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## NATIONAL REFERENDUM AS AN EXAMPLE FOR LEGITIMIZING AUTHORITARIAN RULE (THE CASE OF THE REPUBLIC OF BELARUS AFTER 1991)<sup>1</sup>



n 25 August 1991 the Supreme Council of the Belarusian Socialist Soviet Republic accepted an act about the state independence of Belarus which was equivalent with creation of an independent Belarusian country. The Supreme Council of the Republic of Belarus ratified the agreement concerning creation of the Commonwealth of Independent States on 10 December 1991, sealing in this way a definite decomposition of the Soviet Union and at the same time starting a new era of the Belarus statehood as an independent country. On 23 June 1994 the first free elections for the President of the Republic of Belarus were conducted. Alexander Lukashenka won in the first round of elections gathering support of 44.82% of voters and Viacheslav Kiebicz was second (acting as the prime minister) with 17.33% of social support. Due to a failure to receive absolute majority of votes by one of candidates, on 10 July 1994 the second round was conducted which was won by Lukashenka with a result of 80.4% of support.<sup>2</sup>

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<sup>2</sup> V. Silitski, "Explaining post-communist authoritarianism in Belarus," in: *Contemporary Belarus. Between Democracy and Dictatorship*, ed. E. A. Korosteleva, C. W. Lawson, and R. J. Marsh, London/New York: Routledge and Curzon, 2003, 44.

## Types of power legitimization

Among many types of legitimization of political systems there are: democratic (based on a rule of a nation's sovereignty), legal (based on a fact that power fulfils binding legal norms), geopolitical (geopolitical location of a state determines specific political actions), national (based on a nation's idea), ideological (defined as authorities reference to specific political values), negative (defined as presenting those in power in a positive way compared to previous authorities or previous political programmes).<sup>3</sup>

## Referendum in the Belarusian legal system

Referendum is one of the direct democracy instruments and it is included in the Belarusian legal system. The constitution of the Republic of Belarus of 1994 assumes that in order to present a position of citizens concerning the most important state issues national referendums can be organized. In the case of a national referendum the President of the Republic of Belarus has a right to organize a referendum upon a motion of: himself, the House of Representatives or the Council of Republic (both houses of parliament) accepted by majority of votes of a full composition of both houses, citizens in a number of at least 450 thousand with suffrages with reservation that each administrative district must be represented by at least 30 thousand citizens. Decisions made in a national referendum are signed by the President of the Republic of Belarus. Specification of constitutional provisions concerning a national referendum is included in the electoral code of 2000.

After 1991 in Belarus three national referendums were organized. They took place on 14 May 1995, 24 November 1996 and 17 October 2004.

## The national referendum of 14 May 1995

Referendum was a part of the ongoing political conflict between the President of Belarus A. Lukashenka and the Supreme Council and the Constitutional Court. As of 1994 the president commenced activities aiming

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<sup>3</sup> W. Sokół, *Legitymizacja systemów politycznych*, Lublin: Maria Curie-Skłodowska University Press, 1997, 53.

at strengthening of his own position in a political system of the state bodies. At the same time, the Supreme Council aimed at limiting presidential competences. On 1 February 1995 the Supreme Council adopted an act which prevented the President from dissolving the parliament and at the same time accepted that in certain circumstances the parliament could dismiss the President from his position (violation of constitution, committing a crime or a health condition making fulfilment of obligations impossible). As a response to the aforementioned on 20 March the President demanded from the members of the Parliament taking a decision concerning the Parliament self-dissolution and at the same he announced a national referendum concerning constitutional issues and a direction of a state policy. The Supreme Council rejected the president's motion and it reminded that the Constitution of the Republic of Belarus forbade voting in a referendum on constitutional issues. In order to force in the Parliament decisions on a referendum, financing for the Council was limited and on 12 April 1995 militia used force to remove opposition activists from the seat of the Supreme Council who started a hunger strike in protest against activities undertaken by the President which violated the Constitution. Finally, the Supreme Council on 13 April 1995 decided about organizing a national referendum.<sup>4</sup>

Referendum was conducted on 14 May 1995 together with the first round of elections to the Supreme Council. Belarusians answered four questions proposed by the President: 1. Do you agree to give Russian language the same status as Belarusian language? 2. Do you support a proposal to identify a new national flag and emblem of the Republic of Belarus? 3. Do you support activities of the President of the Republic of Belarus aimed at economic integration with the Russian Federation? 4. Do you agree with necessity of introducing changes in binding Constitution of the Republic of Belarus which provides for possibility of advance dissolution of the Supreme Council by the President in the case of systematic or serious violation of the Constitution? Questions 1–3 were obligatory and a result was binding while a question no. 4 had a consulting character.<sup>5</sup>

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<sup>4</sup> P. Foligowski, *Białoruś trudna niepodległość*, Wrocław: Atla 2, 1999.

<sup>5</sup> *Вопросы республиканского референдума в Республике Беларусь 14 мая 1995 года*, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-1995-Questions.pdf> (access: 15.06.2016).

Table 1. Results of the national referendum in the Republic of Belarus on 14 May 1995

	Number of citizens who voted yes (in million)	Number of citizens who voted yes (%)	Number of citizens who voted against (in million)	Number of citizens who voted against (%)	Number of null votes (in million)	Number of null votes (%)
Question 1	4 017 213	83.28	613 516	12.72	192 693	4.0
Question 2	3 622 851	75.11	988 839	20.50	211 792	4.39
Question 3	4 020 001	83.34	602 144	12.48	201 337	4.18
Question 4	3 749 266	77.73	857 485	17.78	216 731	4.49
Number of citizens eligible for voting in a referendum 7 445 820						
Number of citizens who took part in the referendum 4 823 482						
Voter turnout (%) 64.78						

Source: Own calculations based on Протокол Центальной Комиссии Республики Беларусь по выборам и проведению республиканских референдумов, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-1995-Post.pdf> (access: 15.06.016).

Belarusians gave positive answers to all questions. They also decided about equalling Russian language with Belarusian language (83.28 participants of the referendum), a change of the national flag from white-red-white to red-green and a national emblem from Pahonia to the emblem referring to a tradition of the Soviet Union although some changes were introduced (a sickle and a hammer were taken away together with a motto “proletarians of all nations, unite”)<sup>6</sup> (75.11 of voters), economic integration of Belarus with Russia (83.34 of voters), change of the Constitution and granting the President of Belarus possibility to dissolve parliament before the end of its term in the case of violating the Constitution (77.73 of voters) (see Table 1).

Results of this referendum should be interpreted as a consent of Belarusians to a return to a dependence policy from Russia and social Russification together with approval for presidential activities aiming at strengthening his role and expanding his competencies while limiting competencies of the parliament. It has to be stressed that a way of organizing a referendum and the content of

<sup>6</sup> On 12 June 1995 president Lukashenka, as a result of the referendum, signed a decree on the change of national symbols. O. Latyszonek, “Symbolika państwowa Białoruskiej Republiki Ludowej,” in: *Białoruś w XX wieku. W kręgu kultury i polityki*, ed. D. Michaluk, Toruń: Mikołaj Kopernik University Press, 2007, 218.

referendum questions was questioned by the opposition. However activities undertaken by the opposition had only symbolic character and they did not stop shifting a state to presidential republic and dictatorship.

## The national referendum of 24 November 1996

As in the case of the previous referendum, also a referendum of 1996 was conducted with violation of the constitution and legal acts in the atmosphere of a political conflict between the President and the Parliament. Simultaneously a referendum became for the President a forum of a direct dialogue with citizens while forgetting about the Parliament.<sup>7</sup> Through a referendum the President gained a political legitimization for activities aiming at introducing superiority of a presidential power with violation of binding legal provisions.

On 7 August 1996 the Supreme Council received a motion made by the President for conducting a national referendum in November 1996. The President proposed 4 questions concerning: a change of independence day of the Republic of Belarus, a change of the Constitution (by transforming the Supreme Council in two-house National Assembly consisting of the House of Representatives and the Council of the Republic, granting the President the right to advance dissolution of the Parliament in certain situations, granting the President the right to appoint a half of composition of the Central Electoral Commission and a half of composition of the Constitutional Court, granting the President the right to organize a national referendum, a free purchase of land and abolition of death penalty). The National Council extended a list of questions and added additional ones and at the same time it changed a referendum date to 24 November 1996.

On 4 November 1996 the Constitutional Court examined compliance of the referendum with the constitution and it claimed that in the case of presidential questions – three of them were of a binding character, but the question concerning

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<sup>7</sup> Małgorzata Podolak summed it up: “organizing in Belarus a referendum above the parliament and using a referendum for changing constitution was violation of democratic procedure of constituting a constitution. The constitutional referendum was expression of modern plebiscitarism of the one-person ruling and using an institution of direct communication with society in order to get approval for activities of a non-democratic character.” M. Podolak, *Instytucja referendum w wybranych państwach Europy Środkowej i Wschodniej (1989–2012)*, Lublin: Maria Curie-Skłodowska University Press, 2014, 317.

acceptance of the new constitution would have a consultation character. As an answer, the President issued a decree on 5 November in which he stated that a question concerning a change in the constitution had a binding character and in the decree of 7 November he stated that a decision of the Constitutional Court was not binding.

A referendum commenced on 9 November. However only on 12 November a presidential draft of the constitution was printed and on 21 November the parliament's draft was printed.<sup>8</sup> Citizens voting in a referendum prior to those dates could not acknowledge the content of documents they voted about. The Central Electoral Commission evaluated this situation as non-acceptable and the President, as an answer to that, dismissed the president of the Central Commission. A part of deputies submitted a motion to remove the president from his position. Russians interfered in this political dispute and on 22 November a compromise was negotiated which was not accepted by the Supreme Council.<sup>9</sup> The aforementioned activities did not lead to settling a political crisis. However, a dominating role of the president has to be stressed because the referendum was finally conducted on conditions identified by the President.

On 24 November 1996 Belarusians answered 4 questions proposed by the President of Belarus (1–4) and three submitted by the deputies of the Supreme Council (5–7)<sup>10</sup> in a national referendum: 1. Are you for shifting Independence Day of the Republic of Belarus to 3 July – a day of liberating Belarus from the Nazi occupation in the Great Patriotic War? 2. Are you for accepting the Constitution of the Republic of Belarus of 1994 with further amendments and supplement (a new version of the Constitution of the Republic of Belarus) proposed by the President of the Republic of Belarus A. G. Lukashenka? 3. Are you for a free and unlimited purchase and sale of land? 4. Do you support abolition of death penalty in the Republic of Belarus? 5. Are you for acceptance of the Constitution of the Republic of Belarus of 1994 with further amendments and supplement in versions proposed by deputies from a fraction of communists and agrarians? 6. Are you for a situation in which leaders of local executive power are elected directly by citizens of a specific territorial and administrative unit? 7. Do you agree that financing of all authorities takes place openly and only from the state budget?

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<sup>8</sup> P. Foligowski, *Białoruś trudna niepodległość...*, 215–224.

<sup>9</sup> *Ibidem*, 224–226.

<sup>10</sup> Вопросы республиканского референдума в Республике Беларусь 24 ноября 1996 года, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-1996-Questions.pdf> (access: 16.06.2016).

Table 2. Results of the national referendum in the Republic of Belarus on 24 November 1996

	<b>Number of citizens who voted yes (in million)</b>	<b>Number of citizens who voted yes (%)</b>	<b>Number of citizens who voted against (in million)</b>	<b>Number of citizens who voted against (%)</b>	<b>Number of null votes (in million)</b>	<b>Number of null votes (%)</b>
Question 1	5 450 830	88.18	646 708	10.46	83 925	1.36
Question 2	5 175 664	83.73	689 642	11.16	316 157	5.11
Question 3	948 756	15.35	5 123 386	82.88	109 321	1.77
Question 4	1 108 226	17.93	4 972 535	80.44	100 702	1.63
Question 5	582 437	9.42	5 230 763	84.62	368 263	5.96
Question 6	1 739 178	28.14	4 321 866	69.92	120 419	1.94
Question 7	1 989 252	32.18	4 070 261	65.85	121 950	1.97
Number of citizens who were eligible for voting 7 346 397						
Number of citizens who participated in the referendum 6 181 463						
Voter turnout (%) 84.14						

Source: Own calculations based on Сообщение Центральной Комиссии Республики Беларусь по выборам и проведению республиканских референдумов, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-1996-soob-pdf> (access: 16.06.2016).

In the case of questions proposed by the President of Belarus, Belarusians supported a change of Independence Day (88.18 of voters) and a draft of constitution presented by A. Lukashenka (83.73 of voters<sup>11</sup>), and they rejected a possibility of unlimited land turnover (82.88%) and abolition of death penalty (80.44%). In the case of questions proposed by the Supreme Council – they were all rejected by Belarusians. Only 9.42 of voters supported a draft of constitution presented by communists and agrarians, 28.14% of Belarusians voted for a direct election of local authorities and 32.18 of citizens participating in the referendum supported sole financing from the state budget (see Table 2). Voter turnout was very high and it reached 84.14% of eligible persons which

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<sup>11</sup> It has to be stressed that calculations presented by the Central Electoral Commission of the Republic of Belarus in the case of questions no. 2 and 5 include mistakes. A number of votes for, against and null does not sum up to 100. See: Сообщение Центральной Комиссии Республики Беларусь по выборам и проведению республиканских референдумов, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-1996-soob-pdf> (access: 16.06.2016).

translated into a growth of 16.36% in comparison to a referendum of 1995. At the same time, such a significant growth in number of participants could prove mobilization of supporters of A. Lukashenka with simultaneous legitimization of his ruling. However, this increase was depreciated by accusations towards people who organized the referendum. The states of the Western Europe did not recognize the referendum results due to gross breaches of electoral procedure and democratic rules.<sup>12</sup> However, this did not stop the President from signing a text of the new constitution on 27 November 1996. As a result of signing the constitution, competencies of the president were significantly widened: “the amendment gave the head of the state many significant creative competencies and possibility to issue decrees with a power of an act, giving him a dominant position in a system of main power institutions.”<sup>13</sup>

## The national referendum of 17 October 2004

The referendum in 2004 was organized in a completely different political situation than two previous ones. In 1994–1996 the President of the Republic of Belarus fought with legislature and judiciary authorities to achieve his domination and supremacy in a political system. This period is defined as a phase of the presidential position’s consolidation in a political system of the Republic of Belarus. Rafał Czachor stated that just after 1996 in the Republic of Belarus a legitimate authoritarian system with the elements of paternalism was created.<sup>14</sup> After the referendum in 1996 a form of government was created with the President as a head of state exercising his authority in a direct way with mobilizing and using citizens for legitimizing his policy. At the same time the position of different authorities in a political system was eliminated or limited. And the referendum in 2004 referred solely to maintaining and continuing authority of A. Lukashenko in compliance with binding constitutional regulations when

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<sup>12</sup> T. Olejarsz, “Kwestie praw człowieka na Białorusi,” in: *Białoruś w stosunkach międzynarodowych*, ed. I. Topolski, Lublin: Maria Curie-Skłodowska University Press, 2009, 100.

<sup>13</sup> W. Baluk, “Transformacja systemu politycznego Ukrainy, Mołdowy i Białorusi,” in: *Białoruś, Mołdawia i Ukraina wobec wyzwań współczesnego świata*, ed. T. Kapuśniak, K. Fedorowicz and M. Gołoś, Lublin: Instytut Europy Środkowo-Wschodniej, 2009, 29.

<sup>14</sup> R. Czachor, *Transformacja systemu politycznego Białorusi w latach 1988–2001*, Polkowice: Wydawnictwo Uczelni Jana Wyżykowskiego, 2016, 357.



his second and the last term of office was finishing. On 7 September 2004, the President A. Lukashenka signed a decree concerning organization of a national referendum the result of which would be binding.<sup>15</sup> The President decided that Belarusians would answer one question: Do you allow the first President of the Republic of Belarus to participate as a candidate in elections for a position of the President of the Republic of Belarus and do you accept the first part of art. 81 of the Constitution of the Republic of Belarus in the following wording: President is elected for a period of 5 years directly by citizens of the Republic of Belarus based on universal, free, equal and direct suffrage.<sup>16</sup>

Table 3. Results of the national referendum in the Republic of Belarus on 17 October 2004

Question – district	Number of citizens who voted yes (in million)	Number of citizens who voted yes (%)	Number of citizens who voted against (in million)	Number of citizens who voted against (%)	Number of null votes (in million)	Number of null votes (%)
Question	5 548 477	87.97	691 917	10.97	67 001	1.06
Number of citizens who were eligible for voting 6 986 163						
Number of citizens who participated in the referendum 6 307 395						
Voter turnout (%) 90.28						

Source: Own calculations based on Сообщение Центральной Комиссии Республики Беларусь по выборам и проведению республиканских референдумов о результатах республиканского референдума 17 октября 2004 года, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-2004-Itogi-pdf> (access: 16.06.2016) and [http://www.c2d.ch/detailed\\_display.php?/name=rotes&table=votes&id=39265&continent=Europe&countrygeo=116&stategeo=&citygeo=&level=1&recent=1](http://www.c2d.ch/detailed_display.php?/name=rotes&table=votes&id=39265&continent=Europe&countrygeo=116&stategeo=&citygeo=&level=1&recent=1) (access: 16.06.2016).

<sup>15</sup> Указ Президента Республики Беларусь 7 сентября 2004 года, N 431 г. Минск, <http://www.rec.gov.by/sites/default/files/pdf/Archive-Referenda-2004-Ukaz.pdf> (access: 17.06.2016).

<sup>16</sup> *Ibidem*. In relation to a referendum question, substantial formal charges were formulated. Despite the fact that the question was formulated in one sentence, in reality it was a complex sentence consisting of two questions. Opinion on the Referendum of 17 October 2004 in Belarus, European Commission for Democracy through Law, Strasbourg, 8.10.2004. Therefore it caused many problems connected with a correct answering in the case of giving a consent to A. Lukashenka's participation in the upcoming presidential elections and simultaneous rejection of amendments in constitution. Similar doubts appeared in the opposite case. Questions should be formulated in a clear way so as not to raise any doubts in giving a clear answer.

The referendum was conducted on the day of parliamentary elections. A voter turnout was the highest compared to previously conducted national referendums and it was 90.28% of eligible voters. This meant further growth with 6.14% in relation to the referendum of 1996 and 25.5% in relation to the referendum of 1995. 87.97% of people participating in the referendum voted for acceptance of a change (see Table 3). This referendum was a significant element in a process of strengthening the president's power. Charges formulated against people who organized the referendum stressing breaches of democratic standards<sup>17</sup> could not mobilize Belarusians against their President. Belarusians at this stage of statehood functioning are not interested in active social participation. High voter turnout in a national referendum could prove citizen subservience towards authorities that encouraged participation but only in the way and by rules desired by authorities. One cannot forget that voter turnout was partially the effect of procedural manipulations and election fraud. Therefore Belarusians do not engage in political activities.

Three referendums conducted in 1995, 1996 and 2004 contributed to the increase of the president's powers, simultaneously limiting democracy rules.<sup>17</sup> Belarusians supported in referendums a change of constitution allowing the President A. G. Lukashenka to hold a position unlimited number of times and they approved of the system of state bodies with a dominating role of presidential power, also proposed by him. Specificity of national referendums is putting them in the current political conflict and legitimizing policy of president Lukashenka. This is a typical practice in authoritarian countries.<sup>18</sup> In the Republic of Belarus the process of introducing an authoritarian regime had been taking place since 1996 and afterwards there was a process of consolidating authoritarian authority.<sup>19</sup> To a large extent it was organized through a referendum

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<sup>17</sup> Article 81 of the Constitution of the Republic of Belarus which was the subject of a referendum question was an integral part of section IV of the Constitution.

<sup>18</sup> R. J. Hill, S. White, "Referendums in Russia, the Former Soviet Union and Eastern Europe," in: *Referendums Around the World. The Continued Growth of Direct Democracy*, ed. M. Qvortrup, Basingstoke: Palgrave Macmillan, 2014, 33.

<sup>19</sup> D. Altman, *Direct Democracy Worldwide*, Cambridge: Cambridge University Press, 2014, 88.

as an example of direct democracy institution. In such a way the authoritarian regime uses institutions typical for democracy to implement its own objectives and non-democratic policy.

There are significant charges formulated against organization of referendums from the side of political opposition, and also politicians and countries from the Western Europe which concern violation of legal provisions and democratic procedures. However, this does not change a regime policy that uses a referendum to create a semblance of rule of law existence (legal façade<sup>20</sup>). In that case we can talk about trying to use legal legitimization. Due to a fact that it is not sufficient, A. Lukashenka's regime refers also to ideological,<sup>21</sup> geopolitical, national and negative<sup>22</sup> legitimization. However, a significant element in the process of legitimizing superiority of presidential power over other powers in Belarus is a national referendum. It allows the President to conduct a dialogue with citizens while ignoring the remaining bodies of a political system.

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<sup>20</sup> P. Usov, *Powstanie, konsolidacja i funkcjonowanie reżimu neoautorytarnego na Białorusi*, Warszawa: Instytut Studiów Politycznych Polskiej Akademii Nauk, 2014, 139.

<sup>21</sup> D. Altman, *Direct Democracy Worldwide...*, 12.

<sup>22</sup> Alexander Lukashenka stated in 2003: "Aren't the following rules proper for Belarus collectivism, patriotism, social justice, high education prestige, socially useful work without counting for material remuneration – all of this should be organically a part of ideological foundation of the modern Belarusian society." Cited after Z. J. Winnicki, *Ideologia państwowa Republiki Białorusi – teoria i praktyka projektu. Analiza politologiczna*, Wrocław: Oficyna Wydawnicza Arboretum, 2013, 131.