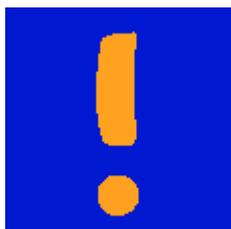


# Report

## 10 years of citizens' initiatives and referendums in Bavaria (Germany)



Written by: Frank Rehmet and Susanne Wenisch  
Published by: Mehr Demokratie and Democracy International



[www.mehr-demokratie.de](http://www.mehr-demokratie.de)



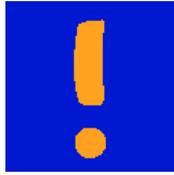
[www.democracy-international.org](http://www.democracy-international.org)



[www.mehr-demokratie.org](http://www.mehr-demokratie.org)



[www.democracy-international.org](http://www.democracy-international.org)



[www.mehr-demokratie.org](http://www.mehr-demokratie.org)

**Mehr Demokratie is the motor for direct democracy in Germany with its campaigns and initiatives this association is. This association also acts as service provider for citizens, media, scientists and politicians.**

**Mehr Demokratie is Europe's major organization promoting direct democracy and member of Democracy International.**



[www.democracy-international.org](http://www.democracy-international.org)

**Democracy International is a network promoting direct democracy. Our basic goal is the establishment of direct democracy (initiative and referendum) as a complement to representative democracy within the European Union and in the nation states. We also work on the general democratisation of the European Union, democratic reform and more direct and participatory democracy worldwide.**

Authors: Frank Rehmet and Susanne Wenisch  
English translation: Paul Carline  
Layout: Ronald Pabst  
V 0.99



## Preface

---

*“State citizens shall have the right to regulate affairs lying within the sphere of competence of the Municipalities and rural counties by means of citizens’ initiatives and referendums. (...)”*  
(Bavarian Constitution, Art. 12; para. 3)

On October 1, 1995, the citizens of Bavaria wrote a page of history: in a referendum held on that day, they won for themselves the right to launch citizens’ initiatives which could lead to binding referendums. Bavaria became the engine driving forward the cause of direct citizen participation in decision-making throughout Germany and the rules agreed for Bavaria became the model for other German federal states. As the organisation which launched that crucial referendum, Mehr Demokratie has a commitment to advising citizens on how to carry out initiatives and referendums. We produce an annual report on the use and effects of these tools of direct democracy.

In celebration of the tenth anniversary of the referendum, Mehr Demokratie is proud to present this special report on the first ten years of citizens’ initiatives and referendums in Bavaria.

### **Source of the data**

Unfortunately, there are no official statistics, as local authorities are not obliged to submit reports. With the support of a press clippings agency, we monitor data from 87 local and regional Bavarian daily and weekly newspapers. We compare these figures with those from the citizens’ initiatives in which we were involved as advisors, and supplement the data with our own research. This allows us to monitor virtually all citizens’ initiatives and referendums in Bavaria.

### **Period covered by the report**

The report covers the period from 01.11.1995 to 30.09.2005. The ‘10-year report’ thus covers exactly 9 years and 11 months. But we decided to ignore this slight inaccuracy in order to maintain the link to the tenth anniversary of the referendum.

With only two exceptions, each reporting year extends from 1 January to 31 December: Simple practicality dictated that we add the last two months of 1995 to the twelve months of 1996. The 2005 ‘year’ has only nine months.

Munich, September 2005

Frank Rehmet and Susanne Wenisch



Contents

---

Preface-----3

I. Summary-----5

II. The processes -----6

    1. Number and type -----6

    2. Frequency distribution relative to the size of community-----8

    3. Citizens' submissions which were declared invalid-----9

    4. Referendum turnout----- 10

    5. Who wins?----- 11

    6. Effects of the approval quorum----- 11

III. Issues and themes ----- 13

    1. Aims----- 13

    2. Themes and issues----- 13

IV. Outcomes and Summary----- 14

Addendum: The development of direct-democratic citizen participation since 01.11.1995 --- 16

**Abbreviations:**

- a.F. : old version
- BB : citizens' submission
- BE : (citizen-initiated) referendum
- BI : citizens' initiative
- GR : community/local authority council



## I. Summary

---

### **Number of processes and frequency**

- By 30.09.2005, after ten years of the practice of direct democracy in Bavaria, there had been 1371 citizens' and council submissions, 835 of which had resulted in a referendum. On average, therefore, 137 citizens' submissions and 84 referendums have taken place every year in Bavaria.
- This means that - again on average - there is a submission every 16 years in Bavarian towns and smaller communities; every 17 years in regional authority areas (Landkreise).
- There is a relatively higher frequency of submissions and referendums in larger towns and cities than in smaller communities/villages. In smaller communities of up to 5,000 residents, a submission is presented on average every 28 years; in large towns of more than 100,000 inhabitants, on the other hand, there is on average one submission per year.
- Between January and September 2005, 58 citizens' submissions were presented. This is about the same on average as in previous years. Since the boom of the first few years (1995-1997), in which numbers were significantly higher, the frequency of new submissions has oscillated within the range 80-110 per year; that of referendums around 70 per year.
- In terms of individual cities, Munich heads the league table with 15 submissions so far, followed by Augsburg with 12.
- If we exclude Hamburg (a city-state), Bavaria is also top of the list when it comes to a (federal) state-by-state comparison; it can also claim the highest absolute number of submissions and referendums.
- Overall, therefore, it is possible to say that the instruments of direct democracy have been well used – though without approaching the situation in Switzerland (where most communities usually have several citizens' initiatives and referendums each year).

### **Turnout**

Average turnout over the ten-year period was 49.6%. Closer examination reveals that turnout levels fall as the size of the community increases. For 2005, average turnout was 53.5%.

### **Who wins?**

The standpoint of the community council continues to prevail on average (in 49% of cases, compared with a rejection rate of 45%). It was not possible to assign the remaining 6% of cases.

### **Approval quorum**

Since 1999 there has been a rule that, in addition to a simple majority of the votes cast, referendums must also pass a certain approval threshold or quorum. Of the referendums held between April 1 1999 and the end of September 2005, a total of 16% failed to reach the required quorum. This rule especially affects the larger towns and cities, and communities and towns of between 10,000 and 50,000 inhabitants are particularly badly affected.

### **Focus of issues**

Bavaria's ten-year-long experience of direct democracy shows that its citizens want to have a say on a wide variety of issues. Analysis reveals a concentration on three particular areas which very often appear as the subject of submissions and referendums. Two-thirds of all the processes can be assigned to "Public infrastructure and provision of basic services" (23%), "Town planning" (23%) and "Roads and transport planning" (20%).

The most common subject areas in 2005 were "Town planning" (38%) and "Public infrastructure and provision of basic services" (22%).

### **Interesting initiatives in 2005-11-19**



*More culture:* an alliance of professors, teachers, booksellers etc. was started in Augsburg to campaign for a new city library. The initiative was well supported by the public and significantly more signatures were collected than the minimum number required. A referendum was not necessary as the city council adopted the plan itself.

*No amalgamation of communes:* the initiatives launched in 2004 to amalgamate five communities in the Berchtesgaden district all failed. In the referendums held on 19 June 2005, voters rejected the proposal.

A striking feature of 2005 were the numerous initiatives aimed at opposing the building of hypermarkets and retail parks (e.g. in Bayreuth).

The remainder of the report will examine more closely and comment on developments and trends in Bavarian citizens' submissions and referendums.

## II. The processes

---

### 1. Number and type

We distinguished six different types or levels of the process:

- The citizens' submission has been presented, but the outcome is as yet unknown (only for the current year)
- The citizens' initiative did not present the submission
- The process was declared invalid
- The community council took up the citizens' proposal
- The submission was withdrawn
- A referendum was held
- (This may have been triggered by the citizens (as a 'citizens' submission) or by the community council ('council submission').

### Number

Our study found 1371 citizens' submissions and 835 referendums. These figures represent the minimum number of all processes in Bavaria. Processes from previous years whose outcome was uncertain or unknown, or where only one submission was announced or planned, were not included and are not considered here.?

The table below shows the type or status of the process and the number of citizens' submissions and referendums in Bavaria since 1 November 1995?



Table 1: Citizens' submissions and referendums in Bavaria: Number (as of 30.09.05)

Status	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	No year	Total
BB submitted, outcome open (2005 only)										23		23
BI did not submit BB	46	12	14	3	2	5	1	4	2	0		89
Invalid	71	40	18	18	4	8	5	13	17	1		195
Council adopted BB	46	40	29	13	4	7	10	11	12	2		172
BB was withdrawn	16	10	6	3	1	9	1	2	2	5		50
Referendum held	139	144	116	63	69	74	60	68	71	27	4	835
Total	318	246	183	100	80	103	76	98	105	58	4	1371

Notes: Council submissions included.

The two months of 1995 are included in 1996.

Abbreviations: BI = Citizens' Initiative; BB = Citizens' Submission; BE = Citizens' Referendum.

? This allows a more accurate comparison with other federal states

? Mehr Demokratie's database, which is the source of these figures (including earlier years), has been updated. As a result, the data presented here does not agree exactly with that given in earlier annual reports. The amalgamation of our database with that of the Research Centre for Citizen Participation and Direct Democracy at the University of Marburg (planned for the end of 2005; cf: [www.forschungsstelle-direkte-demokratie.de](http://www.forschungsstelle-direkte-demokratie.de)) will generate greater clarity and transparency.

### Ratio of Citizens' Submissions to Council Submissions

In Bavaria, it is not only the citizens who can initiate a referendum process, but also the local council: the submission is then known as a 'Council Submission'. This means that there may be more than one vote to be cast in a referendum: on the citizens' proposal and on a council proposal. Sometimes councils decide that important decisions should be made by 'the sovereign' i.e. the people.

When we examined *all the processes* (not all of which went to referendum), we found that – out of a total of 1371 processes – 1160 were 'citizens' submissions' and 211 were 'council submissions': a ratio of 85:15 per cent.

We also looked at the total of *referendum votes*, to see how many of these had been initiated by the citizens and how many by the councils. Council submissions *always* lead to a referendum, because a council will never declare its own submission invalid, and because council submissions are not subject to any special conditions – such as a minimum signature quorum.

Of the total of 835 referendum ballots, 211 had been triggered by a council submission and 624 by a citizens' submission i.e. one quarter of all referendum ballots in Bavaria have been initiated by councils and three quarters by the citizens themselves by means of signature collection (see fig. 1 below).

Fig. 1: Who triggers referendum ballots in Bavaria (in the period from 1.11.1995 to 30.09.2005)

Initiated by the citizens (citizens' submission) 75%

Initiated by the local council (council submission) 25%

Note: Total number n = 835



We may conclude that the referendum process is predominantly a tool used by the citizens, and one that they make frequent use of.

**Number of new submissions**

The following picture emerges from an evaluation of the number of new submissions:

Fig. 2: Year-by-year comparison of the number of new citizens' and council submissions in Bavaria

[no change to table EXCEPT: bis 09-2005 = up to 09-2005]

Note: Total number n = 1367; four submissions could not be allocated to any specific year.

The chart shows that after the initial high figures for the years 1995 to 1998, the number of new submissions has stabilised at around 80-110 per annum. The annual average over the full ten years is of course somewhat higher, at 137 per year, due to the higher numbers in the first few years, a reflection of the backlog of issues waiting to be dealt with.

There were 58 new submissions in the first nine months of 2005, suggesting a likely total for the full year of around 80 submissions. The figure indicates that the citizens' eagerness to participate in decision-making shows no signs of diminishing.

A similar picture emerges from a consideration of the way the number of referendum ballots has developed over the decade (cf. Fig 3 below):

After initially high numbers, there has been a gradual stabilisation at around 60-70 referendum ballots per year. Although the 2005 figures would appear to suggest a declining trend in the number of ballots, the lack of data for the full year makes any definitive assessment premature.

Fig. 3: Year-by-year comparison of referendum ballots in Bavaria

[as above, no change except for 'bis']

Note: Total number n = 831; four ballots could not be allocated to a specific year

**2. Frequency distribution relative to the size of community**

An interesting question is whether it is possible to observe differences between small communities and large cities. What is the frequency of citizens' submissions in small and large communities? Are there any differences?

The following table shows the distribution of citizens' submissions relative to the size of the community:

Table 2: The frequency distribution of citizens' submissions relative to the number of inhabitants

Number of residents of community/city	Citizens' submissions since 1.11.1995	
	Number	Per cent
Up to 2,000	192	15.1%
2,001 to 5,000	379	29.8%
5,001 to 10,000	274	21.6%
10,001 to 30,000	250	19.7%
30,001 to 50,000	51	4.0%
50,001 to 100,000	48	3.8%
Over 100,000	76	6.0%
<b>Total</b>	<b>1270</b>	<b>100%</b>

Notes: We have full data on 1270 submissions. The percentages have been rounded to one decimal place. The analysis relates only to cities, towns and villages – not to regions (Landkreise).

The breakdown shows that 90% of all citizens' and council submissions originate in communities with less than 50,000 inhabitants; and two-thirds of all submissions come from communities with less than 10,000 inhabitants.



If we look at frequency in terms of the numbers of different-sized local authorities (relative frequency), we get a different picture:

Table 3: Frequency distribution of citizens' and council submissions in terms of the number of residents  
And the number of different-sized local authorities

Number of residents of village/town/city	Number of villages/towns etc	Number of submissions	Annual number of submissions since 1.11.1995	On average, a submission is presented in a municipality every ...
up to 5,000	1487	571	57.5	<b>26 years</b>
from 5,001 to 50,000	551	575	58.0	<b>9.5 years</b>
from 50,001 to 100,000	10	48	4.8	<b>2 years</b>
more than 100,000	8	76	7.7	<b>1 year</b>
<b>Total number of municipalities</b>	<b>2056</b>	<b>1270</b>	<b>128</b>	<b>16 years</b>
<b>Total number of districts</b>	<b>71</b>	<b>41</b>	<b>4.1</b>	<b>17 years</b>

Notes: Calculations are based on a total period of 9 years and 11 months = 9.92 years.  
There were complete data for 1270 municipalities and 41 regions (Landkreise).

In all, Bavaria has 2056 towns, cities and smaller communities. As the table shows, 76 of the total 1270 submissions came from large cities of more than 100,000 inhabitants. That averages out at 7.7 submissions per year, so that on average each city with a population of more than 100,000 presents one submission per year. Across all the smaller communities of less than 5,000 inhabitants, the submission rate is 57.5 per year (571 submissions in 1487 communities), giving an average periodicity per community of 26 years.

**Averaged across all the different-sized municipalities, there is a submission every 16 years. Averaged across all the regions (Landkreise), the periodicity is 17 years.**

As the table shows, the relative frequency of a citizens' or council submission increases with the increase in the size of population, so that submissions occur relatively more frequently in larger cities than in smaller communities.

Of the larger cities, Munich heads the league table with 16 submissions, followed by Augsburg with 12.

The finding that relatively more submissions are launched in the larger cities than in the smaller communities has also been noted in other federal states of Germany. The reasons for this may include:

1. There is often a different political culture in smaller communities. There is more direct contact and closer cooperation between members of the public and politicians than in big cities. People tend to know each other and are able to address problems directly and work out solutions.
2. Clubs and associations are very important in small communities and are often represented on the community council or are involved in other ways in local decision-making.
3. In general, the channels of influence on 'established' politics are better developed in smaller communities, so that there is often no need to go through the medium of a citizens' submission.
4. A further reason is the fact that with increasing population size, the number of problems, issues and potential areas of conflict also increases – simply due to the larger number of public infrastructure facilities, for example (swimming pools, schools, kindergartens etc.). This creates a greater number of potential subjects for citizens' initiatives and referendums.

### 3. Citizens' submissions which were declared invalid

#### Overview

In the period covered by this report, 194 of the 1371 citizens' submissions were declared invalid or were invalid – an 'invalidity rate' over the ten-year period of 14.2%. Although this is still relatively high, it is nonetheless the lowest rate of all the federal states of Germany. In



other states where there is a much more extensive list of excluded issues or higher signature quorums (e.g. Baden-Württemberg), the invalidity rate can be as high as 40%.

Significant reasons why Bavaria is the league leader in this respect are the advisory service offered by Mehr Demokratie (expanded in recent years) and the fact that Bavarian citizens have become increasingly familiar with the initiative and referendum system. This is proven by the high number of processes launched and by the fact that it was the citizens themselves who introduced the procedure by referendum in 1995.

Unfortunately, it remains true that an unnecessary number of citizens' submissions are still being rejected as invalid (on account of formal errors in the submission, for example) because the initiators did not take up Mehr Demokratie's offer of advice ([www.mehr-demokratie.de/beratung.html](http://www.mehr-demokratie.de/beratung.html)).

### Longitudinal survey

If we look at the figures over the ten-year period, we can see that the invalidity rate was initially very high (1996: 22%; 1997: 16%; cf. Table 1). It then fell steadily so that by 2002, the rate was in single figures. However, since 2002 it has climbed once again, reaching 16.2% in 2004 (17 submissions declared invalid). The upward trend appears to have been significantly reversed in 2005: of the 58 submissions presented up to the end of the reporting period, only one was invalid/declared invalid.

## 4. Referendum turnout

Over the whole period since 1995, turnout at referendums was on average 49.6% (based on 750 known cases).

For the 15 citizen-initiated referendums held up to the end of September 2005 and for which data are available, the average turnout was 53.5%. This is higher than the overall average.

The following table examines referendum turnout in relation to the size of the community:

Table 4: Referendum turnout in relation to the number of inhabitants (11/1995-09/2005)

Number of inhabitants of community/town/district	Number of referendums	Average turnout
Up to 2,000	100	64.8%
Between 2,001 and 5,000	212	56.2%
Between 5,001 and 10,000	177	50.8%
Between 10,001 and 30,000	145	40.9%
Between 30,001 and 50,000	47	41.3%
Between 50,001 and 100,000	26	28.5%
Between 100,001 and 500,000	35	28.5%
Over 500,000	8	23.2%
<b>Overall total (where data known)</b>	<b>750</b>	<b>49.6%</b>

The findings confirm earlier research in other federal states: referendum turnout decreases significantly as the size of the referendum community increases.

Whereas turnout is above average in smaller communities (almost 65% for very small communities of up to 2000 inhabitants), it falls to less than 30% in larger communities of more than 50,000 inhabitants. However, a note of caution is necessary: the far smaller number of referendums in the larger communities makes a fair assessment more difficult. For example, two referendums with very low turnouts held in Munich ("Munich out of the debt trap": referendum held in the third week of January just after the Christmas festival period: turnout 5.5%; and the referendum on library closures held one week after the Bavarian parliamentary elections in 2003: turnout 12.9%) drastically affect the average figure.

The same phenomenon of falling voter turnout with increasing size of community can also be observed in local elections, suggesting that the same factors may be at play: there is greater anonymity in larger communities and cities and the information pathways are longer. In addition, citizen-initiated referendums in large cities have to compete with other offers of



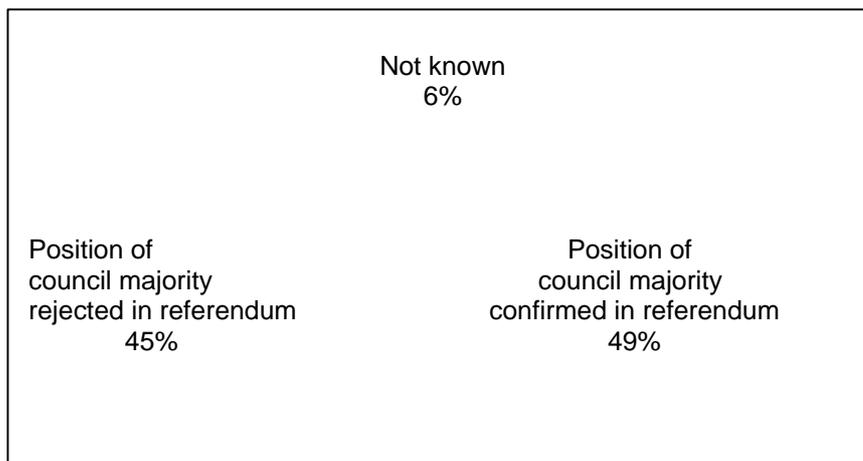
information, leisure activities etc., whereas in smaller communities they are often *the* dominant issue which mobilises lots of people. However, when an issue is particularly controversial, one can often observe above-average turnouts. An example is a referendum in Regensburg (population 126,000) in 1998 on a planned high-rise building. The turnout was 69.6%.

### 5. Who wins?

The standpoint of the local council continues to assert itself more often than that of the initiative group in direct-democratic procedures.

If we consider the entire ten-year period of the report, we arrive at the following picture:

Fig. 4: Endorsement of council majority in referendums (1995-2005)



Note: number of cases n = 777

Thus the position of the council was endorsed in nearly one in every two cases and rejected in 45% of cases. It was not possible to allocate the remainder of the cases.

### 6. Effects of the approval quorum

Since 1999, the success of a citizen-initiated referendum has depended not only on securing a simple majority of the votes cast, but also on satisfying an **approval quorum** which is dependent on the size of the community:

- in communities of up to 50,000 inhabitants, at least 20% of the registered voters must approve the proposal
- in communities of up to 100,00, the approval quorum is 15%
- where there are more than 100,000 inhabitants, the quorum is 10%

Mehr Demokratie rejects approval quorums. There are no such quorums in Switzerland or in almost any of the states of the USA which have long traditions and experience of direct democracy. They are seen as antipathetic to good communication. Political engagement must not be made more difficult by imposing an approval quorum. It should be the aim of direct-democratic procedures to encourage citizens to play an active part in decision-making.<sup>3</sup>

So far, 9.3% of the referendums held since 01.04.1999, in which a majority voted in favour of the proposal, did not reach the approval quorum: so the initiative failed even though it had secured the majority of the votes. This inevitably leads to frustration.

If one looks at *all* referendums, 15.9% of them fail to reach the quorum.

If we now consider the results in relation to the size of community, we get the following picture:



Table 5: Approval quorum and size of community (01.04.1999-30.09.2005) – effects of the quorum

Size of community (no. of inhabitants)	Quorum	Citizen-initiated	Referendums
		Number	Quorum not reached
Up to 5,000	20%	165	9 (5.5%)
5,001 – 10,000	20%	92	9 (9.8%)
10,001 – 50,000	20%	84	34 (40.5%)
50,001 – 100,000	15%	17	4 (23.5%)
Over 100,000	10%	20	4 (20.0%)
<b>Total</b>		<b>378</b>	<b>60 (15.9%)</b>

*Note:* The quorum was imposed in April 1999. Between 01.04.1999 and 30.09.2005 there were 431 citizen-initiated referendums. Data on the quorum and the size of the community are available for 378 of the referendums.

The table shows that in smaller communities of up to 5,000 residents the approval quorum is almost always reached: only 5.5% fail to reach it. In communities and towns of more than 10,000 residents, the quorum is not so often reached – a result of the decreasing turnout (see above).

There seems to be a particular problem in communities of between 10,000 and 50,000 residents, where more than 40% of all referendums fail to reach the quorum.

For cities with a population of over 50,000, the number of cases is too small to make a reliable assessment. Nonetheless, the trend is clear – almost one in every four referendums fails to meet the quorum.

There is a need for legislators to look at ways of removing these discrepancies – by lowering the quorums or matching the quorums better to the size of community.

<sup>3</sup> For a more detailed consideration cf. our Position Paper no. 8: [www.mehr-demokratie.de/positionen.html](http://www.mehr-demokratie.de/positionen.html)



### III. Issues and themes

---

#### 1. Aims

Citizens' submissions can be used to present proposals coming from the citizens themselves (so-called 'initiative submissions'), as well as to question or challenge plans which the local council is proposing to implement (so-called 'corrective submissions').

What aims were Bavarian citizens pursuing through their citizens' submissions and council submissions over the past ten years?

Table 6: Aims of citizens' and council submissions (11/1995-09/2005)

council	Aims of citizens' and submissions	
	Number	Percentage of total
Citizens' submission presenting a citizens' proposal	390	28%
Citizens' submission rejecting a proposed plan and proposing an alternative one	414	30%
Citizens' submission rejecting a proposed plan without offering an alternative	241	18%
Not possible to allocate	311	24%
<b>Total number of submissions examined</b>	<b>1371</b>	<b>100%</b>

*Note:* the percentages have been rounded up or down.

The analysis shows that both uses of direct democracy (as an 'accelerator' and as a 'brake') were taken up in Bavaria. New proposals originating with citizens themselves and alternative proposals (counter-proposals) represented a much higher proportion (58%) of the aims than a mere rejection of a proposal from the council or acceptance of the status quo (18%). Typical examples of the latter are the relatively frequent citizens' submissions objecting to mobile phone masts. Almost a quarter (24%) could not be clearly allocated.

Nonetheless, the results show that in every case, citizens' submissions engender serious public debate. We are unaware of any cases where a proposal has been blocked merely out of bloody-mindedness.

#### 2. Themes and issues

Of especial interest is the question: what are the subjects on which citizens choose to present submissions? Are there particular issues which citizens focus on? Each of the 1371 citizens' submissions we examined was assigned to one of eight different categories:

- ? Land utilisation and building development (town and country planning)
- ? Public infrastructure and services (e.g. the building of swimming pools or kindergartens, and provision of drinking water)
  - Roads- and traffic-related projects (e.g. ring roads, pedestrian precincts, bridges)
  - Individual private projects (e.g. the building of hotels, golf courses, shopping centres etc. carried out by private bodies)
  - Waste disposal projects (e.g. the building of waste incinerators or drainage/sewerage systems, or the privatisation of waste disposal facilities)
  - mobile phone transmitters
  - Local rates and taxes (e.g. for parking or waste disposal)
  - Miscellaneous: (e.g. street naming, joining and leaving local administrative areas (groups of smaller communities with joint administration) or the decision on whether to have a full-time or voluntary mayor)



### Analysis for the year 2005

Analysis revealed that the two most common themes in 2005 were two central areas of local politics: Town Planning (38%) and Provision of Public Infrastructure and Services (22.4%), together accounting for 60% of all cases.

### Analysis for the full reporting period: the ten-year balance sheet

The diagram below shows the distribution of themes over the entire reporting period from November 1995 to September 2005.

Fig. 5: Subject areas in Bavaria 11/1995-09/2005

	Rates and taxes	2%
	Public infrastructure and services	23%
	Mobile phone masts	5%
	Town and country planning	23%
	Waste disposal projects	8%
	Individual private construction projects	
	Roads and traffic	20%
	Miscellaneous	10%

Note: 1371 data sets were analysed

Analysis of the data revealed that two-thirds of all submissions related to just three subject areas: 'Public infrastructure and services' (23%); 'Town and country planning' (23%); and 'Roads and traffic projects' (20%). These core areas of local self-government attracted the highest level of interest and desire for participation in decision-making.

A comparison with other federal states shows that wherever town and country planning is a permitted subject for direct democracy (this is not the case in every state; cf. Mehr Demokratie's referendum ranking at: [www.mehr-demokratie.de/ranking.html](http://www.mehr-demokratie.de/ranking.html)), there is a similar distribution of themes. One subject area special to Bavaria is that of submissions against mobile phone masts. These have not happened to the same extent in other states.

## IV. Outcomes and Summary

---

We have been able to identify certain trends in and effects of citizens' submissions and referendums from our analyses and from what we have learned in the course of the consultations we have given:

### Effects

- Citizens have not only accepted the instruments of the citizens' submission and referendum; after ten years of putting the instruments into practice, they are well-known and highly valued, and people could scarcely imagine life without them. Citizens are directly involved in determining the local political agenda, take part in the political decision-making process on substantive issues, bringing a breath of fresh air into local politics, sometimes in very direct ways: some of the people who have been active in citizens' initiatives later put themselves forward as candidates for membership of the council.
- A result of taking part: citizens' submissions and referendums offer the possibility for people to get involved in practical politics on substantive issues, above and beyond their involvement as voters in elections. Being involved and being able to make things happen means that they feel less powerless between elections.
- Submissions and referendums allow citizens to express their political views in a more differentiated way.



- In many places there is already a new, more communicative political culture. More and better quality information is provided to the community in the run-up to political decision-making and the public is more strongly drawn into the process. The decision-makers know that they run the risk of being challenged in a referendum if they try to implement plans too rapidly and without consulting the citizens (an anticipatory effect).
- Responsiveness: those in authority are more likely to include citizens in the decision-making process, with the result that it is easier to reach decisions which have legitimacy. It is common for local councillors and mayors to say after referendums that they will provide more and better information in future.
- In addition to their 'protest' function, referendums also have a 'pacification' function. Important issues of local politics are taken out of the normal party-political in-fighting, and also out of election campaigns. This means that in election campaigns, the focus is much more on who is standing for office and what their manifesto is.
- A 'mirroring' function: citizens' initiatives reveal what issues the citizens care about and where there are conflicts in society. Direct-democratic procedures function like a mirror to society.
- The 'threat' function: it is clear to see that merely the announcement of a citizens' submission acts as a challenge or threat to those in power. An initiative group can use a submission to put pressure on government to take action; the pressure alone often works without it having to come to a referendum.

### **Summary**

A decade of citizens' submissions in Bavaria has shown that this democratic instrument has been used responsibly and in a measured way. Local politics has been enlivened by 1371 citizens' and council submissions in the villages, towns and regions of Bavaria, opening up intense public debate on different options and political alternatives for dealing with practical issues.

Many citizens were able to become actively involved in politics on substantive issues once they were given real, citizen-friendly rights to take part in decision-making. This has made possible more discussion and 'More Democracy'.

At a time when many citizens are turning away from politics, and when it is often asserted that in the present situation there is simply no alternative to the conventional style of politics, it is especially important that people are able to have a direct experience of co-decision making, political involvement and being empowered to play a role in shaping their own lives and societies. This has been made possible in Bavaria through 1371 citizens' submissions and 835 citizen-initiated referendums.

Thanks to fairly citizen-friendly rules, a decade of initiatives and referendums has had a positive effect on local democracy. Minor improvements in the approval quorum would reinforce this positive effect.



## Addendum: The development of direct-democratic citizen participation since 01.11.1995

---

Since the coming into force on 01.11.1995 of the ‘Law on the introduction of local referendums’ (approved in the referendum of 01.10.1995), citizens in the villages, towns and regions of Germany have had the right to initiate citizens’ submissions and referendums.

The Free State of Bavaria has a very special place in this development, since around half of all the citizens’ initiatives launched in the whole of Germany have been in this one state. In addition, the Bavarian rules of procedure for such initiatives and referendums are very citizen-friendly when compared with those in the other federal states of Germany:

- There is a relatively small ‘negative catalogue’ – the list of issues which may not be the subject of a citizens’ referendum.
- There are no time limits for the collection of signatures.
- The rules included a built-in protective measure which stipulated that once the citizens’ submission had been accepted as valid, the local council was prohibited from making any decisions which ran counter to the intention of the submission. However, only three years after its introduction, the law was changed to restrict the application of this rule.
- The signature quorum for the citizens’ submission is graded according to the number of inhabitants, ranging from 3% to 10%.

The process of restriction began with a judgement by the Bavarian Constitutional Court of 29 August 1997. The court criticised the absence of an approval quorum and/or the majority principle in combination with the rule that the outcome of a referendum is binding for three years. The court demanded that revised legislation be enacted at the latest by 0.01.2000.

Through the support of the CSU parliamentary party, the amending law was passed by the Bavarian state parliament on 26 March 1999 and came into force on 1 April the same year.

Since that date, for a citizen-initiated referendum to be successful, it has to gain *not only* a majority of the votes cast, *but also* reach a set **approval quorum** which is dependent on the size of the population. In a community of up to 50,000 inhabitants, at least 20% of the registered voters must support the proposal; with a population size of up to 100,000, the quorum is set at 15%; and where there are more than 100,000 inhabitants, the quorum is 10%.

- The ‘protective’ effect provided by Art. 18a §8 clause 1 of the local government code (earlier version) was changed. Previously it was possible to secure this protection for a period of two months by submitting one third of the total required number of signatures. During this time, the council was prohibited from reaching any decision contrary to the intention of the submission. The amended law now offers this protection only after the submission has been formally validated by the council (i.e. when *all* the signatures have been handed in and the submission has been declared valid). In a sense this took the heart out of the submission regulations, but there was a partial restoration - only a few weeks after the new rules came into force – in the form of a ruling by the Bavarian Constitutional Court: within the framework of an interim regulation in line with § 123 of the administration procedural law, administrative legal protection was to be guaranteed to submissions from the date when the full submission is handed in *and before* there has been a ruling on their validity, *if* the council plans would create a *fait accompli*.
- The **binding effect** of a citizens’ referendum on the local or regional council is now only one year – up to April 1999 it was three years. This means that a council may make a decision which effectively nullifies the referendum result only one year after it



was reached. This clearly suggests that the concept of a 'binding effect' is being misunderstood: it is hardly the intention of this provision that the authorities should be bringing in counter-measures *immediately* the binding period is over. Respect for the public's decision as an element of the political culture, and an acceptance of this direct-democratic form of decision-making are far more important than a purely legalistic interpretation of the binding clause. Six years after the citizens' referendum on the road tunnels on the 'Central Ring Road', the authorities in the state capital Munich were right not to take advantage of the absence of a legal 'binding effect', but to adjust their planning and construction to meet the expressed will of the citizens.