

Deutscher Bundestag  
- Petitions Committee -  
Platz der Republik 1  
11011 Berlin

Heidelberg, 24.04.2013  
My ref.: 00118-13

**Petition**  
**Introduction of direct democracy**

Dear Members of Parliament,

We hereby request the Bundestag to amend the Constitution, and thereby create the requirements for genuine joint determination by the people, and direct democracy. We welcome the parliamentary initiatives of the SPD, BÜNDNIS 90/DIE GRÜNEN, the FDP and the LINKEN in this respect. The draft legislation proposed by the LINKEN (BT-Drs. 17/1199) stands out for the fact that it realises the idea of direct democracy without extraneous restrictions. The Bundestag should consult on this basis and turn the requirement of the Constitution, that all power originates from the people, into constitutional reality.

**1. Genuine democracy is direct democracy**

According to the Constitution, all power originates from the people (Art. 20 II 1 GG, so-called sovereignty of the people). The constitutional reality fails to comply with this postulation. The people remains largely excluded from joint determination. Although the people elect the parliament every 5 years in a singular act of joint determination, there is no further joint determination by the people during the following period of the legislature. It is not the people who decide, but parliament (parliamentary sovereignty).

Democracy means the individual right to participation in social decision-making processes. No one single person (dictatorship) or just a few (oligarchy) should decide, but all together. Every citizen therefore has the right of joint determination.

This right cannot be fully realised in the reality. But democracy is obliged to create the conditions for the most effective participation. Democracy also always means “Daring more democracy.”

For this reason we are committed to direct democracy. Every individual citizen should have the opportunity to participate directly in the political decision-making process by means of referenda.

Democracy as the right to the most effective participation in social decision-making processes also necessarily includes direct democracy. Direct democracy therefore needs no justification. In other words: the exclusion of direct democracy in the present constitutional reality would require a special justification, which does not exist. Reservations and fears of the people (“vox populi, vox bovis”) are not tenable on the basis of a democratic sense of values. In both popular and parliamentary legislation, the rule of law is provided by constitutional control.

## **2. Federal German democracy is not genuine democracy.**

The actually existing Federal German democracy is undemocratic and desperately in need of reform. This lack of democracy can be summarised under 4 theses.

1. The free right to vote as a singular specific act of joint determination provides no sufficient democratic participation in social decision-making processes.
2. Indirect democracy leads to a dangerous, uncontrolled concentration of power with the parties.
3. Indirect democracy fails in budget policy and leads to an undemocratic state of national debt.
4. Indirect democracy offers no counterbalance to the derogation of decision-making authority to supranational organisations (EU).

### *On the 1<sup>st</sup> thesis*

The free right to vote is precious. The Parliament as a forum for broad social debate is essential. Valuable expertise can be brought together in Parliament. But to reduce democracy to the free right to vote and parliamentarianism is unacceptable:

The citizen is largely excluded from political decision-making processes, and can only vote once every 5 years.

At elections, it is people who stand for election. Material questions are often concealed by questions of personality, and do not receive enough attention. Referenda enable concrete decisions on actual policy.



At elections people have to vote for party manifestos as a total package of political measures. Citizens cannot position themselves differently on individual issues, but must choose between total packages. Referenda enable differentiation.

The parties represented in Parliament represent only a limited range of opinion. Different positions, which certainly exist in the population, are not represented in the political process or can only be articulated by voting for extreme parties. Direct democracy allows an open debate on fundamental issues without extremism.

*On the 2<sup>nd</sup> thesis*

Democracy is based on the historical experience that concentration of power goes hand in hand with abuse of power. The Parliament and the parties represented in the Parliament require control and supplementation by direct democracy.

Party democracy constitutes a dangerous concentration of power among the parties which is inherent in the system. The division of powers is overridden. Judges and public prosecutors are appointed and promoted by politics. The judiciary may not manage itself, but is under the control of party politics. An independent judiciary cannot be expected. The amalgamation of politics and justice is particularly sensitive when it comes to the review of major, fundamental political decisions. State prosecutors are also bound by political considerations. Politics can therefore prohibit any unwelcome investigations.

Politics therefore largely shields itself from judicial review. This is compounded by the restrictive nature of procedural law. Citizens can only successfully bring political decisions before the court only if they are personally and individually affected. The citizen can obtain no hearing before the court in the case of constitutional objections against decisions that affect all citizens equally, i.e. major, fundamental political decisions, so that politics can de facto operate free of controls.

Politics also involves itself in the whole of society above and beyond its actual mandate - the formation of political opinion - by close cooperation with the world of business. Lucrative key positions are filled by politicians. Political corruption is hardly a crime - members of parliament may freely accept money and benefits (the only exception is direct vote buying).

This political concentration of power in combination with a lack of controls (political cooptation of justice) becomes all the more serious in that there is no direct democratic control or internal party control. Important political decisions are taken by party leaderships as a clique and implemented within the party. The decisions are often taken for tactical, electioneering reasons.

A critical discussion takes place only to a limited extent - the party must outwardly appear united and of one mind. For politically interested citizens, it is therefore difficult to get their views over to a party effectively. Joint determination on involvement in a party is perceived (rightly) by many citizens as a purely theoretical possibility. The parties can therefore no longer fulfil their democratic political task.

Direct democracy provides an excellent counterbalance to a dangerous concentration of power with the parties.

### *On the 3<sup>rd</sup> thesis*

Budgets at all political levels (municipalities, states, federal) are structurally in debt. Nothing can work without more borrowing. Loans are not repaid, but simply replaced with new loans. Since the founding of the Federal Republic, one government after the other has increased the level of debt. The Bundestag has failed totally in terms of budget policy.

The increasing burden of debt restricts political decision-making freedom. There is no more room for innovative policy, because the interest payments consume a large part of the total budget.

The burden of debt creates undemocratic dependence on the international financial markets. It is no longer the parliament which decides which policy is correct, but the vote of the international financial markets, which raises or lowers interest rates and therefore determines the viability and survivability of a national economy.

Future generations will have to pay off the loans. They however had no say in the debt policy of the last generation. They are liable for debts which they did not incur. So it is with politics. The politics of today also determine the reality of tomorrow. Today's policy is "ambivalent": it harbours opportunities for future generations, if good and far-sighted it, but it also poses dangers if it is bad and short-sighted. Debt policy is different: it is a one-way street, it harbours no opportunities and is destructively hostile to the future. A policy of debt is a structural and undemocratic disenfranchisement of future generations.

The total failure of the Bundestag and of the other responsible municipal and state parliaments shows that strict control is needed. National or European debt brakes have proven themselves to have little effect. They are bypassed and undermined whenever this is deemed expedient. The constitutional courts only identify budgetary violations years later, so that their judgments lack any political relevance and effectiveness.

Here only direct democracy can offer an effective control mechanism. Historical experience shows that countries with direct democracy incur less debt.

Expensive political major and prestigious projects are critically discussed and only implemented if they meet with wide approval. Credit-financed patronage politics for electoral purposes (as the rule in indirect democracy) is much more difficult to implement. Resistance can form much more easily in a direct democracy, and slows down the cost explosion.

*On the 4<sup>th</sup> thesis*

Important political decisions are derogated to the EU without sufficient democratic control.

Although the EU does demonstrate some democratic elements, democracy at the European level is deficient and extremely bureaucratic when compared to the characteristics of national democracy. Major decisions are taken by governments and not by parliament. The Commission is an administrative body that has not been legitimized by any elections, yet still holds a dominant position in European politics, which would be hardly conceivable in this form at the national level.

The European institutions take on an independent life of their own, and empower themselves in new areas of policy not provided for in the relevant European treaties. In this way, the ECB has turned away from its actual brief of ensuring monetary stability, and has taken upon itself the task of monetary state financing, amongst other things by the purchase of government bonds. The ECB is not an elected body, it is in no way democratically legitimized, and yet it is still the principal actor in the European debt crisis, while parliaments and governments decline dramatically in importance.

Transfer of decision-making processes to the EU (at least in its current form of organization) therefore always means a loss of democracy. This must be counteracted by placing important decisions where they belong: in the hands of the people.

This petition will be submitted by lawyer Simon G. Jakob. It is supported by the Alliance for Democracy. The Alliance for Democracy is a loose association of people who are committed to our democracy (see [www.menschenfuerdemo-kratie.de](http://www.menschenfuerdemo-kratie.de)).

With kind regards

Simon G. Jakob  
Lawyer