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*Direct Democracy in France and Poland. A Comparative Analysis<sup>1</sup>*

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Demokracja bezpośrednia we Francji i w Polsce. Analiza porównawcza

ABSTRACT

The aim of this article is to conduct a comparative analysis of direct democracy in France and Poland. In the research process, three research questions were formulated: 1) What is the tradition of direct democracy in France and Poland?; 2) What are the solutions characteristics of direct democracy in the constitutions of France and Poland, and other legal acts in these countries?; 3) What are the practical applications of direct democracy tools at the national and local levels in France and Poland?. An analysis of legal acts constituting the legal basis for direct democracy in France and Poland was conducted. Documents related to the practice of direct democracy in these countries were analyzed. France has a long tradition of a direct democracy. Compared to France, Poland has a short tradition of direct democracy. The constitutions of both countries adopted a solution in the form of a national referendum. In addition to the institution of a nationwide referendum, the constitution-makers in France and Poland included the institution of a local referendum. The Constitution of the Republic of Poland also indicates a legislative initiative. Ten national referenda have been held within the Fifth Republic. Turnouts in referendums at the national level ranged from 30.19 to 82.63%. The average turnout in the referendum is 65.82%. In the votes, eight solutions were adopted and two were rejected. Six national referendums have been held in Poland since 1989. Turnouts in referendums at the national level ranged from 7.8 to 58.85%. The average turnout in referendums was 35.87%. Two solutions were adopted in the votes and four were rejected.

**Keywords:** direct democracy, referendum, France, Poland

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<sup>1</sup> The article presents some of the research results obtained during the research project “Direct democracy in France and Poland. Comparative analysis” at the Paris-Est Créteil University val de Marne, Centre d’Étude des Discours, Images, Texts Écrits, Communication (Céditec) in Paris from 1 to 31 May 2022. The project was made possible thanks to a scholarship from the French Government.

## INTRODUCTION

The aim of this article is to conduct a comparative analysis of direct democracy in France and Poland, including several issues: the tradition of direct democracy in France and Poland, the solutions characteristics of direct democracy in the constitutions of France and Poland, the solutions characteristics of direct democracy in other legal acts in France and Poland, the practical application of direct democracy tools at the national level in France and Poland, and the practical application of direct democracy tools at the local level in France and Poland. Answers to the following research questions are sought: 1) What is the tradition of direct democracy in France and Poland?; 2) What are the solutions characteristics of direct democracy in the constitutions of France and Poland, and other legal acts in these countries?; 3) What are the practical applications of direct democracy tools at the national and local levels in France and Poland?. To answer the research questions, a methodology appropriate for social sciences, especially political sciences and law, was used. The method of analysis and criticism of the sources and literature were used for the analysis. The article was divided into five parts: the traditions of direct democracy in France and Poland, the solutions characteristic of direct democracy in the Constitutions of France and Poland, the solutions characteristic of direct democracy in other legal acts in France and Poland, the practical application of direct democracy tools at the national level in France and Poland, and the practical application of direct democracy tools at the local level in France and Poland.

## THE TRADITIONS OF DIRECT DEMOCRACY IN FRANCE AND POLAND

In the modern world, representative democracy is the dominant form of the exercise of state power. Nevertheless, in individual systems we are dealing with its supplementation in the form of institutions characteristic of direct democracy [Marczewska-Rytko 2001]. The range and diversity of the direct democratic institutions used are influenced by many factors, including tradition, historical experience, political philosophy, and political will. The recourse to the institution of direct democracy may serve the citizens themselves, who take a direct part in the political decision-making process, and the ruling elite, who can thus legitimize their power. The institutions of direct democracy include those of a ruling nature – the people’s assembly and referendum – and those of a procedural nature – citizens’ initiative, people’s veto, or recall. Like all over the world, the referendum is the most frequently used institution of direct democracy in France and Poland.

In France, direct democracy has a long tradition [Erhamn 2014]. The institution of referendum was known and held in some historical French regions. In 1522, Francis’ son Henry II organised a popular vote in Verdun, Toul and Metz and in 1527, the French King Francis I held a popular vote in Burgundy [Morel, Qvortrup 2018: 12].

The referendum was an important part of constitutional thought during the French Revolution era. The Girondists' draft of the constitution provided for the popular override of parliamentary acts. Ultimately, this idea was not included in the final draft. For the first time, the institution of a referendum was used in France to adopt the Jacobin Constitution in 1793. According to this Constitution, the new law had to be approved by the people in the referendum. Regarding constitutional issues, the people had the right of initiative if one-tenth of the primary assemblies decided to revise at the national level. The Jacobin Constitution itself was adopted by the referendum [Morel 1996].

In 1789–1799, three referenda were held concerning constitutional acts and two-thirds of the decrees. They were plebiscite in nature and had low attendance. During the reign of Napoleon Bonaparte (1799–1814/1815), four referenda, which were plebiscite in nature, were held. Napoleon used referendums (particularly in 1815) to strengthen the legitimacy of an individual's power. Similarly, Louis Napoleon (nephew of Bonaparte) served this purpose three times from the establishment of the Second Republic in 1848 until the fall of the Second Empire in 1870 [Morel 1996]. No referenda were held during the Third Republic. The practice of direct democracy occurred after World War II when the Fourth Republic was established. Three referenda were used at this time. Their initiator was General de Gaulle, who headed the Provisional Government of the French Republic, but was not the head of the state. In total, there were 14 referenda until the Fifth Republic was established [Morel 2021: 179–202].

Poland's use of direct democracy has a comparatively short history. During the interwar period, such solutions were unknown in Poland. The first referendum held in Poland on 30 June 1946 was forged. It was carried out on the basis of the Act on People's Voting passed by the National Council on 27 April 1946 (specifying the content of referendum questions and the date of voting) and the Act on the conduct of people's voting (specifying the voting ordinance). Direct democracy institutions were not provided for in the 1952 Constitution. Public consultations were utilized in practice. A second referendum was held on 29 November 1987 [Kuciński 1989]. The basis was the Act on social consultations and referendum of 6 May 1987, adopted by the Sejm of the Polish People's Republic [Ustawa z dnia 6 maja 1987 r. o konsultacjach społecznych i referendum]. The resolution adopted by the Sejm (the lower chamber of the Polish Parliament) stated that the subject of the planned referendum would be the matters of reforming the state and economy.

In accordance with the Announcement of the Central Commission for Referendum of 30 November 1987, on the results of the national referendum, the turnout was 67.32%. Regarding the first question, 44.28% of voters were in favour of and 18.57% were against. In the case of the second question, the "yes" votes were 46.29%, and those against: 16.48% [Obwieszczenie Centralnej Komisji do Spraw Referendum z dnia 30 listopada 1987 r.]. The result of the vote did not exceed the required threshold for either count. Each of the two questions was voted on by fewer than half of the eligible voters. Consequently, the obtained results could not be recognized as binding.

In summary, France has a long tradition of direct democracy, both in legal solutions and political practice. Compared with France, Poland has a very short tradition of direct democracy [Marczewska-Rytko 2010a; 2013]. Additionally, it should be emphasized that the first referendum in Poland negatively affected the functioning of the system. The second referendum was similarly negative.

#### THE SOLUTIONS CHARACTERISTICS OF DIRECT DEMOCRACY IN THE CONSTITUTIONS OF FRANCE AND POLAND

The current Constitution of the French Republic of 28 September 1958 [Texte intégral de la Constitution du 4 octobre 1958 en vigueur; Constitution of 4 October 1958] adopted the solution contained in the Preamble, according to which, “the French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789”. In chapter 2 of the Constitution on the sovereignty, pursuant to Article 2, it is assumed that “the principle of the Republic shall be: government of the people, by the people and for the people”. Pursuant to Article 3, “national sovereignty shall vest in the people, who shall exercise it through their representatives and by means of referendum”. Thus, the constitution-maker concluded, that apart from indirect democracy, it is possible to use forms of direct democracy.

An important role in the Constitution was assigned to the President in Chapter II – The President of the Republic, Article 11. In the original text of the Constitution, Article 11 indicated that

the President of the Republic may, on a recommendation from the Government when Parliament is in session, or on a joint motion of the two Houses, published in the Journal Officiel, submit to a referendum any Government Bill which deals with the organization of the public authorities, or with reforms relating to the economic or social policy of the Nation, and to the public services contributing thereto, or which provides for authorization to ratify a treaty which, although not contrary to the Constitution, would affect the functioning of the institutions. Where the referendum is held on the recommendation of the Government, the latter shall make a statement before each House and the same shall be followed by a debate.

Thus, according to the Constitution, for the first time under French constitutionalism, a referendum was introduced not only on constitutional provisions but also on statutory regulations. Voters vote in a referendum on the draft of the bill attached as an annex to the presidential decree in which the head of the state orders a referendum. The referendum initiative belongs to the President on a proposal by both houses of parliament and the government. The Constitutional Act of 4 August 1995, extended the subject of the legislative referendum. Socio-economic issues were then added.

Constitutional Act on 23 July 2008, made further changes to Article 11 [Loi constitutionnelle n° 2008-724 du 23 juillet 2008 de modernisation des institutions de la Ve République; The French Constitutional Law of 23 July 2008; Jakubiak 2012]. According to Article 11, item 1,

the President of the Republic may, on a recommendation from the Government when Parliament is in session, or on a joint motion of the two Houses, published in the Journal Officiel, submit to a referendum any Government Bill which deals with the organization of the public authorities, or with reforms relating to the economic, social or environmental policy of the Nation, and to the public services contributing thereto, or which provides for authorization to ratify a treaty which, although not contrary to the Constitution, would affect the functioning of the institutions.

Environmental policy was added to the items placed on vote in the referendum. Pursuant to Article 11, item 2, "where the referendum is held on the recommendation of the Government, the latter shall make a statement before each House and the same shall be followed by a debate".

Pursuant to Article 11, item 3, "a referendum concerning a subject mentioned in the first paragraph may be held upon the initiative of one fifth of the Members of Parliament, supported by one tenth of the voters enrolled on the electoral register. This initiative shall take the form of a Private Member's Bill and shall not be applied to the repeal of a statutory provision promulgated for less than one year". A new type of referendum was introduced according to the Constitutional Act on 23 July 2008. This so-called shared initiative referendum (*le référendum d'initiative partagée*) has provoked numerous discussions. In fact, there is a political initiative by the members of parliament, and the role of voters is to support the project, which is prepared in a strictly political environment.

According to Article 11, item 4, "the conditions by which it is introduced and those according to which the Constitutional Council monitors the respect of the provisions of the previous paragraph, are set down by an Institutional Act". Pursuit to Article 11, item 5, "if the Private Member's Bill has not been considered by the two Houses within a period set by the Institutional Act, the President of the Republic shall submit it to a referendum". It should be emphasized that compliance with the requirements for the successful initiation of a referendum does not necessarily mean that there will be a referendum vote. The submitted proposal may be accepted by the representative body. In other words, the president submits the proposal to a referendum unless it has been examined (*examinée*) by the National Assembly and the Senate on that date stipulated by law.

Pursuant to Article 11, item 6, "where the decision of the French people in the referendum is not favourable to the Private Member's Bill, no new referendum proposal on the same subject may be submitted before the end of a period of two years following the date of the vote". Pursuant to Article 11, item 7, "where the outcome of the referendum is favourable to the Government Bill or to the Private Member's

Bill, the President of the Republic shall promulgate the resulting statute within fifteen days following the proclamation of the results of the vote”.

An important role in the Constitution was assigned to the Constitutional Council in Chapter VII – The Constitutional Council, Articles 60, and 61. According to Article 60, “the Constitutional Council shall ensure the proper conduct of referendum proceedings as provided for in Articles 11 and 89 and in Title XV and shall proclaim the results of the referendum”.

Pursuant to Article 61,

institutional Acts, before their promulgation, Private Members’ Bills mentioned in Article 11 before they are submitted to referendum, and the Rules of Procedure of the Houses of Parliament shall, before coming into force, be referred to the Constitutional Council, which shall rule on their conformity with the Constitution. To the same end, Acts of Parliament may be referred to the Constitutional Council, before their promulgation, by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly or sixty Senators. In the cases provided for in the two foregoing paragraphs, the Constitutional Council must deliver its ruling within one month. However, at the request of the Government, in cases of urgency, this period shall be reduced to eight days. In these same cases, referral to the Constitutional Council shall suspend the time allotted for promulgation.

According to Chapter XII, which covers the issues of territorial communities, it is possible to use the rights of petition and referendum. Pursuant to Article 72, item 1, “the conditions in which voters in each territorial community may use their right of petition to ask for a matter within the powers of the community to be entered on the agenda of its Deliberative Assembly shall be determined by statute”. According to Article 72, item 2, “in the conditions determined by an Institutional Act, draft decisions or acts within the powers of a territorial community may, on the initiative of the latter, be submitted for a decision by voters of said community by means of a referendum”. It was also pointed out that “when the creation of a special-status territorial community or modification of its organisation are contemplated, a decision may be taken by statute to consult the voters registered in the relevant communities. Voters may also be consulted on changes to the boundaries of territorial communities in the conditions determined by statute”.

Chapter XVI of the French Constitution, devoted to the Amendments to the Constitution, regulates the issue of using referendum. A provision was adopted according to which “the amendment shall take effect after approval by referendum”. However, pursuant to Article 89, item 3, “a Government Bill to amend the Constitution shall not be submitted to referendum where the President of the Republic decides to submit it to Parliament convened in Congress; the Government Bill to amend the Constitution shall then be approved only if it is passed by a three-fifths majority of the votes cast. The Bureau of the Congress shall be that of the National Assembly”.

Therefore, in the context of the referendum, the French Constitution regulates such issues as its initiation, subject, conditions of using this institution of direct democracy, the role played by the President and Constitutional Council.

The current Constitution of the Republic of Poland of 2 April 1997 adopted the solution contained in Chapter I, Article 4, items 1 and 2, according to which, “the supreme authority in the Republic of Poland belongs to the nation. The nation exercises power through its representatives or directly” [Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.]. Thus, the constitution-maker concluded that apart from the form of indirect democracy, it is possible to use forms of direct democracy. Chapter II of the Constitution, devoted to the freedoms, rights and obligations of a person and a citizen, indicates the conditions for participation in a referendum. Pursuant to Article 62, a Polish citizen has the right to participate in a referendum if he turns 18 on the day of voting at the latest. However, he does not have this right in a situation where he is legally incapacitated or deprived of public or electoral rights.

In Chapter III of the Constitution on the sources of law, pursuant to Article 90, item 1, it was assumed that the Republic of Poland may delegate the powers of state authority in some matters to the supranational level: to an international organization or to an international body. It is possible under a ratified international agreement. Consent to ratify such an agreement may be expressed in a nationwide referendum. Such a possibility is regulated by Article 90, item 3, of the Constitution. The Sejm decides how an international agreement will be ratified. The decision is made in the form of a resolution by an absolute majority of votes in the presence of at least half of the statutory number of deputies. This regulation is included in Article 90, item 4.

Chapter IV of the Constitution of the Republic of Poland, which covers the issues of the work of the Sejm and the Senate, refers in detail to the institution of a nationwide referendum: on what matters can a referendum be held, who can order it, when its result is binding, who confirms the validity of the referendum. Pursuant to Article 125, item 1, a nationwide referendum may be held on matters of particular importance to the state. The right to order a referendum is vested in the Sejm or the President. If a referendum is ordered by the Sejm, it is held by an absolute majority of votes in the presence of at least half of the statutory number of deputies. In a situation where a referendum is ordered by the President, it is done with the consent of the Senate expressed by an absolute majority of votes in the presence of at least half of the statutory number of senators. This power of the President was confirmed in the sixth chapter of the Constitution referring to the President of the Republic of Poland. It is regulated in Article 144. Ordinance of a nationwide referendum by the President does not require the signature of the Prime Minister for its validity. As regards the rules and procedure for holding referenda, the Constitution, in Article 125, item 5, refers to the Act.

Chapter XI of the Constitution identifies states of emergency as an obstacle to holding a nationwide referendum. Pursuant to Article 228, it is not possible to hold a referendum during a state of emergency and within 90 days after its termination.

The Constitution also regulates the change or amendment of the Constitution. Pursuant to Article 235, item 6, if the law on amending the constitution concerns chapters one, two or twelve (the Republic; Freedoms, rights and obligations of a human and citizen; Amendment of the constitution) one fifth of the statutory number of deputies, the Senate or the President may request a confirmation referendum. Such a motion must be submitted within 45 days from the date of the bill being passed by the Senate. The request is submitted to the Marshal of the Sejm, who immediately orders a referendum, which should be held within 60 days from the date of submission of the request. The approval of the changes is determined by the support of the majority of voters.

In addition to the institution of a nationwide referendum, the constitution-maker included in the Constitution of the Republic of Poland other forms of direct democracy: legislative initiative and a local referendum.

Chapter XIV of the Polish Constitution, devoted to the Sejm and the Senate, regulates among others the issue of legislative initiative. A provision was adopted according to which it is granted in the first place to deputies, the Senate, the President and the Council of Ministers. Pursuant to Article 118, item 2, the right to initiate a legislative initiative is also available to a group of at least one hundred thousand citizens who have the right to vote. Item 3 regulates the financial implications of the proposed bill which are borne by the applicants. The limitations of the legislative initiative are contained in two articles of the Constitution. Pursuant to Article 221 (Chapter Ten, Public Finance), "legislative initiative in the field of the Budget Act, the Act on Provisional Budget, Amendments to the Budget Act, the Act on incurring public debt and the Act on granting financial guarantees by the state is vested solely in the Council of Ministers". In turn, in Article 235, item 1 (Chapter Thirteen, Amendment to the Constitution), it was stated that "a bill to amend the Constitution may be submitted by at least 1/5 of the statutory number of deputies, by the Senate or the President of the Republic". The statutory basis for the civic legislative initiative is the Act of 24 June 1999 on the Exercise of Legislative Initiative by Citizens [Ustawa z dnia 24 czerwca 1999 r. o wykonywaniu inicjatywy ustawodawczej przez obywateli].

According to Chapter XVII, which covers the issues of local self-government, it is possible to appeal to a local referendum. Pursuant to Article 170, members of a self-governing community may decide on matters relating to this community by voting in a referendum. It was pointed out that one of such cases is the dismissal of a directly elected body of local self-government. For details on the rules and procedure for holding a local referendum, the Constitution refers to the Act.

In summary, the constitution-makers in France and Poland concluded that apart from the form of indirect democracy, it is possible to use forms of direct democracy. Both constitutions have adopted a solution in the form of a national referendum.

The Constitution of the French Republic indicates two types of nationwide referendum: 1) constitutional (Article 89); 2) legislative (Article 11). Pursuant to



Article 89, the initiative to change the Constitution is vested in the President acting on motion Prime Minister and members of parliament. A proposal for a change must be passed by both Houses using the same wording, after which it is approved in a referendum. The introduction of a legislative referendum was innovative. According to the Constitution, the procedure for approving the draft amendment to the Constitution, in the form of a resolution of the Congress, adopted by a qualified majority of 3/5 validly cast votes, was retained as an alternative to a referendum. Article 11 provides that the President of the Republic, at the request of the government submitted during the session or jointly the motion of both Houses, announced in the Official Journal, may be submitted under a referendum, any draft law relating to the organization of public authorities or intended to consent to the ratification of a treaty, which, without being contrary to the Constitution, would have an impact on the functioning of the institutions. Thus, the subject of a referendum could be bills of a specific nature (concerning the organization of public authorities) and acts to express consent to the ratification of international obligations of special importance (treaties that may affect institutions). The Constitutional Act on 23 July 2008 introduced the so-called shared initiative referendum. The specificity of the French legislative referendum provided for in Article 11 of the Constitution consists of the fact that, unlike in the case of the Polish nationwide referendum provided for in Article 125 of the Constitution, the nation speaks about the draft of the bill.

The Constitution of the Republic of Poland indicates three types of nationwide referendum: 1) constitutional (Article 235, item 6); 2) ratification (Article 90, item 3); 3) in matters of particular importance to the state (Article 125, item 1). A constitutional referendum (approving amendments to the constitution) may be held at the initiative of one-fifth of the statutory number of deputies or the president with the consent of the Senate within 45 days from the date of passing the act by the Senate. The request for a referendum is sent to the Marshal of the Sejm, who orders the referendum within 60 days from the date of submission of the request. The result of the referendum is binding if most voters support the change. Its validity has been confirmed by the Supreme Court. A ratification referendum may be used to ratify an international agreement that transfers certain powers of state authority to an international organization (or to an international body). A referendum on matters of special importance to the state is ordered by the Sejm by an absolute majority of votes in the presence of at least half of the statutory number of deputies or by the president with the consent of the Senate expressed by an absolute majority of votes in the presence of at least half of the statutory number of senators. In Poland, the result of the referendum is binding if more than half of those eligible to vote took part in it (it relates to the second and third types of referendum). In France no such solution exists.

In addition to the institution of a nationwide referendum, the constitution-makers in France and Poland included the institution of a local referendum. The Constitution of the Republic of Poland also indicates a legislative initiative.

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THE SOLUTIONS CHARACTERISTICS OF DIRECT DEMOCRACY IN OTHER LEGAL ACTS IN FRANCE AND POLAND

The Organic Law of 6 December 2013 on the application of Article 11 of the Constitution consists of four chapters [Loi organique n° 2013–1114 du 6 décembre 2013 portant application de l'article 11 de la Constitution]. The first chapter contains provisions on legislative bills submitted pursuant to Article 11 of the Constitution. The second chapter regulates the competences of the Constitutional Council. The third chapter contains the provisions regulating the collection of support. Chapter Four contains provisions regulating the referendum procedure.

Pursuant to the Organic Law, the Constitutional Council verifies whether the requirements enabling the commencement of the process of collecting signatures have been met. There is verified the submission of a bill by at least one fifth of the members of parliament, but it is not about one-fifth counted from their statutory law numbers (577 deputies to the National Assembly and 348 senators), but by the number of seats actually filled on the day of initiating the procedure. The subject of the legislative referendum is verified. The prohibition of submitting bills on the same matters within two years from the date of the referendum, which ended with a negative result, is verified. The Constitutional Council checks whether the regulations contained in the bill remain in accordance with the Constitution. The Constitutional Council examines the correctness of the process of collecting signatures, oversees the correctness of voting in the referendum, and announces the results of the referendum. Pursuant to the regulations of the Organic Law, the procedure of collecting signatures begins the month following the publication of the Constitutional Council's decision that the bill meets the conditions specified by law.

Nine months were allocated for the collection of the required number of signatures. The dissolution of the National Assembly, the emptying of the office of the President of the Republic, or the declaration of a permanent one by the Constitutional Council's inability to exercise it may have caused the suspension of this period. The start of collecting signatures is delayed if presidential or parliamentary elections are planned within six months from the decision of the Constitutional Council on the fulfilment of the above-described requirements. Voters placed on election lists may submit signatures. It is possible to collect signatures in an electronic form. For this reason, appropriate infrastructure is created in the most populous municipalities within each canton and consulates to enable such a possibility. The signature cannot be withdrawn and the signature lists are publicly available.

According to the Organic Law, if a given bill was not at least once – within six months from the date of publication of the decision of the Constitutional Council – considered by the National Assembly and the Senate, the head of state puts it to a referendum. If the draft bill is rejected by the chamber that deals with it first, the chairman shall notify his counterpart in the other chamber of this fact and provide him with the original text.

In 1996, solutions concerning territorial communities in France were codified as the General Code of Territorial Communities (Code général des collectivités territoriales) [Loi n° 96-142 du 21 février 1996 relative à la partie Législative du code général des collectivités territoriales]. The constitution-maker used, both in the title of chapter XII and in individual provisions, the phrase “territorial communities”. The term is also used in legislation as well and doctrine as a collective term, including municipalities, departments and regions (*collectivités locales* or *collectivités territoriales*, i.e. local, social, and local communities, territorial communities, local associations). The term is used to replace the phrase “local government” used in Polish conditions.

On 1 August 2003, an organic law on local referendum was adopted, which regulates the rules and procedure for holding a local referendum and enables it to be held in territorial communities of all levels in France [Loi organique n° 2003-705 du 1er août 2003 relative au référendum local]. The constitutive body of the community may be submitted by referendum for each draft resolution concerning the field of community properties. However, the draft resolution may not be concerned with the case or cases specified in this Act. Inhabitants having the right to vote at territorial communities can take part in the referendum. The referendum is valid if at least 50% of those who have the right to vote participated. For a conclusive decision in a referendum, more than half the number of valid votes is required. Local referendums may be held in overseas departments, which is allowed by the law of 13 December 2000 [Loi n° 2000-1207 du 13 décembre 2000 d’orientation pour l’outre-mer, Modifié par Loi n°2007-224 du 21 février 2007 – art. 25]. They are concerned with the institutional organization and the division of power between the state and communities.

On 14 March 2003 the law on the national referendum in Poland was adopted [Ustawa z dnia 14 marca 2003 r. o referendum ogólnokrajowym], and an amendment to it in connection with the planned referendum for the EU entry [Ustawa z dnia 10 maja 2003 r. o zmianie ustawy o referendum ogólnokrajowym]. Under Article 5 of the Act, one can vote only in person. Article 7 admitted of the establishment of constituencies in student hostels or groups of student hostels if at least fifty persons having the right to vote in a referendum informed the university/college president in writing about the fact of staying in a hostel on the day of the referendum. A two-day referendum was allowed. The organs to hold a referendum are the National Electoral Commission, electoral commissioners, and district commissions for referendum. Articles 11–16 specified the responsibilities of particular agencies for referendums. Chapter Three contains the requirements concerning the ballot paper, the manner of voting and the terms of validity of a vote. Chapter Four specifies the requirements related to the establishment of the results of voting and the result of a referendum Chapter Five is concerned with the question of the validity of a referendum. Of significant importance is Chapter Six, which presents the rules of holding a referendum campaign and funding it. The next Chapters of the Referendum Act deal with the following problems: funding of a ref-

erendum by the State budget (Chapter Seven); a referendum in respect of matters of particular importance to the State (Chapter Eight); a referendum on the consent to ratify an international agreement (Chapter Nine); a referendum to approve the amendment of the Constitution of the Republic of Poland (Chapter Ten); criminal provisions (Chapter Eleven); special provisions (Chapter Twelve); and amendments to the current provisions in force, as well as final and transitional provisions (Chapter Thirteen). The amending of the Referendum Act aimed at enabling the public announcement of information on the turnout while a referendum lasted.

The statutory basis for the civic legislative initiative is the Act of 24 June 1999 on the Exercise of Legislative Initiative by Citizens [Ustawa z dnia 24 czerwca 1999 r. o wykonywaniu inicjatywy ustawodawczej przez obywateli]. The law provides for legislative initiative which may be submitted by Deputies, the Senate, the President, the Council of Ministers, a group of at least 100,000 citizens having the right to vote in elections to the Sejm.

The Local Self-government Act of 8 March 1990 regulated the issue of a *gmina* referendum in Poland [Ustawa z dnia 8 marca 1990 r. o samorządzie terytorialnym]. Its Article 11 stipulated that *gmina* inhabitants would participate in decision making, *inter alia*, through a referendum. The law on a *gmina* referendum was passed on 11 October [Ustawa z dnia 11 października 1991 r. o referendum gminnym]. The law distinguished two kinds of referendums: mandatory and optional (facultative). A referendum could be initiated by the *gmina* council or by 10% of its inhabitants having the right to vote. The referendum was considered valid if at least 30% of those having the right to vote participated in it. For a conclusive decision in a referendum more than half of the number of valid votes were required, whereas the inhabitants' self-taxation required at least two-thirds of valid votes.

The Local Referendum Act of 15 September 2000 made reference to the self-governing community of *gmina*, district and province (voivodeship), including the capital city of Warsaw [Ustawa z dnia 15 września 2000 r. o referendum lokalnym]. Pursuant to Article 2, item 1, the inhabitants of a local self-governing community "express, by means of voting, their will regarding the manner of deciding a matter concerning their community within the scope of tasks and competence of the agencies of a unit or in respect of dismissal of the decision-making body of their unit". A referendum is held on the motion of the decision-making body or on the motion of 10% of inhabitants having the right to vote at the *gmina* or district level, or of 5% of those having the right to vote at the province level. Regarding the dismissal of a relevant council, it is not possible to hold a vote within a year after the elections or the date of the last referendum, and within six months before the end of term. Self-taxation of inhabitants for public purposes was retained at the *gmina* level only and can be introduced exclusively through a referendum. Upon the motion of the inhabitants, the initiative to hold a referendum can be launched by a group of at least 15 citizens who have the right to vote; five persons at the *gmina* level and a community organization with the status of legal personality. The measures connected with the holding of a referendum are as

follows: notifying in writing the chairman of the town, district or provincial council by the initiator (Article 12, item 1; Article 22); collecting of inhabitants' signatures (Article 14, par. 1); submission of the motion to hold a referendum (Article 15, item 1); the appointment of a commission by the council or the local assembly to verify whether the motion submitted complies with the provisions of the Act (Article 16); passing of a resolution by the council or the local assembly in respect of holding a referendum or turning down the motion (Article 17; Articles 23, 24). A referendum will be held on a holiday, within the period between 30 and 40 days of the promulgation of the resolution in the provincial official journal, or of the promulgation of decision by the Supreme Administrative Court (Article 21). The Referendum Act has regulated the matters relating to the conduct of the referendum campaign (Chapter Six); funding of a referendum by the local self-government budget; and the powers of the referendum initiator and his/her helper (Chapter Seven); the procedure for holding a referendum as well as determining and promulgating its results (Chapter Eight). A referendum is regarded as valid when at least 30% of inhabitants having the right to vote have participated in it (Article 55). The decisive result is when more than half of the number of votes are in favour of one of the solutions; the issue of self-taxation requires a two-thirds majority of valid votes (Article 56).

Detailed solutions regarding the institution of direct democracy in France are included in the following legal acts: the Organic Law on the application of Article 11 of the Constitution (2013), the General Code of Territorial Communities (1996), the an organic law on local referendum (2003); and the law on local referendums in overseas departments (2000). In relation to Poland, the following legal acts should be indicated: the law on the national referendum (2003); the Local Self-government Act (1990); and the Local Referendum Act (2000).

#### THE PRACTICAL APPLICATION OF DIRECT DEMOCRACY TOOLS AT THE NATIONAL LEVEL IN FRANCE AND POLAND

To date, ten national referenda have been held within the Fifth Republic, all by the decision of the Head of State and, for the most part, as provided for in Article 11 of the Constitution [Hollander 2019; Paris 2012]. Details of the individual referenda held during the Fifth Republic are presented in Table 1.

Table 1. The subjects and results of national referendums in the Fifth Republic

Date of the vote	Subject	Turnout in %	Results
28 September 1958	Constitution	82.63	Yes No votes 17.4% Yes votes 82.6%
8 January 1961	Algerian Self-government	73.76	Yes No votes 25.1% Yes votes 74.99%

Date of the vote	Subject	Turnout in %	Results
8 April 1962	The Evian treaties	75.34	Yes No votes 9.19% Yes votes 90.81%
28 October 1962	Constitutional reform – Direct election of the President	76.97	Yes No votes 37.75% Yes votes 62.25%
27 April 1969	Regional reforms and reforms of the Senate	80.13	No No votes 52.41% Yes votes 47.59%
23 April 1972	Enlargement of the European Community	63.24	Yes No votes 31.68% Yes votes 68.32%
6 November 1988	Self-determination Statute for New Caledonia	36.89	Yes No votes 20% Yes votes 79.99%
20 September 1992	European Union Treaty (Maastricht)	69.7	Yes No votes 48.95% Yes votes 51.04%
24 September 2000	Abbreviation of presidential term of office from 7 to 5 years	30.19	Yes No votes 26.79% Yes votes 73.21%
29 May 2005	Adoption of the European Constitution	69.37	No No votes 54.67% Yes votes 45.33%

Source: Conseil Constitutionnel, Tableau récapitulatif des référendums de la Vème République; Centre for Research on Direct Democracy.

The first referendum on 28 September 1958 was a mandatory referendum to adopt the new Constitution. The second one, on 8 January 1961, was organized under the Article 11 of the French Constitution to confirm General de Gaulle's policy of self-determination in Algeria. The subject of the third referendum on 8 April 1962 was to authorize the President of the Republic to negotiate a treaty with the future government of Algeria [Goguel 1965]. In fact, it was the question of getting the French to approve the Évian Agreements of March 18. The fourth referendum on 28 October 1962 concerned the revision of the constitution: the election of the President of the Republic by direct universal suffrage. The campaign was lively, and the debates concerned both the merits of the reform and the application of Article 11 of the Constitution. Many condemned this process as a violation of the constitution. Pursuant to Article 89 of the Constitution, prior consent from each chamber is required. On 27 April 1969, the subject of the fifth referendum decided on the regionalization and reform of the Senate. In fact, the debate was about General de Gaulle's remaining power after 11 years as president and one year after the May 1968 crisis. As a result of the referendum, General de Gaulle resigned from his position [Berstein 1993; Criddle 1972].

The sixth referendum on 23 April 1972 was organized to enable the ratification of the treaty on the enlargement of the European Economic Community [Leigh 1975; Leleu 1976]. The countries concerned were Denmark, Norway (which would

eventually not join the Community), Ireland, and the United Kingdom (whose entry was previously refused by General de Gaulle). The result spoke in favour of membership. The turnout was lower than in the previous referenda in the Fifth Republic, amounting to 63.24%. The referendum on 6 November 1988 was on the Matignon Accords on New Caledonia. The voting results were favourable for the accords. However, the turnout was exceptionally low (36.89%). The subject of the referendum on 20 September 1992 was the ratification of the Treaty on the European Union (Maastricht Treaty). The percentage of turnout (69.7%) was relatively high compared with that of the two previous referenda. The “yes” votes only slightly won out of 51.04% of the votes cast [Appleton 1992; Criddle 1993; Rideau 1992; Stone 1993].

The subject of the referendum on 24 September 2000 was to shorten the presidential term to five years. The “yes” vote won 73.21% of the vote cast. However, the turnout percentage was extremely low, at only 30.19%. The aim of the referendum on 29 May 2005 was the approval of the Treaty establishing a Constitution for Europe. The president’s decision was partly motivated by the support provided by the main governing parties. Public dissatisfaction was revealed during the election campaigns. For the second time in the history of the Fifth Republic, the “no” votes won 54.67% of the votes cast in the referendum [Boy, Chiche 2005]. France, one of the founding countries of European integration, thus, became the first country in the European Union to reject the Constitutional Treaty, ahead of the Netherlands on 1 June 2005 [Brouard, Sauger 2005; Brouard, Sauger, Grossman 2007; Cautrès 2005; Grunberg 2005; Hainsworth 2006; Ivaldi 2006; Laurent, Sauger 2005; Morel 2007]. The turnout rate for the referendum was 69.37%.

Six national referendums have been held in Poland since 1989 [Piasecki 2005; Rachwał 2010; Marczevska-Rytko 2018]. The details of the individual referenda held in Poland after 1989 are presented in Table 2.

Table 2. The subjects and results of national referendums in Poland after 1989

Date of the vote	Subject	Turnout in %	Results
18 February 1996	The enfranchisement of citizens	32.4	No Yes votes 96.15%
18 February 1996	Are you for or against: obligations arising from the Constitutional Tribunal’s decisions towards pensioners, annuitants and retirees, and employees in the Civil Service will be fulfilled with the privatized state-owned assets?	32.4	No Yes votes 92.89%
18 February 1996	Are you for or against: a part of the privatized state-owned assets will be assigned to public pension funds?	32.4	Yes votes 93.70%
	Are you for or against: the value of joint stock certificates in National Investment Fund will be increased?		No votes 72.52%
	Are you for the use of privatization bonds in the universal property restitution program?		Yes votes 88.30%

Date of the vote	Subject	Turnout in %	Results
25 May 1997	Constitution	42.86	Yes Yes votes 52.71% No votes 45.89%
7–8 June 2003	Poland's membership of the European Union	58.85	Yes Yes votes 77.45% No votes 22.55%
6 September 2015		7.8	No
	The single-seat constituencies in the elections to the Sejm		Yes votes 78.75%
	The way of funding political parties from the State budget		No votes 82.63%
	Introducing a presumption in favour of the taxpayer in disputes over the tax law		Yes votes 94.51%
15 October 2023		40.91	No
	Do you support the selling off of state assets to foreign entities, leading to the loss of Poles' control over strategic sectors of the economy?		No votes 96.49%
	Do you support an increase in the retirement age, including the restoration of the increased retirement age to 67 for men and women?		No votes 94.61%
	Do you support the removal of the barrier on the border between the Republic of Poland and the Republic of Belarus?		No votes 96.04%
	Do you support the admission of thousands of illegal immigrants from the Middle East and Africa, in accordance with the forced relocation mechanism imposed by the European bureaucracy?		No votes 96.79%

Source: Obwieszczenia Państwowej Komisji Wyborczej; Centre for Research on Direct Democracy.

The referendum on 18 February 1996 was ordered by President Lech Wałęsa on the general granting of property rights to citizens (enfranchisement). The Sejm passed a resolution on the directions of the use of State property and the referendum date was set also for 18 February 1996. Both referenda were invalid because the turnout was only 32.4% (to be valid, it should be over 50%) [Obwieszczenie Państwowej Komisji Wyborczej z dnia 20 lutego 1996 r. o wynikach głosowania i wynikach referendumów przeprowadzonych w dniu 18 lutego 1996 r.].

The constitution-approving referendum was held on 25 May 1997 [Staszewski 1997]. Of the voters, 52.71% were for the constitution and 45.89% were against it. The turnout was only 42.86%, but from a formal point of view, the result of voting was sufficient to adopt the constitution [Obwieszczenie Państwowej Komisji Wyborczej z dnia 26 maja 1997 r. o wynikach głosowania i wyniku referendum konstytucyjnego]. Pursuant to the Constitutional Act of 23 April 1992 On the procedure for the preparation and adoption of the Constitution of the Republic of Poland, the constitution approved by the National Assembly was to be adopted in a referendum regardless of the turnout.

The Sejm passed a resolution on ordering a national referendum concerning Poland's membership in the European Union, and the date of the referendum was



set for 7 and 8 June 2003 [Marczewska-Rytko 2010b]. This largely stemmed from fears about the turnout in the referendum and the wish to make it possible for as large a number as possible of the eligible voters to vote in the referendum. It should also be emphasized that the voting result in the accession referendum in Poland was binding to the authorities. The threshold for the validity of the referendum was set very high. In Poland, over 50% of citizens' turnouts were eligible to vote. Of those who had the right to vote, 58.85% participated in the referendum, of which 77.45% voted in favour of Poland's entry into the European Union, while 22.55% were against [Obwieszczenie Państwowej Komisji Wyborczej o wyniku ogólnokrajowego referendum w sprawie wyrażenia zgody na ratyfikację Traktatu].

On 6 September 2015, a referendum was held on single-seat constituencies in the elections to the Sejm, on the attitude towards the way of funding political parties from the State budget, and on introducing a presumption in favour of the taxpayer in disputes over the tax law. The referendum was initiated by President Bronisław Komorowski, who, having lost the first round of the presidential election, concluded that the decision would earn the electorate's votes. The turnout was only 7.8%, and the referendum was invalid [Obwieszczenie Państwowej Komisji Wyborczej z dnia 7 września 2015 r.].

The sixth referendum was held together with elections to Sejm and the Senate on 15 October 2023. The referendum was organized on the initiative of the Council of Ministers. The organization of the referendum, together with parliamentary elections, has caused much controversy. Political parties in opposition were against the referendum. The referendum asked four questions on the selling off of state assets to foreign entities, leading to the loss of Poles' control over strategic sectors of the economy; an increase in the retirement age, including the restoration of the increased retirement age to 67 for men and women; the removal of the barrier on the border between the Republic of Poland and the Republic of Belarus; and the admission of thousands of illegal immigrants from the Middle East and Africa, in accordance with the forced relocation mechanism imposed by the European bureaucracy [Obwieszczenie Państwowej Komisji Wyborczej z dnia 17 października 2023 r.]. The referendum was invalid because the turnout was only 40.91% [Obwieszczenie Państwowej Komisji Wyborczej z dnia 17 października 2023 r.].

In Poland, no referendum was held at the initiative of citizens, although such requests were submitted to Sejm. Among the referendum requests was the 2011 Solidarity project on pensions, which collected over 2 million signatures; an application prepared by the Action "Save the Children" to lower the compulsory school age from seven to six (the initiative was supported by almost one million citizens). There were also referendum initiatives concerning the reform of health services, state forests, privatization of companies strategic for state security, nuclear power plants, ACTA, joining the Euro area, and retirement age.

The idea of using a referendum in the form of a plebiscite was dominant in France during the Gaullist period [Morel 2021; Parodi 1973; Berstein 1993; Criddle 1972]. The characteristic feature of all referenda held between 1961 and 1969 is the presidential

issue of political responsibility. After de Gaulle resigned, this practice did not continue. Generally, the prime minister has limited possibilities of initiating referendum votes. The head of state decided to order a referendum. However, it is possible to point to a vote that was in line with the policy pursued by the head of government (the 1988 referendum on the status of New Caledonia). Another example is related to the shortening of the presidential term from seven to five years (2000 referendum). The period change initiative of the president's term of office (Article 6 of the Constitution) was presented by President Jacques Chirac but at the request of left-wing Prime Minister Lionel Jospin. In turn, the Houses of Parliament did not mark their positions as initiators of referenda in the drafting of bills. Despite several attempts to create a legislative referendum based on Article 11 of the Constitution, all were unsuccessful. The referendum was also treated as a tool to disintegrate rival political camps. The examples can be referenda on issues of European integration: 1972, 1992, 2005. In 1962 and 1969, unsuccessful attempts were made to amend the Constitution under Article 11. It was also impossible to include such a ban in the constitution. The proposal submitted to the referendum only twice did not gain support in 1969 and 2005 [Morel 2014; Paris 2012].

After 1989, Poland held six referendums, two of which were valid. A nationwide referendum is treated as an exceptional procedure, as indicated by the rules governing the operation of the Sejm and the Senate. Only the Sejm and president acting with the consent of the Senate may have the right to order a referendum. A referendum resolution is adopted by an absolute majority of votes in the presence of at least half the statutory number of deputies. Therefore, its practical implementation in Sejm is unlikely. It is difficult to obtain a high level of political consensus. Therefore, recourse to this institution at the national level is exceptional; it serves to confirm the existence of appropriate social and political support, rather than to resolve cases of special importance for the state. Among the issues for discussion, for example, the high requirement for referendum turnout can be mentioned: the possibility of holding a referendum on matters of particular importance for the state, when this particular meaning may be interpreted in various ways by various entities of interest; and the Sejm is not bound by the motion of citizens to hold a referendum. Even if half a million citizens submit a request for a referendum, Sejm is not obliged to do so. The complexity of the problems was confirmed by published research results in the field of public discourse.

#### THE PRACTICAL APPLICATION OF DIRECT DEMOCRACY TOOLS AT THE LOCAL LEVEL IN FRANCE AND POLAND

In France, the rules governing decision-making procedures are set at the national level and municipalities do not have the power to legislate in this area. The most important decisions are made at the national level. Competences at the local level are weak, leaving citizens with fewer opportunities to take the initiative [Prémat 2009]. Therefore, petitions or consultations are rarely used, especially in small towns

[Prémat 2008, 2009; Magni-Breton 2018]. In the French legal system, there are four mechanisms for citizen participation at the local level [Magni-Berton, Mangin, Morio, Schäfferle 2016; Fatin-Rouge Stéfanini 2004; Le référendum local; Baly 2020]. The first is the right to petition. Municipal authorities are not obligated to grant such requests. The second mechanism is consultation on the initiative of municipalities and intermunicipalities. This may be a concern, for example, in urban policy. In this mechanism, citizens do not have the initiative or last word. The third mechanism is the consultation with a popular initiative at the municipal or intermunicipal level. The municipality may refuse to organize a consultation, and if it does, it may not take into account the outcome of the consultation. The fourth mechanism is a local referendum [Le referendum local; Prémat 2008]. It is binding but with a 50% participatory quorum. However, the initiative belongs to the municipality and not to citizens. In other words, there is no mechanism for people's initiative-binding referendum.

As Raúl Magni-Berton points out, a municipality that decides to experiment with a binding referendum on the people's initiative, risks being checked for legality by the prefect and its decision revoked by an administrative judge. Magni-Berton described an experiment in which the City of Grenoble was carried out in 2016, and the prefect Isère appealed to overturn this decision before the administrative court on 21 March 2017 [Magni-Berton et al. 2016; Magni-Berton 2018; Baly 2020].

Local consultations and referenda at the departmental and regional levels in the Fifth Republic have focused mainly on the issue of overseas territories. Most of them were approved by vote. Over a dozen referenda and over 30 consultations were held at the municipal and inter-municipal levels in the years 2006–2021. Most of these referenda were positive, while most consultations were negative [information about referenda: Référendum, <https://www.service-public.fr/particuliers/vosdroits/F1964>].

In the Polish practice of the functioning of direct democracy at the local level what is still a problem is the material scope of the referendum [Marczewska-Rytko, Michałowski 2012]. Based on the regulations, we can state that the scope of the mandatory referendum is precisely determined, while the scope of the optional referendum raises considerable doubts. They largely stem from the fact that the wording “a matter of particular importance to a community, district, and province (voivodeship)” can be interpreted in various ways. Insight into the system in force is made possible by the decisions of the Supreme Administrative Court, which repeatedly settled contentious issues concerning the referendum. We can indicate, *inter alia*, an example from Oświęcim, where the town council proposed a referendum concerning the area of the former Auschwitz concentration camp.

Motions to dismiss a community head or mayor also apply to the relevant council. Practice has confirmed the thesis on the difficulties connected with the dismissal of an executive body that has been elected directly. Of the referendums held, only a small decided on dismissal. This occurs first because of the low voter turnout. The motion of recalling an executive body can also apply to mayors of large towns (called “town presidents”).

The report on local referendums shows that between 2010 and 2013, over hundred and thirty referendums on the dismissal of local self-governments were held [Raport o referendach lokalnych z dnia 6 września 2013 r.]. Only in 20% of cases the referendums were valid, in the remaining cases the turnout was insufficient: during the 2010–2014 term of local self-government authorities there were 111 local referendums on the dismissal of local self-government units before the expiry of the term, including 81 referendums concerning executive organs and thirty concerning decision-making bodies (double referendums).

#### CONCLUSION

The aim of this article was to answer three main research questions: what is the tradition of direct democracy in France and Poland?, what are the solutions characteristic of direct democracy in the constitutions of France and Poland and in other legal acts in these countries?, and what are the practical applications of direct democracy tools at the national and local levels in France and Poland?. This study leads to several conclusions. First, in France direct democracy has long tradition. The use of direct democracy in Poland has a comparatively short history.

Second, the constitution-makers in France and in Poland concluded that apart from the form of indirect democracy, it is possible to use forms of direct democracy. Both constitutions adopted a solution in the form of a national referendum. The Constitution of the French Republic indicates two types of nationwide referendum: constitutional and legislative. The initiative of changes to the Constitution is vested in the President acting on motion Prime Minister and members of parliament. A proposal for a change must be passed by both Houses in the same wording, after which it is approved in a referendum. The procedure for approving the draft amendment to the Constitution, in the form of a resolution of the Congress, adopted by a qualified majority of 3/5 validly cast votes, was retained as an alternative to a referendum. The President of the Republic, at the request of the government submitted during the session or jointly the motion of both Houses may be submitted under a referendum, any draft law relating to the organization of public authorities or intended to consent to the ratification of a treaty, which, without being contrary to the Constitution, would have an impact on the functioning of the institutions. The subject of a referendum could be bills of a specific nature and acts expressing consent to the ratification of international obligations of special importance (treaties that may affect institutions). Constitutional Act on 23 July 2008 introduced the so-called shared initiative referendum. Specificity of the French legislative referendum provided for in Article 11 of the Constitution consists in the fact that, unlike in the case of the Polish nationwide referendum provided for in Article 125 of the Constitution, the nation speaks about the draft of the bill.

The Constitution of the Republic of Poland indicates three types of nationwide referendum: constitutional, ratification, and in matters of particular importance to

the state. A constitutional referendum (approving amendments to the constitution) may be held at the initiative of one fifth of the statutory number of deputies or the President with the consent of the Senate within 45 days from the date of passing the act by the Senate. The request for a referendum is sent to the Marshal of the Sejm, who orders the referendum within 60 days from the date of submission of the request. The result of the referendum is binding if the majority of voters support the change. Its validity is confirmed by the Supreme Court. A ratification referendum may be used to ratify an international agreement that transfers certain powers of state authority to an international organization (or to an international body). A referendum on matters of special importance to the state is ordered by the Sejm by an absolute majority of votes in the presence of at least half of the statutory number of deputies, or by the President with the consent of the Senate expressed by an absolute majority of votes in the presence of at least half of the statutory number of senators. In Poland, the result of the referendum is binding if more than half of those eligible to vote took part in it (it relates to second and third types of referendum). In France, there is no such a solution. In addition to the institution of a nationwide referendum, the constitution-makers in France and in Poland included the institution of local referendum. The Constitution of the Republic of Poland indicates also the legislative initiative.

Detailed solutions regarding the institution of direct democracy in France are included in the following legal acts: the Organic Law on the application of Article 11 of the Constitution (2013), the General Code of Territorial Communities (1996), the organic law on local referendum (2003); and the law on local referendums in overseas departments (2000). In relation to Poland, the following legal acts should be indicated: the law on the national referendum (2003); the Local Self-government Act (1990); and the Local Referendum Act (2000).

Third, ten national referenda have been held within the Fifth Republic. Turnouts in referendums at the national level ranged from 30.19 to 82.63%. The average turnout in the referendum is 65.82%. In the votes, eight solutions were adopted and two were rejected. Six national referendums have been held in Poland since 1989. Turnouts in referendums at the national level ranged from 7.8 to 58.85%. The average turnout in referendums was 35.87%. Two solutions were adopted in the votes and four were rejected. In France, competences at the local level are weak, leaving citizens with fewer opportunities to take the initiative. Petitions or consultations are rarely used, especially in small towns. Local referendum is binding with a participatory quorum of 50%. The initiative belongs to the municipality and not to citizens. In Poland the law distinguished two kinds of referendums: mandatory and optional. A referendum could be initiated by the *gmina* council or by 10% of its inhabitants having the right to vote. The referendum was considered valid if at least 30% of those having the right to vote participated in it. Practice has confirmed the thesis on the difficulties connected with the dismissal of an executive body that has been elected directly. Of the referendums held, only a small decided on dismissal. This occurs first because of the low voter turnout.

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## DEMOKRACJA BEZPOŚREDNIA WE FRANCJI I W POLSCE. ANALIZA PORÓWNAWCZA

**Streszczenie:** Celem artykułu jest przeprowadzenie analizy porównawczej demokracji bezpośredniej we Francji i w Polsce. W procesie badawczym postawiono trzy pytania badawcze: 1) Jakie są tradycje demokracji bezpośredniej we Francji i w Polsce?; 2) Jakie rozwiązania charakterystyczne dla demokracji bezpośredniej zawarte są w konstytucjach Francji i Polski oraz w innych aktach prawnych tych państw?; 3) Jakie są praktyczne zastosowania narzędzi demokracji bezpośredniej na poziomie krajowym i lokalnym we Francji i w Polsce?. W procesie badawczym dokonano analizy aktów prawnych stanowiących podstawę formalnoprawną demokracji bezpośredniej we Francji i w Polsce. Przeanalizowano dokumenty związane z praktyką demokracji bezpośredniej w tych krajach. Francja ma długą tradycję stosowania demokracji bezpośredniej. W porównaniu z Francją w Polsce istnieje krótka tradycja demokracji bezpośredniej. W konstytucjach obu państw przyjęto rozwiązanie w formie referendum ogólnokrajowego. Oprócz instytucji referendum ogólnokrajowego twórcy konstytucji we Francji i w Polsce wprowadzili instytucję referendum lokalnego. Konstytucja RP wskazuje także na inicjatywę ustawodawczą. W V Republice odbyło się dziesięć referendów ogólnokrajowych. Frekwencja w referendach na szczeblu krajowym wahała się od 30,19 do 82,63%. Średnia frekwencja w referendach wyniosła 65,82%. W głosowaniach przyjęto 8 rozwiązań, a 2 odrzucono. Po 1989 r. odbyło się w Polsce sześć referendów ogólnokrajowych. Frekwencja w referendach na szczeblu ogólnokrajowym wahała się od 7,8 do 58,85%. Średnia frekwencja w referendach wyniosła 35,87%. W głosowaniach przyjęto 2 rozwiązania, a 4 odrzucono.

**Słowa kluczowe:** demokracja bezpośrednia, referendum, Francja, Polska

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