transformative attitude was even more evident in the referendum of 2015. Especially with the proposition on introducing legislative to grant voting rights to non-nationals, the government coalition showed that it wanted Luxembourg to take on the role of a pioneer amongst the member states of the Union and even beyond.

Viewed from this angle, the gap of more than 70 years between the first and the second pair of referendums is surely not a coincidence. After the government majority lost in the referendum of 1937, there was a clear intention not to promote the instrument of the referendum anymore, although this was not formulated openly. Besides the government's disillusionment vis-à-vis the tool of the referendum, other factors must have played a role. To some degree, the change of attitude was the expression of a more favourable status of representative democracy after the war, perhaps bolstered by the experiences of exiled Luxembourgish politicians in countries with a strong representative system such as the United Kingdom or the USA. But the dismissal of the referendum also mirrored a desire for political stability and predictability after the frightening experiences of the interwar period. According to Ben Fayot, these wishes were fulfilled by the appeasement through the acceptance of the Workers' Party as government

partner after the Second World War, the economic relaunch, and the success of the social market economy. One should also keep in mind that several pre-War politicians who had fought over the referendum of 1937 were still influential after the war: Joseph Bech, for instance, only gave up his post of minister for Foreign Affairs in 1958 and was then speaker of the parliament until 1964. This may help explain why the proposition of the Workers' Party of 1948 to refine and enlarge the modalities of the referendum in the Constitution was rejected. More generally, post-war Luxembourg was going through a very conservative era.[44] But this societal deadlock only concealed a generational gap on questions of democracy and participation, which first became apparent in the protest movement of 1968 and then broadened with the development of the new social movements since the 1970s. The gap can thus be interpreted in the context of a more profound change of Luxembourgish politics, where Catholic forces gradually lost ground.

The renewed call for the reintroduction of referendums since the 1980s, based on either the sovereignist or participative logic, sounds like a repetition of 1919. But the understanding of democracy has changed profoundly in the last hundred years – whereas the right to statehood has gone from being a crucial point in post-war negotiations to the status of a far less incisive question of dissipation of sovereign rights in the process of European integration, the belief in the will of the 'people' as the legislator has shrunk considering an increasingly complex composition of the population. The criticism of the parliament has evolved as well: not even the right-wing populist ADR questions parliamentarism, but rather upholds the rights of the national parliament as defence against the perceived danger of a shift of political power towards the European level. The process has become more complex but also, at least in theory, more participative, with new legislation setting up the framework for referendums and introducing the possibility of popular initiative.

In 1930, a government official in charge of drafting a law on the organisation of referendums wrote: "The referendum should not become a means of political agitation, but a weapon given to the nation to make sovereign decisions and, in the words of Lord Salisbury, 'an honest procedure for good governance and the stability of the country'".[45] The statement illustrates the mark that the first referendum in Luxembourg left, but also conveys the hope that the use of referendums could contribute to the stability of the political process. This, however, was not the case. The results of the referendums have often contributed not to political stabilisation, but rather to further polarisation of society, as has been shown by the long-standing conflict between

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44 The historian Henri Wehenkel speaks of a "lead blanket" that lay over the country (Wehenkel, 2018). This was also detectable in conservative historiography which became more critical only in the 1970s (Wagener 2012: 30).

45 ANLux, AE-0299, Note Albert Wehrer 15 December 1930.

the monarchists and the republicans after 1919, the continuation of the culture war between the Party of the Right and the Socialists after 1937, the societal division on the issue of the European project in 2005, and by the bitter fighting around voting rights for non-nationals after 2015 that continues to this day.

These political divides may be partly related to the yes/no format of referendum questions.[46] Owing to this binary structure, referendum campaigns also run the risk of weakening the governmental majority: in 2015, for instance, the conservative CSV and even more so the right populist ADR took political advantage of the government's strategic miscalculation for months. In addition, the referendum as a tool strengthens or brings about extra-parliamentary oppositional movements. Except for 1919, when the government 'won' the referendum, these ad hoc actors, not the established parties, often seem to be the winners. But Luxembourgish referendums, including the one from 1919, have also been transformed into votes of confidence at some stage of the process, be it on the initiative of their authors, as was the case in 2005, or by an opposition campaign, as was the case in 2015.[47] After the 1937 referendum, the prime minister faced so much criticism that he resigned.

Still, since the last century the referendum has gone from an exceptional to a normal practice. While it was presented, in all instances, as an instrument particularly adapted to decisions that had an incisive institutional impact on the country,[48] the referendums of 2015 were described at the same time as a consultation with the Demos to guide the governmental majority in its actions. Following this logic, the prime minister rejected all public calls to resign after the threefold defeat of the 'Yes' camp, which was a clear sign of change from the previous referendums.[49] After the following elections and in spite of the strong ideological split in Luxembourgish society, the three-party-coalition did not fall apart. This may be an indication that with the accumulation

46 Only the 1919 referendum on the form of government gave the voters the possibility to choose between more than two options. On the tendency of 'binarisation of the political game' by the referendum in the French context, see (Parodi, 2001: 16–18). Dormal underlines that the 'politisation' of the debates through the referendum is not necessarily a bad thing, since it forces the parties to overthink their positions. (Dormal, 2014: 18–19). On this question, see also (Morel, 2019: 270).

47 On the risk of a shift from an objective question to a vote of confidence for a leader, see (Duval et al., 1970: 7; Morel, 2019: 19–21). On the example of de Gaulle in France, Laurence Morel also points out the temptation for political leaders to throw their weight into the balance. (Morel: 105–122.)

48 In 2005, Prime Minister Jean-Claude Juncker (CSV) stated that the government attached "such importance to the future European Constitution" that in 2003 it had decided to put its ratification to a national referendum (Gouvernement, 2003).

49 Fayot still wrote in 2006 that Bech's resignation "made sense" after the failed referendum of 1937 (Fayot, 2006: 39).

of experience, the referendum as a practice is losing its exceptional character and becoming a normality. The fact that in the last decades, the instrument of the referendum has no longer been seen in connection with a specific political camp also points to that conclusion. The referendum seems to be more and more accepted as an instrument that has its place in a representative democracy and not something that puts it at incalculable risk.

On the other hand, there has never been a substantial search for alternative instruments that could be more efficient in strengthening deliberative democracy. The referendum seems inherently attractive in that it fits the routine of the parliamentary and electoral process. Even if the vote is on ideas and not on candidates, it is still a vote. Whereas new forms of deliberative democracy are being put to use in a communal context, tools such as the Eastern Belgian model of the *Bürgerrat* (citizens' council) that would demand a stronger involvement of citizens do not translate onto the legislative level. It seems that such innovations are far less desirable to political actors in legislation than they are in the community. Another important point is that in the last decades, no neutral and independent institution has been created to prepare and coordinate the operations, although criticism of the government misusing its position has become stronger.[50] Even if all parliamentary parties pay lip service to the referendum, the reluctance to put into place a clearly defined structure that would strengthen its prestige and credibility is remarkable.

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50 For a discussion of the organisational questions that present themselves in the context of the referendum process, e.g. informing the public, media control, campaigning budgets etc., see (Butler, 2001: 69–70; Morel, 2019: 226–228).

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