



# WORLDWIDE DIRECT DEMOCRACY NEWSLETTER

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## DD Potential of Post-Communist Europe, or: about the Risk of Letting the Djinn out of the Bottle

(by Jiri Polak)

Let me first give you a bit of history. At the beginning, there was *Stalin*, a communist God almighty. As long as he lived, the bottle was sealed. Surprisingly, however, he turned out to be mortal (1953). Soon, the djinn tried to peep out, especially in *Pilsen* and *East Berlin*. No chance. Until 1956, there was business as usual. But suddenly, *Khrushchev* shocked the world by saying that, as a matter of fact, *Stalin* had been a bad guy. To kill millions of ordinary people was O.K., but he did the same to scores of thousands of good communists. That was really bad manners.

What an encouragement! The djinn popped out in *Posen* and even more in *Hungary*, during the Great October Revolution. For a few days, it seemed that the bottle was broken to pieces. Wrong again! Soviet tanks hurried to mend it and to put the djinn back.

Until the late fifties, the communist countries could brag of achieving a yearly economic growth of 10% or more, widely surpassing the growth of any western country. Conclusion: Communism was superior to capitalism. But the growth was extensive and only made possible by the extremely low starting point. In the sixties, it became apparent that further growth had to be intensive, i.e. relying on increasing productivity. To achieve this, it was necessary to loosen the regime, to provide for some individual incentives. So the Politbureau decided to let the djinn peep out of the bottle, just a few inches, of course. Liberalization started in East Germany, but it was in Czechoslovakia it blossomed out. Suddenly, the djinn could no longer be kept back and the

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## DIRECT DEMOCRACY - THE EASTERN AND CENTRAL EUROPEAN EXPERIENCE



### Organized by:

- Institute for Legal Studies, Hungarian Academy of Sciences, Budapest
- C2D Research and Documentation Center on Direct Democracy of the University of Geneva
- CEU – Central European University, Budapest

*Perspective: Direct Democracy as a component of Constitutional Law, not as a movement.*

*Chairman: Prof. Andreas Auer, C2D*

*Reporters: Professors and experts in Constitutional Law.*

**General Conclusions:** Direct Democracy does exist even in the former Soviet Bloc. Since 1989, there have been scores of referenda in post-communist countries, but all were called by the new power-holders wanting to legalize their power positions. Popular initiative does not exist in these countries, at least not on the national level. There have been hundreds of local referenda, but these lack legal power. In general, Direct Democracy can only exist if authorized by the respective Constitution. It is and must always remain a *marginal phenomenon*. Political parties will remain indispensable no matter how severely they are being criticized of late.

Since 1989, most of the post-communist countries have held at least one nation-wide referendum, on subjects mainly relating either to self-determination or to the transition from a socialist regime to a pluralist and market-orientated society. But in the future, according to the new

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## DD Potential of Post-Communist Europe

(continuing)

bottle exploded (1968). Soviet tanks succeeded in mending it once more, but the Soviet image was destroyed for ever. What to do to save the economy? To let the djinn out of the bottle just a little proved disastrous. The only chance was to start massive imports of western technology and know-how while keeping the bottle closed. It worked until the mid-seventies. But in 1975, in Helsinki, the Westerners told the Communists that, to get more technology and know-how, they had to sign a Declaration of Human Rights. So what? said Brezhnev and Co. Let's sign that scrap of paper, nobody will care anyway. However, the Declaration gave the various dissident movements, active behind the Iron Curtain, a legal ground for again beginning to demand successive liberalization. The djinn started oozing out of the bottle and this time, the increasing pressure could not be stopped. In 1989, the bottle exploded beyond repair.

Initially, it seemed that the oppressed peoples got what they wanted, liberty, democracy and market economy. Soon, however, they began to realize they had been cheated. The communists were not punished for their crimes. On the contrary, they turned into capitalists able to invest their "savings" in various types of business. Savings meant money accumulated by stealing from their subjects during the 40 year long communist era. The living standards of most people deteriorated. Economic criminality began to flourish. On a massive scale, scarce national resources began to be transferred to secret accounts opened in Switzerland and elsewhere.

New power holders emerged, evidently as corrupt as the former ones. About a quarter of the citizens believe totalitarianism was better than "democracy".

It might seem that citizens of the post-communist countries, being used to obey and serve, are less prone to make efforts to push through Direct Democracy than their western counterparts. This might be true, but, on the other hand, they are also very cynical about all sorts of party-political governance, they are used to political upheavals and, for historical reasons, they are very flexible and inventive. These qualities might prove crucial.

The situation seems most promising in Czech Republic where recently (1999), hundreds of thousands of citizens signed a petition demanding the abdication of all leading politicians currently in office. They also participated in mass anti-regime demonstrations. The "democratic" system is now almost as discredited as the former communist nomenclature.

The new rulers are well aware of the risk of letting the djinn out of the bottle. As we heard in Budapest, they strictly refuse to give their peoples the right to initiative and popular referendum. They speak, of course, about power as emanating from the people, but they carefully avoid giving the people instruments of exerting it. In the meantime, tension is mounting again. If they are wise enough, the rulers will try to find a compromise. If not, we might have a new 1989. The bottle might explode again and the last fig-leaf of "democracy" might drop, this time for ever.



**Prof. Milan Zeleny**, Fordham University, New York, draws our attention to the book *Vote.com: How Big-Money Lobbyists and the Media are Losing their Influence, and the Internet is Giving Power to the People* (Dick Morris / Hardcover / Published 1999).

Prof Zeleny also points out that in the USA, DD is spreading "from below" via regional Internet and intranets. He quotes the following addresses: *USA democracy.com*; *votesmart.org*; *Issues2000.org*; *grassroots.com*; *MSN.com*; *selectsmart.com* etc.

## DIRECT DEMOCRACY ...

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Constitutions of these countries, many issues of a less exceptional nature could be the subject-matter of popular votes. This, however, is only a theoretical possibility. The most important issues are excluded from referenda.

*www-pages:* <http://c2d.unige.ch/col200>

### ANNOUNCEMENTS

• **Dr. Milan Valach**, member of the Czech MDD, has published a book called *Svět na předělu* (The World at a Watershed). Thanks to a quite unique combination of rich factual materials, scientific precision, deep historical and psychological insight and stylistic perfection, the book is likely to be recognized as one of the classics of DD literature.



The book's cover

• "The Austrian "Demokratie-Initiative 2000" updated its URL. On this page you will find the wording of the law the DI 2000 proposes in order to change the Austrian Constitution for a better implementation of Direct Democracy. <http://www.euro-vision.org/oesterreich>"

• **Mr. Evan Ravitz** points out that people in general do not want to vote on every little government issue. "If we want to change the world, we must do what the world wants, and start where the world is now."

Evan Ravitz for GOVERNMENT BY THE PEOPLE ([evan@vote.org](mailto:evan@vote.org)). Promoting citizen lawmaking and relevant technology. Information and consulting

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## ANNOUNCEMENTS

(continuing)

from the directors of the US National Science Foundation's 1974 Televote trials and Boulder's 1993 Voting by Phone ballot issue: <http://www.vote.org>

• On 18 January, **Mr. José Abreu**, Portugal, wrote: "... as a member of a Portuguese Human Rights association "Olho Vivo" and with other friends from other groups (O'Porto Jewish community, SOS racism, Tabanca - african assoc.) we have presented, last August, a project of "Ciber-Clube Euro Cidadao" (Euro Citizen Cyber Club) to Porto2001 SA <http://www.porto2001.pt>, Portuguese society for the commemoration of European Cultural Capitals year 2001 (Porto and Rotterdam).

• Lately I have discovered the **MANIFESTO** on line about "IT for every citizen" and its address: <http://www.bbc.co.uk/education/webwise/communities/manifesto.shtml> It may be interesting to transmit a European citizen cyber-position to the Special European Council of 23 and 24 March 2000 in Lisbon, discussing "an Information Society for All", in <http://www.europa.eu.int/comm/dg13/index.htm>

• On 5 February, Mr. Abreu informed us about further developments. Among other things, he wrote that **Prof. Dr. M. J. van den Hoven** (Dept. of Philosophy, Erasmus University, Rotterdam) was interested in opening this civic debate.

## PERIODICALS

• Zeitschrift für direkte Demokratie [www.mehr-demokratie.de/zfdd](http://www.mehr-demokratie.de/zfdd)

• Monetary Reform Magazine <http://www.monetary-reform.on.ca>

• Europa-Magazin, Zeitschrift für direkte Demokratie, Selbstbestimmung und internationale Zusammenarbeit <http://www.crossnet.ch/europa-magazin/>

• Begegnungszentrum für aktive Gewaltlosigkeit (Austria) contact: [mareichl@ping.at](mailto:mareichl@ping.at)

## Open Forum

Dr. **Michael Macpherson** has opened a new *Open Forum* which can be found via <http://www.snafu.de/~mjm/enter.html> Purpose: political communication among citizens. Dr Macpherson writes: "The early Open Forum proposals were quite well received and cited in publications on- and offline, for instance in John Gotz's doctoral dissertation. In the meantime, a number of on-line politics fora have been established. Technology has advanced. There are some quite good experiments but generally they address issues in a rather random fashion, there is unsystematic if any back-

## NDDIE – Network Direct Democracy Initiatives in Europe

(Founded in the fall of 1999 in Germany, in cooperation with Mehr Demokratie e.V.)



(Mr. Heiko Dittmer speaking at our First International Conference, Pribram, August 1998)

**Coordinator:** Heiko Dittmer, Belgium, [heiko\\_dittmer@hotmail.com](mailto:heiko_dittmer@hotmail.com) - Western and Southern Europe

**Team members:** Thomas Rupp, Germany, [tom.rupp@t-online.de](mailto:tom.rupp@t-online.de). Germany, England, Ireland; Jiri Polak, Sweden and Czech Republic, [jiri.polak@swipnet.se](mailto:jiri.polak@swipnet.se) Central and Eastern Europe; Bruno Kaufmann, [brunokaufmann@hotmail.com](mailto:brunokaufmann@hotmail.com) Scandinavia and the Baltic countries; George L. Kokkas, [geoko@eexi.gr](mailto:geoko@eexi.gr) Greece and the Balkans

**Activities so far:** 28. and 29.01.00: Colloquium and two NDDIE Workshops in Paris, within the framework of the Colloque International – Le Référendum en Europe à l'aube du troisième millénaire

**Participation:** about 80 Frenchmen, 5 Swiss; short report from Heiko. The two NDDIE workshops had altogether 11 participants – DD activists, members of 4 small French DD groups.

**21.1.00** Coordination Meeting of ICC (Intercitizens' Conferences) in Paris. Purpose: Democratization of the EU. Report from Thomas Rupp. ICC contact person: Thomas Fiedler [icc.cic@t-online.de](mailto:icc.cic@t-online.de)

**25-26.2.00** Participation at the Budapest Conference on DD in Eastern Europe (see above)

**27.2.00** Workshop in Rome

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up information, the geographic focus (the constituency) is unclear, topics are commonly dictated by the "owners" and often these fora are commercial ventures whose impartiality is questionable."

"Open Forum's general and development space has been set up at eGroups. To subscribe to the discussion, so that you can send and receive messages by e-mail, send a completely empty message to: [citizen-policy-subscribe@e-groups.com](mailto:citizen-policy-subscribe@e-groups.com) You will receive instructions from e-groups about how to confirm, how to unsubscribe (it's very easy) and some other things."

*More information can be obtained directly from Dr. Macpherson*

# NDDIE – Network Direct Democracy Initiatives in Europe

(continuing)

## Planned Activities:

- 25.3. Workshop in Brno, Czech Republic
- 27.5. Eurotopia Meeting in Stockholm, Sweden
- 22-25.6. Participation at the Second International Conference on DD, Greece

## Member Organizations of NDDIE:

- WIT Belgium; contact: Heiko Dittmer
  - WIT Nederlande; contact: Arjen nibeboer ariennibeboer@email.com
  - CD – Forum for Citizens' Democracy, Greece; contact: George L.Kokkas
  - MDD – Movement for Direct Democracy, Czech Republic; contact: Jiri Polak
  - Mehr Demokratie e.V., Germany; contact: Thomas Rupp
- Supporters:
- Mr.Andreas Gross, Switzerland, MP and member of the Council of Europe
  - Mr.Dane Waters, USA, President of the IRI, Washington

## WWW contact:

<http://home.t-online.de/home/nddie/home~1.htm>

## ON THE EVE OF THE SECOND INTERNATIONAL DD CONFERENCE, GREECE 22 - 25 JUNE 2000

The organizers of the Second Conference have sent us information about their organization: (*abbreviated*)

"We are called "Forum for Citizens' Democracy" and we were founded in Delphi, Greece, in 1995. Our view is that modern parliamentary democracy is not adequate to the task of governing societies of today and we seek to elaborate alternative systems of government drawing their inspiration from the "Ecclesia tou Demou" (the ancient Athenian assembly) and from the other democratic institutions of ancient Athens. We are associated with the Continuing Congress of International Direct Democracy, which held its first session in Pribram (near Prague) in 1998 and which will be holding its second congress under our auspices, and with the assistance of the mayor of Athens, in Athens and Delphi, in June 21-25 this year."

"Our members are interested in different aspects of the ancient democratic model: some propose a wider application of sortition rather than election, a method which is applied in the modern jury system but in ancient Greece was often also used for the selection of delegates in legislative bodies. Others place more emphasis on the importance of direct democracy (including referenda at the initiative of citizens), others again favour the development of direct democratic citizens' assemblies in parallel (and – for some – in

competition) with representative democracy. Some wish to see the establishment of a second chamber of the European Parliament, a chamber of active citizens." ....

"The European Union suffers from a very serious democratic deficit, even from the viewpoint of the inadequate representative democratic principles that it itself invokes. If the elected representatives of European citizens cannot protect national sovereignty and democratic rights of all EU member countries, it is up to the active citizens of Europe to create more suitable and more effective democratic institutions which can."

"The Forum for Citizens' Democracy can be contacted in Athens, c/o George Kokkas ([geoko@eexi.gr](mailto:geoko@eexi.gr)) at telephone numbers 30-1-3648300 or 3632000, Fax 3610882."

"Looking forward to seeing you in Greece: George Kokkas and the Host Organizing Committee"

For the participants of the Second Congress, Mr.David Swanger has created the mailing list "pericles". To use the list, send messages to the address: [pericles@auburn.edu](mailto:pericles@auburn.edu) You can add/remove other subscribers at the web site: <http://majordomo.auburn.edu> The password is "plato".

Vivid discussions are already in progress using this channel. For voting on the program, please go to [www.auburn.edu/tann/prague/voting.htm](http://www.auburn.edu/tann/prague/voting.htm)

## NEWS FROM JAPAN

We have received the following letter from Mr.*Shuji Imamoto*:

"I am a co-leader of PFI, the Political Forum on the Internet, in Japan. We established last year this Forum, which aims to realize a true democratic system in Japan, ruled by citizen's power and Direct Democracy Movement. Because we are seriously confronted with poverty or crisis of democracy in politics today. We are composed of some groups which act differently both in cyberspace and in the real space of the world.

Our website is as follows: <http://lp.jiyu.net/english.htm> Please access to one of my group's website too: <http://www2.osk.3web.ne.jp/~mnc2/cigo.html>

On 5 March, Mr Imamoto informed us about the initiative of one of his colleagues, Mr.Hiroshi Minc who works for DD as a complement to Japan's representative system. Mr. Mine is President of Direct-Indirect-Cocexisting Democracy Movement. Addresses: <http://www2.osk.3web.ne.jp/~mnc2/cigo.html> <http://www2.osk.3web.ne.jp/~mine2/english.html>



## REPORTS AND INFORMATION FROM THE USA

### THE MAJORITY HAS A LEGITIMATE RIGHT TO RULE IN A CONSTITUTIONAL REPUBLIC

(By Mrs. Barbara Vincent - conclusion)

THE CHECKS AND BALANCES present between majoritarian rule and individual rights can be seen in two petitions for redress recently submitted in California. These measures, forced on the ballot via citizen petition, eliminated many public benefits for illegal aliens and abolished some race- and gender-based affirmative action programs.

Both issues enjoyed a long period of deliberation and a robust public debate that afforded ample opportunity for opposing views to be expressed. Long before the election, each registered voter was supplied a pamphlet containing the text of the bills, impact statements written by state officials and citizen arguments pro and con. The two initiatives were subsequently approved by a majority vote, and each enjoyed a wide margin of victory.

A FURTHER SAFEGUARD occurred in this process when legal challenges were filed, and the controversy was sent to court. There, the measures were examined to see if indeed they wrongly impacted individual rights, a proper function of the judicial branch of government.

Given this lengthy sequence of events, the California redress procedure can hardly be defined as "mob rule", a term sometimes used by uninformed critics, even though the issues were decided by the majority. (It must be noted here that public officials are elected on the basis of majoritarian rule. And, the same principle underlies actions taken by the U.S. Supreme Court, Congress, state legislatures, county commissions and city councils, among other assemblies).

TO CORRECT ANOTHER misperception, ours would be "pure democracy" only if the majority decided every issue. This approach is thought to be unworkable in a republic such as ours. But, exercising the First Amendment right of redress is in total harmony with the republican concept: "In establishing legislative bodies, the people can reserve to themselves the power to deal directly with matters which might otherwise be assigned to the legislature."

(James Madison, *The Federalist Papers* No. 39)

IN SUPPORT OF THIS ARGUMENT, we are reminded that Article IV, Sec. 4 of the U.S. Constitution guarantees the citizens of each state a republican form of government. This passage clearly provides for majoritarian, not minoritarian, rule within the confines of constitutional law: "In a republic, all power is inherent in the people, and all free governments are founded on that authority and instituted for their peace, safety and happiness. For these ends, they may alter or reform the government in such manner as they think proper. In this country, these are well-recognized political truths, independent of any written constitution or laws."

VOTERS IN HALF THE STATES have routinely sought redress of grievances through a two-part petition process called voter initiative and referendum and have done so in many areas since the 1800s. This long, successful use of citizen petition illustrates that the dual protections Madison sought are working; the majority can rule itself in a legal, orderly way, through continuous redress of grievances, without violating the rights of the minority.

Since the aim of a republican system is effecting the "greatest good for the greatest number of people", the majority has the authority and, yes, the duty to overturn any unsavory actions imposed on it by the few in office. In other words, it is fitting and proper for the people (the principle parties) to demand redress when their government (the agent) either fails to act as needed, or acts contrary to the public good.

HOWEVER, LAWMAKERS IN the remaining states refuse to establish I&R or any other formal procedure for seeking redress of grievances against government. This gimmick is meant to obstruct a constitutional right, since there is no enforcement power behind the petition clause until enabling legislation is passed.

James Madison's worst fear, of course, is realized. For, one has to look back only a short distance to see that "tyranny of the minority" has quickly advanced, when government has been insulated from citizen control.

("The majority" is used in this essay to describe the prevailing will of the voting community, "minority" refers to government and its special-interest lobbies.)

### INITIATIVE & REFERENDUM INSTITUTE, WASHINGTON

Information from Mr. *M. Dane Waters*, Initiative & Referendum Institute, Washington

• On 15 November 1999, Mr. Waters wrote: The Field Institute conducted a poll on August 16-22, 1999 among a representative sample of 1,010 California adults asking "...how do Californians view the efficacy of legislation via direct democracy vs. through their elected representatives in the state legislature."

(*The results were summed up in an article by Lynda Gledhill, San Francisco Chronicle / Sacramento Bureau, November 11, 1999.*)

"Californians favor using ballot initiatives to decide important policy issues rather than entrusting the job to politicians... Almost two-thirds of voters said the state's system of ballot initiatives is generally a good thing. However, the number is down from 83 percent in 1979, when propositions were just coming into broad use... There are still very few people who consider them a bad thing."

"But voters do distinguish between issues that are better decided by initiative and issues that are best left to the

Legislature and the governor... Sixty-six percent of those polled said elected officials are better able than voters to decide highly technical matters or those that involve legal policy. .... But the initiative process was favored for the big policy questions." (Detailed results of the poll can be found at <http://www.politicalaccess.com>; a password protected site.)

• On 26 November 1999, Mr. Waters wrote:  
"On November 19, 1999 the Nebraska Supreme Court issued a very interesting decision regarding the verification of signatures on initiative petitions." (Link: <http://court.nol.org/opinions/1999/november/98-983.htm>) "In this case (called Stenberg v. Moore), the Nebraska Supreme Court dealt with the constitutionality of a Nebraskan statute that required that the information a voter puts on an initiative petition (signature, address, etc.) be an exact match with what is the voter registration records in order for the signature to be counted as a valid signature. The Nebraska Supreme Court ruled that this law was facially unconstitutional.

• On 7 December 1999, Mr. Waters wrote:  
"There has been growing talk around the country regarding the "single subject" requirement for initiatives. In some states with a single subject restriction, it is liberally enforced but in other states it has been strictly enforced and has become a severe obstacle for those wishing to utilize the initiative process – as is the case in Florida.

The following article which appeared in the Miami Herald on December 6, 1999 gives a very good insight into what an initiative proponent faces when having to deal with a single subject requirement.

As is always the case, the Institute takes no position on any specific initiative and is providing this information solely as to educate you on the single subject restrictions for initiative petitions."

(Amendment on racial preference faces court test BY STEVE BOUSQUET Address: [sbousquet@herald.com](mailto:sbousquet@herald.com) (For the text of the article, please contact the author.))

• On 13 December 1999, Mr. Waters wrote:  
"In early 1999, the Initiative & Referendum Institute brought a lawsuit in the U.S. District Court of Maine challenging Maine's prohibition on the payment of signature-gatherers on a per-signature basis (instead of by salary.) Although the Court ruled that the Institute did not have standing to bring the case (because the Institute was not engaged in any initiative campaigns in that state), the Court did allow two other plaintiffs to remain." (For the complete text of this information, please contact the I&R Institute.)

• On 15 December 1999, Mr. Waters wrote:  
..."Just the other day, the California State Supreme Court ruled that a redistricting initiative can not appear on the March Primary Ballot because it violated the state's single subject requirement for initiative petitions. The following article that appeared in the Los Angeles Times gives a very good overview of the rationale used by the court."

(Los Angeles Times, December 14, 1999)

State High Court Pulls Initiative Off March Primary Ballot By MAURA DOLAN and MARK GLADSTONE, Los Angeles Times Staff Writers

(For the text, please look at <http://www.iandrinstitute.org/legaldecisions/cavjones.htm>)

• On 17 Decemeber 1999, Mr. Waters wrote:  
"Over the last few months, it is amazing how many legal rulings pertaining to the use of the initiative process have been made. ...."

"All of these court cases, coupled with several others pending around the country, exemplify how active the courts have become in dealing with initiative related issues."...."There is little doubt that the number of locations that petitioners can circulate petitions is diminishing and that a lack of access to locations to collect signatures represents the greatest threat to the survival of the initiative and referendum process."

Further, Mr. Waters quotes the article High court says stores can bar initiative petitions By HUNTER T. GEORGE, THE ASSOCIATED PRESS, Friday, December 17, 1999 (see [http://www.wa.gov/COURTS/opinions/670293\\_001.txt](http://www.wa.gov/COURTS/opinions/670293_001.txt))

• On 27 January 2000, Mr. Waters wrote:  
"It's January 27, 2000 and already we are seeing signs that it is "open season" for state legislators to propose new regulations on the initiative and referendum process – legislatures in Alaska, Nebraska, Oregon, Maine and South Dakota have already been active in considering and passing new regulations on the process. The following article gives a very good overview of what the Alaska Legislature is attempting. If they are successful, the Alaska initiative process will be severely damaged and unusable to the average Alaskan." ....

Alaska state lawmakers consider new ballot-initiative restrictions By The Associated Press, January 24, 2000.

(For the text and further details, please look at the I&R Institute's web sites.)

## INITIATIVE DEMOCRACY AND PHILADELPHIA II

(Don Kemner)

During the past months, members of our movement could follow the controversy between Mr. Donald Davison and Mr. Don Kemner, concerning certain tenets of Philadelphia II. One of the participants of the discussion was Mr. Jeff Sowers. I would like to refer to what Senator Gravel said at our first Conference, namely that the most important part of every document of that kind is the Preamble. As far as I see, Mr. Davison doesn't have any serious objections to that part. As for the rest, Senator Gravel pointed out that it was not finished and invited everybody to comment on it and propose changes. Therefore, I am sure the framers of Philadelphia II welcome Mr. Davison's remarks and will take them into consideration. Here follows an article by Mr. Don Kemner which, hopefully, will shed some light on the matter.



Don Kemner: Initiative Democracy and Philadelphia II Overview – Philadelphia III (P-II) is a project designed for the civic maturation of the citizenry through Initiative Democracy (ID). The proponents of P-II expect ID to bring the People into a working partnership with Representative Democracy (RD). P-II suggests that, while RD was implemented and strictly limited both in structure and procedure in our Constitution, ID was clearly not limited. Thus while ID still awaits statutory implementation under our Constitution, it has lost none of its inherent sovereign power. Philadelphia II, as the crafting sponsor, advances ID by bringing forward the Direct Democracy Initiative (DDI), a proposed federal law. The DDI is a self-enacting measure for use by the electorate in an open election. No legislative act of RD is involved in DDI's electoral process. The DDI is overdue. What follows is a representation of the constitutional grounding of this approach to the advance of Democracy and the civic maturation of the citizenry.

Republican Form of Government – Seeing the constitutional groundedness of ID requires liberation from the conventional view that ID is contravened by the Guarantee Clause. James Wilson, in *Chisholm v. Georgia* 4 in 1793, clearly affirms the compatibility of ID with the Guarantee Clause in offering a "short definition" of Republican Government as "...one constructed on the principle that the Supreme Power resides in the body of the people." Wilson, it is to be noted was truly a Founding Father.

In line with James Wilson, Yale constitutional law scholar Akhil Reed Amar affirms today: "...the central pillar of Republican Government ... is popular sovereignty. In Republican Government, the people rule." In sum, ID is not contravened by the Guarantee Clause.

Constitutionally Grounded – Where? – The constitutional linchpin of ID is the combination of the Preamble and Article VII. Whereas Articles I-VI define the structure and procedures of RD, it is the Preamble coupled with Article VII that acknowledges the political sovereignty of the People. Obviously, if the People can "ordain and establish" government on the extra-constitutional basis of "first principles," they can alter or abolish that government whenever and however they see fit through the use of those same "first principles."

But Not Statutorily Implemented – Our fundamental law to this day provides no procedure for the people to directly participate in the central act of political power. We, the People, indeed, are the source of all political power. Yet all we can do as sovereign democrats without ID is transfer this power to politicians and then seek the benefits of that transfer by begging them to do our bidding (via: asking, pleading, protesting and/or civilly disobeying) as mendicant democrats. This is not congruous with our calling as sovereign democrats.

Constitutional Specifics of "first principles" as Implicit Underlayment of Initiative Democracy – Unpacking the constitutional groundedness of ID, one sees three grounds. They are:

1) Popular Sovereignty – Nothing in the Constitution's Articles I-VI more clearly or expansively expresses the

sovereignty of the People in fundamental and/or statutory law over government than do the contents of the Preamble and Article VII in word in 1787 and in ACT in 1787-89. "We the People ... do ordain and establish this *constitution* ...." coupled with Article VII in word and Act clearly implies the People, the polity, the State (understood as the People) are the Ruler. Each and every individual as a public citizen shares directly and immediately in this political sovereignty. As a member of the electorate the citizen, qualified as a registered voter, enjoys a constitutionally acknowledged statutory platform for expressing popular sovereignty. The preeminent contemporary procedure for the People to articulate popular sovereignty today is in a duly deliberative exercise of *initiative*. This is a pure expression of the will of the People via "first principles" and constitutional acknowledgement of same when exercised in an orderly, deliberative, verifiable, and deciding process of 'just doing it.'

2) Majority Rule – Historically, Akhil Amar points out "...popular sovereignty ... and majority rule in making and changing constitutions ... were bedrock principles in the Founding, antebellum, and Civil War eras." Illustrative of this at the Founding is the fact the Constitution was ratified by the People in state ratifying conventions wherein simple majority vote had the rule of law.

Majority rule is constituted logically by 50% plus one of a duly established electoral body or by 50% plus one of those voting in the election. Every other 'majority,' as measure for the rule of law, is minority rule. Mandating a greater number, a super-majority and/or a so-called conclusive majority – in a quest for a more deliberative outcome in lawmaking – cannot escape indictment of being an imposition of minority rule on the electorate.

3) Collective Self-Governance – Alexander Meiklejohn makes the case for collective self-governance as a constitutionally grounded principle of ID in stating "... the Preamble of the Constitution announced the common purposes in the pursuit of which we had become united. 'We, the People of the United States,' it says, 'in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.'"

Meiklejohn continues ".../i/n these words it is agreed, and with every passing moment it is reagreed, that the people of the United States shall be self-governed. To that fundamental enactment all other provisions of the Constitution, all statutes, all administrative decrees, are subsidiary and dependent. All other purposes, whether individual or social, can find their legitimate scope and meaning only as they conform to the one basic purpose that the citizens of this nation shall make and shall obey their own laws, shall be at once their own subjects and their own masters." So appreciated, collective self-governance is a third constitutionally acknowledged first principle of ID.

A Federalist # 10 Political Grounding of Initiative Democracy

"Republican Remedy" For Factions: A Call for ID Today  
– A case can reasonably be made for a politically grounded fourth principle of ID. James Madison, in Federalist # 10, describes the only democratic way (in his view) to deal with factions (special interests).

• Madison wrote, "... the greater number of citizens and extent of territory which may be brought within the compass of Republican... Government ... is /the/ circumstance principally which renders factious combinations less to be dreaded ... Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other ... In the extent and proper structure of the Union, therefore, we behold a Republican remedy for the disease most incident to Republican Government."

• In sum, Madison's "Republican remedy" calls for the inclusion of the People in a direct legislative role today as antidote to the forces of special interests (factions). What other way can adequately remedy the deleterious infiltration of the power of factions (special interests) in the processes of checks and balances of representative government?

• Philadelphia II, espousing these constitutionally grounded and political views, takes its stand in bringing forward the Direct Democracy Initiative. In the DDI, Philadelphia II sees a structural and procedural timely advance of Democracy. Likewise it sees a partnership between Initiative and Representative Democracy occurring which will not only provide the prerequisite procedure for the civic maturation of the electorate but salutary reform in Representative government.

(endnotes see p. 11)

(Don Kemner – Secretary, Philadelphia II; 1/12/00)



On 22 January 2000, Mr. *Donald Davison* sent us an update from *New Democracy* containing the following:

- 1) Run-Off Elections, PR, and Constitutional Convention;
- 2) People's Relationships with their Representatives;
- 3) A More Direct Democracy: Revised 01/20/00
- 4) The Good, The Bad, The Missing, and The Unnecessary of a Proposal;
- 5) Humor – God's Children.



On 24 February 2000, Mr. Davison sent us a Digest containing the following:

- 1) What issues should be decided by the Initiative?
- 2) The Meaning of One-Person One-Vote:
- 3) In Support of Conclusive Majority aka Supermajority:
- 4) Voter Choice needs the addition of None of the Above:
- 5) None of the Rest.

In February, we were also given the opportunity to follow an interesting discussion taking place between Mr. Davison

and Mr. Stephen Todd, New Zealand. (For the texts, please look at New Democracy's web-site: <http://www.mich.com/~donald>)



Mr. Donald Davison has sent us a letter concerning the election of the Committee of our future organization. I quote:

"I would like to make one, maybe two, suggestions. First, I suggest that a proportional representation (PR) method be used to elect this committee. Single Transferable Vote with Hare quota would be my pick. Manual count can easily handle the number of votes the conference will have.

My possible second suggestion depends on if you do use a PR method. If so, I suggest that the number of seats should not be more than one half of the available candidates. For example, if twelve seats were desired, but only twelve persons agreed to be candidates, then the number of seats on the committee should be reduced to six.

This will be necessary in order to realize the full benefit of any PR method. Otherwise the elected members will not be proportional to the voters."

I believe this proposal might be appropriate should we already have a big organization with scores of committee candidates. This will probably not be the case in Greece. Anyway, the procedure can only be tentative and the committee will be in office until the next Congress only, so we need no rigid rules this time. I imagine the following:

At the beginning of the Congress, a list of participants is circulated where each participant shall indicate whether or not he/she is a candidate. The list of candidates will then be distributed and serve as a voting ticket. Those candidates who will get at least 50% of the votes will be elected.

At a committee session, the following officials could be elected internally:

*President* (in charge of policy, representation and public relations)  
*Secretary* (in charge of implementation of decisions, network information and administration)  
*Vice-President*, specialist in North and South America  
*Vice-President*, specialist in European affairs  
*Treasurer*

The officials elected will be presented for the plenum for confirmation. For the time being, all functions can only be honorary. Re-election will be possible at the Third Congress.

It is obvious that the centre of gravity of the advancement of DD will always be in the local organizations and groups active in their respective countries. The International Committee can nevertheless play an important role by spreading information, doing research, supporting, in various ways, local initiatives etc. During our discussions, a few ideas deserving support have already emerged:

Initiatives for governmental monitoring which will act as a shadow instrumentality, monitoring every branch of administration (Mr. G. Kokkas, Newsletter Vol 1, No 1.)

• Planning cells to be also used for legislative and constitutional changes (According to Prof. Diemel, Newsletter Vol. 1 No.2.)

- Forcing candidates for legislative bodies to openly declare themselves to be in favor of DD (according to Dr. Macpherson's proposal; Newsletter Vol. 1 No. 2.)
- Institutionalization of electronic town meetings and open fora for citizen debates.
- Substitution of electronic voting for paper voting, thereby dramatically reducing I&R costs.
- Encouraging DD adherents to present themselves, in their respective countries, as candidates for legislative bodies. Such candidates, no matter whether elected or not, will be in a much better position than other people to promote the above ideas in the media.
- And, of course, helping to promote the right to I&R to be included in all constitutions.

(JP)

## PARTICIPATORY DIRECT DEMOCRACY

(Mr. Thomas McArthur)

It appears to me that the American Revolution is over or perhaps lost and the people are struggling to come to terms with the process of maturing their politics. I believe that maturity to be the process of making the representative directly responsible to his constituents. Barring all other influences, on penalty of dismissal. To treat people as unwashed, illiterate is no longer acceptable and it's time for a change, a step forward into the 21<sup>st</sup> Century with dignity.

The following is a structure to provide the first true democracy not only for British Columbia and Canada, but also for the world at large. When accepted this system would create a flow chart of two inter working political entities, the Legislative body of government and the policy forming body of the people.

(to be continued)

## DEMOCRACY

*Mr. George Kokkas has sent us a letter revealing his deep commitment to the glorious democratic tradition of his native country:*

"Dear friends, we often speak of various kinds of democracy, using various adjectives, i.e. presidential, indirect, direct etc. However, democracy is one and unique and it has no need of adjectival complements. Either it *has* the relevant characteristics and *is* democracy, or it does not have them and is *not* democracy.

Let's start from the beginning. The word *democracy* is ancient Greek meaning the power, the domination of the people (*demos*). There is democracy only when the people (*demos*) dominate, when the people participate in the exercise of power. To achieve that, all the officers, like members of parliament, judges and civil servants, must serve during limited periods of time, they must not return to the same post, and as many people as possible should successively fill most public posts. The exercise of power is like school and all people must have that experience in order to be true citizens. If all the time, power is the monopoly of the same few persons, the form of government is oligarchy and tends to become tyranny. There is democracy when the officers (*archons*) are appointed by sortition. Aristotle gives the following definition of democracy and oligarchy in *POLITICS* (1294b 8-9): Democracy is when the archons are appointed by sortition and oligarchy is when they are appointed by election. Those who invented the democratic form of government had connected it with sortition. Sortition is the only means of avoiding the creation of a caste of professional politicians. In Athens, 99.85% of the archons were appointed by sortition. Only the ten generals were elected and that was 0.15%. Therefore, we cannot use the words *democracy* and *democratic* if we ignore sortition.

During the Renaissance, thanks to the invention of the printing-press, more and more people became familiar with ancient Greek civilization. This was the rise of a new wave of civilization taking people out of the darkness of the Middle Ages. However, various Hellenists, politicians and philosophers, influenced by the despotic thoughts of that time, ignored the highest creation of the ancient Greek civilization – democracy. Intellectuals always like speaking about democracy, but they omit to name sortition, on purpose or not. Who actually knows today that **sortition** is the **specific characteristic** which distinguishes democracy from the other forms of government? During 500 years, from the Renaissance until now, everybody has been speaking about democracy, but ignoring sortition. Why? Anyone should try to find an answer.

Aristotle goes on saying that elections foster oligarchy, political parties and factional spirit the consequences of which are known and repeated (see the recent scandal concerning H.Kohl in Germany and similar cases elsewhere). Elections divide people, create castes, produce ruling elites and the ruled. Only democracy and sortition contravene division and dissension among people.

And we should realize that no other institutions, neither referenda nor laws resulting from popular initiative, would be effective without sortition. All dictators used referenda, but they never established democracy.

And there is yet another aspect: Sortition-based democracy is a historically tested form of government. Greek civilization is the result of democracy and Greek people, living in both ancient and recent years, never believed they were a selected nation or a superior race. They simply believed that the form of government they had invented – democracy – was the only suitable one for human beings. So let's work for democracy pure and simple, democracy without adjectives.

Those who believe that sortition is not feasible today must believe that democracy itself is not feasible today. This should not excuse them for usurping this concept and call democracy every oligarchic alteration which uses election as the chief instrument of appointing archons.

However, we believe that today's technology can consummate democracy and sortition easier than it was the case in ancient Greece. Of course, it is not possible to abolish oligarchy and election from one day to another and introduce

democracy and sortition. There are, however, areas where their implementation is feasible already now, namely schools. Who would object to the idea of student councils being appointed by sortition and rotation without reinstatement? Another suggestion is for boys to adopt the surname of their mothers and for girls to adopt the surname of their fathers. This simple step would contribute a great deal to the awareness of the equality of the sexes. And we should not forget that the concept of equality originates from the equivalence of the sexes during the period of matriarchy which actually gave birth to democracy.

Further, we insist on the use of the OATH OF DEMOCRAT and propose the following wording:

I will not abolish the institution of sortition which is the main institution of democracy. I will defend democracy and sortition by speech, alone and together with other people. And I will not downgrade the other institutions of democracy, such as the report of the archons presented at the end of their service period and the annual rotation without reinstatement. And I will obey the judges appointed by sortition and I will believe in the institutions established unanimously by the people. And if someone tries to abolish these institutions, I will not allow it, but defend them by all legal means, alone and together with other people.

We insist on the use of oath to be sworn by those who want to do it, in order that everybody understands the meaning of sortition and how much it is connected with democracy. This in order to avoid the usurpation of the name of democracy.

If we wish to learn about democracy, we should read Aristotle's POLITICS and ATHENIAN'S CONSTITUTION. Speaking about democracy while omitting sortition is babble.

Let's decide what we want. Do we want to start a movement in order to become leaders or presidents because we fear democracy, or love power, or both? Or do we wish to contribute to the improvement of human life?

So let's read Aristotle and work for democracy without adjectives. That is the best we can do for ourselves, our fellow-citizens and our fellow-men.

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## AN ELECTION LAW FOR CITIZEN DEMOCRACY

(by Jaroslav Langer - continued)

On the election tickets, which have to be delivered to the voters in due time, at least one week before the election, all authorized candidates of the constituency have to be presented by name, address and profession. With each candidate, the supporting party or other association is mentioned. In case of election alliances of several parties or associations (which can also be agreed upon for one constituency only), all organizations supporting the candidacy have to be presented, in the first place that which, in case of a proportional representation scrutiny (see below) is to receive the votes cast in favor of the candidate in question. The candidate and the respective associations shall agree upon the priorities in this respect. The sequence of candidates presented on the ticket will be determined by sortition.

Election is by ballot, the ticket has to be completed in the election box. Every voter is entitled to cast two votes, each of them for a second candidate. However, he/she can also cast only one vote. On the ticket, beside the name of every candidate, there is a square provided for marking the vote. In this square, beside the name of the preferred candidate, the voter writes clearly the cipher 1 (the first choice). For the event of non-election, the voter writes clearly the cipher 2 in the square beside the name of his/her candidate of the second choice (the second vote). The election act is completed by casting the completed ticket into the ballot-box.

The routine for the announcement of the election result and the distribution of mandates obtained is as follows:

The sum of the valid first and second choice votes cast for each candidate is announced separately and the sum total of these votes is noted. On the basis of these figures, the percentage of valid first and second choice votes, cast for each candidate of the constituency, is calculated. If a candidate has obtained more than one half of the valid first choice votes cast in the constituency, he/she is elected Member of Parliament.

*(to be continued)*

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## Politics for the 21<sup>st</sup> Century Direct Democracy Manifesto Introduction

(Mr. Aki Orr's)

The history of politics is the history of struggles by those who want to be free against those who want to rule. To be free is to live by one's own decisions. To rule is to make others live by one's own decisions. Freedom and Rule depend on politics. Politics is decision-making for an entire society. Such decisions require a system for making them. Decision-making systems vary from a single decision-maker to a few elected decision-makers. In all political systems few make all decisions for many. Today, as in the past, most people are excluded from deciding most issues of their society. Those excluded from deciding what their society should do are not free. They obey decisions made by others.

The history of political systems is the history of struggles by the ruled against their rulers for more say in decision-making. Such struggles are motivated by the desire of most people to live by their own decisions rather than by decisions made by others. Struggles by those who obey decisions against those who make decisions have succeeded to increase freedom in the Family, at Work, in Education, and in the State. Today most people are freer than in the past but not as free as they can be. Most people do not want to rule others, they want to be free. Complete freedom is possible only when living – voluntarily – on one's own. One cannot be completely free when living in any group. Groups, from Family to Humanity, must have a system for making decisions obeyed by all in the group. Without such a system no group can exist. Rarely do all members of a group agree with all group-decisions. Some have to obey decisions they oppose, made by others. This is so in the Family, in Education, at Work, and in the State. Most people resent being ruled but rulers coerce dissenters. When dissenters defeat coercion, they must establish new ways for making group-decisions, else the group ceases to exist. Complete freedom is impossible in any group, yet most people prefer life in a group to living on their own. Though complete freedom in a group is impossible, it is often possible to raise freedom in a group to a higher level.

In Parliamentary Democracy people have more freedom than in a Dictatorship. In Direct Democracy, people have more freedom than in a Parliamentary Democracy. Today most people believe Parliamentary Democracy provides the highest level of freedom possible in society. This was true until electronic means of communication were implemented. Since then a State far freer than Parliamentary Democracy is possible.

*(to be continued)*



*Here is a letter received from a young Romanian woman, researcher at the National Institute of Meteorology and Hydrology: (abbreviated)*

I live in a country said to be "in transition". A transition from an isolated totalitarian system to a post-industrial democracy. There are a lot of problems and politicians seem to be overwhelmed by them. The political class in Romania lost the effective contact with the civic society. On the other hand, civic society is not strong enough to force politicians to solve the problems which we are interested in. Voluntary sociability seems to be very reduced. The reasons may be the reaction to former forced sociability and the absence of experience related to civic ways of action in the new democratic environment. Building upon this background we are trying to take advantage of IT in order to initiate a civic structure to enhance voluntary sociability.

Ciberplai (<http://bojariu.tripod.com/ciberplai.htm>) is a webring which aims to synchronize Romania to post-industrial democracies. The webring is open to people living and working all over the world who are willing to contribute

to the evolution of Romanian society according to some basic principles:

- the goal doesn't excuse the means
- the individual should not be aggressed by any means and general rules of action: -voluntary; non-profit; smiling (informal...)

Ciberplai is still at the beginning. We are only 6 active members (4 from Romania, one from Canada and one from Australia) We have a mean traffic of around 400 visitors in the last 8 weeks.

I would appreciate your comments, opinions, suggestions. Thank you.

*Best regards, Roxana Bojariu*

## Initiative Democracy and Philadelphia II

*(Don Kemner)*

### ENDNOTES

1. Philadelphia II is a California 501 © (4) nonprofit public benefit corporation.
2. For further information about Philadelphia II in this project contact: Philadelphia II Midwest Office; P.O.Box 3860; Chesterfield, MO 63006, USA; Don Kemner, Sec'y; O: (636) 386-3728; R (636) 391-9065; Email: [phila2don@aol.com](mailto:phila2don@aol.com).
3. "The United States shall guarantee to every State in this Union a Republican Form of Government." U.S. Constitution, Article IV, Section 4
4. 2 U.S. (2 Dall.) 419, 457 (1783)
5. Robert Green McCloskey as editor of The Works of James Wilson states in the Introduction: "... /P/osteriority's neglect of Wilson is nothing short of astonishing when it is measured against his claims to be remembered. A mere recitation of the roles he performed is sufficiently arresting. He was one of six men who signed both the Declaration of Independence and the Constitution and his contribution to the deliberations of the Federal Constitution was second only to Madison's. He was the principal figure in the struggle to secure ratification of the Constitution in Pennsylvania, the approval of that state being indispensable to the success of the whole constitutional movement. The important Pennsylvania state convention of 1790 was very largely his work. He was one of the original justices of the Supreme Court of the United States, and was commonly accepted in a nation already much dominated by lawyers as the most learned and profound legal scholar of his generation ... Wilson was especially 'influential' in determining the future ... Perhaps the right word is 'anticipate' in the sense of 'to observe or practice in advance of the due date' rather than to foresee. Wilson's outlook was an anachronism, a prototype of the American system that has gradually emerged in the course of history." (Cambridge: Belknap. Vol. I, 1967, p. 2.
6. Amar, Akhil Reed, "The Central Meaning of Republican Government: Popular Sovereignty, Majority Rule, and the Denominator Problem," Univ. Of Colo. L.R., (Vol. 65/Issue 4/ 1994) p. 749
7. "First principles" according to James Wilson refers to "the original powers of society" (See: Miracle at Philadelphia – The

Story of the Constitutional Convention, May to September 1787 (Boston: Little Brown, 1966, p. 227). This is the sovereign power of the People to 'just do it'. In the Philadelphia convention, when Daniel Carroll, a Maryland delegate cited the Maryland constitution governing its amendment process and claimed that Maryland, therefore, was not free to pursue any other mode, James Madison responded: "The difficulty in Maryland was no greater than in other States ... The people were in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased ... /First principles might be resorted to." 2 Farrand Max, The Records of the Federal Convention of 1787, (Yale rev. Ed. 1937) p. 476. See also I Farrand, ibid., at 301 (remarks of Alexander Hamilton) ("The people may come in (and ratify the Constitution) on revolution principles".

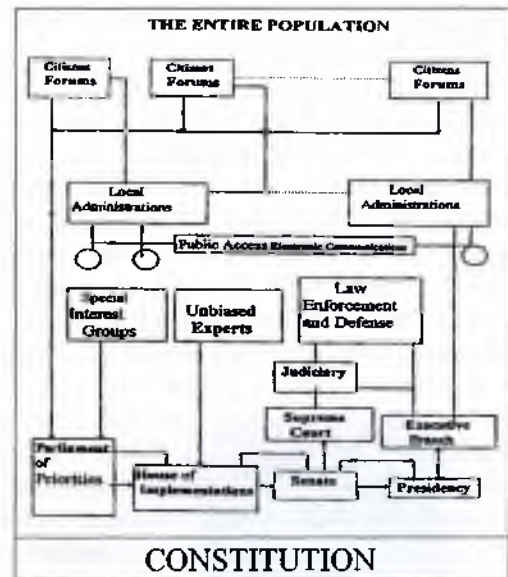
8. Amar, ibid., p. 749

9. Political Freedom – The Constitutional Powers of the People (NY: Harper, 1960) p. 18.

10. The Debate On the Constitution, (Library of America, 1962) Pt. One pp. 405-411

## MODELS OF FUTURE DEMOCRACY

(Both this model and that published in Vol. 1 No. 4 propose a solution to the problem of traditional Parliaments no longer being adequate instruments for dealing with the growing complexity of modern societies. While Prof. Mohssen Massarrat wants to introduce a new stratum consisting of Third Chambers, Mr. George Sagi divides the assembly into Parliament of Priorities and House of Implementations.)



*Please, send us your contributions for the June issue by the end of May. Thank you.*

Yearly subscription \$ 10,- by cash, cheque or transfer. Account Mr. Jiří Polák, 0168 677 293 ČS OP Praha 2, Jugoslávská 19, Czech Republic



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