

The Gotthard controversy and the treaty referendum

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The convention provoked one of the strongest popular protest movements of the period before the First World War. Its critics, above all in French-speaking Switzerland, regarded the tariff concessions as a perpetual restriction of Swiss sovereignty over the national railways in favour of the two great powers of the Triple Alliance. A petition signed by 116,000 citizens asked the Federal Assembly to refuse ratification.¹ The Federal Council recommended ratification, and after years of debate the Federal Assembly approved the convention in April 1913. Because international treaties were then not subject to referendum, the people had no means of overturning the decision.

The controversy had a lasting constitutional consequence. A committee from Vaud launched a popular initiative to subject international treaties concluded for an unlimited duration or for more than fifteen years to an optional referendum, if 30,000 voters or eight cantons requested it. Delayed by the war, the initiative was voted on 30 January 1921 and accepted with 71.4 per cent. Only Uri and Thurgau rejected it, while Geneva approved it with 98.7 per cent.² The treaty referendum, now in Art. 141 para. 1 lit. d of the Federal Constitution and extended over time to treaties that provide for accession to international organizations or contain important law-making provisions, has its origin in the Gotthard convention.³ Every later debate on Switzerland's treaties with Europe, from the European Economic Area in 1992 to the bilateral agreements and the package negotiated with the European Union in 2024 and 2025, has been conducted under rules whose first version was a reaction to the Gotthard.

1 The convention in the twentieth century

The convention of 1909 was more than a historical curiosity. During the Second World War Switzerland relied on its Article 3, which allowed restrictions on certain traffic in goods, to justify the limits it placed on transit between Germany and Italy, while the general obligation to keep the line open for transit traffic shaped the controversial question of German and Italian coal and goods trains through the Gotthard.⁴ The Historical Dictionary of Switzerland notes that the treaty remains in force.⁵ For the modern reader it is an early example of a pattern familiar from the law of investment and infrastructure: the state that finances a private project acquires a stake in it that survives the end of the original structure, and the renegotiation of that stake requires compensation, often in the form of regulatory concessions.

Common misconception. The nationalization of the Gotthard railway in 1909 is sometimes seen as a purely domestic step in the creation of the SBB. In fact it required an international agreement, because Germany and Italy claimed that their subsidies gave them rights over the line. The Gotthard Convention of 13 October 1909 bought their consent with tariff concessions on the whole Swiss transit network. The protest against it, supported by a petition of 116,000 signatures, led directly to the introduction of the optional referendum on international treaties in 1921.

2 Notes

1. HLS, art. "Gotthardvertrag" (as above), for the petition of 116,000 signatures. [techno-science.net](#) (as above), for the Federal Council's recommendation of 9 November 1909 and approval in April 1913; HLS, art. "Gotthardvertrag" (as above), for ratification in April 1913. ↩
2. Swissvotes, short description of vote no. 85 (30 January 1921), <https://swissvotes.ch/vote/85.00/kurzbeschreibung-de.pdf>. ↩
3. Federal Constitution of the Swiss Confederation of 18 April 1999, SR 101, Art. 141 para. 1 lit. d, <https://www.droit-bilingue.ch/en-de/1/10/101-141-174.html> (treaties that "are of unlimited duration and may not be terminated", "provide for accession to an international organisation" or "contain important legislative provisions or whose implementation requires the enactment of federal legislation"). The connection between the initiative of 1921 and the Gotthard convention is stated in HLS, art. "Gotthardvertrag" (as above). ↩

4. HLS, art. "Gotthardvertrag" (as above), for the use of Article 3 during the Second World War. The question of German–Italian coal transit through the Gotthard is treated by the Independent Commission of Experts Switzerland – Second World War (Bergier Commission). See Chapter D.I. ↩
5. HLS, art. "Gotthardvertrag" (as above). ↩

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