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## **Committee on Political Affairs and Democracy**

### **Updating guidelines to ensure fair referendums in Council of Europe member States**

Rapporteur: Dame Cheryl Gillan, United Kingdom, European Conservatives (EC)

## **Commission des questions politiques et de la démocratie**

### **Mise à jour des lignes directrices pour garantir des référendums équitables dans les États membres du Conseil de l'Europe**

Rapporteuse : Dame Cheryl Gillan, Royaume-Uni, Groupe des conservateurs européens (CE)

## **Compilation of replies by national delegations to the ECPRD Questionnaire**

## **Compilation des réponses des délégations nationales au questionnaire du CERDP<sup>1</sup>**

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<sup>1</sup> See appendix 1 for questionnaire / voir l'annexe 1 pour le questionnaire

<b>1. Serbia National Assembly</b>	<b>21.02.2018</b>
<b>2. Czech Republic</b>	<b>23.02.2018</b>
<b>3. Israel</b>	<b>27.02.2018</b>
<b>4. Luxembourg</b>	<b>27.02.2018</b>
<b>5. Azerbaijan</b>	<b>05.03.2018</b>
<b>6. "The former Yugoslav Republic of Macedonia"</b>	<b>07.03.2018</b>
<b>7. Spain (Senado)</b>	<b>09.03.2018</b>
<b>8. Croatia</b>	<b>13.03.2018</b>
<b>9. Liechtenstein</b>	<b>14.03.2018</b>
<b>10. Hungary</b>	<b>19.03.2018</b>
<b>11. France</b>	<b>19.03.2018</b>
<b>12. Netherlands</b>	<b>21.03.2018</b>
<b>13. Georgia</b>	<b>21.03.2018</b>
<b>14. United Kingdom (House of Commons and House of Lords)</b>	<b>21.03.2018</b>
<b>15. Switzerland</b>	<b>22.03.2018</b>
<b>16. Andorra</b>	<b>22.03.2018</b>
<b>17. Germany (Bundestag and Bundesrat)</b>	<b>22.03.2018</b>
<b>18. Norway</b>	<b>23.03.2018</b>
<b>19. Slovakia</b>	<b>26.03.2018</b>
<b>20. Ireland</b>	<b>26.03.2018</b>
<b>21. Finland</b>	<b>27.03.2018</b>
<b>22. Latvia</b>	<b>27.03.2018</b>
<b>23. Poland</b>	<b>28.03.2018</b>
<b>24. San Marino</b>	<b>28.03.2018</b>
<b>25. Slovenia</b>	<b>28.03.2018</b>
<b>26. Iceland</b>	<b>28.03.2018</b>
<b>27. Italy (Chamber of Deputies and Senate)</b>	<b>29.03.2018</b>
<b>28. Sweden</b>	<b>29.03.2018</b>
<b>29. Montenegro</b>	<b>30.03.2018</b>
<b>30. Turkey</b>	<b>30.03.2018</b>
<b>31. Albania</b>	<b>30.03.2018</b>
<b>32. Lithuania</b>	<b>03.04.2018</b>
<b>33. Estonia</b>	<b>03.04.2018</b>
<b>34. Portugal</b>	<b>05.04.2018</b>
<b>35. Denmark</b>	<b>06.04.2018</b>
<b>36. Austria (Nationalrat and Bundesrat)</b>	<b>06.04.2018</b>
<b>37. Cyprus</b>	<b>13.04.2018</b>
<b>38. Greece</b>	<b>25.04.2018</b>
<b>39. Spain (Congreso)</b>	<b>25.06.2018</b>

<b>SERBIA</b>
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Dear colleagues,

In response to the ECPRD Request No. 3673 "Updating guidelines to ensure fair referendums in Council of Europe member States" please find below answers to your questions.

**Questionnaire**

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The Constitution of the Republic of Serbia (The Official Gazette of the Republic of Serbia, no. 98/2006) basically defines the right on referendum and people's initiative.

Constitution, Article 2: Sovereignty is vested in citizens who exercise it through referendums, people's initiative and freely elected representatives. Article 176 Citizens shall have the right to the provincial autonomy and local self-government, which they shall exercise directly or through their freely elected representatives. Article 182 Territory of autonomous provinces and the terms under which borders between autonomous provinces may be altered shall be regulated by the Law. Territory of autonomous provinces may not be altered without the consent of its citizens given in a referendum, in accordance with the Law. Article 188 Establishment, revocation or alteration of the territory of a local self-government unit shall be preceded by a referendum on the territory of that local self-government unit. Article 108 upon the request of the majority of all deputies or at least 100,000 voters, the National Assembly shall call the referendum on issues falling within its competence, in accordance with the Constitution and Law. The subject of the referendum may not include duties deriving from international contracts, laws pertaining to human and minority rights and freedoms, fiscal and other financial laws, the budget and financial statement, introduction of the state of emergency and amnesty, as well as issues pertaining to election competences of the National Assembly. Article 203: The National Assembly shall adopt an act on amending the Constitution by a two-third majority of the total number of deputies and may decide to have it endorsed in the republic referendum by the citizens.

In accordance with Articles 4-5 of the Law on Referendum and Civil Initiative (The Official Gazette of the Republic of Serbia, No. 48/1994 and 11/1998), the right to vote in a referendum is held by citizens who, according to election regulations, have voting rights and residence in the territory for which a referendum is being called. In a referendum that creates the rights and obligations of citizens whose place of residence is outside the territory for which the referendum is being called, citizens also have the right to vote. The authority in charge of calling a referendum, or the body authorized by it, shall constitute a list of citizens entitled to vote in a referendum without having a place of residence in the territory for which a referendum is being held, in the manner prescribed by the election regulations.

Voters who reside abroad shall vote in the diplomatic missions and consular posts of the Republic of Serbia and at special polling stations determined by the Republic Electoral Commission, upon obtaining the opinion of the ministry in charge of foreign affairs. Those provisions refer to the republic referendum.

Citizens who have voting rights in accordance with election regulations have the right to participate in the national initiative.

The Unified Register of Voters is a public document which keeps the register of citizens of the Republic of Serbia who have the right to vote. The Register of Voters is kept by the ministry competent for public administration. Part of the Register of Voters for the territory of the unit of self-government is updated by the municipal/ town administration as an assigned task. Updating part of the Register of Voters for the territory of the unit of self-government which is performed by the municipal/town administration includes making changes to the Register of Voters (entry, deletion, changes, amendments or corrections) *ex officio* or upon citizen's request until the deadline for closing the Register of Voters, and other tasks, pursuant to the law. [Article 2 of the Law on Unified Register of Voters (Official Gazette of of the Republic of Serbia, No. 104/2009, 99/2011)]

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Law on Referendum and Civil Initiative (The Official Gazette of the Republic of Serbia, No. 48/1994 and 11/1998), Articles 13-14, stipulates that the bodies for conducting the referendum are the commission and the

voting committee. The commission is formed by the authority that issued the referendum, and the commission forms the ballot committee. When a referendum is called for the territory of the Republic, the autonomous province and the city or part thereof, commissions are also formed in the municipalities. The commissions in the municipalities are formed by the republican commission when a referendum is called for the territory of the Republic or its part, a province when a referendum is called for the territory of the autonomous province or its part, and a city where a referendum is called for the territory of the city or its part.

The voting boards shall manage voting at polling stations, ensure the correctness and secrecy of the vote, and determine the results of voting at the polling stations, in accordance with the instructions of the commission for the conduct of a referendum (Article 16).

In accordance with the Article 42 of the Law on Referendum and Civil Initiative, regarding the polling stations, voting materials, the manner of work of the voting boards, voting, determining the results of voting at the polling station and other issues related to voting that are not regulated by this law, appropriate provisions of the Law on the Election of Members of Parliament ("Official Gazette of the Republic of Serbia", No. 79/92 and 83/92) are applied.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Funding for the conduct of a referendum is provided by the assembly that has called the referendum (Article 30 of the Law on Referendum and Civil Initiative). There are no specific provisions regarding donations to campaign groups.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

In accordance with the Article 42 of the Law on Referendum and Civil Initiative, provisions of the Law on Election of Members of Parliament (Official Gazette of the Republic of Serbia, No. 79/1992, 83/1992) are applied. Citizens have the right to be informed through the means of public information. The means of public information are obliged to ensure equality in broadcasting time. Political propaganda through means of public information and public gatherings and the publication of the assessment of voting results shall be prohibited 48 hours prior to the day of the voting and on the day of the voting until the closure of polling stations. There are no specific provisions regarding the use of social media in this respect.

<b>CZECH REPUBLIC</b>
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Generally, there is no act on nation-wide referendum in the Czech Republic. On the other hand, it is one of the most discussed issues in current situation. Article 2 of the Czech Constitution stipulates that "*A constitutional act may designate the conditions under which the people may exercise state authority directly*". The only nation-wide referendum was organized in 2003 (EU membership referendum).

According to the respective legislation, it is possible to organize local (Act No. 22/2004 Coll.) and regional referendum (Act No. 118/2010 Coll.). For details, please see attached legislation (available only in Czech). Other detailed information regarding local and regional referendum is available on the web site of the Ministry of the Interior (only Czech version):

<http://www.mvcr.cz/clanek/obcanske-aktivita-118893.aspx>

<http://www.mvcr.cz/clanek/obcanske-aktivita-118893.aspx?q=Y2hudW09Mg%3d%3d>

## ISRAEL

1. According to the [BASIC LAW: REFERENDUM](#) from 2014:

The right to participate in the referendum is granted to "Anyone who would have had the right to take part in elections to the Knesset, were they to take place on the date on which the referendum is to be held, is entitled to take part in the referendum", meaning any Israeli citizen age 18<sup>th</sup> and above has the right to vote in Israel.

2. According to the Law: The legal provisions that apply to elections to the Knesset shall apply to the holding of the referendum, with the necessary adjustments, and changes laid down by the law. As a referendum was never conducted in Israel I presume the referendum will be conducted by the Central Elections Committee.

Regarding questions 3, 4, 5 I guess the same reply above apply: "The legal provisions that apply to elections to the Knesset shall apply to the holding of the referendum". But until Israel conducts a referendum we can't be sure about it.

## LUXEMBOURG

Les réponses de la Chambre des Députés du Grand-Duché de Luxembourg au questionnaire 3674 – Actualiser les lignes directrices pour garantir des référendums équitables dans les États membres du Conseil de l'Europe – sont les suivantes :

1. **Dans votre pays, qui peut voter lors d'un référendum et quelles sont les modalités d'inscription ? Les électeurs déplacés et la diaspora sont-ils habilités à voter et, si oui, où ? La réponse à cette question dépend-elle du fait que le référendum soit national, régional ou local ?**

Au Grand-duché de Luxembourg, le référendum est introduit dans la Constitution luxembourgeoise par la révision constitutionnelle de 1919. Depuis, l'article 51, paragraphe 7, de la Constitution prévoit que "Les électeurs pourront être appelés à se prononcer par la voie du référendum dans les cas et sous les conditions à déterminer par la loi". Les modalités d'inscription sont reprises dans la loi<sup>2</sup> du 4 février 2005 relative au référendum au niveau national qui dans son article 2 renvoie à la loi électorale du 18 février 2003 pour définir ces modalités. Selon l'article 1 de la loi électorale du 18 février 2003, pour pouvoir voter lors d'un référendum il faut avoir les qualités requises pour être électeur aux élections législatives, et donc : 1° être Luxembourgeois ou Luxembourgeoise ; 2° être âgé de dix-huit ans accomplis au jour des élections ; 3° jouir des droits civils et politiques ; 4° être domicilié dans le Grand-Duché de Luxembourg.

Il est possible de voter par correspondance lors d'un référendum. Sont admis au vote par correspondance les électeurs inscrits sur les listes électorales pour les élections législatives : âgés de plus de 75 ans ; ou qui se trouvent dans l'impossibilité de se présenter en personne au bureau de vote auquel ils sont affectés pour des raisons professionnelles ou personnelles dûment justifiées ; ou qui sont domiciliés à l'étranger.

Toutes ces règles s'appliquent lors de référendums nationaux. Il n'existe pas de référendum à un niveau régional, mais par contre, il en existe au niveau communal.

Au niveau communal, le référendum est organisé soit à la suite d'une décision du conseil communal, soit sur la demande d'un certain nombre d'électeurs conformément aux dispositions de l'article 35 de la loi<sup>3</sup> communale du 13 décembre 1988. Concernant les modalités, l'article 3 stipule : (1) Sous réserve des dispositions particulières qui suivent, le vote pour le référendum se fait dans les conditions et suivant les modalités prévues par la loi électorale pour les élections communales.

(2) Participent au référendum comme votants les personnes qui possèdent la qualité d'électeur pour les élections communales conformément aux dispositions de la loi électorale. Les dispositions de cette loi relatives aux listes électorales pour les élections communales, notamment les articles 7 à 50 inclus, sont d'application.

2. **Existe-t-il un organe électoral réglementant la conduite des référendums et si oui, qui décide de sa composition ?**

Au chapitre 4. des modalités d'organisation d'un référendum sur base de l'article 51, paragraphe 7, ou de l'article 114 de la Constitution, l'article 23 de la loi du 4 février 2005, il est écrit que « pour le déroulement d'un

<sup>2</sup> Le texte est disponible à l'adresse suivante : <http://data.legilux.public.lu/eli/etat/leg/loi/2005/02/04/n1/jo>

<sup>3</sup> Texte disponible à l'adresse suivante : <http://www.fgfc.lu/online/www/content/810/2806/3186/3403/FRE/3412.html#h-art-9>

référendum, le pays forme une circonscription électorale unique. Le chef-lieu est Luxembourg. Le premier bureau de vote de la Ville de Luxembourg fonctionne comme bureau principal de la circonscription unique. Grand-duché de Luxembourg. ». Aussi l'article 25 de cette même loi précise que « Les collèges électoraux sont formés conformément à la loi électorale. ». Tout référendum est toujours sous la supervision du Premier Ministre, Ministre d'Etat.

**3. De quelle manière les dépenses sont-elles réglementées et contrôlées durant une campagne référendaire ? Y a-t-il des dispositions particulières concernant les dons versés aux collectifs de campagne ?**

La seule mention concernant les dépenses relatives à l'organisation du référendum se trouve à l'Art. 42. de la loi du 4 février 2005, et stipule que « Les communes mettent à disposition des électeurs les bureaux de vote et le mobilier électoral. Toutes les autres dépenses, y compris le papier électoral et les frais des enquêtes administratives, sont à charge du budget de l'Etat. Les urnes doivent être conformes au modèle approuvé par le Gouvernement. »

Concernant les dons, cette éventualité n'est pas clairement et directement abordée dans la Loi du 4 février 2005 relative au référendum au niveau national.

**4. Y-a-t-il une période pendant laquelle les autorités nationales et locales ne peuvent pas utiliser les fonds publics pour faire campagne sur l'objet du référendum qui est organisé ?**

Cela n'est pas clairement stipulé ni dans la loi du 4 février 2005 sur les référendums que dans la loi électorale du 18 février 2003.

**5. Comment garantir que des informations neutres et objectives soient mises à disposition sur l'objet et les effets du référendum ? Est-ce qu'il y a égalité de temps d'antenne pour toutes les parties et si oui, comment la faire respecter ? Quels sont, à cet égard, les ajustements nécessaires à l'ère des réseaux sociaux ??**

Idem que pour la question précédente.

**AZERBAIJAN**

1. Each citizen of the Republic of Azerbaijan who has reached the age of 18 has the right to vote in a referendum. The elections is carried out in the polling station where the citizens live. According to Article 95 the Milli Majlis and to article 109 of the Constitution of the Republic of Azerbaijan, the President appoints the referendum. Since Azerbaijan is a unitary state, the election and referendum are held centrally.

2. Elections and referendums in the Republic of Azerbaijan are organized and conducted by election commissions. Members of the Central Election Commission shall be elected by the Milli Majlis (Parliament) of the Republic of Azerbaijan.

3. The Central Election Commission distributes the funds allocated from the state budget for the preparation and conduct of elections and referenda, oversee its purposeful use.

4. According to article 95 Milli Majlis and to article 109 of the Constitution of the Republic of Azerbaijan, the President appoints the referendum. Since Azerbaijan is a unitary state, the election and referendum are held centrally.

5. According to article 80 of the Election Code of the Republic of Azerbaijan free airtime provided by tele radio broadcasting organizations is distributed equally and on equal terms among referendum campaign groups.

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

According to the **Constitution of the Republic of Macedonia** in Article 22 every citizen at the age of 18 acquires the right to vote.

According to the **Law on Referendum and Other Forms of Direct Vote of Citizens ("Official Gazette of the Republic of Macedonia" no. 81/2005)** in Article 7 paragraph (2) The citizens that have electoral rights and are entered in the Electoral register shall have the right to vote at referendum.

The Diaspora can vote if they are on the day of voting in the Republic of Macedonia. This also applies at the state level and at the local level. According to the Election Law, citizens from the Diaspora can vote only for Parliamentary and Presidential elections in the Diplomatic Consular Offices of the Republic of Macedonia.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

Law on referendum and other ways of direct explanation of citizens in Part 2 Bodies for conducting referendum at state level in article 31 Bodies for conducting referendum at state level shall be:

- The State Electoral Commission;
- the municipal electoral commissions for conducting elections for representatives in the Assembly of the Republic of Macedonia (Municipal Electoral Commissions) and
- electoral boards.

According to the Electoral Code of the Republic of Macedonia the State Election Commission is composed of a president, a vice-president and seven members and the members of the State Election Commission shall be elected by the Assembly by a two-thirds majority vote of the total number of Representatives.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

According to the **Law on Referendum and Other Forms of Direct Vote of Citizens in article 61 is stated that:** Funds for conducting a referendum at the state level are provided from the Budget of the Republic of Macedonia. The funds for conducting the referendum shall be at disposal of the State Electoral Commission

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

According to the Electoral Code in article 8 - a, 8 - b and 8 - c, from the day of the adoption of the decision for announcing the elections until the end of the election of the President of the Republic of Macedonia, the Members of Parliament in the Assembly of the Republic of Macedonia and the election of the Government of the Republic of Macedonia in accordance with the results of the elections, as well as from the day when the decision for announcing the elections until the completion of the elections for mayor or members of the council, that is, until the constitution of the council of the municipalities and the city of Skopje is forbidden to use public resources.

For the needs of the election campaign, it is forbidden to use office space, office equipment and official vehicles of state bodies, except for persons who are subject to special regulations for protection of the person. It is forbidden to perform and attempt to exert pressure and intimidation of voters or members of their families or close relatives.

***During the holding of the Referendum there are no bans to use public resources according to the Electoral Code.***

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

There is no regulation about this question.

**SPAIN**

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The general provisions on European, parliamentary, regional and local elections are applicable to referendums, so, all Spanish citizens of age (18 years according to article 12 of the Constitution), have the right to vote. Exercise of said right requires prior registration in the Electoral Register in force.

The Electoral Register consists of the Register of electors residing in Spain and of the Register of absent-resident electors residing abroad.

Registration is compulsory and municipalities/city councils proceed “ex officio” to registration of persons residing within their boundaries. Also for Spanish abroad consulates proceed “ex officio” to the registration of Spanish citizens residing in their area of jurisdiction.

The Electoral Register works on a permanent basis and is updated every month. The electoral Register for each election or referendum is closed on the first day of the second month before the date of call of the election/referendum.

Displaced voters may use postal voting. Citizens living abroad and entered in the Register of absent electors residing abroad may choose postal voting or to put their vote into a ballot box in the consular offices where they are registered or in the premises that may be made available for this purpose.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Electoral Administration is responsible for ensuring the transparency and objectivity of the election/referendum process and of the principle of equality. It consists of the Central, Regional (only for regional elections), Provincial and Judiciary District, as well as of voting bureaus.

The Central Electoral Commission is a permanent body consisting of:

- a) Eight judges of the Supreme Court, designated by lot by the General Council of the Judiciary.
- b) Five university professors of Law, Political Science or Sociology, appointed on a joint proposal by parties, federations, coalitions or electors groups represented in the Congress of Deputies.

Appointments take place in the ninety days following the constituent sitting of the Congress of Deputies, and the members so designated remain in office until the appointment of a new Commission at the beginning of the next Parliament.

The President of the Central Electoral Commission is elected at the first meeting of the Commission among the members of the judiciary.

The Secretary of the Commission is the Secretary General of the Congress of Deputies.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

The rules in force in the electoral legislation on electoral campaigns are applied:

-Bank accounts for collection of funds should be notified to the Central Electoral Commission.

-All the funds intended to defray referendum expenses shall be paid into the accounts and all expenses shall be paid out of said accounts.

-Persons who bring funds into the accounts shall state their name and address and their National Identity Card or Passport. Where the money is paid in on behalf of another person or of a body corporate, the name of such person or body corporate must be stated. Where payments into accounts are made by parties, the origin of the monies paid in is to be so stated.

-No individual or body corporate may pay more than 10.000€ into accounts opened by the party, federation, coalition or group.

-From the call to of the election/referendum until the hundredth day after the poll, the Central Electoral Commission and the Provincial Commissions shall ensure compliance with the rules on control of accounts and expenditures.

-The Commissions may inform the Public Prosecutor's Office about conducts that may be constitutive of an electoral offence. Also they notify to the Court of Auditors of the result of their own monitoring activity.



-The Court of Auditors, within two hundred day after the election/referendum shall pronounce on the correctness of the incomes and expenses of the parties, federations, coalitions or groups.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

The public authority who has called an election or referendum may launch during the election period an institutional campaign to inform citizens on the voting date, the voting procedure and the conditions and procedure for postal voting, provided that such campaign does not seek to influence the elector's vote. The campaign end in any case at zero hours of the day immediately preceding the voting day.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Parties, federations and coalitions shall be entitled during the campaign to free propaganda spaces in public television and radio broadcasting stations.

In the cases of national referendums, the allotment of free spaces for propaganda shall be made having regard to the total number of votes polled by each party, federation or coalition in the latest election to the Congress of Deputies.

The Central Electoral Commission is the competent authority for the allotment of free spaces for propaganda in public media on the proposal of a Radio and Television Committee. Electoral legislation provides that the respect of political and social plurality, as well as of equal, proportional and neutral information by public media shall be ensured by the organization of said media and control in the manner prescribed by the law. There is, also, a right of appeal against decisions of managing bodies of public media to the relevant Electoral Commission by the procedure provided by the Central Electoral Commission.

Private media shall abide during the campaign period by the principles of pluralism and equality and private television companies shall observe the principles of proportional and neutral information in debates and interviews as well as in information relating to the campaign, according to the instructions drawn up by the relevant Electoral Commission.

## CROATIA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Croatian nationals have the right to participate in a state referendum. Even if they find themselves outside the borders of the Republic of Croatia on Election Day, the voters have the right to take part in referendum in a way that they cast their vote at diplomatic missions and consulates of the Republic of Croatia in the states in which they find themselves, or otherwise designated by law.

The voters who reside in the area of the local self-government unit i.e. regional self-government unit for which a referendum has been called have the right to participate in local referendum.

Voters who reside in the area where certain form of direct participation in the management of local affairs is being carried out have the right to participate in advisory referendum and citizens' assemblies.

**2. Is there an electoral management body that regulates the conduct of referendums and, if so, who determines its membership?**

The state referendum is conducted by the State Electoral Commission of the Republic of Croatia, the commission for holding a state referendum in the county, the City of Zagreb, the city and the municipality and the committees for the conduct of voting in a state referendum. The State Electoral Commission of the Republic of Croatia - the chairperson of the Commission is the president of the Supreme Court of the Republic of Croatia. On the proposal of the president of the Supreme Court, the General Session of the Supreme Court of the Republic of Croatia shall elect two vice-chairpersons from the ranks of judges of that court. Vice-chairpersons who are not from the ranks of judges and members of the Commission shall be elected by the Croatian Parliament by a majority vote of all representatives.

Chairperson, vice-chairperson, members and deputy members of the commission for holding a state referendum in the county or in the City of Zagreb shall be appointed by the State Electoral Commission of the Republic of Croatia. The committees shall be appointed by the commission for holding a referendum in the City of Zagreb, the city and the municipality.

The local referendum is held by the commission for holding a local referendum in the local self-government unit, i.e. regional self-government unit and the committees for the conduct of voting in a local referendum. The commission for holding a local referendum in the city and the municipality shall be appointed by the commission for holding a referendum in the county.

The commissions for holding a local referendum in the city and in the municipality shall appoint the committees.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Funds to cover the costs for holding state and advisory referendums shall be covered from the state budget.

The Government of the Republic of Croatia determines the amount of compensation to the chairperson and members of the commissions.

The State Commission shall dispose of the funds referred to in the preceding paragraph and shall determine the manner of use of such funds and shall monitor their use.

The State Commission shall grant funds to the commissions for holding state and advisory referendums.

The funds for holding a local referendum are provided in the budget of the local self-government unit, i.e. regional self-government unit in which the local referendum is being held.

The funds for holding citizens' assemblies are provided in the budget of the local self-government unit, i.e. in the budget of the City of Zagreb.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

Not particularly specified.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

This is regulated by the *Rules of conduct of the electronic media with national concessions in the Republic of Croatia during the election campaign* issued by the Croatian Parliament<sup>4</sup>.

LIECHTENSTEIN
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**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Pursuant to art. 29 par. 2 of the Constitution, political rights are vested in all nationals who are 18 years of age and have their permanent residence in the country for at least one month before the vote. Voters on a study or short visits abroad retain their voting rights and can request voting materials to be mailed to them by the commune councils. Liechtenstein citizens living abroad are not entitled to vote.

Liechtenstein only knows national or local votes. In principle, the same regulations apply at local level as at national level, with very few exceptions.

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<sup>4</sup> Text in Croatian language: [https://narodne-novine.nn.hr/clanci/sluzbeni/2014\\_10\\_118\\_2222.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2014_10_118_2222.html)

Voter lists are based on the information extracted by commune councils from the permanent electronic population register. They are displayed for public scrutiny not later than four weeks before the election. During subscription period, undue inclusion or exclusion of eligible voters can be appealed with commune councils.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The votes are administered by a two-tier structure, including Main Election Commissions (MEC) in each of the two constituencies and eleven Commune Election Commissions (ComEC) in each of the eleven communes. Members of election commissions are nominated by electoral groups in proportion to their representation in the parliament with all electoral contestants entitled to be represented in each commission.

MECs are permanent bodies appointed by the Government for a four-year term and consist of up to eleven members and six substitutes. The duties of MECs are effectively those of re-counting ballots to verify the results submitted by ComECs, as well as of correcting any mistakes that have been found in the protocols. Result protocols are established at both MEC and ComEC levels.

The ComECs are permanent bodies elected by respective commune councils for a four-year term. ComECs are chaired by the heads of respective commune councils and consist of up to six members and three substitutes. On voting day, ComECs serve as polling station commissions and are responsible for the conduct of voting, counting and transfer of results to the MECs. During counting, apart from regular members, the ComECs are supported by counting staff appointed by commune councils.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

There are no regulations.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The Information Law (art. 15) states, that in the preparation of votes at the national level, the Government shall inform the persons entitled to vote of the documents to be submitted, taking into account the principles of art. 3 of the Information Law. From the point of view of the Government, it takes a position on the proposals and can make voting recommendations. In the voting brochure to be drawn up in any case, the proponents and opponents of the proposal shall be given adequate space for an opinion. The Government may, after consultation with the authors, summarise these opinions if they are disproportionately detailed. These provisions shall apply accordingly to local votes.

The media landscape is limited due to the small size of the population and consists of a few printed and broadcast media. There are two daily newspapers, Liechtensteiner Volksblatt and Liechtensteiner Vaterland. Both newspapers are closely affiliated with the two major political parties, the Progressive Citizen's Party and the Patriotic Union, respectively. Non-periodical publications are printed by the Independents and the Free List. In the broadcasting sector, the state-owned Radio Liechtenstein operates under public service obligations and is required to ensure objectivity, impartiality, accuracy and diversity in its programs. Landeskanal is a state-owned television channel while 1FLTV is privately owned media outlet.

The legislation does not contain any specific guidelines including requirements for equitable treatment on media conduct during votes.

## HUNGARY

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

According to the Article XXIII of [The Fundamental Law of Hungary](#) every adult Hungarian citizen has right to vote on a **national referendum**. In this case Hungarian citizens *without residence* in Hungary (out-of-country voters) may exercise their right to vote as well. Out-of-country voters have to register until the 15<sup>th</sup> day before the national referendums (online or by post) and they can cast vote by mail. The [Act XXXVI of 2013 on Electoral Procedure](#) contains the detailed regulations concerning the modes of registration and voting, which are the same as in case of the elections of the members of parliament<sup>5</sup>.

On a **local referendum**<sup>6</sup> every adult Hungarian and other EU citizens may vote who have residence in Hungary (Article XXIII of [The Fundamental Law of Hungary](#)). So in this case the out-of-country voters are not entitled to vote.

The enrolment of voters who has domicile in Hungary is automatic in both types of referendums.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

At **national referendums** the same election bodies are working as in case of the election of the members of parliament: National Election Commission, parliamentary single-member constituency election commissions and ballot counting commissions / local election commissions in settlements with one polling district. These bodies are responsible for ensuring the fairness and legality of referendums, the impartiality, and – if it is necessary – restoring the legal order of referendums.

The election bodies have elected (and alternate) members and appointed members. The Act XXXVI of 2013 determines the election of each abovementioned bodies' members (Article 14-24):

- National Election Commission has at least seven member (and three alternate members), who are elected by the Parliament (with two-thirds majority voting) on the proposal of the President of the Republic;
- parliamentary single-member constituency election commissions have at least three members (and two alternate members), who are elected by the body of representatives of the settlement of the parliamentary single-member constituency on the proposal of the head of the election office of the single-member constituency;
- ballot counting commissions<sup>7</sup> have three members (number of alternate members are not determined), who are elected by the body of representatives of the settlement's municipality on the proposal of the head of the local election commission;
- local election commissions in settlements with one polling district have five members (and at least two alternate members), who are elected the same way as the ballot counting commission.

The [Act CCXXXVIII of 2013 on Initiating Referendums, the European Citizens' Initiative and Referendum Procedure](#) contains provisions about the election bodies' appointed members (Article 68):

- to the National Election Commission: those organisations organising the initiative, who have no political group in Parliament may appoint one common member;
- to a parliamentary single-member constituency election commission: organisers of the initiative may appoint one common member; and those political parties, which have political group in the Parliament and are not involved in the organisation of the initiative may appoint one member each;
- to a ballot counting commission and to a local election commission in settlements with one polling district: organisers of the initiative may appoint two common members; and those political parties, which have political group in the Parliament and are not involved in the organisation of the initiative may appoint two members each.

<sup>5</sup> The relevant articles of the [Act XXXVI of 2013](#) are the following: 84. §, 91-92. §, 266-268. §; 274-281. §

<sup>6</sup> Referendums on local level (in settlements or in part of settlement) and on territorial level (county-level and capital-level) are included in local referendums.

<sup>7</sup> This type of election commission is not required in settlements with one polling district.

At **local referendums** the same election bodies are working as in case of the election of representatives and mayors of municipalities (Article 83 of the Act CCXXXVIII of 2013). At local referendums in settlements or in part of settlement the working election bodies are: territorial election commission, local election commission and ballot counting commissions. At local referendums on territorial level (county-level or capital-level) the working election bodies are: National Election Commission, territorial election commission, ballot counting commissions.

Regarding the elected members the composition of these election bodies are the same as in case of national referendums. The Act CCXXXVIII of 2013 contains some special provisions for the number of appointed members (Article 83):

- to local election commission and in case of referendum on territorial level to territorial election commission: the organisers of the initiative may appoint one common member; and organisations, which have no political group in the body of representatives and are not involved in the organisation of the initiative may appoint one member each;
- to ballot counting commissions and to local election commission in settlements with one polling district: the organisers of the initiative may appoint two common members; and organisations, which have no political group in the body of representatives and are not involved in the organisation of the initiative may appoint two members each.

Further election bodies are the election offices which (inter alia) help the activity of election commissions. Election offices are: National Election Offices, territorial election offices, parliamentary single-member constituency election offices and local election offices.

### **3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

There is no specific regulation regarding the expenditure and donations to campaign groups during the referendum campaign. The only provisions are that the costs associated with the preparation and the conduct of local referendums and costs in connection with the activities of the election bodies have to be financed from local government's budget (Article 82. of the Act CCXXXVIII of 2013). In case of national referendums these costs have to be financed from the state budget (the resolution of the National Assembly provides for the budget of the referendum (Article 27)).

### **4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No, there is no such a period.

### **5. How is ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The Article 69 of the Act CCXXXVIII of 2013 determines that during national referendum campaign period political advertisements may be published in public media by the organisers of the initiative and by political parties having political group in the Parliament and not involved in the organisation of the initiative.

The detailed rules of publishing political advertisements are in accordance with the related rules of election of Members of the European Parliament. According to the Articles 147/A-B of the Act XXXVI of 2013 the available broadcasting time is 300 minutes which is divided in equal proportion between all parties (organisers of the initiative and political parties). Furthermore the available broadcasting time for each party has to be divided in equal proportion per public media service.

Regarding the social media there are no special provisions.

## **FRANCE**

### **Contexte général**

L'article 3 de la Constitution du 4 octobre 1958 indique que : « *La souveraineté nationale appartient au peuple qui l'exerce par ses représentants et par la voie du référendum* ».

Dix référendums ont été organisés depuis 1958, le dernier remontant à 2005.

La liste des consultations référendaires est disponible sur le site du Conseil constitutionnel, en charge du contrôle du déroulement de ces opérations électorales :

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/publications/dossiers-thematiques/2000-referendum-sur-le-quinquennat/tableau-recapitulatif-des-referendums-de-la-ve-me-republique.16351.html>

Le Conseil constitutionnel a présenté les différentes hypothèses de référendums sur son site, en réponse à un questionnaire transmis en 2004 par la Commission européenne pour la démocratie par le droit (« Commission de Venise »).

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/publications/dossiers-thematiques/2004-le-referendum-sous-la-ve-republique/le-referendum-sous-la-ve-republique.17410.html>

**1. Dans votre pays, qui peut voter lors d'un référendum et quelles sont les modalités d'inscription ? Les électeurs déplacés et la diaspora sont-ils habilités à voter et, si oui, où ? La réponse à cette question dépend-elle du fait que le référendum soit national, régional ou local ?**

Comme pour toute élection, l'électeur doit répondre aux conditions de capacité ainsi fixées par l'article L.2 du code électoral : « *Sont électeurs les Françaises et Français âgés de dix-huit ans accomplis, jouissant de leurs droits civils et politiques et n'étant dans aucun cas d'incapacité prévu par la loi* ».

Il y a près de 1,8 million de citoyens français qui résident durablement à l'étranger<sup>8</sup>. Ils peuvent participer au référendum, comme pour toute autre élection (élection des députés, élection du Président de la République), de deux manières :

- **soit voter sur le territoire français** en application de l'article L.12 du code électoral qui est ainsi rédigé :

*« Les Français et les Françaises inscrits au registre des Français établis hors de France de la circonscription consulaire dans laquelle ils ont leur résidence peuvent, sur leur demande, être inscrits sur la liste électorale de l'une des communes suivantes : Commune de naissance ; Commune de leur dernier domicile ; Commune de leur dernière résidence, à condition que cette résidence ait été de six mois au moins ; Commune où est né, est inscrit ou a été inscrit sur la liste électorale un de leurs ascendants ; Commune sur la liste électorale de laquelle est inscrit ou a été inscrit un de leurs parents jusqu'au quatrième degré » ;*

- **soit voter à l'étranger** en se faisant inscrire sur une « liste électorale consulaire ». Ils pourront alors voter dans le bureau de vote qui leur aura été désigné (généralement soit au Consulat, soit dans un Lycée français). Les modalités pratiques de vote sont détaillées sur le site du Ministère de l'intérieur (en charge de l'organisation des consultations électorales) :

<https://www.interieur.gouv.fr/Elections/Comment-voter/Le-vote-des-Francais-a-l-etranger>

Le vote depuis l'étranger n'est possible que pour un référendum national. En effet, l'article 72-1 de la Constitution du 4 octobre 1958 précise que : « *les projets de délibération ou d'acte relevant de la compétence d'une collectivité territoriale peuvent, à son initiative, être soumis, par la voie du référendum, à la décision des électeurs de cette collectivité* ».

**2. Existe-t-il un organe électoral réglementant la conduite des référendums et si oui, qui décide de sa composition ?**

**a) Rôle du Conseil constitutionnel**

Le Conseil constitutionnel est en charge de l'organisation des consultations référendaires en application de l'article 60 de la Constitution du 4 octobre 1958 qui est ainsi rédigé : « *Le Conseil constitutionnel veille à la régularité des opérations de référendum (...). Il en proclame les résultats* ».

L'ordonnance n°58-1067 du 7 novembre 1958 portant loi organique sur le Conseil constitutionnel détaille ses différentes missions :

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<sup>8</sup> Le décret ci-dessous donne la répartition des électeurs par circonscription :

<https://www.legifrance.gouv.fr/eli/decret/2017/11/12/MAEF1700023D/jo/texte>

- le Conseil est consulté sur l'organisation des opérations (article 46) ;
- il se prononce sur la liste des organisations participant à la campagne (art. 47) ;
- il dépêche des délégués sur place (art. 48) ;
- il assure la surveillance du recensement des votes (art. 49) ;
- il examine et tranche les réclamations (art. 50) ;
- il proclame les résultats.

[http://www.conseil-constitutionnel.fr/conseil-constitutionnel/root/bank\\_mm/textes/ordonnance58\\_1067.pdf](http://www.conseil-constitutionnel.fr/conseil-constitutionnel/root/bank_mm/textes/ordonnance58_1067.pdf)

L'ensemble de ses attributions dans le domaine référendaire sont listées sur son site :

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/publications/dossiers-thematiques/2005-referendum-traite-constitution-pour-l-europe/les-attributions-du-conseil-constitutionnel-lors-d-un-referendum.42600.html>

#### b) Nomination des membres du Conseil constitutionnel

La nomination des membres du Conseil constitutionnel est déterminée par l'article 56 de la Constitution du 4 octobre 1958 qui est ainsi rédigé :

*« Le Conseil constitutionnel comprend neuf membres, dont le mandat dure neuf ans et n'est pas renouvelable. Le Conseil constitutionnel se renouvelle par tiers tous les trois ans. Trois des membres sont nommés par le Président de la République, trois par le Président de l'Assemblée nationale, trois par le Président du Sénat (...) ».*

On relèvera que, depuis la révision de la Constitution en 2008, cet article ajoute que : *« La procédure prévue au dernier alinéa de l'article 13 est applicable à ces nominations ».*

L'article 13 de la Constitution du 4 octobre 1958 prévoit une audition des candidats au poste de membre par les commissions permanentes compétentes (à l'Assemblée nationale il s'agit de la commission des lois constitutionnelles, de la législation et de l'administration générale de la République). En effet, l'article 13 précise que pour : *« les emplois ou fonctions (...) pour lesquels, en raison de leur importance pour la garantie des droits et libertés ou la vie économique et sociale de la Nation, le pouvoir de nomination du Président de la République s'exerce après avis public de la commission permanente compétente de chaque assemblée. Le Président de la République ne peut procéder à une nomination lorsque l'addition des votes négatifs dans chaque commission représente au moins trois cinquièmes des suffrages exprimés au sein des deux commissions ».*

### **3. De quelle manière les dépenses sont-elles réglementées et contrôlées durant une campagne référendaire ? Y a-t-il des dispositions particulières concernant les dons versés aux collectifs de campagne ?**

#### a) Réglementation des dépenses

Il existe une réglementation des dépenses. Pour toute consultation référendaire un décret détaille son organisation (date d'ouverture et de fermeture de la consultation, accès aux medias...).

Pour l'organisation de la dernière consultation référendaire le décret n° 2005-238 du 17 mars 2005, relatif à la campagne en vue du référendum, comprenait les informations suivantes, en son article 8 :

*« Les dépenses faites pour la campagne du référendum par chaque parti ou groupement politique habilité dans les conditions posées à l'article 3 du présent décret font l'objet d'un remboursement de la part de l'Etat dans la limite d'un plafond de huit cent mille euros et pour les frais suivants : frais d'impression des affiches mentionnées à l'article 4 du présent décret ; frais d'impression et de diffusion de tracts, affiches et brochures ; frais liés à la tenue de manifestations et réunions ».*

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000630733>

#### b) Dons

Il existe des dispositions particulières s'agissant des dons versés aux collectifs de campagne. Le code électoral, dans son Livre VI ter (intitulé « Dispositions applicables aux opérations référendaires ») comprend

un Chapitre Ier (intitulé « Financement des actions tendant à favoriser ou défavoriser le recueil des soutiens »), qui contient un article unique (L.558-37) ainsi rédigé :

*« Les dons consentis par une personne physique dûment identifiée pour le financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens à une proposition de loi présentée en application de l'article 11 de la Constitution ne peuvent excéder 4 600 €.*

*« Tout don de plus de 150 € consenti à un parti ou groupement politique en vue du financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens doit être versé par chèque, virement, prélèvement automatique ou carte bancaire. Le parti ou groupement politique délivre un reçu pour chaque don.*

*« Le montant global des dons en espèces faits au parti ou groupement politique en vue du financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens ne peut excéder 20 % du total des fonds récoltés.*

*Les personnes physiques peuvent consentir des prêts pour le financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens dès lors que ces prêts ne sont pas effectués à titre habituel.*

*« La durée de ces prêts ne peut excéder cinq ans. Un décret en Conseil d'Etat fixe le plafond et les conditions d'encadrement du prêt consenti pour garantir que ce prêt ne constitue pas un don déguisé.*

*« Le parti ou groupement politique bénéficiaire du prêt en vue du financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens fournit au prêteur les informations concernant les caractéristiques du prêt s'agissant du taux d'intérêt applicable, du montant total du prêt, de sa durée ainsi que de ses modalités et de ses conditions de remboursement.*

*« Le parti ou groupement politique bénéficiaire du prêt informe le prêteur des conséquences liées à la défaillance de l'emprunteur.*

*« L'ensemble des opérations financières conduites par un parti ou groupement en vue de la campagne de collecte de soutiens fait l'objet d'une comptabilité annexe et détaillée dans les comptes de ce parti ou groupement politique.*

*« A l'exception des partis ou groupements politiques, les personnes morales ne peuvent participer au financement d'actions tendant à favoriser ou défavoriser le recueil des soutiens à une proposition de loi présentée en application de l'article 11 de la Constitution ni en consentant des dons sous quelque forme que ce soit, ni en fournissant des biens, services ou autres avantages, directs ou indirects, à des prix inférieurs à ceux qui sont habituellement pratiqués. Les personnes morales, à l'exception des partis et groupements politiques ainsi que des établissements de crédit ou sociétés de financement ayant leur siège social dans un Etat membre de l'Union européenne ou partie à l'accord sur l'Espace économique européen, ne peuvent consentir des prêts en vue du financement de telles actions.*

*« Aucun Etat étranger ou personne morale de droit étranger ne peut participer, directement ou indirectement, au financement de telles actions.*

*« La violation du présent article est passible des peines prévues au III de l'article L. 113-1 »<sup>9</sup>.*

#### **4. Y-a-t-il une période pendant laquelle les autorités nationales et locales ne peuvent pas utiliser les fonds publics pour faire campagne sur l'objet du référendum qui est organisé ?**

Il n'existe pas de période pendant laquelle les autorités nationales et locales ne peuvent pas utiliser les fonds publics pour faire campagne sur l'objet du référendum organisé. Le Conseil constitutionnel n'assure que le contrôle des dépenses des partis politiques :

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/publications/dossiers-thematiques/2005-referendum-traite-constitution-pour-l-europe/le-financement-de-la-campagne-du-referendum.42820.html>

#### **5. Comment garantir que des informations neutres et objectives soient mises à disposition sur l'objet et les effets du référendum ? Est-ce qu'il y a égalité de temps d'antenne pour toutes les parties**

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<sup>9</sup> Cet article prévoit, en cas de non-respect de ces dispositions « une peine de trois ans d'emprisonnement et de 45 000 € d'amende ».



**et si oui, comment la faire respecter ? Quels sont, à cet égard, les ajustements nécessaires à l'ère des réseaux sociaux ?**

a) Formulation de la question soumise à référendum

Le Conseil constitutionnel a dégagé une jurisprudence en 1987 qui s'est appliquée depuis à toutes les consultations référendaires. Ainsi dans sa décision n° 87-226 DC du 2 juin 1987 (« Loi organisant la consultation des populations intéressées de la Nouvelle-Calédonie et dépendances prévue par l'alinéa premier de l'article 1er de la loi n° 86-844 du 17 juillet 1986 relative à la Nouvelle-Calédonie »), il a jugé que : *« la question posée aux populations intéressées doit satisfaire à la double exigence de loyauté et de clarté de la consultation (...) la question posée aux votants ne doit pas comporter d'équivoque, notamment en ce qui concerne la portée de ces indications »*.

b) Accès aux médias

En 2004, le Conseil constitutionnel dans sa réponse apportée à la consultation de la Commission de Venise a apporté les informations suivantes :

*« Normalement, seuls peuvent s'exprimer à la radio et à la télévision les partis politiques, avec deux catégories : ceux représentés au Parlement et ceux dont, compte tenu de la nature de la question posée, la participation paraît justifiée. Par exemple, pour le référendum sur la Nouvelle-Calédonie en 1988, a été prévue une représentation particulière des partis de Nouvelle-Calédonie. La formule usitée est « une place équitable » de façon à éviter des situations concrètes insolubles que le mot égalité suggère mathématiquement. Les médias sont tenus de rendre compte équitablement, qu'ils soient publics ou privés. Les conditions d'égalité ne portent que sur les émissions prises en charge intégralement par l'Etat. La campagne officielle ne coûte donc rien aux partis ; en revanche, le reste (réunions, tracts, etc.) est à leur charge exclusive »*.

Le décret précité de 2005, « relatif à la campagne en vue du référendum », apporte les précisions suivantes dans son article 5 :

*« Les organisations politiques habilitées mentionnées à l'article 3<sup>10</sup> disposent dans les programmes des sociétés nationales de programme d'une durée de 140 minutes d'émission télévisée et de 140 minutes d'émission radiodiffusée, qui est répartie, par arrêté du Premier ministre, de la façon suivante :*

*« 1° Chaque organisation habilitée dispose d'une première attribution de 10 minutes ;*

*« 2° La durée restante après attribution de la dotation prévue au 1° est répartie entre les organisations, pour moitié proportionnellement au nombre des députés et des sénateurs qui ont déclaré s'y rattacher pour l'attribution en 2005 de l'aide publique aux groupements politiques, et pour moitié proportionnellement aux résultats obtenus lors de la dernière élection des représentants français au Parlement européen. Lorsque l'organisation habilitée est un regroupement de partis, les suffrages obtenus par l'ensemble des partis regroupés sont pris en compte. »*

c) Réseaux sociaux

Le dernier référendum remontant à 2005, il n'y a pas encore eu de position du Conseil constitutionnel sur ce point. La question de l'influence possible de ces réseaux, sur le déroulement des opérations référendaires, n'étant pas en encore posée il y a plus de dix ans.

## NETHERLANDS

On a national level, Dutch citizens have been able to apply for a consultative referendum for certain bills and treaties since July 1, 2015. In case of bills that have been passed this process is laid down in the Dutch Consultative Referendum Act ([Wet raadgevend referendum](#) (Wrr), in Dutch). If at least 300.000 voters file a

<sup>10</sup> Article 3 du décret de 2005 :

*« Les partis et groupements politiques peuvent être habilités à participer à la campagne. Sont habilités à leur demande à participer à la campagne :*

*« - les partis et groupements politiques auxquels au moins cinq députés ou cinq sénateurs ont déclaré se rattacher pour l'attribution en 2005 de l'aide publique aux partis et groupements politiques prévue par l'article 9 de la loi du 11 mars 1988 susvisée ;*

*« - ou les partis et groupements politiques qui ont obtenu, au plan national, au moins 5 % des suffrages exprimés à l'élection des représentants français au Parlement européen qui a eu lieu le 13 juin 2004 ».*

legally valid application, a consultative referendum will be called. The current cabinet wants to abolish the Wrr, because in its view the referendum has not met expectations. On February 22, 2018 the House of Representatives passed a bill to abolish the referendum.

Municipalities may call a referendum if they issue a referendum bye-law. Such a referendum cannot be binding, however. This is based on section 121 of the Municipalities Act. This section gives municipalities the power to issue a bye-law as long as this bye-law does not run counter to existing legislation. Local referendums are often held concurrently with local elections. Provinces are at liberty to issue a referendum bye-law as well. On a local level there often is an independent referendum commission.

Because of the wide array of local and provincial bye-laws, the following questions are answered with a view to a consultative referendum on a national level.

**1.a In your country, who has the right to vote on a referendum?**

Anyone entitled to vote in a general election for the House of Representatives is also entitled to vote in a referendum. To be entitled to vote in a consultative referendum, voters must have Dutch nationality, be 18 years or over and not be disenfranchised.

**1.b And how is registration handled?**

See answer to question 2.a

**1.c Are displaced voters or the diaspora entitled to vote and, if so, where?**

Dutch voters permanently or temporarily living abroad on the day of the election can cast their votes in a number of ways. Those who are no longer registered with a Dutch municipality have to register (once only) as a voter abroad. Subsequently they can vote by post, by means of a written proxy vote or by means of a voter's pass (in the Netherlands). Voters who are abroad on the day of the election but are still registered with a Dutch local authority can vote by post, by means of a private proxy vote or by means of a written proxy vote.

**1.d Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Yes, see introductory remarks.

**2.a Is there an electoral management body who regulates the conduct of referendums?**

Two official bodies are involved when calling a national referendum:

a. The Electoral Council deals with matters relating to the electoral process.  
The Electoral Council acts as a central electoral committee for various elections.

b. The Referendum Committee deals with:

- setting a date for the referendum;
- stipulating the name on the ballot paper of the bill concerned in the referendum;
- providing voters with information regarding the bill concerned in the referendum;
- providing financial grants for activities intended to stimulate debate about the bill concerned in the referendum.

**2.b and if so, who determines its membership?**

The Electoral Council is non-departmental public body (zbo in Dutch), made up of a chairperson and six other members. Members are appointed by Royal Decree, based on their expertise in electoral law and elections.

The Consultative Referendum Act lays down that there shall be an independent Referendum Committee. This Committee consists of a chairperson and four members. On September 29, 2015 the Ministry of the Interior and Kingdom Relations appointed the chairperson and the members.

**3a. How is expenditure regulated and controlled during the referendum campaign?**

Elections and referendums are paid for by the national government, which appoints and funds a central electoral committee and a Referendum Committee. However, a large number of organisational and executive responsibilities are entrusted to the municipality, which sees to polling stations and their members, for example. Municipalities are compensated by the national government for this.

The national budget is proposed in legislation by the national government. Parliament has to approve of this budget. Parliament and the Netherlands Court of Audit monitor the government's annual budget.

Section 90 paragraph 2 of the Consultative Referendum Act stipulates that the Referendum Committee provides grants for civic initiatives aimed at stimulating public debate in the Netherlands about the bill concerned in the referendum. At the moment the maximum amount of financial support available for a single referendum is 2 million euros. Requests for financial support are assessed by the Referendum Committee based on the Policy Rules regarding Assessment of Grant Requests ([Beleidsregel beoordeling subsidieaanvragen](#) (in Dutch)).

### **3.b Are there any specific provisions regarding donations to campaign groups?**

No, except for the conditions that have to be met to receive a grant from the Referendum Committee (see answer to question 3.1).

### **4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No.

### **5.a How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum?**

The Referendum Committee provides voters with information regarding the bill concerned in the referendum.

### **5.b Do all sides have equal broadcasting time and, if so, how is this enforced?**

Yes. Broadcasting time can be freely purchased. Financial support that has been granted can be used for this purpose. To this end, an equal amount of financial support is allocated to both supporters and opponents.

### **5.c Are there any provisions regarding the use of social media in this respect?**

No

## **GEORGIA**

### **1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The referendum issues in Georgia are regulated by the Constitution, The Election Code and The Organic Law Of Georgia On Referendums. A referendum is nationwide polling by ballot intended to ultimately decide particularly important national issues.

Any citizen of Georgia, who has attained the age of 18 years by the referendum day, regardless of race, skin colour, language, gender, origin, religion, political and other opinions, national, ethnic and social origin, property and birth status and place of residence, may participate in a referendum.

All data shall be entered in the unified list of voters according to the place of their registration. IDPs (internally displayed persons) from the occupied regions of Georgia shall be entered in the unified list of voters according to their actual place of residence.

Out-of-country voters have the right to participate in the parliamentary and presidential elections of Georgia, also in the referendum.

Voters abroad are eligible to participate in elections in case:

- they are on a Georgian consular registry on the polling day;

- they are not on a consular registry but have gone through election registration in a Precinct Election Commission formed abroad or in a consular office no later than on the 21st day before the Election Day;

Out-of-country precincts shall be set up by the CEC based on the data provided by the Ministry of Foreign Affairs of Georgia, no later than on the 30th day prior to the Election Day for no less than 20 and no more than 3 000 voters.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

Referendums shall be organized and held by:

- a) the Central Referendum Commission;
- b) district referendum commissions;
- c) precinct referendum commissions.

The functions of the Central Referendum Commission and district referendum commissions shall be performed by the Central Election Commission and district election commissions respectively.

Precinct referendum commissions shall be set up according to the Organic Law of Georgia - the Election Code of Georgia, in accordance with the procedure established for setting up precinct election commissions. If the referendum day falls on the day of general elections, the functions of precinct referendum commissions shall be assigned to precinct election commissions set up for those elections.

Referendum commissions shall cease to operate once the results of the referendum are officially announced.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Costs incurred by the Electoral Administration of Georgia for preparation and conduct of elections/referenda, as well as its activity carried out within the term of its office shall be funded from the State Budget of Georgia.

The CEC shall, on an annual basis and according to the procedures defined by this Law, submit to the Parliament of Georgia a budget statement of the Electoral Administration of Georgia for the following year in order to determine the budgetary financing for the following year.

Enforcement of the allocation of funds to the CEC may not be carried out from the State Budget of Georgia intended for enforcement of court judgments.

4. The Electoral Administration of Georgia, represented by the CEC, may receive grants from persons duly authorised by law. The grant shall be used according to the agreement between the CEC and the authorised person

The CEC shall, not later than 55 days before polling, submit to the Ministry of Finance of Georgia a plan for funding the preparation and conduct of elections/referenda.

The Ministry of Finance of Georgia shall, not later than on the 50th day before polling day, according to the plan submitted to the ministry by the CEC, ensure that the funds for the preparation and conduct of elections/referenda are allocated from the State Budget of Georgia to the CEC budgetary programme code concerned. 3. The CEC shall by decree regulate the distribution and use of election funds, necessary for the conduct of elections, by election commissions. 4. The CEC shall, not later than 45 days before polling day, deposit funds allocated for a DEC into its current account.

A DEC shall, not later than on the 30th day after polling, cease all settlements with organisations and individuals and shall, within 10 days, transfer funds remaining on its account to the relevant account of the state treasury. A DEC shall, within two weeks after transferring funds remaining on its account, submit a financial report to the CEC.

An election/referendum campaign shall be funded from: a) the funds of a political union if the party independently participates in the election/referendum; b) the funds of the first party on the list of an electoral bloc if political unions come together as one electoral subject; c) the election funds opened by an initiative group of voters to fund the campaign of an independent candidate.

The basis for opening a bank account in a licensed commercial bank of Georgia for electioneering of an initiative group of voters shall be an ordinance on the registration of this electoral subject of a Chairperson of a relevant election commission.

The campaign expense shall mean the amount of funds designated for the election/referendum campaign of an electoral subject, as well as all types of goods and services obtained free of charge (calculated at market prices), except for the cost of free airtime, as defined by this Law. 3. A candidate nominated by an electoral subject shall use the fund of the electoral subject nominating the candidate.

An electoral subject shall be obliged to submit to the State Audit Office of Georgia the information about the bank account, from which the necessary costs shall be funded for an election campaign.

Election/referendum campaign funds shall be the money deposited into the relevant bank account, as well as all goods and services received free of charge (calculated at market prices).

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

Such a ban refers only to election campaign and not to a pre-referendums campaign

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

A referendum is nation- wide polling by ballot intended to ultimately decide particularly important national issues. Referendums may be held on particularly important national issues, including major issues and principles provided for by the laws and treaties and international agreements of Georgia.

Citizens, political parties, public associations of citizens, initiative groups may freely agitate for a referendum, and for an issue to be put up for a referendum. Members of referendum commissions may not agitate for a referendum or an issue to be put up for a referendum.

Agitation may not be carried out on the referendum day.

Election Code of Georgia <https://matsne.gov.ge/en/document/download/1557168/22/en/pdf>

ORGANIC LAW OF GEORGIA ON REFERENDUMS  
<https://matsne.gov.ge/en/document/download/33028/7/en/pdf>

## UNITED KINGDOM

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The franchise for each national or regional referendum is set out on a case by case basis. Each referendum requires separate legislation to enable the referendum to take place. The separate legislation will set out the question to be asked as well as the franchise to be used.

### UK-wide referendums

There have been three UK-wide referendums to date. Each has been based on the Parliamentary franchise. You are eligible to register to vote as an ordinary voter in respect of the Parliamentary franchise if you are:

Resident in the constituency  
Of voting age on polling day (currently 18)  
A UK, Irish or qualifying Commonwealth citizen\*  
Not subject to any legal incapacity to vote

\*A qualifying Commonwealth citizen is someone who has leave to enter or remain in the UK, or does not require such leave.

The legislation allowing for the 2016 UK-wide referendum on the UK's membership of the European Union also made provision to include eligible voters in Gibraltar. Gibraltar was a separate counting area in the 2016 referendum.

The Parliamentary franchise includes overseas voters (see below), therefore overseas voters have been able to vote in the UK-wide referendums held in 2011 and 2016. Overseas voters are not resident in a constituency and are therefore a special category elector. Although not resident, their registration is in respect of the last constituency they were resident in before leaving the UK. Their residence in the constituency is therefore 'notional'.

### **Regional referendums**

All regional referendums have so far been held using the local government franchise.

You can register in respect of the local government franchise if you are:

Resident in the constituency

Of voting age on polling day, currently 18 in England, Wales and Northern Ireland and 16 in Scotland.

A UK, Irish or qualifying Commonwealth citizen\*

An EU citizen

Not subject to any legal incapacity to vote

### **Local referendums**

Local referendums are allowed under separate provisions. For example, provisions for local referendums on directly elected mayors, or on local council governance, are contained in various local government Acts. Local referendums use the local government franchise.

British citizens living overseas, known as [overseas voters](#), have been able to participate in UK-wide referendums that use the Parliamentary franchise.

### **Diaspora**

[Overseas voters](#) are a special category of elector and can only register for the Parliamentary franchise for up to 15 years after leaving the UK. Overseas voters have been able to register since 1986.

The 15-year rule for overseas voters is currently being considered and legislation is before Parliament to abolish the 15-year limit. This will allow British citizens living overseas to register as an overseas voter regardless of how long they have been away. Overseas voters are only allowed to register for the Parliamentary franchise. They are not allowed to vote in elections or referendums that use the local government franchise.

### **Registration**

No separate registration framework is required for a referendum. Those already entered on the electoral register with the appropriate franchise qualification as set out in the referendum's enabling legislation will be entitled to vote. Electoral registers are maintained locally by local authorities in each of the 381 registration areas of the UK. The registers for the local government franchise and the Parliamentary franchise are technically separate but are maintained as a single list, with entries marked according to determine voting eligibility.

## **2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The [Electoral Commission](#) is responsible for the conduct of national and regional referendums held under the provisions of the [Political Parties, Elections and Referendums Act 2000 \(PPERA\)](#). It was PERPA that also established the Electoral Commission. The Electoral Commission does not have a role in regulating local referendums.

The main regulatory framework for national referendums in the UK is set out by PERPA. This covers UK-wide polls and those regional polls legislated for by the UK Parliament. Regional polls apply to Northern Ireland, Scotland and Wales and the regions of England. These are known as PERPA referendums. The PERPA

legislation gives the Electoral Commission specific roles in referendums and creates a framework for how referendums are run and regulated.

However, before any referendum can take place, specific additional legislation is needed, covering not only important points such as the date of the referendum and the referendum question, but also all the detailed rules for running the referendum and the regulatory rules that apply.

The Scottish independence referendum of 2014 was not a PPERA referendum as it was legislated for by the Scottish Parliament and not the UK Parliament. However, the separate legislation allowing for the referendum to take place gave the Electoral Commission a similar role to that of a PPERA referendum.

The administration and day to day running of the referendum, such as equipping polling stations and counting votes, is done at the local level in the 381 registration areas of the UK. During a PPERA referendum the Chief Counting Officer, usually the Chair or senior member of the Electoral Commission, issues guidance to all counting officers in each counting area and has the power to issue directions to counting officers.

## Membership

The Electoral Commission is supervised by Commissioners who are appointed by Royal Warrant to exercise the functions of the Commission. Their appointments are confirmed in the House of Commons via a Humble Address and the appointment is formally made by the Queen.

There must be nine or ten Electoral Commissioners. Four of the Commissioners are nominated by the leader of a qualifying political party. In practice, the nominated commissioners come from the three largest parties in the House of Commons, plus one other. The other five or six are 'ordinary' Commissioners, who must not have been members or employees of a political party for the five years prior to their appointment. The chair must be an 'ordinary' Commissioner. The Speaker's Committee runs open competitions to appoint 'ordinary' Commissioners, with regard to the [Code of Practice for Ministerial Appointments to Public Bodies](#).

A full list of Commissioners can be found on [the Electoral Commission's website](#).

The nominated Commissioners were first proposed in a [report from the Committee on Standards in Public Life](#) in 2007. This recommended "the appointment of a minority of commissioners who also have direct contemporary experience and knowledge of politics and political parties" (p.8). This recommendation was implemented via section 5 of the *Political Parties and Elections Act 2009*. The CSPL report also recommended that the interests of Scotland, Wales and Northern Ireland should each be represented by at least one commissioner.

## The Speaker's Committee

The Electoral Commission is accountable to Parliament through the [Speaker's Committee on the Electoral Commission](#). This is a statutory Parliamentary committee established by the *Political Parties, Elections and Referendums Act 2000* (PPERA).

The Speaker's Committee must approve the Electoral Commission's annual budget and corporate plan on behalf of the House of Commons. It also receives audit reports on the Commission from the Comptroller and Auditor General. The *Deregulation Act 2015* changed the frequency of these reports from annual to once per Parliament.

The Speaker's Committee is chaired by the Speaker, and includes three further ex officio members: the chair of the Public Administration and Constitutional Affairs Committee; the Minister for the Cabinet Office; and a minister for local government. The Speaker may then appoint further Members to the Committee.

## 3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?

Before a referendum is held, there is a formal campaigning period called the 'referendum period'. During this period, certain rules on campaigning and spending apply.

Referendum spending is regulated if it is incurred on certain activities that are intended to, or otherwise in connection with, promoting or procuring a particular outcome in the referendum. There are spending limits on referendum spending (see below) and regulated spending must be reported to the Electoral Commission.



If an individual or organisation wishes to spend £10,000 or more on campaigning they must register with the Electoral Commission and tell the Commission which outcome they will be campaigning for. Registered campaigners must either be an individual who is resident in the UK or registered on a UK electoral register or a UK registered company or organisation, such as a registered political party, trade union or unincorporated association.

Registered campaigners are also referred to as 'permitted participants'.

In the run up to the referendum and before the formal 'referendum period', registered campaigners (other than registered political parties, but including minor parties) must report certain donations and loans to the Electoral Commission. This is called pre-poll reporting. Registered campaigners must also report donations and loans received during the referendum period.

UK registered political parties who are not minor parties do not submit pre-poll reports or report donations after the referendum but instead report these in their normal quarterly financial reporting. The Electoral Commission is also the regulator of party political finance.

[Guidance for referendum campaigners](#) is published on the Electoral Commission website.

## Spending

Any individual or group spending below £10,000 does not have to register with the Electoral Commission. If an individual or group intends to spend more than £10,000 they must register with the Electoral Commission and must comply with the financial reporting requirements on spending and donations.

The spending limits for UK-wide referendums are set out in PPERA, as amended. The legislation allowing for the referendum on the UK's membership of the EU increased the spending limits in PPERA to take account of inflation.

For registered campaigners the spending limit at the 2016 referendum on the UK's membership of the European Union was £700,000. The two lead campaigners (see question 5) were permitted to spend up to £7,000,000 each on campaigning.

For registered campaigners that are also registered political parties, varying levels are set according to the percentage share of the vote that the party received at the last Parliamentary general election. In 2016 the limits were:

### Political parties with:

Greater than 30% share of the vote	£7,000,000
Between 20-30% share of the vote	£5,500,000
Between 10-20% share of the vote	£4,000,000
Between 5-10% share of the vote	£3,000,000
Less than 5% share of the vote	£700,000

## Donations

Donations or loans of £500 or more to registered referendum campaigners are regulated. This includes non-cash donations. Donations over £500 must be recorded.

Registered campaigners must record and report all donations of over £7,500 to the Electoral Commission. This includes multiple donations that add up to over £7,500 from the same source.

Donations or loans below £500 are not regulated unless it appears that a donor is attempting to evade the rules by making a series of small donations below the £500 threshold.

Registered campaigners must only accept donations from permissible donors. A permissible donor is an individual registered on a UK electoral register, or a UK registered company or organisation such as a trade union, an unincorporated association or a building society.

Campaigners must report impermissible donations to the Electoral Commission.



Campaigners must appoint and register a 'responsible person'. The responsible person has a legal responsibility to make sure that their organisation follows the rules on donations and the reporting of the donations to the Electoral Commission.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

The pre-referendum period is regulated by PPERA. [Section 125](#) refers to "restriction on publication etc. of promotional material by central and local government etc." and applies for the 28 days ending with the day of the poll.

It places statutory restrictions on the publication of promotional material about referendums by Ministers, government departments, local authorities and certain other persons or public bodies that are funded from public funds during the period of 28 days immediately before polling day.

The restrictions relate to publishing general information about the referendum as well as about the issues and arguments for or against the referendum question. The restrictions also apply to material designed to encourage people to vote.

A [question in the House of Lords](#) in 2004 had clarified that, under Section 125, Ministers are free to campaign as long as they do so in a personal or political (i.e. not official) capacity.

The Electoral Commission has a statutory duty to monitor and take all reasonable steps to secure compliance with the restrictions on Section 125, but it does not have any power to sanction bodies that do not comply with the s.125 restrictions.

The Electoral Commission has reviewed the conduct of the referendums that have been held since PPERA was passed, and on each occasion commented on Section 125. In summary, the Commission has held that public awareness activities by Counting Officers should be exempt from the period of sensitivity provision; that other government activity should be restricted for the entire duration of the referendum period (during which campaign activities are regulated) and not just the last 28 days; and that sanctions for breaches of Section 125 should be clarified.<sup>11</sup>

After the 2016 referendum the Electoral Commission recommended that Section 125 of PPERA should be significantly redrafted to clarify the nature and scope of the restriction on activities by Governments and other publicly funded bodies during the referendum period. It should be clear which activities are restricted, and whether there are any specific exemptions; it should be clear when the restrictions apply; and it should be clear who is responsible for enforcing the restrictions, and what the penalties would be for any breach of the restrictions.<sup>12</sup>

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

**Information**

The Electoral Commission has a responsibility to provide public information during a referendum. This relates, for example, to the questions being asked, how to register to vote, what date the poll was being held. The Commission has no role in explaining the merits of either side of the referendum question being asked.

The Electoral Commission has a statutory responsibility for designating two lead campaign groups. A designated lead campaigner acts as the lead campaign group on behalf of those campaigning for that outcome.

Being designated as lead campaigner confers additional statutory benefits. This include referendum campaign broadcasts. Other statutory benefits include:

Higher spending limits than other registered campaigners (see question 3),

<sup>11</sup> Electoral Commission, [The 2004 North East regional assembly local government referendums](#), November 2005; Electoral Commission, [Report on the referendum on the law-making powers of the National Assembly for Wales](#), March 2011; Electoral Commission, [Referendum on the voting system for UK parliamentary elections](#), October 2011; Electoral Commission, [Scottish independence referendum](#), December 2014

<sup>12</sup> Electoral Commission, [Report on the 23 June 2016 referendum on the UK's membership of the European Union](#), September 2016

one free postal distribution of information to voters,  
the use of certain public rooms,  
a grant of up to £600,000.

There is very little regulation of election or referendum campaign literature in the United Kingdom. Referendum campaigners are responsible for the content of their own campaigns and it is for the voter to decide on whether or not they consider it accurate.

There is a legal requirement that campaign material includes an imprint of who has published the material to ensure voters can identify the source of the campaign literature ([Section 126](#) of PPERA).

Campaign material is subject to the general restrictions of criminal and civil law, so should observe the wider law on copyright, libel, contempt, and obscenity. Under the *Public Order Act 1986*, it is an offence to publish or distribute threatening, abusive or insulting material that is intended to stir up racial hatred or which is likely to stir up racial hatred. Campaigners must also respect planning law in relation to placing of posters and banners. However, there is no requirement for information to be accurate and campaigners are of course not neutral.

### **Broadcasting**

Political advertising on UK television and radio is banned by the *Communications Act 2003* (as amended) so no groups have access to broadcast advertising. Only the two lead campaigns are allocated referendum broadcasts.

Referendum broadcasts are only available to lead campaign groups and they will have equal amounts of time. Referendum broadcasts are subject to the same taste and decency guidelines as normal programming. They must also comply with the Ofcom Broadcasting Code.

The BBC and the commercial broadcasters can refuse to broadcast a Referendum Broadcast in line with these guidelines but the broadcasters have no say in the factual or campaign content within the broadcasts. The broadcasters will be indemnified against any legal action that may result from the content of a broadcast; for example, civil action if someone believes they have been libelled or if a copyright has been breached.

During the regulated period of an election (or a referendum) broadcasters are required by the *Communications Act 2003* and other legislation to ensure the special impartiality in the broadcasters' coverage of the referendum (or election). These are set out by [Section 6](#) of the Ofcom Broadcasting Code. This does not specify specific amounts of time but provides for 'due weight' to be given to candidates and parties during elections and permitted participants in referendums.

This is in addition to their ongoing requirements to the general provisions of [Section 5](#) of the Code to ensure that that news, in whatever form, is reported with due accuracy and presented with due impartiality, and that matters of political or industrial controversy and matters relating to current public policy are dealt with impartially.

### **Social media**

There are no specific provisions relating to social media. Advertising on digital platforms by campaigners is permitted in the same way as print media advertising. As mentioned above, campaign advertising is subject to the general restrictions of criminal and civil law.

Spending on any advertising, regardless of the delivery platform, must be declared in the spending returns (see question 3).

Targeting of social media campaigns based on user information is not regulated and is a legitimate tool used by campaigners in elections and referendums, but campaigners must ensure they have collected personal data in line with data protection legislation.

Any spending by campaigners on third party companies employed in relation to data mining and social media will have to be declared in spending returns.

The Electoral Commission is currently investigating digital campaigning – the use of data held by parties, campaigners and social media companies for targeting, how political ads are used on social media, and the

use of bots – in the light of the Commission's experience in general elections and the EU referendum,<sup>13</sup> particularly with a view to campaign finance. The Commission's regulatory powers, however, apply only to individuals or organisations or actions in the UK or to conduct that takes place within the UK. In a report issued on 14 November the Commission stated:

We cannot use our own civil sanctioning powers on non-UK based individuals or organisations or on conduct that takes place outside the UK, although we can of course look to track and reach conclusions where non-UK individuals or organisations can be shown to have been involved in UK election-related activity.

Digital campaign material is not covered by the legal requirement that campaign material includes an imprint of who has published the material, although the Electoral Commission recommends that as best practice this should happen. The Commission has recommended that legislation be changed so that online campaign material must include an imprint in the same way that paper-based campaign literature/advertising must, in electoral law, contain an imprint.

## SWITZERLAND

### **Remarques préliminaires**

En Suisse, le terme « **référendum** » est utilisé de la manière suivante :

Le référendum permet au peuple de se prononcer sur certaines décisions importantes du Parlement. La Constitution distingue entre le référendum obligatoire et le référendum facultatif. Les actes soumis au référendum obligatoire sont automatiquement soumis au vote. Les actes soumis au référendum facultatif sont soumis au vote si 50'000 citoyens ayant le droit de vote ou huit cantons en font la demande.

<https://www.parlament.ch/fr/%C3%BCber-das-parlament/parlamentsw%C3%B6rterbuch/parlamentsw%C3%B6rterbuch-detail?WordId=185>

Un autre instrument est l'**initiative populaire** :

Par ce moyen, les citoyens peuvent demander que l'on vote sur une révision totale ou partielle de la Constitution fédérale. Pour que l'initiative aboutisse, elle doit recueillir 100'000 signatures valables dans un délai de 18 mois.

<https://www.parlament.ch/fr/%C3%BCber-das-parlament/parlamentsw%C3%B6rterbuch/parlamentsw%C3%B6rterbuch-detail?WordId=231>

### **Questionnaire**

**1. Dans votre pays, qui peut voter lors d'un référendum et quelles sont les modalités d'inscription ? Les électeurs déplacés et la diaspora sont-ils habilités à voter et, si oui, où ?**

#### **Droit de vote au niveau fédéral**

Si vous avez 18 ans révolus, êtes de nationalité suisse et n'êtes pas sous curatelle de portée générale pour cause d'incapacité durable, vous pouvez participer aux votations fédérales et aux élections du Conseil national.

Aucune inscription n'est nécessaire pour participer aux votations fédérales. Votre commune de domicile vous inscrit automatiquement dans le registre électoral, dès que vous remplissez les conditions pour pouvoir voter.

Les Suisses de l'étranger doivent par contre s'inscrire au préalable auprès de la représentation suisse compétente.

<https://www.ch.ch/fr/democratie/votations/qui-a-le-droit-de-voter>

*La réponse à cette question dépend elle du fait que le référendum soit national, régional ou local ?*

<sup>13</sup> Rob Posner, '[Responding to the rise of digital campaigning](#)', Electoral Commission blog post, 31 October 2017.

Oui. Les Suisses de l'étranger peuvent participer à des votations sur des objets fédéraux ainsi qu'aux élections du Conseil national sans pour cela devoir se rendre en Suisse. Régie par les législations cantonales, leur participation aux votations et élections cantonales est possible dans certains cantons.

<https://www.eda.admin.ch/eda/fr/dfae/vivre-etranger/cinquieme-suisse/droit-vote-election.html>

**2. Existe-t-il un organe électoral réglementant la conduite des référendums et si oui, qui décide de sa composition ?**

Non.

La Chancellerie fédérale est chargée de mettre en œuvre les droits populaires (initiatives populaires fédérales, référendums facultatifs), de préparer les scrutins fédéraux (votations fédérales et renouvellement intégral du Conseil national) et de coordonner la mise en place du vote électronique par les cantons.  
<https://www.bk.admin.ch/bk/fr/home/chancellerie-federale/organisation-de-la-chancellerie-federale/section-des-droits-politiques.html>

**3. De quelle manière les dépenses sont-elles réglementées et contrôlées durant une campagne référendaire ? Y a-t-il des dispositions particulières concernant les dons versés aux collectifs de campagne ?**

Au niveau fédéral, il n'existe en Suisse aucune réglementation.

En suspens est l'initiative populaire fédérale 'Pour plus de transparence dans le financement de la vie politique (initiative sur la transparence)' <https://www.bk.admin.ch/ch/f/pore/vi/vis466.html>  
Informations non officielles : <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/interieur/transparence-financement-partis-politiques>

**4. Y-a-t-il une période pendant laquelle les autorités nationales et locales ne peuvent pas utiliser les fonds publics pour faire campagne sur l'objet du référendum qui est organisé ?**

Non.

**5. Comment garantir que des informations neutres et objectives soient mises à disposition sur l'objet et les effets du référendum ?**

Pour le **gouvernement** il y a des règles dans la Loi fédérale sur les droits politiques :

**Art. 10a<sup>1</sup> Information des électeurs**

<sup>1</sup> Le Conseil fédéral informe les électeurs de manière suivie sur les objets soumis à la votation fédérale.

<sup>2</sup> Il respecte les principes de l'exhaustivité, de l'objectivité, de la transparence et de la proportionnalité.

<sup>3</sup> Il expose les principaux avis exprimés lors de la procédure parlementaire.

(...)

**Art. 11 Textes soumis à la votation, bulletins de vote et explications<sup>1</sup>**

<sup>1</sup> La Confédération met à la disposition des cantons les textes soumis à la votation et les bulletins de vote.

<sup>2</sup> Le texte soumis à la votation est accompagné de brèves explications du Conseil fédéral, qui doivent rester objectives et exposer également l'avis d'importantes minorités. Il doit contenir le libellé exact de la question qui figure sur le bulletin de vote. Dans le cas d'une initiative populaire ou d'un référendum, le comité fait part de ses arguments au Conseil fédéral, lequel les reprend dans ses explications. Le Conseil fédéral peut modifier ou refuser de reprendre des commentaires portant atteinte à l'honneur, manifestement contraires à la vérité ou trop longs. Il ne reprend les renvois à des sources électroniques que si leurs auteurs déclarent par écrit que ces sources ne contiennent pas d'indications illicites ni n'aiguillent l'internaute vers des publications électroniques au contenu illicite.<sup>2</sup>

(...)

<https://www.admin.ch/opc/fr/classified-compilation/19760323/index.html#a10a>

Base légales pour **radio et la télévision**:

**Constitution**

**Art. 93 Radio et télévision**

<sup>1</sup> (...)

<sup>2</sup> La radio et la télévision contribuent à la formation et au développement culturel, à la libre formation de l'opinion et au divertissement. Elles prennent en considération les particularités du pays et les besoins des cantons. Elles présentent les événements de manière fidèle et **reflètent équitablement la diversité des opinions**.

#### **Loi fédérale sur la radio et la télévision :**

##### **Art. 4 Exigences minimales quant au contenu des programmes**

<sup>2</sup> Les émissions rédactionnelles ayant un contenu informatif doivent présenter les événements de manière fidèle et permettre au public de se faire sa propre opinion. Les vues personnelles et les commentaires doivent être identifiables comme tels.

<sup>4</sup> Les programmes des concessionnaires doivent refléter équitablement, dans l'ensemble de leurs émissions rédactionnelles, la diversité des événements et des opinions. Si une zone de desserte est couverte par un nombre suffisant de diffuseurs, l'autorité concédante peut exempter un ou plusieurs concessionnaires de l'obligation de diversité.

##### **Art. 10 Interdictions**

<sup>1</sup> Est interdite la publicité pour:

(...)

d. les partis politiques, les personnes occupant des fonctions officielles ou candidates à des fonctions officielles et **les objets des votations populaires**;

*Est-ce qu'il y a égalité de temps d'antenne pour toutes les parties et si oui, comment la faire respecter ?*

C'est le Tribunal fédéral, en tant que cour suprême, qui est chargé d'interpréter les bases légales susmentionnées. A titre d'exemple, voici un arrêt du Tribunal fédéral à ce sujet : [ATF 125 II 497](#)

Le Conseil national vient de refuser une réglementation :

07.03.2018

#### **Votations populaires - Pas de temps de parole équitable pour les comités d'initiative**

(ats) Le Conseil national ne voit pas le besoin de légiférer pour que les comités référendaires et les comités d'initiative aient les mêmes temps de parole que le Conseil fédéral lors de campagnes de votation. Il a rejeté mercredi par 109 voix contre 79 une [motion de Roger Golay](#) (MCG/GE) demandant plus d'équité.

Le Conseil fédéral fait connaître sa position officielle sur les initiatives et les référendums à la télévision. Il peut ainsi influencer les électeurs. Les référendaires et les initiants n'ont pas l'équivalent alors qu'ils sont soutenus par un nombre important de citoyens, s'est insurgé l'auteur du texte.

Le temps de parole doit être distribué de manière équitable entre les différents intervenants. La télévision suisse ne doit pas être une chasse gardée du Conseil fédéral, a estimé M. Golay. Elle doit oeuvrer dans l'intérêt de tous.

Le gouvernement n'exerce aucune influence sur les programmes de la SSR, a répondu le chancelier de la Confédération Walter Thurnherr. Ses interventions radiophoniques et télévisées se fondent sur l'obligation constitutionnelle faite à l'exécutif d'informer les électeurs de manière suivie sur les objets soumis à votation fédérale, mais elles font partie intégrante des programmes.

De plus, contrairement au Conseil fédéral, les comités ne sont pas tenus par la loi d'informer de manière objective et de respecter le principe de l'exhaustivité, de la transparence et de la proportionnalité. Non seulement ils sont donc plus libres, mais ils disposent de nombreux outils pour faire campagne, a dit M. Thurnherr.

Sur la base d'une initiative parlementaire, une commission du National avait préparé un projet pour attribuer durant les campagnes des temps d'antenne gratuits aux comités d'initiatives ou référendaires ainsi qu'aux partis représentés au Parlement par des groupes. En 2009, la Chambre du peuple avait refusé d'entrer en matière.

*Quels sont, à cet égard, les ajustements nécessaires à l'ère des réseaux sociaux ?*

C'est aux politiques de répondre à une telle question : un parlementaire a par exemple déposé l'intervention suivante dans le contexte des médias sociaux :

13.3737 Interpellation

Campagnes de votation. Création d'une autorité d'examen neutre et indépendante

<https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefft?AffairId=20133737>

## ANDORRA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The Qualified Law of the electoral system and the referendum grants the right to vote to all Andorrans, of legal age, with full use of their civil and political rights and duly enrolled in the electoral list of the parish of origin or residence. This standard applies to any type of election either national or regional, and is also valid when a referendum is convened.

The Electoral Registry includes resident voters, residents of other parishes and Andorran voters residing abroad. Andorran residents abroad who are not enrolled in the electoral register of any parish can request their registration in the parish of origin provided they meet the requirements set forth.

Each Local Council makes the list according to the data of the electoral it is in charge of registry and corrects the errors and omissions that he observed. After three working days of the publication in the Official Bulletin of the Principality of Andorra of the decree for elections or referendums, the Local Councils make the polls public. These lists will be considered as definitive.

The voters resident abroad who appear as such in the electoral register and in the final electoral lists can make use of their vote by judicial deposit by post. They can also make use of the voting system by postal vote those who prove that they are carrying out their studies or a job or professional activity abroad. The votes with the official documentation will be sent to the Courts. This voting system is valid for elections or referendum.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Electoral Board oversees the good functioning of the electoral process in all referendums and elections, whether general or local, guaranteeing their objectivity and equal opportunities for all candidates or alternatives.

The Electoral Board consists of 6 members: three of them are Judges appointed through a draw by the Superior Council of Justice. The remaining three members must be jurists or experts, appointed by the Speaker's office at the joint proposal of the parliamentary groups. Six alternate members will also be appointed under the same conditions.

The Superior Council of Justice designates the president and vice-president of the Electoral Board among the appointed judges. The President of the Board has a casting vote.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

The Qualified Law of political parties and electoral financing does not make any express reference to the control of expenses during the campaign of a referendum, it only regulates the expenses during an election campaign, either in the framework of general or local elections.

Even so, the Qualified Law of the electoral and referendum system considers the groups of voters who support some option in the referendum to have the same legal consideration as the candidates.

Regarding donations, the Law regulates only those that are made to electoral candidates from natural persons for a maximum value of 6,000 euros per candidacy. Donations aren't allowed to legal entities, and in particular foundations, associations and parliamentary groups. No donations can be made by natural persons who provide services or supplies or work for any of

the public administrations, and public societies. The candidacies can't accept anonymous donations.

Nominations must inform the Court of Auditors of all donations received, and this will publish the information received in the official Bulletin of the Principality of Andorra within a maximum term of one month from the end of the election campaign.

The Electoral Board is the competent body to ensure compliance with the electoral financing regulations from the date it is called until the 50th calendar day after the voting day. The Electoral Board shall inform the Court of Auditors of the results of its activity within a period of two months from the celebration of the elections.

Between 60 and 80 days after voting, all candidatures must present to the Court of Auditors detailed and documented accounts of their respective revenue and election expenses.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

The Qualified Law of the electoral system and referendum prohibits the insertion or diffusion in any media of announcements and publicity paid with public funds for institutional purposes, from the electoral call date to the end of the elections.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

According to the qualified Law of the electoral and referendum regime, once a referendum has been convened, the Government determines the duration of the electoral campaign period, which may not be less than 10 calendar days and not more than fifteen calendar days.

The Electoral Board is competent to formulate to the public authorities or the media, either at the individual request or "ex officio", all the observations that it deems necessary on the development of the electoral process.

In the public media the different candidatures will have a free space of the same duration to explain their programs and request the vote.

The private media may contract electoral advertising with the candidacy provided they do not discriminate or reject them.

The Electoral Board may dictate, if it deems necessary, general provisions that are necessary for the free spaces and the development of electoral debates or interviews in the publicly-owned media, as well as the publication in them of electoral polls paid with Public funds, guarantee electoral pluralism and informative neutrality.

There is currently no specific regulation in relation to the use of social networks even though the doubts or conflicts that arise must be resolved by the Electoral Board.

## GERMANY

### A. Federal Level

The Basic Law (BL) is based on the indirect exercise of public authority (representative democracy). It is however in principle receptive to elements of direct democracy. Art. 20, Sub-section 2, S. 2, BL envisages "other votes" as a form of exercise of public authority by the people. However, this does not establish explicit legal provisions governing direct participation of voters in the political decision-making process at the federal level. In the light of the general wording of the constitutional provision, legislation stipulating the concrete details is required in order to hold "other votes".

At the federal level, scope to organise referendums is explicitly envisaged solely in Art. 29 and 118a BL concerning new delimitation of the federal states, and also in the context of Art. 146 BL with reference to adoption of a new constitution.

Art. 29 BL is a special case: while revision of the existing division into *Länder* (federal states) may be effected by a referendum confirming a federal law (Art. 29, Sub-sections 2 and 3 BL) or in response to petition by citizens (Art. 29, Sub-section 4, BL), only voters in the federal states in question are entitled to vote on such

changes to the delimitation of the federal states. This also applies mutatis mutandis to new delimitation of the federal states pursuant to Art. 118 and Art. 118a BL.

As German constitutional law does not to date provide for nationwide referendums, it is in particular impossible to answer the questions on procedures related to the initiation, execution, financing and procedural oversight of nationwide referendums.

## **2. Federal State Level**

While referendums are not envisaged at the federal level, the constitutions of all 16 German federal states contain elements of direct democracy and allow for plebiscites and in some cases citizens' initiative. The options available and the associated preconditions however differ in the various federal states.

### **Question 1**

The conditions pertaining to the right of individuals to participate in votes on referendums correspond to the conditions for participation in elections:

Any person on the electoral roll for elections to the *Landtag* (federal state parliament) in the federal state in question is also entitled to vote in referendums (including referendums on citizens' initiatives) at the federal state level.

The following requirements must be fulfilled for entry on the electoral roll: German nationality, minimum age of 18 (in four federal states the minimum age is 16) as well as substantiation that the individual in question has had their main residence in the federal state in question for at least three months prior to the vote (four federal states stipulate shorter periods).

The individual in question must not have been disqualified from voting (officially disenfranchised).

Separate registration is not required to vote in plebiscites.

In "referendums" (votes on local citizens' initiatives) at local authority level – as is also the case for local government elections - all EU citizens who fulfil the other conditions for voting eligibility are in addition entitled to participate in such votes on citizens' initiatives.

Individuals who do not have their main residence in the federal state or local authority district in question are – with two negligible exceptions – not entered in the respective electoral roll and are therefore not entitled to vote in referendums.

As well as referendums, plebiscites also exist at both the federal state and local authority level, and may, without a formal vote, require the parliament to address particular topics (e.g. petitions concerning a topic to be addressed at federal state or national level, popular initiatives, petitions concerning a topic at the local level). If such plebiscites are to succeed however, support from voters on the electoral roll is likewise a central precondition.

### **Question 2**

The principles that apply to the organisation and implementation of referendums are the same as the principles concerning the conduct of elections. The chief electoral officer of the federal state in question, or the local authority chief electoral officer in the case of referendums at the local authority level, is in charge of conducting referendums, although different terminology is generally used to refer to these electoral officers in the case of plebiscites.

The chief electoral officers are appointed by the governments of the federal states for an indefinite period of time.

### **Questions 3**

The costs of holding a vote on a referendum are borne by the federal state or local authority in question.

The federal state government or the local authority administration do not conduct their own campaigns in the case of referendums. Campaigning for or against a referendum is conducted by the private sector. The ensuing costs may, where applicable, be tax-deductible.



In Berlin, North Rhine-Westphalia and Rhineland-Palatinate for example the donor's personal data must be declared for donations over 5,000 €. Prohibitions on supporting campaign groups with donations exist inter alia for political groups represented in parliament, parliament groups, local authority bodies and publicly-owned or part-publicly-owned companies.

#### **Question 4**

Federal state governments and local authority administrations are not allowed to run their own publicly funded referendum campaigns or promotional measures for referendums.

#### **Question 5**

Federal state governments and local authority administrations must publicly announce a referendum and may in this context present a factual and technical position on its admissibility.

All public broadcasters are legally obliged to take account of the principles of the free democratic constitutional order, objectivity and neutrality. In addition, the Bavarian Broadcasting Act stipulates explicitly that "representatives with differing opinions" shall be granted air time in an appropriate balance to promote their views in the case of authorised referendums and petitions by citizens.

There are no provisions in Germany on the use of social media in elections or referendums.

### **NORWAY**

#### **REFERENDUMS IN NORWAY**

##### **Background information**

##### **National level**

The Norwegian political system is predominantly a representative democracy, and referendums are not mentioned in the constitution. However, the Parliament may, with a simple majority, decide to consult the voters on any issue. National referendums are thus neither mandatory, nor binding, and they cannot be brought about by a public initiative.

National referendums are rare, with a history of only six referendums (1905, 1905, 1919, 1926, 1972 and 1994). The last two referendums concerned membership in the EEC/EU. Since there is no regulation in the constitution or in general law, a temporary law has been adopted for referendums at the national level.

##### **Local level**

At the local level (municipal and county level), matters are somewhat different, although the main principle of consultative referendums applies also here. There have been quite a large number of local referendums – more than 900 in the period 1970-2016. These have mainly concerned one of the following three topics: 1) choice of language (primary form of Norwegian) in elementary schools; 2) alcohol sale and 3) the merging of municipalities.

The use of referendums on the first topic is regulated in the [Education Act](#), which states that a consultative referendum shall be held in connection with a change of primary form of Norwegian or when so required by a majority of the municipal council or at least ¼ of those eligible to vote. This means that referendums on this particular subject are in fact mandatory and can be based on public initiative. The second above mentioned topic, sale of alcohol, was regulated in the Alcohol Act until 1989.

Referendums are not mandatory in questions of merging municipalities, but according to the [Act concerning the determination and alteration of local government boundaries](#) § 10, the municipal residents should be heard in cases concerning alteration of municipal boundaries. This could be done in several ways – surveys, hearings, referendums etc.

For decades, there was no general regulation on local referendums. In 2009 however, the [Local Government Act](#) was amended, with a new provision on local referendums:

#### **Section 39b. Local referendums**

*1. The municipal council or county council may itself decide to hold consultative local referendums.*

*2. The municipalities and county authorities are obliged to report the information deemed necessary by the Ministry to publish information concerning local referendums.*

This provision states that the municipal council or county council may hold local referendums, and that they must be consultative, but does not regulate further how this should be carried through. The second paragraph concerns reporting information to the central government for statistical use etc.

A proposition for a new Local Government Act was presented on 16 March 2018,<sup>14</sup> based on a proposal from an official commission.<sup>15</sup> The commission and the government have considered whether the Act should include more detailed regulations on how referendums should be carried out, but both concluded that it should still be up to local authorities to decide.

### **Answer to Question 1 and 2**

#### **National referendums**

The temporary act concerning the EU referendum in 1994 was based on the Election Act, regarding both the question of voting rights and other aspects. Accordingly, the Act from 1994 stated that citizens from the age 18<sup>16</sup> could vote in the referendum.

The Act also stated that Norwegian diplomats etc. and their family members had the right to vote. Other citizens living abroad also had the right to vote, if ever registered as living in Norway. Electors outside the realm could vote at foreign services or at other returning officers appointed by the Ministry. If an elector had no possibility of going to a returning officer, he/she could vote by letter post without the presence of a returning officer at the casting of the vote.

The electoral bodies that were responsible for the referendum in 1994, were the same as the bodies appointed for parliamentary election. As with parliamentary elections, the election committee at the municipal level (elected by the municipal council) administered and carried through the referendum, while the election committee at the county level (elected by the county council) audited the municipalities' work. The overall responsibility for the referendum was held by the ministry which is also responsible for elections, while Parliament had the overall responsibility for auditing the referendum.

#### **Local referendums**

As mentioned above, The Local Government Act, section 39b does not regulate how referendums should be carried through. According to the draft bill from 2009,<sup>17</sup> it should be up to the local authorities to decide these matters, depending on circumstances and the local situation. For instance, the referendum may be held only in part of the municipality/county. However, the draft bill points out that it will be reasonable for the municipalities to use the Election Act as their starting point.

Due to an ongoing reform of the municipal structure, there have recently been a large number of local referendums concerning the merging of municipalities (202 referendums in 2016). An evaluation report<sup>18</sup> shows that for ¾ of the municipalities, the voting age was set at 16 years, which is two years younger than the voting age in elections. The report has no information concerning other aspect of the right to vote (residents etc). The municipal electoral authorities were responsible for the referendums.

The right to vote in local referendums concerning the choice of language in elementary schools is regulated in the Education Act. Anyone who lives in a school's catchment area, and who has the right to vote pursuant to the Election Act has the right to vote in such a referendum. Parents and guardians of children attending the school's primary stage have the right to vote on matters concerning the written language of instruction, regardless of place of residence or nationality. It is the municipality that has the responsibility for organizing the referendum.

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<sup>14</sup> [Prop. 46 L \(2017-2018\)](#)

<sup>15</sup> [NOU 2016:4](#)

<sup>16</sup> Turning 18 by 31 Desember 1994.

<sup>17</sup> [Ot. prp. nr. 32 \(2008-2009\)](#)

<sup>18</sup> Saglie, Jo and Signe Bock Seegaard (2017): [Lokale folkevstemninger om kommunesammenslåing. Praksis og prinsipper](#) (with English summary)

**Answer to question 3**

The temporary Act for the 1994 referendum stated that the central government should cover expenditures connected to arranging the referendum. Necessary expenditures at the municipal or county level should also be covered by the central government. The Act had no provisions on donations to campaigns.

The municipalities/counties cover the expenditures connected to arranging local referendums.

**Answer to question 4**

There are no provisions regarding this.

**Answer to question 5**

There are no provisions regarding this. However, the role of the media is to provide free and independent information, and the media has a responsibility to show that there are different views.

An evaluation report regarding the referendum in 1994, shows that 70 pct. of the respondents thought that the medias information was good (made it possible to make up one's mind). The ones voting "yes" to EU membership were somewhat more pleased with the information than the ones voting "no" (77 vs 61 pct.).<sup>19</sup>

## SLOVAKIA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

**Please note:** *In 2014 the National Council of the Slovak Republic adopted a single Electoral Code (Act No. 180/2014 Coll. on the conditions for the exercise of voting rights) that formulates principles for all types of elections and national referendum. The Code consists of an introductory (general) part, with content that applies to all elections and referendum, and then specific parts addressing each type of election separately.*

***National referendum:***

Everyone who is at least 18 years of age on the day of referendum has a right to vote, voting in referendum is also restricted to citizens only.

The general part of the Electoral Code specifies impediment to the right to vote that apply to all types of elections, including referendum:

- lawful restriction of individual freedom on the grounds of the protection of public health.

The new Electoral Code introduced voting by mail for the national referendums.

***Citizens residents who are temporarily absent***

Citizens temporarily abroad may exercise their right to vote only in parliamentary elections and referendums by means of postal voting with an absentee ballot. Written petition for voting by mail has to be delivered to the municipality of permanent residence at least 50 days before the polling day. At least 35 days before the elections the respective municipality will send the voter a letter containing a ballot, a return envelope and guidelines on how to cast the vote. The voter casts the vote by putting the ballot into the return envelope and sending it back to the designated municipality.

***Citizens who reside permanently abroad***

Citizens with permanent residence abroad may exercise their right to vote in parliamentary elections and referendums, provided they apply for an absentee ballot from the Ministry of Interior at least 50 days before Election Day. The petition must be accompanied by two documents: 1. a declaration in Slovak that the voter has no permanent residence in Slovakian territories, and 2. a photocopy of the voter's valid Slovak passport or certificate of Slovak citizenship. After receiving a valid application for registration, the Ministry of Interior will send the voter, at least 35 days before the election, a letter containing a ballot, a return envelope and guidelines

<sup>19</sup> Rudlang, Hilde (1996): [EU-undersøkelsen 1994. Dokumentasjonsrapport](#)

on how to cast the vote. The voter casts a vote putting the ballot into the return envelope and sending it back to the designated municipality.

#### *Voter registration*

A permanent electoral register is prepared and kept by municipalities, who automatically register all eligible voters residing in the municipality. Voter may be registered only in one permanent register only; in alphabetical order according to their surnames. It includes the following information about each voter: name, surname, birth ID (if it is a foreign citizen then date of birth), citizenship, and address. The register is updated by the municipality based on announcements from public administrations, data collection and results of appeal procedures. The municipality will erase from the register a person who registered for permanent residence in another municipality, has passed away or was declared as deceased, or ceased to have permanent residence in the territory of the Slovak Republic. Voters may request to monitor their personal information that was entered into the register. If the data entered is not correct, the elector has a right to request a correction. In such cases the municipality must correct the data or justify within three days why it has not made the requested corrections. The elector also has a right to appeal to the Court with a petition to change or correct a data entry in the permanent electoral register. A list of eligible voters is therefore automatically prepared by municipalities from the permanent electoral registers. Voters who come to a polling station with a voting certificate (in case of referendum, parliamentary election, EP election and presidential election) are added to the list of eligible voters.

#### **Regional referendum**

Vote in a regional referendum may all citizens which have the right to vote in regional elections. Citizens of the Slovak Republic and foreigners with permanent residence in a municipality in the territory of Self Administration Territorial Unit ("STU") have the right to vote in regional elections. Voters are registered automatically, the list of eligible voters is prepared on the basis of the permanent electoral register kept by each municipality. Foreigners with permanent residence in the territory of STU are added to the list of eligible voters. The age limit for the active right to vote is 18 on the day of election.

#### **Local referendum**

Vote in a local referendum may all citizens which have the right to vote in local elections. According to the law, citizens and permanent residents have the right to vote. To be more specific, the term the law uses for the purpose of local election is 'resident'. This word comprises both citizens and foreign citizens having permanent residence in the municipality. The age limit for the active right to vote is the same as in all elections, 18 years on the day of the election. Voters are registered automatically, the list of eligible voters is prepared on the basis of the permanent electoral register kept by each municipality. Foreigners with permanent residence in a municipality are added to the list of eligible voters. The age limit for the active right to vote is 18 on the day of election.

#### **2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The new Electoral Code established a new permanent body, the State Commission for Elections and Control of Financing of Political Parties ("the State Commission"), which is entrusted to manage all elections and referendum. The commission is composed of fourteen members, ten nominated by parliamentary political parties and one by the Constitutional Court, one by the Supreme Court, one by the General Prosecution, and one by the Supreme Audit Office.

#### **3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

The new Electoral Code does not regulate expenditure during the referendum campaign. There are not any specific provisions regarding donations to campaign groups.

**Please note:** Act No. 181/2014 Coll. on election campaign regulates campaign, including its financing, in the elections in Slovakia, but only in elections not referendum.

#### **4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

The new Electoral Code does not stipulate a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The new Electoral Code does not contain provisions, which should ensure availability of neutral or balanced information on the subject and effects of the referendum. There are not any provisions regarding the equal broadcasting time or use of social media in this respect.

**Please note:** Act No. 181/2014 Coll. on election campaign regulates campaign (including its financing) in the elections in Slovakia, but only in elections not referendum.

## IRELAND

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Every citizen of Ireland ordinarily resident in the State who is aged 18 years or over and whose name is entered on the register of electors is entitled to vote in a referendum.

A register of electors is compiled each year by county and city councils, who are the registration authorities. The register of electors comes into force on 15th February and remains in force for a year from that date. It is the responsibility of eligible individuals to ensure that they are included on the current register or supplement to the register of electors.

When an election or referendum is to be held any eligible persons not included in the register may apply for inclusion in a supplement to the register, the closing date for which is 15 days (excluding Good Friday, Sundays and Public Holidays) before polling day.

There is no provision for overseas voters/diaspora. A person who moves away from their registered address (e.g. abroad) may remain on the electoral register (with right to vote) if they intend to return to that address within 18 months.

Postal voting is available to the Garda Síochána (police force), Defence Forces and civil servants (and their spouses/civil partners) attached to Irish missions abroad, as well as to electors living at home who are unable to vote at a polling station due to a physical illness or physical disability and to prisoners.

There are no local or regional referendums in Ireland.

There are provisions for holding plebiscites at local authority level in the Local Government Acts where the electorate is comprised of those entitled to vote in local elections in the relevant area.

There have been some local plebiscites about the names of towns or villages held under Local Government Acts where the electorate would be comprised of the voters living in that town or village who are entitled to vote in local elections. (Local Government Act 1946 sections 76-79 as amended, primarily by Local Government Act 1994 section 67).

Voters at local elections must be over 18 years of age, living in the local electoral area and registered to vote.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

There is no election management body to regulate the conduct of a referendum. There is a commitment in the current Programme for Government to establish an Electoral Commission and the relevant Government Department is working on the related legislation. In developing the legislation, the Government will consider the recommendations of the Citizens Assembly which considered the way referendums are held in January. The Citizens Assembly has not yet reported on this topic but in its deliberations the Assembly voted in favour of a number of issues relevant to this questionnaire<sup>20</sup>:

<sup>20</sup> <https://www.citizensassembly.ie/en/Manner-in-which-referenda-are-held/Manner-in-which-referenda-are-held.html>

- Referendum Commission functions should be carried out by a permanent Electoral Commission. (Answer to Q4 gives more details about the Referendum Commission).
- Referendum Commission should be obliged to give its view on significant matters of factual or legal dispute that arise during a Referendum campaign in the public domain (including on social media), i.e. fact checking.
- Spending limits should be introduced for political parties, campaign groups and individuals.

When the Houses of the Oireachtas have passed a Bill containing a proposal to amend the Constitution, the Minister for Housing, Planning, Community and Local Government appoints a Referendum Returning Officer who is responsible for the overall conduct of the referendum including the count and the declaration of the result. This is usually a senior official in the Department of Housing, Planning, Community and Local Government.

For administration of a referendum the country is divided into the same constituencies as for a Dáil election and the Dáil returning officer for a constituency (i.e. the sheriff or county registrar) is the Local Returning Officer for the constituency at a referendum.

The referendum result is a simple majority of the votes cast. There is no requirement for a referendum to be passed in a majority of constituencies.

### **3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Spending at referendums is not regulated or controlled.

The courts have interpreted the Constitution as prohibiting the Government from the direct use of public funds to advocate for a Yes or No vote in a referendum<sup>21</sup>. Information disseminated by the Government at public expense must be equal, fair and neutral.

Public funding cannot be used by political parties and independent members of the Oireachtas to campaign for a specific outcome in a referendum. Only private donations can be used for this purpose.

- Public funding provided to political parties under the Electoral Acts cannot be used for referendums. ([Electoral Act 1997 section 18](#))
- Funding provided to parties and independent members of the Oireachtas called the Parliamentary Activities Allowance cannot be used Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014, section 2<http://www.irishstatutebook.ie/eli/2014/act/6/section/2/enacted/en/html#sec2>

Private donations to referendum campaigns are permitted. There are restrictions on donations and disclosure requirements applicable to political parties and NGOs and civil society groups campaigning in referendums. The Standards in Public Office Commission (SIPO) is responsible for overseeing the implementation of these restrictions.

Campaign groups must register as 'Third Parties'<sup>22</sup> with SIPO and comply with the restrictions and requirements of disclosure around donations.<sup>23</sup>

#### **Requirements for Third Parties**

A third party must, on receipt of a donation exceeding the value of €100, and before incurring any expenses for political purposes, or any further such expenses, furnish to the Standards Commission:

- the name and address of the third party and the name and address of the person responsible for its organisation, management or financial affairs ("responsible person"),
- a statement of the nature, purpose and estimated amount of donations to, and proposed expenses of, the third party during the year, and
- an indication of any connection the third party may have with any political party or candidate at an election or referendum or otherwise.

<sup>21</sup> McKenna v An Taoiseach ( No. 2) [1995]2 IR 10 at 43, McCrystal v Minister for Children and Youth Affairs [2012] 2 IR 726 at 753-754

<sup>22</sup> A **third party** means any individual or group, other than a registered political party or election candidate, who or which accepts, in a particular calendar year, a donation for political purposes exceeding the value of €100.

<sup>23</sup> [SIPO Explanatory Notes for Third Parties](#)

A "third party" is not required to disclose details of actual donations received nor of actual expenses incurred.

Once registered a Third Party may not accept:

- a donation exceeding the value of €100, if the name and address of the donor are not known;
- a cash donation exceeding the value of €200;
- a donation exceeding the value of €200 in any calendar year from a corporate donor **unless** the corporate donor is registered in the register of Corporate Donors maintained by the Standards Commission **and** a statement, on behalf of the corporate donor confirming that the making of the donation was approved by the corporate donor, is furnished with the donation to the donee;
- a donation, of whatever value, from an individual (other than an Irish citizen) who resides outside the island of Ireland;
- a donation from a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland from which one or more of its principal activities is directed;
- a donation, or donations from the same donor, in any calendar year exceeding, in the case of a TD, Senator, MEP, candidate at a Dáil, Seanad or European election or Presidential candidate/election agent, an aggregate value of €1,000 or, in the case of a political party, sub-unit of a political party or a third party, an aggregate value of €2,500.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

There is a moratorium on broadcasters covering referendum issues from 2pm on the day before the poll takes place until the polling stations closed. The moratorium does not prevent the coverage of news, however, breaking news stories intended or likely to influence voters decisions should be avoided. The moratorium does not affect the functioning of the Referendum Commission.

The Referendum Commission established ahead of each referendum provides information on the subject of the referendum.

The functions of the Referendum Commission are set down in legislation<sup>24</sup> as:

- (a) to prepare one or more statements containing a general explanation of the subject matter of the proposal and of the text thereof in the relevant Bill and any other information relating to those matters that the Commission considers appropriate;
- (b) to publish and distribute those statements in such manner and by such means including the use of television, radio and other electronic media as the Commission considers most likely to bring them to the attention of the electorate and to ensure as far as practicable that the means employed enable those with a sight or hearing disability to read or hear the statements concerned;
- (c) to promote public awareness of the referendum and encourage the electorate to vote at the poll.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

These questions are answered one by one.

**How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum?**

The Minister for Housing, Planning, Community and Local Government establishes an independent Referendum Commission to prepare and disseminate information on the subject matter of a referendum. A Referendum Commission is established when a Constitution Amendment Bill is initiated in Dáil Éireann. Each Commission comprises a chairperson who must be a former Supreme Court judge, a former Judge of the Court of Appeal, or a serving or former High Court judge nominated by the Chief Justice; the Comptroller and Auditor General; the Ombudsman; the Clerk of the Dáil and the Clerk of the Seanad.

<sup>24</sup> [Referendum Act 2001, section 1](#)



The role of a Referendum Commission is to explain the subject matter of the referendum to the electorate. It does this by preparing a statement or statements on the main issues and it may include any other information which it considers appropriate. The Commission's role also includes promoting public awareness of the referendum and encouraging the electorate to vote at the poll.

The Referendum Acts and the Broadcasting Acts allow for the Referendum Commission to have broadcasting time to facilitate the Referendum Commission carry out its role.

**Do all sides have equal broadcasting time and, if so, how is this enforced?**

The Broadcasting Acts require broadcasters to be objective, impartial and fair to all interests in the treatment of current affairs<sup>25</sup> and broadcasters have taken this to mean they must give equal time to each side in a referendum debate in spite of Guidelines from the Broadcasting Authority of Ireland<sup>26</sup> (BAI) which say that there is no obligation to allocate an absolute equality of airtime on each side.

In 2018 the BAI issued new guidelines for broadcasters in relation to referendums<sup>27</sup>. They state that there is:

- no obligation to automatically balance each contribution in an individual programme with an opposing contribution,
- no requirement for absolute equal time to be allocated to referendum interested.

It is considered easier for broadcasters to use a stopwatch approach to providing equal time to both sides than to deal with accusations of bias

**Are there any provisions regarding the use of social media in this respect?**

No, only broadcast media is required to be balanced and fair in referendum coverage.

<b>FINLAND</b>
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**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Finnish citizens of 18 years of age or older are entitled to vote in a national consultative referendum. The procedure is similar to a national election, inter alia, when it comes to advance voting abroad.

Every eligible voter may vote in advance at the general advance polling stations in Finland and in the Finnish diplomatic missions abroad. An eligible voter who is a member of the crew on a Finnish ship may vote in advance on board the ship while it is in foreign waters. Postal voting will also be possible from 1.11.2018.

Any person is entitled to vote in a municipal consultative referendum who has turned 18 at the latest on the voting date and who is:

- a) a citizen of Finland, another EU member state, Iceland or Norway and whose place of domicile is the municipality in question on the 51st day before the election day; or
- b) a citizen of another country whose place of domicile is the municipality in question on the 51st day before the election day and who has held a place of domicile in Finland continuously for two years counting from the 51st day before the election day; or
- c) an employee of an international organisation operating within the EU or in Finland who has a place of domicile in the municipality in question on the 51st day before the election day, provided that the person's information has been stored upon their request in the Population Information System and that they have notified the local register office in writing at the latest on the 52nd day before the election day of their desire to use their right to vote.

In a municipal consultative referendum, it is not possible to vote in advance abroad but postal voting is possible.

<sup>25</sup> [Broadcasting Act 2009, section 39.](#)

<sup>26</sup> [Broadcasting Act 2009, section 42](#)

<sup>27</sup> [BAI, Guidelines in Respect of Coverage of Referenda 2018](#)



The enfranchised do not need to register as voters. Instead, the voting register is created directly on the basis of the information in the Population Information System.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

As the highest election authority, the Ministry of Justice shall also be responsible for the organisation of national referendums.

In practice referenda are organized by same Election authorities as municipal and general elections (See Chapter 2, Sections 9a – 17 of the Election Act . 2 (2)

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Referendum campaign financing is not regulated. The Act on a Candidate's Election Funding and the associated duty to notify do not apply to referendums.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

There is no regulation pertaining to the subject.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

There has been only two national referenda in Finland. Referendum on prohibition was held in 1931 and referendum on Finland's joining to EU, 1994.

A specific law is enacted for each national consultative referendum. In the 1994 law regarding the referendum on Finland's joining the EU, it was enacted that the government shall draw up a notification explaining, amongst other things, what the referendum was all about. The notification was delivered to everyone entitled to vote along with the notification of their eligibility to vote. In the same law, it was enacted that the allocation in the amending budget set aside for the purpose should be equally distributed as discretionary grants to support informing the population of the different alternatives and the effects of both options.

The matters in question have not been commented on at the higher echelons of legislation

## LATVIA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Referendums in Latvia are regulated by the law *On National Referendum, Legislative Initiative and European Citizens' Initiative* (<https://likumi.lv/ta/en/id/58065-on-national-referendum-legislative-initiative-and-european-citizens-initiative>) as follows:

**Section 2.**

All citizens of Latvia who have the right to elect the Saeima are entitled to participate at a national referendum and legislative initiatives.

All citizens of Latvia who have attained the age of 18 on election day have the right to vote.

Section 16 (...) (2) The voter shall be free to cast his vote at any polling station.

17. (...) After the ballot paper has been issued, the voter's given name, surname and personal identity number shall be written in the electoral roll, and the voter's passport shall be stamped indicating that he has participated in the national referendum.(...)

Section 20.

(1) Voters who are abroad during the voting, shall vote in the polling stations established by the Central Election Commission, upon proposal of the Ministry of Foreign Affairs in the diplomatic and consular representations of the Republic of Latvia, or by post. Upon co-ordination with the Ministry of Foreign Affairs, the Central Election Commission may establish polling stations also in other premises suitable for that purpose.

(2) If a national referendum is held simultaneously with the Saeima elections or the elections to the European Parliament, voting abroad shall take place in all polling stations set up in accordance with the statutory procedure.

(3) Voters who are abroad during the voting may also vote by post. Voting by post shall take place in accordance with the procedures stipulated the Law On Election to the Saeima:

*Voters may apply for voting by mail in person or through a third party. An application must be submitted and a Latvian citizen's passport, where a mark about participation in elections will be made (the passport will be stamped), must be presented when applying for postal voting.*

Currently all referendums are on national level in Latvia

Law on local referendums is in the adoption process in the Saeima.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

According to the Section 3 of the Law

(1) A national referendum in accordance with the procedures stipulated by the law shall be prepared and conducted by the Central Election Commission, which shall also issue the necessary instructions.

The Central Election Commission consists of nine members. The Chairperson and seven Commission members are elected by Saeima, while one member from among the judges is elected by the Supreme Court at its general meeting. Central Election Commission has four years of the term of office, and the running election of the Central Election Commission shall be held not later than six months after the convening of the new Saeima.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Detailed regulations of the control of expenditure is provided by the Chapter VI of the Law Campaigning before a National Referendum, Campaigning for a Legislative Initiative and Campaigning for the Initiative to Revoke the Saeima.

The Corruption Prevention and Combating Bureau shall control and supervise the conformity with the restrictions set on financing and with the expenses permissible for campaigning before a national referendum, campaigning for a legislative initiative and campaigning for the initiative to revoke the Saeima in accordance with the procedures stipulated in this Law.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

Following provisions are determined by the law *On National Referendum, Legislative Initiative and European Citizens' Initiative*:

Section 28.

(...)

(2) The State, another derived public person, a member of the election commission, as well as a capital company with more than one per cent of capital shares (stocks) belonging to the State or a derived public person, is prohibited to perform campaigning before a national referendum, campaigning for a legislative initiative and campaigning for the initiative to revoke the Saeima.

## Section 29.

(1) On the day of a national referendum, as well as the day before the national referendum, it is prohibited to place campaigning materials in the electronic mass media - radio and television - broadcasts, public places, press publications, on the Internet and at the institutions and capital companies referred to in Section 33, Paragraph one of this Law.

(...)

## Section 33.

(1) It is prohibited to place and distribute materials on campaigning before a national referendum, materials on campaigning for a legislative initiative and materials on campaigning for the initiative to revoke the Saeima in places of public access at State institutions and institutions of public derived persons and capital companies, in which more than 50 per cent of shares (stocks) is owned by the State or derived public persons.

(2) The restriction provided for in Paragraph one of this Section shall not apply to the materials of the Central Election Commission of informative nature regarding a national referendum, legislative initiative or initiative to revoke the Saeima, as well as to the cases referred to in Paragraph three of this Section.

(3) State institutions and institutions of public derived persons and capital companies, in which more than 50 per cent of shares (stocks) is owned by the State or derived public persons, may grant to the campaigner the premises for organising meetings with voters, free of charge or for a fee not exceeding the actual expenses of the maintenance of such premises, provided that other persons are also given the possibility to use these premises to meet with voters under the same conditions.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Section 32 of the Law determines:

(...)

(5) It is prohibited for the State and derived public persons to create special advantages or restrictions for any campaigner in relation to the placement in public places of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative and materials on campaigning for the initiative to revoke the *Saeima*.

## Section 34.

(1) A natural person, legal person or registered association of such persons may use for expenses of campaigning before a national referendum, campaigning for a legislative initiative and campaigning for the initiative to revoke the *Saeima* a sum not exceeding the monthly average gross work remuneration of the year before last published by the Central Election Commission, which is rounded up in full euros, applying the coefficient of 0.00007, and calculated per each voter in the previous *Saeima* elections. This restriction shall not apply to the case referred to in Paragraph two of this Section.

(2) The initiative group may use for expenses of campaigning before a national referendum, campaigning for a legislative initiative and campaigning for the initiative to revoke the *Saeima* a sum not exceeding the monthly average gross work remuneration of the year before last published by the Central Election Commission, which is rounded up in full euros, applying the coefficient of 0.00007, and calculated per each voter in the previous *Saeima* elections.

(3) Expenses of campaigning before a national referendum, campaigning for a legislative initiative and campaigning for the initiative to revoke the *Saeima* performed by a registered association of political parties shall also be considered as the expenses used for such purpose by the political parties forming the association.

(4) The funds spent by an individual member of the *Saeima* or a candidate to the *Saeima*, a member of a political party or a member of the initiative group for an individual campaigning before a national referendum, individual campaigning for a legislative initiative and individual campaigning for the initiative to revoke the *Saeima* are included in the campaigning expenses of the respective initiative group.

(5) The funds referred to in Paragraph one of this Section, which a person may use for campaigning, shall be comprised of the expenses of the respective person during the period of campaigning before a national

referendum, the period of campaigning for a legislative initiative and the period of campaigning for the initiative to revoke the *Saeima*, irrespective of the date of issue of the document confirming transaction (invoice, contract or another document), receipt or performance of a payment for:

1) the placement of an advertisement:

- a) programmes and broadcasts of the public electronic mass media - television,
- b) programmes and broadcasts of the public electronic mass media - radio,
- c) programmes and broadcasts of the commercial electronic mass media - television,
- d) programmes and broadcasts of the commercial electronic mass media - radio,
- e) in newspapers, magazines, bulletins and other periodicals registered in accordance with the procedures stipulated in law, produced by print technology and widely circulated throughout the territory of the State,
- f) in newspapers, magazines, bulletins and other periodicals registered in accordance with the procedures stipulated in law, produced by print technology, with the majority editions circulated within the territory of one city or municipality,
- g) on the Internet, except the website of a political party, association of political parties and the initiative group,
- h) in premises and public places (public courtyards, squares, streets, on bridges and in other similar places) regardless of the belonging of the property;

2) the use of the postal (also electronic mail) services for the sending of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima*;

3) the funding and sponsoring of charity events, disbursing bonuses and making gifts (donations).

(6) The Corruption Prevention and Combating Bureau on an annual basis shall post on its website an informative notice, indicating the sum referred to in Paragraphs one and two of this Section, which may be allocated per one voter for campaigning before a national referendum, campaigning for a legislative initiative or campaigning for the initiative to revoke the *Saeima*.

(...)

#### Section 37.

(1) Electronic mass media or press publication, which has agreed with the campaigner on placement of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima*, shall, not later than on the next working day after entering into the contract or introduction of amendments to the concluded contract, send a notice to the Corruption Prevention and Combating Bureau on the placement of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima* in the allocated transmission time of electronic mass media or in the press publication.

(2) The campaigner who has agreed with any service provider on placement of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima* on the Internet for a fee, in the premises or public places, irrespective of the belonging of the property, or on the use of the postal (also electronic mail) services for sending of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima*, shall, not later than on the next working day after entering into a contract or introduction of amendments to the concluded contract, send a notice to the Corruption Prevention and Combating Bureau on the placement of materials on campaigning before a national referendum, materials on campaigning for a legislative initiative or materials on campaigning for the initiative to revoke the *Saeima*.

#### Section 38.

(...)

(6) The Corruption Prevention and Combating Bureau shall, within six months after expiry of the period of campaigning before a national referendum, campaigning for a legislative initiative or campaigning for the initiative to revoke the *Saeima*, inform the public on the discovered violations of campaigning.

(7) The Corruption Prevention and Combating Bureau shall control and supervise the conformity with the restrictions set on financing and with the expenses permissible for campaigning before a national referendum,

campaigning for a legislative initiative and campaigning for the initiative to revoke the *Saeima* in accordance with the procedures stipulated in this Law.

## POLAND

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

General provisions concerning a referendum could be found in **the Constitution of the Republic of Poland:**

### **Article 125.**

1. A nationwide referendum may be held in respect of matters of particular importance to the State.
2. The right to order a nationwide referendum shall be vested in the Sejm, to be taken by an absolute majority of votes in the presence of at least half of the statutory number of Deputies, or in the President of the Republic with the consent of the Senate given by an absolute majority vote taken in the presence of at least half of the statutory number of Senators.
3. A result of a nationwide referendum shall be binding, if more than half of the number of those having the right to vote have participated in it.
4. The validity of a nationwide referendum and the referendum referred to in Article 235, para. 6, shall be determined by the Supreme Court.
5. The principles of and procedures for the holding of a referendum shall be specified by statute.

In accordance with Article 62 of the Constitution, Polish citizen shall have the right to participate in a referendum, if no later than on the day of vote, he/she has attained 18 years of age. However, persons who, by a final judgment of a court, have been subjected to legal incapacitation or deprived of public or electoral rights, shall have no right to participate in a referendum nor a right to vote.

Rules of referendum are included in **the Act of 14<sup>th</sup> March 2003 on nationwide referendum** ("Journal of Laws" [Dziennik Ustaw] 2015 item 318).

### **Article 3.**

1. Citizens of the Republic of Poland have the right to take part in a referendum if they are 18 years old no later than on the referendum day.

2. The following persons shall not have the right to take part in a referendum:

- 1) those deprived of public rights by a final ruling of a court;
- 2) those deprived of electoral rights by a final ruling of the Tribunal of State;
- 3) those deprived of legal capacity by a final ruling of a court.

### **Article 6.**

1. Voting in a referendum shall be held:

- 1) in the premises of permanent polling districts created on the basis of the Act of 5<sup>th</sup> January 2011 - Election code; "Journal of Laws" [Dziennik Ustaw] 2017 item 15)
- 2) in electoral districts created in hospitals and social welfare establishments;
- 3) in electoral districts created in penal institutions and houses of detention as well as external departments of such institutions;
- 4) in polling districts created for citizens of the Republic of Poland staying abroad;
- 5) in polling districts created for citizens of the Republic of Poland staying aboard Polish sea-ships.

2. The provisions of the Act of 5<sup>th</sup> January 2011 - Election code shall be applied accordingly to the polling districts created in hospitals and social welfare establishments as well as to the penal institutions and houses of detention.

3. The provisions of the Act of 5<sup>th</sup> January 2011 - Election code shall be applied accordingly to the polling districts created for citizens of the Republic of Poland staying abroad and to the polling districts created for citizens of the Republic of Poland staying on the aboard Polish sea-ships.

4. Any changes of the area of polling districts may be realized, if justified, according to the manners described in the Act of 5<sup>th</sup> January 2011 - Election code.

5. Information on the consecutive numbers and on the boundaries of the polling districts, as well as on the location of the district referendum commissions, referred to in paras 1 and 2 and in Article 7 para. 2 shall be published by the head of the commune (mayor, president of a town) in a form of an announcement, no later, than on 40<sup>th</sup> day before the referendum day.

6. The obligation referred to in para. 5, concerning polling districts created abroad, shall lie with consuls. Realization of such task shall be executed no later than on 21st day before the referendum day.

7. The captain of a ship shall inform legitimate voters on board of the creation of a polling district.

#### **Article 7.**

1. Polling districts may be established in student hostels and complex of hostels administered by higher schools or other subjects acting per agreement entered with higher schools, if at least 50 persons entitled to participate in a referendum have informed in writing, the president of the school which administered a hostel, or with whom another institution signed an agreement on administering a hostel, about their intention to stay in the hostel during the referendum day.

2. The council of a commune shall establish, on a motion of a head of the commune (mayor, president of a town) polling districts mentioned in para. 1, and shall establish the consecutive numbers and the boundaries of the polling districts, as well as the location of the district referendum commissions. The establishment of those districts shall be done no later, than on 45th day before the referendum.

#### **Article 8.**

1. The persons who have the right to take part in a referendum shall be entered in the roll of voters.

2. The person referred to in para. 1, may be entered in one roll of voters only.

#### **Article 9.**

1. The roll of voters having the right to participate in referendum shall be prepared and updated by a commune as a commissioned task, subject to para. 2. The roll shall be drawn on the basis of the permanent register of voters in a commune, maintained pursuant to the rules prescribed in the Act of 5<sup>th</sup> January 2011 - Election code.

2. The roll of voters having the right to participate in referendum, which are on the aboard Polish sea-ships or staying abroad shall be created by the captain of the ship or by territorially competent consul, respectively.

3. The persons who shall be 18 years old on the second day of voting shall be inserted in a supplementary roll.

4. The roll of voters having the right to participate in a referendum, and which are staying in a hostel, shall be prepared on the basis of a list of persons that shall stay there during the referendum day.

5. The presidents of higher schools shall submit lists of persons, referred to in para. 4 above, to the office of a commune, no later than on the 10th day before the referendum day.

6. The office of the commune of the last registration of a person as a permanent resident shall be immediately notified of the decision on including or adding to the roll, the persons entitled to participate in a referendum, referred to in para. 4 above.

7. The provisions of the Act of 5<sup>th</sup> January 2011 - Election code shall be applied respectively to the roll of voters entitled to participate in a referendum.

8. The minister responsible for public administration, in agreement with the National Electoral Commission, shall, by means of a regulation, specify the methods of maintaining and rendering accessible the roll of voters entitled to participate in a referendum, a specimen of the roll, the method of its updating and availability for public inspection, and a specimen of an application by a person to view the roll of voters, and a specimen of an application by a person to have his/her name entered on the roll, specimens of rolls of persons in hospitals, welfare homes, prisons or those under arrest as well in students houses where polling districts are created, and a specimen of a notification informing that a person has been entered or added to the roll of voters entitled

to participate in a referendum of another polling district, and a specimen and methods of issue of a certificate confirming their right to vote.

9. The minister responsible for marine economy, in agreement with the National Electoral Commission, shall issue a regulation specifying the procedure for creating and updating the roll of voters that have right to participate in a referendum, as well as the method of notifying commune offices about persons who reside permanently on the territory of Poland, who are included in the roll, and the method of issuing certificates confirming their right to vote.

10. The minister responsible for foreign affairs, in agreement with the National Electoral Commission, shall issue a regulation specifying the procedure for creating and updating the roll of voters staying abroad and possessing valid Polish passports, which are entitled to participate in a referendum, as well as the method of notifying commune offices about persons who reside permanently on the territory of Poland, who are included in the roll of voters, and the method of issuing certificates confirming their right to vote.

**The Act of 15<sup>th</sup> September 2000 on local referendum** ("Journal of Laws" [Dziennik Ustaw] 2016 item 400) grants rights to vote in local referendum for citizens who permanently residing in the area of a given local government unit, having an active electoral right to the body constituting that unit. Therefore, the law of local referendums adding right to vote of the place of permanently residing and adult age.

## **2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

Appropriate provisions of the Act on nationwide referendum:

### **Article 10.**

A referendum shall be conducted by:

- 1) **The National Electoral Commission** — established pursuant to the Act of 5<sup>th</sup> January 2011 - Election code
- 2) **polling commissioners** — established pursuant to the Act of 5<sup>th</sup> January 2011 - Election code;
- 3) **district referendum commissions**, later referred to as "district commissions";

### **Article 11.**

1. **The National Electoral Commission** shall ensure organisation and administration of the referendum.

2. The duties of the National Electoral Commission shall include, within the scope referred to in para. 1, in particular:

- 1) the supervision of preparation of a referendum and observance of provisions that establish rules and methods of conducting a referendum;
- 2) the explanation of the method of voting in a referendum;
- 3) the investigation of complaints against the actions of electoral commissioners;
- 4) the dissolution of the district commissions upon the conclusion of their statutory duties;
- 5) the creation of regulations for the district commissions as well as specimens of their seals and official forms and printed materials;
- 6) the preparation of a record on results of a referendum and a report on the course of a referendum;
- 7) the publication and announcement in the Dziennik Ustaw of results of a referendum.

3. The National Electoral Commission may establish, in a resolution, the rules and procedure for exploitation by electoral commissioners and by the district commissions of electronic systems to establish the results of the vote and the result of a referendum, as well as transmitting and processing the data from election records through electronic network.

### **Article 12.**

The duties of **the electoral commissioner** acting on an area of the respective territory shall include especially:

- 1) the assurance, in co-operation with the appropriate organs of local government, of the proper preparation and conduct of a referendum;
- 2) the supervision of observance of this Act of law by the district commissions;
- 3) the consideration of complaints put against the district commissions;

- 4) the delivery of the ballot papers to the district commissions, according to the procedure established by the National Electoral Commission;
- 5) the establishment of aggregate results of the vote and the submission of the above results to the National Electoral Commission.

### **Article 13.**

1. **The district commission** shall be appointed by the head of a commune or a mayor (president of a town) from amongst persons entitled to participate in a referendum, residing permanently on the territory of the respective commune, without prejudice to Article 14, no later the 21st day before the referendum day.

2. The district commission shall consist of:

- 1) 4 to 8 persons, and if the date of the vote in a referendum has been assigned for two subsequent days — 6 to 10 persons from amongst candidates submitted by subjects so entitled, referred to in Article 48, or by persons empowered by them;
- 2) one person designated by the head of a commune or a mayor (president of a town), to be a member of a commission in:
  - a) permanent polling districts; this shall be a person designated from amongst the local-government employees of the commune or their subordinate units;
  - b) polling districts established in hospitals and social welfare institutions; this shall be a person designated from amongst employees of those hospitals or institutions;
  - c) polling districts established in penal institutions and houses of detention; this shall be a person designated from amongst employees of those institutions or arrests;
  - d) polling districts in hostels — from amongst personnel of those hostels.

3. The subject referred to in para. 2 subpara. 1 may submit to each of the district commissions only one candidate, referred to in para. 1. The submission shall be realised no later then on 30<sup>th</sup> day before the referendum day, together with a certificate, referred to in Article 48 para. 3.

4. Should the number of candidates submitted exceeds 8 or — where the date of the vote in referendum has been assigned for two subsequent days — more than 10, the composition of the district commission will be decided by drawing lots, executed publicly by the head of a commune or a mayor (president of a town).

5. Should the number of candidates submitted pursuant provisions of para. 3 be lower than 4, or — where the date of the vote in a referendum has been assigned for two subsequent days — lower than 6, the vacancy in the district commission shall be filled up to the lowest level, referred to in para. 2 subpara. 1, by the head of a commune or a mayor (president of a town) from amongst persons permanently residing on the territory of a commune.

6. Submission to the panel of the district commission, referred to in para. 2 subpara. 2 and para. 5, shall be executed if a consent of a person concerned has been obtained.

7. The head of a commune or a mayor (president of a town) shall convene the first meeting of a commission.

8. On the first meeting, the district commission shall elect its chairman and his/her deputy from amongst its own members. The composition of the district commission shall be made public in a customary manner.

9. The minister responsible for public administration shall, on a motion of the National Electoral Commission establish, by means of a regulation, the procedure of submission of candidates to the district commissions, a specimen of the submission paper, and the time limit of creation of districts commissions as well as the method of drawing lots.

### **Article 14.**

1. The district commission, consisted of 5 to 7 persons, existing in polling districts created on the board of Polish sea ships and those abroad, shall be appointed from amongst voters by captains of those ships and territorially competent consuls respectively. The rules and the time limits for setting up such commissions shall be laid down in a resolution by the National Electoral Commission.



2. One person designated by the captain of a ship or a consul, respectively, shall be a member of the district commission referred to in para. 1 above.

#### **Article 15.**

The duties of the district commission shall include, in particular:

- 1) the conduct of voting in the referendum ward;
- 2) the supervision of the observance of this Act at the time and place of voting;
- 3) the establishment of voting results in the districts and their announcement;
- 4) the delivery of voting records to the appropriate territorial electoral commissioner.

According to the article 157 of the Act of 5<sup>th</sup> January 2011 - Election code; "Journal of Laws" [Dziennik Ustaw] 2017 item 15, **the National Electoral Commission** is the highest electoral organ appropriate to organize elections and referendums. Pursuant to paragraph 2 of this article the members of the National Electoral Commission are: 3 judges of the Constitutional Court, indicated by the President of the Constitutional Court; 3 judges of the Supreme Court, indicated by the First President of the Supreme Court; and 3 judges of the Supreme Administrative Court, indicated by the President of the Supreme Administrative Court. All of the members are appointed by the decision of the President of the Republic of Poland.

#### **3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Appropriate provisions of the Act on nationwide referendum:

#### **Article 46.**

Any information, communications, appeals and slogans on referendum, published in the press or on television or by radio at the expense of subjects engaged in referendum campaigning, shall bear indication of who is the payer and who is the donor. The responsibility for this indication shall belong to the editor, in the meaning of the Press Law.

#### **Article 47.**

1. The subjects engaged in referendum campaigning shall cover expenses out of their own sources and in accordance with provisions on their financial activities.

2. The provisions of the Act of 5<sup>th</sup> January 2011 - Election code shall not apply to the financing of referendum campaigning.

#### **Article 59.**

1. Expenditures related to the organisation and preparation and conduct of referendum shall be covered by the State budget's section on Earmarked reserves.

2. The State budget shall cover expenditures related to:

- 1) duties of the National Electoral Commission and the National Electoral Office prescribed in this Act;
- 2) duties of the electoral commissioners and the district commissions as well as tasks connected with ensuring services to them by assigned organs and organisational units;
- 3) duties ascribed to the organs of government administration and their subordinate organizational units as well as other organs of the State;
- 4) duties ascribed to the units of territorial self-government.

3. The financial resources for expenses ascribed to the units of territorial self-government shall be transferred in sufficient time to enable realisation of the expenditures.

4. The information concerning expenditures referred to in para. 2 above shall be published by the Head of the National Electoral Office no later, than within five months following the referendum day.

5. Provisions of public financing rules shall apply to the financial planning and realisation of the expenditures referred to in paras 2 and 3 and to financial statistics.

6. The Head of the National Electoral Office shall administer the financial resources referred to in para. 1 above.

In case of local referendums, in accordance with the **Act of 15<sup>th</sup> September 2000 on local referendum**, financing of local referendum is transparent (art. 39) as well as costs of referendum are covered by relevant territorial government unit (art. 40) and expenditures of initiator of referendum are incurred from his own sources (art. 42).

Article 43 indicates sources from which the initiator of referendum can not get money for finance aim of local referendum campaign:

- the budget of the State, budgets of territorial government units and their associations,
- state organizational units,
- state enterprises,
- entities which are beneficiary of state donations within previous year (except for political parties),
- natural person with the place of resident outside Polish borders ,
- foreigners with the place resident in Poland,
- legal entities without head office in Poland,
- other entities without head office in Poland,
- legal entities with participation of abroad entities,
- foreign diplomatic representations and international organizations.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

In Poland, a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum is named "pre-referendum silence". This issue is regulated in both Acts of referendums, as well as it takes 24 hours before the day of voting (art. 38, 39, 41 of Act on Nationwide referendum and art. 32 of the Act on local referendum).

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Appropriate provisions of the Act on nationwide referendum:

**Article 37.**

A referendum campaign consists of the presentation of the opinion of citizens, political parties, associations, foundations as well as other subjects about the issue put to referendum.

**Article 38.**

The referendum campaign starts on the day of proclamation of a resolution of the Sejm, or of a decision of the President of the Republic, or a decision of the Marshal of the Sejm to hold a referendum, respectively, and shall end 24 hours before the polling day.

**Article 39.**

1. From the end of the referendum campaign until the conclusion of the voting it shall be forbidden to organise assemblies, marches and demonstrations, to make speeches, to distribute leaflets or to carry out any other forms of referendum campaigning.

2. It shall be forbidden to carry out any form of referendum campaigning on the premises of the district commission and inside the building where such premises have been located.

**Article 40.**

1. It shall be forbidden to carry out referendum campaigning in work places in a way and by methods disturbing their ordinary functioning.

2. It shall be forbidden to carry out referendum campaigning within the areas of:

- 1) offices of government administration, self-government administration as well as courts;
- 2) military units and other units subordinated to the minister of national defence, and in civil defence units;
- 3) quartered units subordinated to the minister of internal affairs.

3. There shall be forbidden in the referendum campaigns any lotteries or contests rewarded in money or goods if their value is higher than the value of articles used normally in advertising or promotion.

4. It shall be forbidden in referendum campaigns to serve or supply alcoholic beverages.

#### **Article 41.**

1. From the end of the referendum campaign until the conclusion of the voting it shall be forbidden to publish the results of public opinion polls (pre-election surveys) on probable voting behaviour and referendum results, as well as to publish the results of public opinion polls made on the referendum day.

2. The prohibition, referred to in para. 1, does not affect the act of publishing of the data of the district commissions, referred to in Article 32 para. 4a.

#### **Article 42.**

All referendum materials shall be protected by law: posters, slogans, leaflets and other items, bearing clear indication of their origin.

#### **Article 43.**

1. Referendum posters and slogans may be affixed to the walls of buildings, fences, lanterns, and energy and telecommunication devices only with the consent of the owner or administrator of the property.

2. It shall be forbidden to affix referendum posters and slogans to the interior and exterior walls of the government buildings or those of local administration and courts or on the territory of army and civil defence units as well as quartered units subject to the minister competent for internal affairs.

3. The council of a commune may prohibit the affixing referendum posters and slogans on certain public buildings as well as on specified parts of public places on the grounds of protection of historic heritage or the environment.

4. While constructing private announcements related to referendum campaigning, the existing provisions regarding the maintenance of public order shall be observed. The provisions of Article 42 shall be applied respectively.

5. Referendum posters and slogans shall be affixed in a manner enabling their removal without causing damage.

6. The police as well as the city guard shall be obliged to remove a referendum posters and slogans affixed in such a way as to risk danger to life or health or may be dangerous to the security of property or to road traffic — at the cost of the relevant referendum subject, engaged in referendum campaigning.

7. The appropriate referendum subjects, engaged in referendum campaigning, shall remove referendum posters, slogans and other instruments of publicity installed for the purpose of the election campaign within 30 days from the referendum day.

8. The head of a commune or a mayor (president of a town) shall order the removal of referendum posters and slogans as well as other instruments of publicity placed in contravention to the provisions of paras 1–5 or have not been removed by the appropriate election committees within the time limit referred to in para. 7. The expenses entailed in such removal shall be borne by the subjects concerned.

#### **Campaign in media**

#### **Article 48.**

1. The subjects entitled to participate in referendum campaigning in radio and television, referred to in Articles 49–55, later called: “entitled subjects” are:

1) a political party, which in the latest elections to the Sejm, held before the referendum:

- a) has formed its own election committee and has gained (throughout the country) at least 3% of valid votes cast for its constituency lists of candidates;
- b) has been a member of an election coalition and such committee has gained (throughout the country) at least 6% of valid votes cast;

2) deputies club, senators club and a parliamentary club, which on a year before the day of proclamation of a resolution or decision on ordering of a referendum has gathered deputies or senators respectively, elected from amongst candidates submitted by the election committee of voters, and those deputies or senators have made up more than a half of members of those clubs;

3) an association or other social organisation which fulfils following conditions:

- a) has been registered or notified, in accordance to the binding rules, no later than on a year before the day of proclamation of a resolution or decision on ordering of a referendum;
- b) the area of its activities covers the entire territory of the Republic of Poland;
- c) conducts activities connected with the subject of a referendum, and such activity has been inserted in its statutory objectives;

4) a foundation, which fulfils conditions referred to in para. 3 subparas a and c;

5) a plenipotentiary, referred to in Article 63 para. 3.

2. Subjects, referred to in para. 1, no later than on the 40<sup>th</sup> day before the referendum day shall notify the National Electoral Commission on their intention to use their authority, referred to in para. 1, submitting along with the notification, respectively:

- 1) a political party — the final decision of the Regional Court in Warsaw on the insertion of a party in the register of political parties;
- 2) a deputies club, senators club and a parliamentary club, referred to in para. 1 subpara. 2 — a document indicating the subject entitled to represent such club and an information given by the Marshal of the Sejm or the Marshal of the Senate respectively — on the formation of a club;
- 3) an association or other social organisation or foundation — a certified copy of the charter and an excerpt from the National Register of the Court on insertion of an association, organisation or foundation in the register, or a regulation of activities of a common association, testified by the respective supervised body.
- 4) a plenipotentiary, referred to in para. 1 subpara. 5 — a declaration, referred to in Article 65 para. 3.

3. The National Electoral Commission, on the basis of documents, referred to in para. 2, shall give the subjects so entitled a certificate confirming their power, referred to in para. 1.

4. Where notification, referred to in para. 2, does not meet terms of that provision, the National Electoral Commission, within 3 days following submission of the notification, shall refuse the certificate.

5. The decision of the National Electoral Commission on refusal of a certificate shall be immediately delivered, along with a justification, to the subject that has supplied notification.

6. The subject, referred to in para. 5, shall have the right to appeal to the Supreme Court against the decision of the National Electoral Commission refusing the certificate. The appeal shall be made within 3 days of the date of the delivery of the certificate.

7. The Supreme Court, by bench of three judges, shall examine the petition and issue its ruling within 5 days in non-litigious proceedings. There shall be no legal recourse against a ruling of the Supreme Court. The ruling shall be submitted to the subject, referred to in para. 5, and to the National Electoral Commission. If the Supreme Court grants the petition, the National Electoral Commission shall immediately issue the certificate, referred to in para. 3.

#### **Article 49.**

1. Entitled subjects shall have the right to referendum campaigning in radio and television programmes of public broadcasters pursuant to the provisions of this Act in the form of a referendum broadcast.

2. A referendum broadcast is a part of a radio or television programme, not provided by the broadcaster, that is broadcast free of charge and constituting a separate entity in content or form, which enables the entitled subject to exercise the right to broadcasting time referred to in Article 50 or 51 for conducting their referendum campaign.

3. The act of broadcasting an referendum programme shall be realised by a public broadcaster by registration including the transmission of a referendum programme prepared by an entitled subject — or by free access to a studio operated by professional personnel that shall record a referendum programme of an entitled subject and shall ensure its broadcast.

#### **Article 50.**

1. In the period of time beginning from the 16<sup>th</sup> day before referendum day up to the day ending the referendum campaign the Polish Television Joint-stock Company and the Polish Radio Joint-stock Company as well as regional radio and television companies, hereinafter called “Polish Television” and “Polish Radio” shall broadcast, without payment, on nationwide and regional channels the referendum programmes prepared by entitled subjects.

2. The total time of broadcast of the referendum materials shall amount to:

- 1) on nationwide channels — 15 hours on Polish Television, including up to three hours for TV Polonia, and 30 hours on Polish Radio, including up to five hours broadcast for listeners abroad;
- 2) on regional channels — 10 hours on Polish Television and 15 hours on Polish Radio.

3. An entitled subject shall have the right to broadcast its referendum materials on both nationwide and regional channels.

4. The length of broadcasting time assigned to a referendum committee shall not be transferred to another committee.

#### **Article 51.**

1. If a referendum deals with a consent to ratification of international agreement, the Polish Television and Polish Radio shall broadcast, without payment, on nationwide and regional channels the referendum programmes prepared by entitled subjects, beginning from 21<sup>st</sup> day before the referendum day up to the end of referendum campaigning.

2. The total time of broadcast of the referendum materials shall amount to:

- 1) on nationwide channels — 25 hours on Polish Television, including up to 5 hours for TV Polonia, and 45 hours on Polish Radio, including up to 8 hours broadcast for listeners abroad;
- 2) on regional channels — 15 hours on Polish Television and 20 hours on Polish Radio.

3. The provisions of Article 50 paras 3 and 4 shall apply accordingly.

#### **Article 52.**

1. The length of time devoted to broadcasting referendum materials shall be divided into equal parts amongst the subjects so entitled on the basis of information submitted by the National Electoral Commission, specifying the subjects so entitled.

2. The length of time devoted to broadcasting referendum materials:

- 1) in nationwide channels — shall be established by the boards of Polish Television and Polish Radio respectively;
- 2) in regional channels — shall be established by directors of branch offices of Polish Television and presidents of board of subsidiary companies of Polish Radio.

3. A decision on the allocation of broadcasting time referred to in para. 2, may be subject to complaint by the entitled subject to the National Electoral Commission. The complaint shall be lodged no later than within two days after the delivery of the information about the decision. The National Electoral Commission shall immediately examine the complaint and shall issue a decision. There shall be no legal recourse against the decision of the National Electoral Commission.

**Article 53.**

1. No later than the 18<sup>th</sup> day before a referendum day the editors-in-chief of the national television channels including Television Polonia, and regional channels, as well as the editors-in-chief of Polish Radio, in the presence of the representatives of entitled subjects, shall determine by lot the sequence of referendum programmes to be broadcast each day.

2. If a referendum deals with a consent to ratification of international agreement, drawing of lots referred to in para. 1, shall be realised no later than the 23<sup>rd</sup> day before the referendum day.

**Article 54.**

1. The referendum programmes of an entitled subject shall be delivered to Polish Television or Polish Radio no later than 24 hours before the day of broadcast.

2. The length of time of the programme delivered shall not exceed the time limit determined pursuant to the provisions of Article 52.

3. In the event, that Polish Television or the Polish Radio shall ascertain that the referendum programmes delivered by an entitled subject exceeds the allotted time limit for such broadcasts, they shall immediately require the respective subject to shorten the programmes.

4. If, 8 hours after the summons, referred to in para. 3 has not been acted upon, Polish Television or Polish Radio shall terminate the broadcast of that election programme at the moment when the time limit allocated to the respective election committee expires.

**Article 55.**

1. The National Council of Radio and Television shall, in an agreement with the National Electoral Commission, determine in a regulation, the principles of procedure for allocating broadcasting time for referendum programmes, their method of preparation and broadcast, as well as the methods of publishing information on the timetable for broadcasting such programmes.

2. The National Council of Radio and Television shall, after seeking the opinion of the boards of the companies referred to in Article 50 para. 1, as well as the competent programme council, determine in a regulation:

1) the total length of time of broadcasting of referendum programmes on each of the national and regional channels;

2) the schedule of time of referendum programmes on each of the national and regional channels;

**Article 56.**

1. Each entitled subject may broadcast, from the day of beginning the referendum campaign, paid referendum advertisements transmitted by radio and television broadcasters.

2. A referendum announcement constitutes an advertisement in the meaning of Article 4 subpara. 6 of the Act of 29<sup>th</sup> December 1992 on radio and television (Dziennik Ustaw of 2001, No. 101, item 114 and of 2002, No. 25, item 253 and No. 56, item 517), prepared by an entitled subject, referred to in para. 1 and delivered to be transmitted as an element of its referendum campaigning.

3. Rates charged for the broadcast time of a referendum announcements shall be fixed on equal terms for all participants in accordance with the price list in force on the day of the proclamation of the referendum.

4. The rules concerning advertising on television and radio shall apply to a referendum programmes, but the time assigned for the broadcasting of paid referendum announcements shall not be subject to the time limits for commercials established by other regulations.

**Article 57.**

1. The broadcasters shall not be responsible for the content of referendum programmes and referendum announcements broadcasted.

2. The broadcasters cannot refuse to broadcast the referendum programmes and referendum announcements.

**Article 58.**

Transmissions by organs of the State authority, including a body that administers referendum, of information and explanation and communications connected with the content of questions put or variants proposed, as well as answering to the questions of citizens — shall not constitute referendum campaigning.

**SAN MARINO**

**1) In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

All citizens of San Marino (who are at least 18 years old) registered on the electoral lists are entitled to vote on a referendum. Voters residing abroad must travel to San Marino to cast their vote in person.

The legal framework governing a referendum consists primarily of:

the Declaration on the Citizen's Right and Fundamental Principles of San Marino Constitutional Order (art. 2: "The Republic's sovereignty is vested in its people who shall exercise it through the statutory forms of representative democracy. The law shall govern both the *Arengo* and the other institutions of direct democracy");

the Qualified Law No 1/2013 on Referendum and on popular legislative initiative as amended by the Qualified Law No 1/2016 and the Qualified Law No 2/2016;

and the Electoral Law.

**2) Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The conduct of a referendum is administered by a structure headed by the Electoral Commission, a body presided over by the Minister for Internal Affairs, and including the Civil Registrar - Head of the State Election Office, the Registrar of the Court, the Officer for Relations with Communities Abroad of the Foreign Affairs Department and 7 members appointed by the Parliament.

The State Election Office assists the Electoral Commission to fulfil all its administrative and operational duties.

**3) How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

According to art.31 of Qualified Law n.1/2013, costs for the referendum have to be financed by the State. Campaign groups pro or against the referendum purpose have the right to receive a State contribution for documented propaganda expenses up to a maximum of 5000 € for each campaign group.

**4) Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

Campaign groups pro or against the referendum purpose, parliamentary groups and political forces having presented lists in the last election consultation are admitted to the referendum campaign. The Referendum propaganda is governed by the Electoral Law where applicable.

The referendum campaign period begins 15 days before the referendum day and ends at midnight on the day prior to the referendum day. Direct campaigning outside of this period is prohibited. During the campaign, the posting of printed materials is provided free-of-charge on a strictly equal basis and is limited to spaces designated by the Electoral Commission.

Posters exhibition, meetings, rallies and radio and television broadcasts for the referendum consultation are permitted only during the 15 days of the referendum campaign.

**5) How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The Ministry for Internal Affairs and the Ministry for Information shall guarantee the exhaustive and impartial communication to citizens aimed at ensuring - on an equal basis among all campaign groups - the widest information on referendums. In particular, they shall guarantee the programming of radio and television broadcasts on referendum as agreed in advance with the representatives of the Campaign Groups and the Supervisory Committee on the State Television and Radio, appointed by the Parliament.

According to art.7 of Law No 211/2014, on the occasion of a referendum, the State Television and Radio service shall provide media access and free airtime to each campaign group, in compliance with the provisions issued by the Supervisory Committee.

The Rules of Procedure of the Supervisory Committee on the State Television shall define and regulate the radio and TV coverage on referendum - specifying specific equal amounts of time among contesting campaign groups - in respect of freedom, pluralism and equal dignity.

There are no specific provisions relating to social media.

This is the link of the coordinated text of the Law on Referendum and on popular legislative initiative and of the coordinated text of the Electoral Law (in Italian)

## SLOVENIA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

### ***National level***

National referendums are regulated by the Constitution of the Republic of Slovenia and by the Referendum and People's Initiative Act. For detailed information about types of referenda at the national level, please see our ECPRD reply No. 3024.

**The right to vote in a referendum** pertains to all the citizens who have the right to vote in the National Assembly elections (Article 35 of the Referendum and People's Initiative Act). Every citizen of the Republic of Slovenia who has reached the age of 18 by the election day shall have the right to vote and to be elected as a deputy. An exception is a person who has been fully deprived of legal capacity or for whom the parental authority of the parents or other persons has been extended over the age of majority, and is not able to understand the significance, purpose and effects of the elections. The right to vote and to be elected as deputies of the Italian or Hungarian national community pertains to members of these national communities who have the voting right (Articles 7 and 8 of the National Assembly Elections Act).

For each referendum poll a general voting register is set up in accordance with the Voting Rights Register Act (Article 35 of the Referendum and People's Initiative Act).

Voters being abroad on the date of the poll due to their temporary or permanent residence there may cast their votes by post in a referendum at the national level, provided they inform the National Electoral Commission thereof no later than fifteen days before the date of the poll. In a referendum at the national level, the voters being temporarily abroad on the date of the poll may also cast their votes at diplomatic and consular missions of the Republic of Slovenia abroad, provided they inform the National Electoral Commission thereof (Article 47 of the Referendum and People's Initiative Act).

**Emigrated Slovenians** have also the right to vote in referendums. For detailed information please see: [Voting from abroad](#).

### ***Local level***

**Municipalities** (212) are the only units of local self-government.

Local referendums are regulated, mostly, by the Local Self-Government Act and the Self-Imposed Contributions Act. The provisions of the Referendum and People's Initiative Act, the Voting Rights Register Act, the Local Elections Act, and the National Assembly Elections Act shall apply by analogy as regards the implementation of a referendum at the local level.<sup>28</sup> The provisions of the National Assembly Elections Act

<sup>28</sup> The procedure applying to the implementation of a referendum shall be set out in detail by the municipal statute in accordance with the law (Article 47b of the Local Self-Government Act).



relating to voting by post from abroad and to voting at diplomatic and consular missions of the Republic of Slovenia **do not apply to voting in a referendum at the local level** (Article 47 of the Referendum and People's Initiative Act).

#### *Referendum on the basis of the Local Self-Government Act*

There are two types of referenda at the local level: **subsequent (compulsory) and preliminary (consultative)**.

In a **subsequent referendum** citizens may decide on the issues which are included in the municipal general acts, except for the budget and the final account of the municipal budget, and on general acts which, in accordance with the act, set out municipal taxation and other contributions. The citizens confirm or reject an adopted municipal general act or its separate provisions. The decision adopted by the voters at a referendum binds the municipal council until the expiry of its term of office. (Article 46 of the Local Self-Government Act).

In order to determine the will of citizens prior to the adoption of decisions on individual issues that fall under its jurisdiction, the municipal council calls a **consultative referendum**. A consultative referendum may be called for the entire municipality or for parts of it. The decision of voters at consultative referendums is not binding on municipal bodies (Article 46b of the Local Self-Government Act).<sup>29</sup>

All citizens who have **the right to vote** for members of the municipal council shall have the right to vote in a referendum, unless otherwise determined by law (Article 47b of the Local Self-Government Act) *All citizens of the Republic of Slovenia who on the polling day have reached 18 years of age have the right to vote and to be elected member of municipal councils.*<sup>30</sup> A citizen of another Member State of the European Union who has a permanent residence registration certificate and a permanent residence registered in the Republic of Slovenia or a residence registration certificate and a temporary residence registered in the Republic of Slovenia under the said also has the right to vote and to be elected member of a municipal council. The right to vote a member under the said conditions is also held by foreign nationals who have a residence permit and a permanent residence registered in the Republic of Slovenia (Article 5 of the Local Elections Act).

The right to vote for and be elected as members of municipal council - representatives of the Italian or Hungarian national communities – is held by members of these national communities who have the right to vote. The right to vote for and be elected as members of municipal council - representatives of the Romani community – is also held by members of this community who have the right to vote (Articles 6 and 7 of the Local Elections Act).

The right of citizens to vote shall be recorded in a general municipal electoral register. The right of citizens to vote for representatives of the Italian and Hungarian national communities or the representatives of the Romani community is recorded in a special municipal electoral register of residents - members of these national communities (Article 8 of the Local Elections Act).<sup>31</sup>

The Local Self-Government Act (Article 46a) provides that citizens may decide at a referendum on contributions and other issues, if so determined by law.

#### *Self-imposed Contributions Act*

The municipality can introduce a self-imposed contribution for the construction or reconstruction of a public infrastructure (utility services, transport, childcare, primary education, healthcare etc.) provided by the municipality (Article 1 of the Self-Imposed Contributions Act). The self-imposed contribution is introduced after a previously held **referendum** in which the majority of those eligible to vote in a certain area voted in favour of the introduction of a self-imposed contribution, provided that the majority participated in the vote (Article 2). The referendum is conducted in line with the Local Self-Government Act under the procedure laid down by the Referendum and People's Initiative Act, unless otherwise provided by law (Article 6 of the Self-imposed Contributions Act).

<sup>29</sup> For example, the territory of the municipality may change or a new municipality may be established by law following a referendum by means of which the will of the people is determined (Article 12 of the Local Self-Government Act).

<sup>30</sup> As regards restricting the right to vote in the local elections to persons who have been deprived of business capacity or whose parental responsibility was extended, the provisions of the National Assembly Elections Act apply (Article 5 of the Local Elections Act).

<sup>31</sup> As regards keeping the electoral register, composing municipal electoral registers and other issues related to the electoral register, the provisions of the Voting Rights Register Act apply mutatis mutandis (Article 8 of the Local Elections Act).

The right to vote in a **referendum** is held by a natural person who has a permanent residence in a territory where the self-imposed contribution is to be introduced. The **right to vote** is also held by a natural person who is the owner or user of a construction land in the territory for which a self-imposed contribution is envisaged, but who does not have a permanent residence in this area. Notwithstanding the foregoing, **the right to vote is not held** by a natural person whose income which is taxable under the Personal Income Tax Act does not exceed 25% of the average annual salary in the Republic of Slovenia in the year to which the income relates in the year preceding the year when the self-imposed contribution was introduced, according to the information of the Statistical Office of the Republic of Slovenia, or who is under fifteen years old (Article 9 of the Self-Imposed Contributions Act).

The voting rights register is compiled by the municipal administration on the basis of data obtained from the managers of the collections (Article 10 of the Self-Contribution Act).

## **2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Referendum and People's Initiative Act provides in Article 38 that the procedure for conducting a referendum is administered by **authorities administering the procedure for the National Assembly elections**. Pursuant to the National Assembly Elections Act the elections of deputies are held and performed by electoral commissions and electoral committees (22 Article). The electoral commissions are: National Electoral Commission, constituency electoral commissions, and the district electoral commissions. For the election of deputies of the Italian and Hungarian national communities, electoral commissions for special constituencies are nominated (Article 23 of the National Assembly Elections Act).

**National Electoral Commission**<sup>32</sup> (its members are appointed by the National Assembly) ensures the legality of the conduct of a referendum, provides expert instructions for conducting a referendum to other electoral authorities and supervise their work, lays down forms, sets uniform standards regarding referendum material and other material conditions for conducting a referendum, carries out and manage direct technical work relating to the conduct of a referendum in diplomatic and consular missions of the Republic of Slovenia abroad and establishes the overall result of votes cast at all polling stations in these missions and votes cast by post from abroad, if the National Electoral Commission receives election material in due time and establishes and publishes the result of a referendum, and carries out other tasks laid down in this Act (Article 39 of the Referendum and People's Initiative Act).

The **Constituency Electoral Commission** carries out and manages direct technical work relating to the conduct of a referendum, establishes the result of a referendum in a constituency (Article 40 of the Referendum and People's Initiative Act).

The **District Electoral Commission** designates polling stations, appoints election committees, carries out and manages direct technical work relating to the conduct of a referendum, establishes the result of a referendum in the electoral district (Article 41 of the Referendum and People's Initiative Act).

Members of constituency electoral commissions and district electoral commissions are appointed by the National Electoral Commission (National Electoral Commission, website).

**Electoral committees** are appointed for each referendum polling which administer voting in polling stations and establish voting results in respective polling stations.

An Electoral committee consists of a chairperson and an even number of members and their deputies appointed by the District Electoral Commission from among the citizens with permanent residence in the territory of electoral district

(Article 42 of the Referendum and People's Initiative Act).

The procedure for conducting a referendum at the local level is **carried out by the authorities managing the local elections** (Article 47b of the Referendum and People's Initiative Act). In addition to the National Electoral Commission, these are also the **municipal electoral commissions and the election boards** (Articles 33 and 34 of the Local Elections Act). The municipal council appoints the municipal electoral commission, while the municipal electoral commission appoints election boards. The electoral commissions is appointed for four years, and election boards for each election (Article 38 of the Local Elections Act).

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<sup>32</sup> More: [Office of the commission](#).

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

The Election and Referendum Campaign Act<sup>33</sup> regulates both costs and donations for the referendum campaign.

Pursuant to the above-mentioned act, a referendum campaign comprises advertising content and other forms of propaganda aimed at influencing voters' decisions in a referendum. The act also states, for example, what do the costs of a referendum campaign include (e.g. costs of designing, printing, displaying and removing posters, designing and publishing advertising content in the media, organising and holding meetings, consulting costs for planning a campaign strategy). As a rule, the campaign organiser must at the latest 25 days prior to the day of voting in a referendum (or before making the first financial transaction intended for the referendum campaign), open a special transaction account in which all funds for the referendum campaign are collected and from which the organiser must pay all the costs arising from the campaign. The account must be closed no later than 4 months after the day of voting. In the case of a referendum at the state level, its organiser must within 15 days of closing the account submit a report on the financing of the referendum campaign to the competent authority (i.e. the Agency for Public Legal Records and Related Services – AJPES) indicating, inter alia, the total amount of funds collected and spent, individual contributions made by natural persons exceeding the average gross monthly salary for the previous year (including the name, surname and address of the natural person and the amount of the contribution), individual expenses, loans etc. The reports are made publicly available on AJPES website. The law limits the cost of a referendum campaign to a maximum of EUR 0.25 per person entitled to vote in the country or the local community. Within 6 months after the deadline for closing the transaction account, the Court of Audit may carry out an audit of the organiser of the referendum campaign. By means of an audit, the Court of Audit reviews the amount of funds collected and spent in the referendum campaign, whether the organiser of the campaign obtained and used the funds for the campaign in accordance with the law and whether the information provided in AJPES report was accurate.

Restrictions apply also to contributions made by natural and legal persons. The total contributions by an individual natural person for a particular referendum campaign must not exceed ten average gross monthly salaries per worker. The restrictions also apply to cash contributions made by natural persons in cash, as they must not exceed EUR 50, while higher contributions must be paid through banks or savings banks. State authorities, local community authorities, legal entities of public and private law, and sole traders and individuals who perform a self-employed activity may not finance campaigns, unless otherwise provided by law. Legal entities governed by private law of which establishment is not aimed at gaining profit (e.g. associations), may contribute to the referendum campaign. The campaign organiser must not obtain funds for a referendum campaign from foreign natural and legal persons (entire paragraph summarized from Election and Referendum Campaign Act).

Violations of the described requirements of the act governing costs and donations are defined as offences and are punishable by a fine.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

**Elections and Referendum Campaign Act** regulates the issues related to elections campaigns and issues relating to referendum campaigns. Referendum campaign includes advertising contents and other forms of propaganda aimed at influencing voter's decisions when voting in a referendum. Provisions on the elections campaign apply to a referendum campaign, unless the Act provides otherwise (Article 1).

In order to ensure transparency and unbiased public information when publishing opinion poll and surveys on referendum question during referendum campaigns, media publishers shall indicate the trade name or the name and family name and the registered office or address of the customer, payer and provider, the period in which the public opinion poll or the survey was carried out, the method of their implementation, the sample and responsiveness of respondents, the questionnaire or questions, and measurement errors (Article 5).

<sup>33</sup> Available in Slovenian language at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4749>.

Publication of opinion poll and surveys on a referendum question shall not be permitted 24 hours before the voting day and until the closure of polling stations on the voting day (Article 5).

Media publishers shall determine and publish the rules (scope, conditions and methods) for the use of airtime or newspaper space for presentations of opinions about the referendum question no later than 25 days before the date of voting in a referendum (Article 6).

Elections and Referendum Campaign Act (Article 6) also determines that during the elections campaign, Radio Television Slovenia shall provide airtime for presentations views about the referendum question in accordance with the provisions of the law governing Radio Television Slovenia that regulate political propaganda in the Radio Television Slovenia's broadcasting.

**Radiotelevizija Slovenija Act** provides (Article 10) that political propaganda shall be permitted exclusively during the period of election campaigns in accordance with the provisions of the act regulating election campaigns. Political propaganda pursuant to Radiotelevizija Slovenija Act means political propaganda messages (spots) and other forms of political propaganda whose purpose is to influence the stance of voters in casting their votes in elections. RTV Slovenia may only transmit political party broadcasts along with the name of the source commissioning the broadcast. The source commissioning the broadcast shall be responsible for the content of such messages.

During election campaigns, RTV Slovenia shall provide a portion of programme time for the presentation of candidates, political parties and their manifestoes free of charge. In determining the time and formulation of the content of such broadcasts, RTV Slovenia shall be bound to adhere to the principles referred to in Article 4 of this Act (Article 12):

- ensure credible and impartial informational broadcasts whereby it shall provide comprehensive information regarding political events at home and in neighbouring countries, important events in other European countries, especially the Member States of the European Union, and important world topics such that the content broadcasted facilitates the objective public informing of Slovenian citizens, Slovenians around the world, members of the Slovenian ethnic minorities in Italy, Austria and Hungary, the autochthonous Italian and Hungarian ethnic communities in Slovenia and the Roma community living in Slovenia;
- ensure broadcasts that reflect the life and issues of different structures of the population, and in so doing shall proceed from the principle of equal provision of information about events in all parts of Slovenia and neighbouring countries, and shall ensure the creation of documentary programmes of national importance representing a document of times past and of the times in which we live;
- ensure high-quality information on all important cultural, political, historic, sports, social and economic events;
- ensure fulfilment of the constitutional rights of the Hungarian and Italian ethnic communities in the area of public information via public radio and television, and promote ties between the ethnic communities and their mother countries and incorporation of cultural and other achievements of the Italian and Hungarian nations into ethnic community channels;
- spread understanding of Slovenian history, culture and identity, including from the aspect of European history and international connections (more: [Radiotelevizija Slovenija Act](#), Article 4);

## ICELAND

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Same rules apply to voting rights in national referendums as in parliamentary elections. Eligible are Icelandic citizens who have reached the age of 18 years on voting day and are registered in the Electronic Central Register of Voters for Parliamentary Elections. Icelandic citizens over 18 years of age who have lived abroad for more than 8 years are not registered voters. But to be eligible to vote they can apply for being registered. The Icelandic foreign service does make necessary arrangements so that registered voters can cast their vote. Referendums shall be conducted by a parliamentary resolution according to the Act on the Execution of Referendums No. 91/2010. The resolution shall contain a defined subject and options for answers. Results of referendums shall be consultative for the Parliament, not binding. National referendums can take place simultaneously with a parliamentary or presidential election.

Ballots in municipalities shall be conducted by the Local Government Act No. 138/2011, (available in Icelandic only). The municipal council decides whether a general voting shall be held among the municipality's

inhabitants on individual issues, cf. however, Article 108. [The Local Government Act (LGA) No. 138/2011 Article 107, 1<sup>st</sup> paragraph] Right to vote cf. Paragraph 1. have eligible voters in the municipality according to the Local Government Election Act No. 5/1998 [Art. 107, 3<sup>rd</sup> paragr.]. "Every Icelandic national who has reached the age of 18 years when an election takes place and who is legally domiciled in the municipality is entitled to vote in municipal elections." ... Furthermore, Danish, Finnish, Norwegian and Swedish nationals, who have been legally domiciled in Iceland without interruption for a continuous three-year period preceding election day, and other foreign nationals who have been legally domiciled in Iceland for a continuous five-year period preceding election day, shall be entitled to vote, ..." [Local Government Election Act, Art. 2]

If at least 20% of those who are eligible to vote in the municipality wish for a general ballot pursuant to LGA Art. 107 the municipal council shall have ballots no later than one year after such request is received. The municipality may decide on a higher percentage if the issue is concerning the administration of the municipal council, but never more than one third of eligible voters in the municipality. The local council has authority to conduct the ballot and decide the phrasing of the question to be raised in a general voting among residents of the municipality. The implementation of a general voting among residents of the municipality is subject to the provisions of Art. 107. [LGA Article 108, paragr. 2]

The budget and other financial matters of a municipality cannot be the subject of a ballot. [LGAArt. 108, 3<sup>rd</sup> paragr.]

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

Yes, electoral commissions take care of conducting municipal, parliamentary and presidential elections as well as referendums. The Central Electoral Commission and six regional electoral commissions, one for each constituency, each consisting of five members and the same number of substitute members, elected by the Parliament after each Parliamentary election, regulate the conduct of elections and referendums in a close cooperation with local electoral commissions, each elected by its municipality.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

No, there are not any provisions on expenditure or donations, only concerning finances of candidates in elections.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No, there is not.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The National Broadcasting Service RÚV, which is an independent public service broadcaster, offering radio, television and on-line services, makes efforts to avoid criticism of impartial programmes when it comes to allocating time for introducing certain views and number of spokespersons appearing in its programmes. As there are not any limits on expenditure, interest organizations and political parties can decide how much money they spend on programmes in private media and advertisements in all media, incl. RÚV which allows advertisements without interrupting programmes. There are not any legal provisions on the use of social media before elections and referendums in Iceland.

**ITALY**

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Any citizen entitled to vote for the election of Chamber of Deputies has the right to vote on national referendum. The registration on the electoral roll is automatic and not require application being made by the eligible voter. All municipalities have a registry of residents and a registry of eligible voters. This is revised every six months and whenever there is an election. All citizens aged 18 or more on the election day are automatically registered to vote.

In some regions and municipalities foreign citizens (third-country nationals with residence permits and EU citizens) can vote in regional or local referendum by application (e.g. law of the Tuscan region no. 62 of 2007).

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Ministry of the Interior, through the Central Direction of Electoral Services, regulates the conduct of national electoral and referendum consultations.

The Central office for the referendum, established at the Corte di Cassazione (highest judicial body) examines the requests for referendum. The Corte costituzionale (constitutional court) evaluates the constitutional legitimacy in case of abrogative referendums. The Central office for the referendum proclaims the result.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

There is public funding for the promoting committee of the referendum for:

- abrogative referendum of a law: funding consists of reimbursement, under the condition of obtaining the quorum.
- referendum concerning laws amending the Constitution: there is not a validity quorum for the constitutional referendum; so the reimbursements are attributed regardless of the participation in the vote, provided that the referendum has been promoted by a promoting committee (not by regional councils or Members of Parliament).

A lump-sum reimbursement of €500 000 is given to the promoting committee for each valid request for referendums; the ceiling is €2 582 284.50 per year.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

From the date of the calling of the election until the date of the vote it is forbidden for public administrations to conduct any communication activities with the exception of those done in an impersonal form and necessary for the effective running of its administrative duties.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

The Law no. 28 of 2000 (so-called 'par condicio' act), ensure equal access rights of access to TV and radio programmes for all political and social forces to the media as well during electoral and referenda campaigns.

From the date of the calling of the election political communication on radio and television takes the following form: political platforms, debates, round tables, the presentation in debate of candidates and of political programmes, interviews and any other form which permits a comparison between political positions and the competing candidates.

The Parliamentary Committee for the General Orientation and Oversight of Radio and Television services, for public broadcasting service (RAI) and the Communications Regulatory Authority (AGCOM), for private media, by consultation between them, and each acting in accordance with its responsibilities, determine the designation of the spaces among the political subjects. For a referendum, the spaces are distributed equally between those for and those against the referendum.

From the date of the calling of the referendum, national radio and television broadcasters can transmit self-managed messages for the non-contradictory presentation of position on referendum, in accordance with the conditions established by the Committee and the Authority. The spaces for the messages are distributed equally among the different political subjects, also with reference to the time slots of transmission. The messages are organised in a self-managed way, are transmitted without payment and must last for a period sufficient to permit the presentation of a political programme or a political opinion, and in any case last, at the choice of the applicant, between one and three minutes for television broadcasters and between thirty and ninety seconds for radio broadcasters.



The Committee and the Authority define specific criteria which, until the end of voting, the public and the private broadcasters must respect in their information programmes (TV or radio news), with the aim of guaranteeing equal treatment, objectivity and the completeness and impartiality of information. It is forbidden for any radio or television broadcast to give, even in an indirect form, voting indications or present their own voting preferences. The producers and the presenters are also required to behave correctly and impartially in the management of the programme, so as not to influence the free choice of the electors.

In case of violation, the Committee or the Authority orders the broadcasters to restore equity and balance by transmitting programs with the prevalent participation of the damaged political subjects. In case of non-compliance, they may impose penalty fees.

Regarding provisions on the use of social media during electoral campaign see the decision recently published by the Communications Regulatory Authority (AGCOM):

<https://www.agcom.it/documents/10179/9478149/Documento+generico+01-02-2018/45429524-3f31-4195-bf46-4f2863af0ff6?version=1.0>

## SWEDEN

### Introduction

#### National referenda

Regulations on national referenda are laid down in the Swedish Constitution (the [Instrument of Government, IG](#)) and the [Act on National Referenda](#) (1979:369).

According to the Constitution, two types of national referenda can be arranged (Chap. 8 Sec. 2 p. 5 IG). Advisory national referenda can be arranged after a decision of the Swedish Parliament (Riksdagen). It is also possible to hold referenda on dormant constitutional proposals. Under certain conditions, the outcome of such referenda can be binding (Chap. 8 Sec. 16 IG).

The Swedish Central Election Authority (Valmyndigheten) is a government agency responsible for arranging elections to the European Parliament and the Riksdag, as well as referenda on both national and local level. The staff of the Agency consists of civil servants.

#### Local referenda

Sweden is divided into municipalities and county councils. These attend, on a basis of local self-government, to matters indicated in the [Local Government Act](#) (2017:725) or in special regulations.

Municipalities and county councils can arrange local referenda. These referenda are decided by the assembly of the municipalities or county councils. It is also possible for citizens to bring about a local referendum through a popular initiative. A municipal advisory referendum shall be held on a matter if at least ten per cent of those entitled to vote so request. It is possible for the assembly to refuse a popular initiative if two thirds of the members are against it.

Regulations on local referenda are laid down in the constitution, the Local Government Act and the Act on Local Referenda (1994:692)<sup>34</sup>.

A local referendum is organised by the Municipal Election Committee of the municipality where the referendum takes place, or by the Municipal Election Committee of one of the municipalities in the county. The members of Municipal Election Committees are elected by the assembly of the municipality or county.

### **Entitlement to vote in a referendum and how a registration is handled (Questions 1 and 2)**

#### National referenda

According to the Act on National Referenda (1979:369), voting rights in national referenda are granted to persons who are entitled to vote in elections to the Riksdag, i.e. every Swedish citizen who is currently domiciled within the Realm or who has ever been domiciled within the Realm and who has reached the age of

<sup>34</sup> <http://rkrattsbaser.gov.se/sfst?bet=1994:692> (only available in Swedish).

eighteen. The question as to whether a citizen has the right to vote is determined on the basis of an electoral roll drawn up prior to the referendum.

When a referendum is to be conducted, and to the extent that the Central Election Authority does not determine otherwise, a voting card is produced for everybody entitled to vote according to the electoral roll, with information on the person entitled to vote. Moreover, the voting card shall contain information on the referendum as guidance for the individual entitled to vote. For a referendum and an election to the Riksdag, that take place at the same time, a joint voting card is created. The Central Election Authority also supplies the ballot papers that are to be used. Only these ballot papers may be used on the occasion of the referendum.

Voting takes place on the day of the referendum at the voting premises for the referendum district where the voter is included on the electoral roll. Citizens entitled to vote, who resides outside Sweden or in another locality within Sweden, or for other reasons find themselves prevented from voting at the time and place referred to above, may vote at designated voting premises within the country or at a Swedish foreign mission.

### **Local referenda**

Voting rights in municipal referenda are granted to persons who are registered as residents of a municipality and who

1. are Swedish citizens or EU-citizens,
2. citizens of Iceland or Norway, or
3. have uninterruptedly been registered as residents in Sweden for at least three years preceding a referendum.

An EU-citizen who is a resident of a municipality but who, according to the Population Registration Act (1991:481), should not be registered as a resident in that municipality also has voting rights in a municipal referendum.

Voting rights in a county referendum are granted to persons who have voting rights in a municipal referendum in a municipality within the county.

When a local referendum is to be conducted, an electoral roll is drawn up for each voting district, on the basis of the population registration 30 days prior to the day of the referendum.

If a local referendum takes place at the same time as a general election or a national referendum, they can be coordinated. In other cases, and for those persons who do not have voting rights in a general election or a national referendum, the municipality or county shall draw up an electoral roll and produce voting cards. The Central Election Authority supplies the information required to draw up the electoral roll and produce voting cards upon request from the municipality or county.

When the assembly of a municipality or a county decides to hold a referendum, it also decides on a date for the referendum to take place, as well as voting districts and voting premises, etc. The assembly also decides if voting should be allowed by other means than personal voting at the designated voting premises on the day of the referendum.

### **Financing of referenda campaigns (Questions 3 and 4)**

#### **Transparency of party financing**

Sweden has had a long tradition of purely voluntary agreements on revenue statements among the parties of the Riksdag. The Act on Transparency of Party Financing (2014:105) entered into force on 1 April 2014. The introduction of the Act marked a transition to binding regulation on this subject. Political parties taking part in elections to the Riksdag or the European Parliament are now obliged to submit revenue statements concerning their activities at central level for publication. The Act only applies to political parties and electoral candidates at central level. However, according to amendments to the Act that will enter into force on 1 April 2018, the requirement for open reporting of revenue is to be extended to also cover parties' activities at regional and local level, as well as to parties' associated organisations. The obligation to publicly report income will also apply to parties who participate in county council and municipal elections.

### **Provisions regarding the use of media and social media in connection to referenda (Question 5)**

#### **Legal obligations and regulations for broadcasters**



All broadcasters of radio and television in Sweden are subject to the [Swedish Radio and Television Act \(2010:696\)](#).

To be able to broadcast TV, teletext and radio in Sweden a broadcasting license is required, with some exceptions<sup>35</sup>. When broadcast operations are financed by radio and TV fees, as is the case for the Swedish public service broadcasters, licences to broadcast are granted by the Swedish Government.<sup>36</sup> In all other cases the [Press and Broadcasting Authority](#) (*Myndigheten för press, radio och TV*) is responsible for granting licences.<sup>37</sup>

According to the Radio and Television Act a licence to broadcast “(...) may be conditioned on the requirement that the right to broadcast be exercised impartially and objectively, with consideration taken to the fact that extensive freedom of expression and information should apply (...)”<sup>38</sup>

For the public service broadcasters, the broadcasting licences (sometimes referred to as “the broadcasting charters”) are issued by the Government after a decision of the Riksdag. The current broadcasting licences of the public service broadcasters prescribe, in accordance with the above citation, that they should practice their broadcasting right impartially and objectively and with consideration taken to the fact that extensive freedom of expression and information should apply.<sup>39</sup>

Hence, the public service broadcasters are subjected to the requirement of impartiality and objectivity. The requirement of objectivity, however, also applies to other terrestrial TV broadcasters, according to their licences.<sup>40</sup>

To sum it up, there is no definite *legal* obligation for neither public service media nor private media to provide equal opportunities to parties, coalitions or candidates competing in elections. However, public service broadcasters are required to adhere to the terms of the broadcasting licence issued by the Government, which require the public service broadcasters to practice their broadcasting right impartially.

On the website of the Press and Broadcasting Authority, it is defined how public service broadcasters should approach the requirement of impartiality. For programming operations impartiality means three things. If a person is clearly singled out and criticised, they should be given an opportunity to respond to the criticism. Controversial topics or events may not be treated with bias. Representatives of the broadcasting company may not take sides in a controversial issue.

However, the impartiality requirement does not mean that a segment cannot adopt a critical approach or a particular angle. The public service companies are obligated to comment on different events, promote debate and scrutinise companies, organisations and authorities. The public service companies' obligation to comment also implies a certain scope for evaluative opinions.<sup>41</sup>

The supervision of the media in Sweden is based on a self-disciplinary system, not on legislation. In essence, this means that the press associations themselves define the ethical and professional guidelines and ensure that these guidelines are respected.

The Joint Committee of Press Associations (Pressens Samarbetsnämnd) is responsible for drawing up the Code of Ethics for Press, Radio and Television in Sweden. The Committee was founded by four media organisations in Sweden: The Newspapers Publishers Association, The Magazine Publishers Association, The Union of Journalists and The National Press Club.

The Code of Ethics consists of rules, which regulate the fairness of reporting, respect of privacy, the rights of interviewees, the right to reply, the treatment of pictures etc.<sup>42</sup>

The organisations in the Joint Committee of Press Associations also contribute to the financing of the Press Council (*Pressens opinionsnämnd, PON*) and the Office of the Press Ombudsman (*Allmänhetens*

<sup>35</sup> When a licence is required is defined in Ch. 4 section 2 for TV and teletext and Ch. 10 Section 1-3 for radio.

<sup>36</sup> The three Swedish public service broadcasters are *Sveriges Radio AB* (SR), *Sveriges Television AB* (SVT) and the educational radio and television broadcaster *Sveriges Utbildningsradio AB* (UR).

<sup>37</sup> [The Radio and Television Act](#), Ch. 4 Sec. 3 and Ch. 11. Sec. 1. The Government also grants licences to broadcast radio to places outside of Sweden.

<sup>38</sup> Ch. 4 Sec. 8

<sup>39</sup> The Swedish Broadcasting Authority, <http://www.mpr.se/en/broadcasting-radio-and-tv/>

<sup>40</sup> The Swedish Broadcasting Authority, <http://www.mpr.se/en/broadcasting-radio-and-tv/requirements-and-regulations/>

<sup>41</sup> The Swedish Broadcasting Authority, <http://www.mpr.se/en/broadcasting-radio-and-tv/requirements-and-regulations/>

<sup>42</sup> The Press Ombudsman (PO) and the Press Council (PON), *Code of Ethics for Press, Radio and Television*, <http://po.se/uncategorized/code-of-ethics-for/>

*pressombudsman*, PO) who are responsible for processing the complaints concerning violations of the [Code of Ethics](#).

Anyone can file a complaint to the PO against newspaper items they regard as a violation of good journalistic practice. However, if the complaint is to result in formal criticism of the newspaper, the person to whom the article relates, must provide written consent. Complaints must as a rule be filed within three months of the original publication.

The task of the PO is to determine whether the complaint can be dealt with by a factual correction or a reply from the affected person published in the newspaper concerned. For this purpose the PO may contact the newspaper. If the matter cannot be settled in this way, the PO may carry out an inquiry if it suspects that the rules of good journalistic practice have been violated. The PO will then ask the newspaper's editor-in-chief to answer to the allegations of the complainant. The person who filed the complaint will then be offered the opportunity to comment on the newspaper's reply.

After the inquiry is completed the PO has two alternatives, either the matter is not considered to warrant formal criticism of the newspaper, or the evidence obtained is weighty enough to warrant decision by the PON. If the PO writes off a complaint the complainant may appeal that decision directly to the PON. A newspaper that has been found to violate good journalistic practice is expected to publish the written decision of the PON and pay an administrative fine.<sup>43</sup>

The instruction for the PO stipulate that "PO shall address deviations from good journalistic practice, either on his/her own initiative or by following a complaint and whenever applicable, submit such cases for review by the Press Council and, by participating in public debate, further advocate the cause of good journalistic practice."<sup>44</sup>

The role of the PON is expressed in its Charter: "The Press Council shall review cases concerning good journalistic practice. The Council shall be entitled to interpret the meaning of this concept as it sees fit. The Council shall review such cases relating to all periodicals which, by subscription, by sale of single copies or by other means, are available to the public."<sup>45</sup>

The Broadcasting Commission (Granskningsnämnden för radio och TV) is an independent decision-making body within the Press and Broadcasting Authority<sup>46</sup>, which monitors radio and television programmes in Sweden.

The Commission shall supervise, on a strictly *ex post facto* basis, the compliance of programme content with the provisions of the laws, which regulate broadcasting services, and the licences granted by the Government or the Press and Broadcasting Authority. The Commission's mandate covers all Swedish radio and television broadcasters which offer services to the general public, be it on a local, regional or national basis. On the basis of the programme rules adopted by the EU member countries, the Commission also examines transmissions of foreign channels distributed by satellite to the Swedish public.

Furthermore, the Commission monitors compliance with the rules pertaining to commercial advertising, sponsoring and undue prominence as.<sup>47</sup>

All viewers and listeners can file a complaint to the Commission and the Commission can also initiate investigations *ex officio*. The Commission's judgements can be dismissal of the complaint, upholding the complaint or dismissal with comment. The consequences of a complaint being upheld depend on which provisions the broadcaster have breached. If a complaint against a broadcaster is upheld as a result of not following the rules regarding programme content, the broadcaster is required to publish the outcome in a suitable way, generally by reading an account of the decision during a broadcast – a so-called "obligatory broadcast". In case of a breach of the rules regarding undue favouritism, sponsorship or advertising, the Commission can impose (upon an application to the Administrative Court in Stockholm) the broadcaster to pay a special fee. The special fee can vary between at SEK 5 000 and SEK 5 000 000. The Commission can also

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<sup>43</sup> PO, <http://po.se/uncategorized/how-self-regulation-works/>

<sup>44</sup> PO, *Instruction for the PO* Sec. 1, <http://po.se/about-the-press-ombudsman-and-press-council/instruction-for-the-press-ombudsman-office/>

<sup>45</sup> PO, *Charter of the PON* Sec. 1, <http://po.se/about-the-press-ombudsman-and-press-council/charter-of-the-press-council/>

<sup>46</sup> The Press and Broadcasting Authority is a government agency organised under the Ministry of Culture.

<sup>47</sup> The Press and Broadcasting Authority, <http://www.mprt.se/en/broadcasting-radio-and-tv/requirements-and-regulations/#Advertising>

require that the broadcaster pay a penalty. The penalty is a way to exert pressure and see to that the broadcaster abides to the judgement of the Commission.<sup>48</sup>

### Political coverage during elections

During elections, certain public service broadcasters have set up internal guidelines in order to provide equal opportunities to parties competing in elections and meet the requirement of impartiality.

In the Public Services Handbook, published by the Swedish Radio (SR), SR elaborate on the requirement of balance during coverage of political elections and referenda. During elections and referenda the editorial staff must be extra observant of the requirement of balance in news and other programmes concerning societal matters, but there is no restriction of the participation of politicians in such programmes. However, in other programmes politicians should not be featured as experts, columnists or debaters etc. during three months before an election, to not risk supporting their own or their party's candidature. Staff members of SR who candidate for an election, are active in a political party or publicly announce their political stand in any other way cannot be featured in a programme during three months before an election or referendum.

In cases of traditional election debates, parties that are already represented in parliament can have a more far-reaching claim on participation than parties who are not. Since the ruling parties have the ability to directly affect the citizens with their policies, there is often a preponderance of proposals from the governing parties in news programmes. According to the Handbook, SR shall strive to make room for proposals from other parties than the ruling parties as well, when it is newsworthy. Moreover, SR has issued guidelines on how to handle small parties and parties whose representatives express xenophobic or racist messages.<sup>49</sup> The public service broadcasters also have to consider the "democracy provision" in the Radio and Television Act, which states that programme operations as a whole should be characterised by democratic core ideas, the principle of equality and the freedom and dignity of the individual. This provision means that the broadcasters can refute and stand up against discriminating and racist expressions and work to combat racist prejudices without contravening the requirement of impartiality.<sup>50</sup>

### Social media

As with radio, TV and newspapers, freedom of expression may be protected when publishing on the internet. Websites, online radio, online TV and e-mail newsletters may be covered by the protection afforded in the constitution.

Constitutional protection means among other things that:

special rules of liability applies to freedom of speech violations,  
only the editor is liable for the published material,  
informers have the right to remain anonymous – authorities may not research their names, and those working with the publication are not allowed to reveal identities of informers,  
no authority may preview material or hinder publication (prohibition of censorship),  
the Swedish Personal Data Act (1998:204) shall not apply if its enforcement is in breach of the Swedish Fundamental Law on Freedom of Expression.

Under certain circumstances, mass media companies may have automatic constitutional protection for their databases or websites. Mass distribution of e-mails, e.g. newsletters, may have automatic constitutional protection.

Companies, organisations and private individuals, whose websites or databases are not covered by an automatic constitutional protection, may apply for a certificate of no legal impediment to publication (publishing certificate), which entails the equivalent level of protection. However, to apply for a publishing certificate is voluntary.<sup>51</sup>

<sup>48</sup> The Press and Broadcasting Authority, <http://www.mprt.se/en/complaints/>

<sup>49</sup> SR (2014), *Public service - handbok*, p. 41-43 (only available in Swedish), <http://sverigesradio.se/diverse/appdata/isidor/files/3113/14621.pdf>

<sup>50</sup> The Broadcasting Commission (2013), *Granskat och Klart Tema – opartiskhet/ställningstagande*, p. 6 (only available in Swedish), <http://www.mprt.se/documents/publikationer/gok%20tema/granskatochklart-tema-opartiskhet-stallningstagande-2013.pdf>.

<sup>51</sup> The Press and Broadcasting Authority, <http://www.mprt.se/en/broadcasting-radio-and-tv/online-publication/>

<b>MONTENEGRO</b>
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**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

In Montenegro, the **Law on Referendum** (*“Official Gazette of Montenegro” no. 09/01, 17/01 and 73/10*) regulates the calling and administration of a referendum, as well as bodies in charge of the administration of a referendum and protection of citizens' rights in the administration of a referendum.

According to the Law on Referendum, all citizens who have the right to vote in accordance with the electoral legislation have the right to vote on referenda. According to the electoral legislation in Montenegro, all Montenegrin citizens aged 18 and over have the right to vote, and there are no provisions providing voting rights specifically for the diaspora. All citizens who have the right to vote are registered in the Electoral Register, which is used as a basis for the right to vote, both in elections and referenda. The same regulations regarding the voting rights apply both for national and local (*i.e.* municipal) referenda.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

**Article 20** of the **Law on Referendum** stipulates the following:

Commissions for administration of a referendum shall be composed of a chairman, a secretary and a certain number of members.

The principle of a proportionate representation of political parties in the assembly that has called the referendum, must be observed when appointing the members of commissions.

Deputies are appointed to the chairman, secretary and members of referendum commissions.

The term of office of the chairman, secretary and members of referendum commissions shall last until the ascertainment of the referendum outcome by the assembly that has called the referendum.

The chairman, secretary and members of commissions in charge of a referendum shall be appointed from among the jurists and must have a voting right.

#### **Article 21**

A state referendum shall be administered by:

1. the State Commission in charge of the administration of a referendum,
2. the commission for administering the state referendum in a municipality, and
3. polling committees.

Commissions referred to in Paragraph 1 of this Article shall be appointed by the Parliament of Montenegro, not later than 10 days after coming into force of the decision on calling the referendum.

#### **Article 22**

The State Commission shall be composed of a chairman, a secretary and nine members.

The Commission for administering a republican referendum in a municipality shall be composed of a chairman, secretary and seven members.

#### **Article 25**

A municipal referendum shall be administered by the:

1. Commission for administering a municipal referendum, and
2. polling committees.

The Commission for administering a municipal referendum shall be appointed by the municipal assembly, not later than 10 days from coming into force of the decision on calling the referendum.

The decree on the establishment/appointment of the commission for administering a municipal referendum shall prescribe the number of members and appoint the members of the commission, in conformity with the present Law.

#### Article 27

A polling committee shall be appointed for each polling station, not later than 10 days before the day determined for the pronouncement of citizens in a referendum.

A polling committee shall be composed of a chairman and six members.

Deputies shall be appointed to the chairman and members of polling committees.

The chairman and members of polling committees shall be appointed for each referendum.

The principle of a proportionate representation of political parties in the assembly that has called the referendum, must be observed when appointing the polling committee.

The chairman and members of polling committees must have a voting right.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

The **Law on Referendum** stipulates the following:

#### Article 14

*The funds required for the administration of a referendum shall be apportioned to in the budget of the State i.e. a municipality.*

*All activities and actions related to the administration of a referendum shall be exempt from any fees whatsoever.*

#### Article 15

The procedure of administering a referendum shall be made public.

Publicity of the referendum administration procedure shall imply the right of every citizen to be informed in a timely and truthful manner and under equitable terms by means of public media, on all stages of the above procedure and the varied attitudes and opinions in respect to a referendum question.

*The competent assembly shall, by passing a special ordinance, prescribe more detailed conditions in respect to public campaigning by means of media.*

*Public referendum campaigning by means of media and public gatherings shall cease 48 hours prior to the referendum day.*

The framework for the 2006 referendum was established by a *lex specialis*, the **Law on the Referendum on State Legal Status** ("Official Gazette of the Republic of Montenegro", no. 012/06), which was adopted by the Parliament of Montenegro on 1 March 2006 following the extensive consultations between the two sides of the referendum issue. In that sense, *the 2006 special referendum law was the result of a consensus that followed political party negotiations in early 2006, and was able to maintain cross-party political support for its full implementation, including on contentious issues such as the majority requirement for the decision to be made. In a number of key areas, the special referendum law demonstrated an improvement to the wider legislative framework that govern elections in Montenegro and could serve as a model for forthcoming elections in Montenegro, as well as for any future referendums.*<sup>52</sup>

<sup>52</sup> Office for Democratic Institutions and Human Rights REPUBLIC OF MONTENEGRO REFERENDUM ON STATE-STATUS 21 May 2006, OSCE/ODIHR Referendum Observation Mission Final Report, Warsaw, 4 August 2006 <https://www.osce.org/odihr/elections/montenegro/20099?download=true>

Special chapter V of the **Law of on the Referendum on State-Legal Status of the Republic of Montenegro** is devoted to financing of the referendum expenses, as follows:

#### **Article 34**

The financial resources required for the administration of the referendum shall be apportioned to in the budget of the Republic.

In addition to financing the organization of the referendum itself, an amount of 2.000.000 Euro shall be put at the disposal from the budget of the Republic, no later than 3 days from the day the decision on calling for the referendum is adopted, for the purpose of financing campaign of both referendum options (1.000.000 Euro for each referendum option).

Contributions for the referendum campaign shall be assigned to the referendum campaign subjects, registered in accordance with the present Law.

The subjects from Paragraph 3 of this Article may also receive campaign contributions from private natural and legal persons, the total sum of which may not exceed the amount designated by the Law on financing of political parties for this purpose. The identity of donors who provide financial support from private sources shall be disclosed.

Should contribution from private sources exceed the amount set forth in paragraph 4 of this Article, the exceeding part shall be returned to the donor.

All activities, files, submissions and other acts related to financing of the referendum expenses shall be exempt from any fees whatsoever.

#### **Article 36**

The Assembly shall, by means of a special decision, simultaneously with adoption of the decision on calling for the referendum, establish the Referendum Financing Committee (hereinafter as: The Committee).

The Committee from paragraph 1 of this Article shall consist of six members appointed on the basis of principle of equal representation of both referendum options.

The Assembly shall appoint the Chairperson and Secretary of the Committee from amongst its members, belonging to the different referendum options.

The Chairperson of the Committee shall be appointed at the proposal of the option for maintaining the State Union of Serbia and Montenegro.

Conditions for the work of the Committee shall be provided by the Assembly.

#### **Article 37**

The Committee shall:

- adopt its rules of the procedure,
- distribute the budgetary funds for financing the referendum campaign in equal portions to both referendum options,
- monitor the expenditures of the referendum campaign,
- monitor the exercise of the principle of impartiality in financing both referendum options, by insight in proceedings, acts and activities of state authorities, local self-government authorities and other authorities and organizations, public enterprises and institutions and enterprises with major or decisive participation of the state in its ownership, in accordance with the law,
- react, in timely manner, on abuse of state resources during the referendum campaign, by submission of reports to the respective authorities and complaints to the authorized observers regarding the noticed unlawful acts and proceedings related to the referendum campaign financing.

#### **Article 38**

Provisions on prohibition for certain persons set forth in articles 7 and 8 of the Law on financing of political parties, shall be accordingly applied to the referendum campaign financing.

**Article 39**

For the purpose of collecting funds for financing the referendum campaign, the bodies designated in accordance with Art. 34 of this Law shall open a special referendum campaign account with the competent institution in charge of financial transactions and that account may not be used for any other purposes.

All transactions related to the referendum campaign, including income and expenditures shall be effectuated from the account form paragraph 1 of this Article.

**Article 40**

The subjects to which the Committee has distributed the funds in accordance with Article 34 of the present Law, shall nominate the person responsible for their effective use and the preparation of the report.

The signature of the nominated person in paragraph 1 of this Article shall be deposited with the competent institution in charge of financial transactions.

**Article 41**

Strict report on the origin, amount and structure of collected and spent contribution for referendum campaign shall be completed and submitted, within 30 days from the referendum day to the Republic Commission and the Committee.

The Minister of Finance shall determine the content and the form of the report from the paragraph 1 of this Article.

The report from paragraph 1 of this Article shall be published by the Republic Commission in the "Official Gazette of the Republic of Montenegro", on the web site of the Republic Commission as well as in a daily newspaper of the Republic of Montenegro.

**Article 42**

A fine from 100 to 200 minimal salaries shall be levied upon a subject determined in article 34 of this Law which:

- accepts and spends a donation from an unauthorized source;
  - applies pressure on legal or private persons while collecting contributions for referendum campaign subject;
  - make a promise or likelihood of any form of privilege or personal benefit to the donors of the referendum campaign
  - does not open a special referendum campaign account in accordance with the article 39 of the present Law;
  - does not nominate the person collecting the funds, who is responsible for effective use of contributions and the preparation of the report;
  - does not submit a complete report in accordance with, and within the deadline from the article 41 of this Law.
- The person within campaigning subject and responsible for collecting the funds who committed one of the quoted offences in paragraph 1 of this Article, shall be fined to an amount of 15 to 20 minimal salaries in the Republic.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

**Law on the Referendum on State Legal Status** provides the following regarding the media coverage of the referendum campaign:

**Article 43**

The media shall assist voters during the referendum process in making an informed choice on the option they will favor, in particular by means of specific information programs and public debates involving both referendum options.

The publicity of the referendum process shall be provided in compliance with the standards contained in the international documents on human rights and freedoms (UN, OSCE, Council of Europe, EU, etc.) implying the right of every citizen to be informed in a truthful, timely and unbiased manner, under equitable terms, about all stages of the procedure and different referendum options.

The rights and freedoms above-mentioned shall be respected by all media.

#### **Article 44**

Participants in the referendum campaign shall respect the Constitution of the Republic of Montenegro, laws and codes of professional ethics, and be obliged to behave in a fair manner, refraining from defamation and libel, infringement of the rules of decency and insults to the public feelings.

Provisions of the Media Law, Broadcasting Law, and Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" shall apply accordingly to referendum campaign by means of the media, unless provided otherwise by the present Law.

#### **Article 45**

*During the referendum campaign, public service broadcasters shall provide equal presentation of different referendum options, on the basis of separate regulations to be adopted by the councils of the public service broadcasters.*

The managing bodies of the daily "Pobjeda" and "Koha Javore" shall pass a rulebook providing for equality in presentation of both referendum options during the referendum campaign.

Public service broadcasters shall announce, no later than 10 days after the calling for the referendum, in daily press and in other ways accessible to the public, the manner and conditions of presentation of different referendum options.

#### **Article 46**

*Both referendum options shall be presented in all public services, radio and television of Montenegro, public and local services and media founded by the Republic or the local self-government authority through, but not limited to the following:*

- Press releases,
- Reports from the promotion gatherings,
- Reportages from the spot of the promotion gatherings,
- Announcement for a promotion gathering,
- Presentation of the political program of both referendum options,
- Thematic debates,
- Reacting and other form of presentations.

#### **Article 47**

The broadcast media shall not include in their programs, ten days prior to the referendum day, the results of the public opinion polls, other researches and analyses related to the citizens' positions concerning the referendum question.

On the referendum day, before the polling stations have been closed, the broadcast media shall not publish in their programs the estimated results of the voting, with the exception of the estimates concerning the turnout of voters.

#### **Article 48**

Campaigning by means of media and public gatherings shall cease 48 hours prior to the referendum day.

#### **Article 49**

Paid advertising in broadcast media shall be clearly marked as such in accordance with the Rulebook of advertising and sponsorship in public broadcast media.

Print media shall pass a rulebook on paid advertising similar to the one applied by the public broadcast media from paragraph 1 of this article.

In accepting paid advertising, private media shall not discriminate between supporters of the two referendum options.



**Article 50**

All media shall, during informative shows, out of the radio and TV programs and paper columns envisaged for the pre-referendum campaign, provide information on current affairs and activities of officials and political party officials, obeying the principles of journalism, objectivity and professional ethics.

Reporting on regular activities and work of state authorities, officials, members of the Government, and municipal officials shall be performed without any political messages, obeying the code of journalism.

The media, when reporting on the current affairs and activities of state authorities and governmental officials, cannot comment or provide texts that would point to the party affiliation or represent one party propaganda.

Contact programs and special broadcasts the participants of which are state officials and political party officials or within which political engagement of the above officials is used for the purpose of pre-referendum campaign, may not be broadcast outside of a special TV and radio program and a special supplement in the "Pobjeda" and "Koha Javore" daily.

Shows with cultural, documentary, sport, entertainment or other character which do not have strictly informative character shall strive to avoid the contents directed to propaganda of one or another referendum option.

**Article 51**

Private media shall adopt the code of conduct interceded in favour to the fair editorial policy as well as to the equal coverage of the referendum campaign. These principles shall be also applied by the media established outside of the territory of Montenegro, but which are accessible at the territory of Montenegro.

**Article 52**

*The Parliament of Montenegro, by means of a special decision, simultaneously with the adoption of the decision on calling for the referendum, shall establish the Committee for media coverage of the referendum campaign.*

*The Committee shall consist of 12 members appointed on the basis of principle of equal representation of both options participating in the referendum.*

*The Parliament shall, among the members of the Committee, appoint the Chairperson and the Secretary of the Committee belonging to the different referendum options.*

The Chairperson of the Committee shall be appointed at the proposal of the option for independence of Montenegro.

The Committee shall be open to media institutions and civil society that shall monitor the activities of the Committee.

**Article 53**

The Parliament shall provide for necessary resources for the work of the Committee (premises, equipment, staff expenses).

The Committee shall:

- monitor the respect of the provisions of this chapter,
- issue the internal acts of the Committee,
- receive the complaints on media behavior and examine such complaints,
- report the public on performed examination and its findings,
- issue warnings and make its conclusions public, without interfering with the editorial independence of the media outlets.

**Article 54**

Media shall, during the referendum campaign, have a duty to publish the findings of the Committee by which it is declared that some media had violated these rules, as well as principles of equality, uniformity and objectivity in informing the citizens on political programs of both referendum options.

## Article 55

The right to media coverage in the referendum campaign shall start from the day of certification of the authorized participants in the referendum campaign by the competent authority (Republic Commission), and shall cease 48 hours prior to the referendum day.

### TURKEY

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

- ❖ To begin by answering the last part of the question: There is no regulation concerning regional or local referendums in Turkey. Only constitutional amendments may or must be submitted to referendum. In other words, only constitutional amendments can be the subject of a nationwide referendum. (Sometimes local administrations may arrange mini-referendums concerning local issues but this practice is not regulated by laws and the result of the so-called referendums are not binding whatsoever)
- ❖ Article 175 of the Constitution regulates the nationwide referendums. The referendum may be optional or obligatory, as the case requires. Below Article 175 of the constitution:

#### “ PART SEVEN

##### Final Provisions

##### I. Amending the Constitution, participation in elections and referenda

ARTICLE 175- (As amended on May 17, 1987; Act No. 3361) Amendment to the Constitution shall be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Turkey. Bills to amend the Constitution shall be debated twice in the Plenary. The adoption of a bill for an amendment shall require a three-fifths majority of the total number of members of the Assembly by secret ballot.

The consideration and adoption of bills for the amendments to the Constitution shall be subject to the provisions governing the consideration and adoption of laws, with the exception of the conditions set forth in this Article.

The President of the Republic may send back the laws on the amendments to the Constitution to the Grand National Assembly of Turkey for reconsideration. If the Assembly readopts, by a two-thirds majority of the total number of members, the law sent back by the President of the Republic without any amendment, the President of the Republic may submit the law to referendum.

If a law on the amendment to the Constitution is adopted by a three-fifths or less than two-thirds majority of the total number of members of the Assembly and is not sent back by the President of the Republic to the Assembly for reconsideration, it shall be published in the Official Gazette and be submitted to referendum.

A law on the Constitutional amendment adopted by a two thirds majority of the total number of members of the Grand National Assembly of Turkey directly or upon the sending back of the law by the President of the Republic or its articles deemed necessary may be submitted to a referendum by the President of the Republic. A law on the amendment to the Constitution or the related articles that are not submitted to referendum shall be published in the Official Gazette.

Entry into force of the laws on the amendment to the Constitution submitted to referendum shall require the affirmative vote of more than half of the valid votes cast.

The Grand National Assembly of Turkey, in adopting the law on the Constitutional amendment shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually, in case the law is submitted to referendum.

Every measure including fines shall be taken by law to secure participation in referenda, general elections, by-elections and local elections

\* Article 67 of the constitution states that

"In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum.

Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes. However, the law determines applicable measures for Turkish citizens abroad to exercise their right to vote.

All Turkish citizens over eighteen years of age shall have the right to vote in elections and to take part in referenda

Privates and corporals at arms, cadets, and convicts in penal execution institutions excluding those convicted of negligent offences shall not vote. The necessary measures to be taken to ensure the safety of voting and the counting of the votes in penal 30 execution institutions and prisons shall be determined by the Supreme Board of Election; such voting is held under the on-site direction and supervision of authorized judge."

Briefly; Turkish citizens who are over 18 and registered in voter register may vote in a referendum.

- ❖ There is no different registration process for referendums. General election registers are valid for referendums too.

Law No: 298 on the Basic Provisions of Elections and Voter Register" is the main legal regulation governing the election registers and other election related issues. Below there are relevant articles of the said law concerning electoral registers.

## **"DEFINITIONS**

### **Article 28/B**

1. A computer medium defining each citizen eligible to vote hereunder and containing the domicile of that voter is called "Voter Register"
2. The Voter Register shall be created by designing, planning, management and performance of procedures by the Voter Registers General Directorate established by the Supreme Board of Elections in accordance with this Law.
3. Each of the records for and defining a voter, such as name, surname, year of birth and place of birth is called is called "data".
4. All data defining an individual voter are called collectively "Voter Data".
5. The names of the county, community and street as well as the number of the building and apartment, if any, where a voter resides permanently constitute "Voter Address".
6. Every voter shall be designated and defined by Voter Register item number, name, surname, mother's name, father's name, the county and the year in which he/she was born.
7. Modification, correction and completion of data contained in Voter Registers as specified in this Law shall be called "Updating" of Voter Registers.
8. (Annex: 13/3 / 2008-5749 / 3 md.) " Voter Register Abroad" is based on the collection of information in the citizens' address registration on citizens who are deemed voters in terms of this law and happen to be abroad.

## **EDITING OF VOTER REGISTERS**

**ARTICLE 33 -** Voter Registers shall be edited every year based on the information in address register system in accordance with the principles set forth by the Board of Election and updated by continuous gathering of data in every election process.

The rules, methods and techniques of editing, continuous updating and general auditing as well as data processing procedures of Voter Registers General Directorate shall be designated by a communiqué to be issued by the Supreme Board of Elections.

Voter Registers shall be created and updated based on data gathered in writing and auditing, court decrees defining modifications in voter data such as modification in name, surname, age, sex, deprivation or reinstatement of voter capacity (restriction, prohibition from public services), data showing expelled or reinstated citizenship, as well as data on deceased citizens, change of domicile within or outside of the election district and other documents to be gathered in accordance with rules and methods to be established by the Supreme Board of Election

## **PRINCIPLES FOR REGISTRATION IN THE VOTER REGISTERS**

**ARTICLE 34 -**Basis for having voter capacity shall be the Voter Registers. It is essential that Voter Registers contain the name, surname, father's name, year of birth, county of birth, domicile address of the voter. In the implementation of this Law, every individual shall be treated according to the month and day of birth recorded

in the birth registers. However, the completion of eighteen years of age shall be calculated on the basis of the date of election (inclusive) if election is made in that year. If voter data is incomplete, the concerned voter shall not be registered in voter registers until the data is completed. The rules of completion shall be established and published by the Supreme Board of Elections. Ballot-box voter lists covering data of voters residing in the ballot-box zone shall be obtained from Voter Registers. A voter not contained in the ballot-box voter list shall not be entitled to cast votes. Voters shall be registered in Voter Registers once and not be entitled to cast more than one vote. Registering of voters shall be made by visiting the voters in their domiciles by commissioned officials. Registry officers shall register only the voters present in their place during registration. The domicile address declared by the voter shall be written down. Registry form bearing a serial number shall be signed by voters.

**ARTICLE 94** regulates voting abroad.

An amendment to Law No.6304 to the Key Provisions of Elections and Electoral Registers from 9/5/2012, article No.5 and Law no. 298, Article 94/A sub-article 1 states:

"Supreme Election Council is authorized at voting points of voters abroad using ballot boxes, customs gates or electronic voting together or separately. With the said arrangement, it is ensured that voting method at ballot box would not only be applied at customs gates but also in the foreign missions. Ministry of Foreign Affairs' data infrastructure may be used for achieving this. Ministry of Foreign Affairs, regarding the procedures and principles determined by the Supreme Board of Elections, takes precautionary measures for the security and the establishment of data infrastructure."

Due to this amendment, voters abroad may vote at ballot boxes and customs gates in the countries that they reside in or happen to be.

In the last referendum (16 April 2017, Constitutional Amendment) 1.400.046 voters participated in 57 countries at voting points and customs gates. Turnout rate for voters abroad was 47 %.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, direct, universal suffrage. The Supreme Board of Election (*Yüksek Seçim Kurulu* in Turkish) is a sui generis independent board that is assigned with the administration and supervision of elections and referendums.

Article 79 of the Constitution is titled as *General administration and supervision of elections* and is about the Supreme Board of Election.

"The Supreme Board of Election shall execute all the functions to ensure the fair and orderly conduct of elections from the beginning to the end, carry out investigations and take final decisions, during and after the elections, on all irregularities, complaints and objections concerning the electoral matters, and receive the electoral records of the members of the Grand National Assembly of Turkey and presidential election. No appeal shall be made to any authority against the decisions of the Supreme Board of Election.

The functions and powers of the Supreme Board of Election and other electoral boards shall be determined by law.

The Supreme Board of Election shall be composed of seven regular members and four substitutes. Six of the members shall be elected by the General Board of High Court of Appeals, and five of the members shall be elected by the General Board of Council of State from amongst their own members, by the vote of the absolute majority of the total number of members through secret ballot. These members shall elect a chairperson and a vice-chairperson from amongst themselves, by absolute majority and secret ballot.

Amongst the members elected to the Supreme Board of Election by the High Court of Appeals and by the Council of State, two members from each group shall be designated by lot as substitute members. The Chairperson and Vice-Chairperson of the Supreme Board of Election shall not take part in this procedure.

The general conduct and supervision of a referendum on laws amending the Constitution and of election of the President of the Republic by people shall be subject to the same provisions relating to the election of deputies"

**Law No:298 Article 11.****Supreme Board of Election**

"...Term of office of members of Supreme Board of Election are six years. A member whose term of office is terminated, may be re-elected.

Former members shall continue to hold office until all new members are elected. The vice-chairperson shall assist the chairperson in the performance of his duties and represent the chairperson in his/her absence. In case of absence of the vice-chairperson, the oldest member shall preside the Board..."

Furthermore, political parties having the four highest seats in recent general elections, and political parties having party groups in Grand National Assembly, may assign a regular and a substitute representative in the Supreme Board of Elections provided that political party leaders give consent. These representatives attend all meetings and discussions of the Board but they do not have a right to vote. Since 02/04/2011, political party representatives have been attending activities of the Board (as of 2016, Justice and Development Party, Republican People's Party, Nationalist Movement Party and Peoples' Democratic Party have political party representatives). As stated above, the decisions of the board are not appealable.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

There is no specific provision regarding donations in a referendum. Yet, Law on Political Parties (Law no: 2820) has an article regarding donations to political parties.

"Donations: Article 66 – (Amended by Article 7 of Law 4445, dated 12 August 1999) Government departments funded through the general and annex budgets, local administrations and offices of the headmen, state economic enterprises, banks and other organizations established by special laws or by the authority granted by special laws, enterprises, which are not defined as state economic enterprises but the paid up capital of which is partially owned by either the state or the agencies, administrations, enterprises, banks or organizations mentioned in this paragraph, shall not, under any circumstances whatsoever, donate any movable or immovable assets or cash or any rights to political parties or allow usage of such assets or rights free of charge; they shall not make a disposition of the transfer of real rights to political parties other than in accordance with the provisions of the law by which they are bound. Professional organizations that have the nature of public agencies, labour unions and employers' associations and their umbrella organizations, associations, foundations and cooperatives may provide financial assistance and make donations to political parties in compliance with the provisions of their special governing laws.

Any real persons or legal entities other than those mentioned in the foregoing article shall be prohibited from making an in kind or cash donation worth more than two billion liras each to a political party in the same year (Annex phrase by Article 8 of Law 4778, dated 2 January 2003) or allowing the political party to use its broadcast media. The receipt issued by a political party shall openly state that the donation or donations belong to the donor or his authorized representative or proxy. Political parties shall not accept donations in the absence of such a document. (Annex sentence by Article 181 of Law 6111, dated 13 February 2011) An income statement shall not be required for the donations deposited to the bank accounts opened in the name of a political party.

Political parties shall not be entitled to receive any aid either in cash or in kind or donations from foreign governments, international organizations and real persons or legal entities that are not of Turkish citizenship."

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

*See articles 65 and 66 below.*

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

In terms of propaganda in referendums, part two (Electioneering Activities) of the Law no:298 Law on Basic Provisions -on Elections and Voter Registers applies. Article 49 of the said law states that: "Electioneering activities shall commence on the morning of the tenth day in advance of the election day and terminate at 18:00 hours on the day before the date of election". Yet, referendum propaganda activities shall commence on the morning of the *seventh day* in advance of the referendum day. (Law no: 3376 Law Concerning Referendums on Constitutional Amendments). Some other provisions of the Law no:298 concerning electioneering activities are as follows:

**ARTICLE 50 Electioneering Activities In Public Places –**

Collective verbal electioneering is forbidden, during the period of election, on public ways, in temples, in public service buildings and facilities, and in arenas and squares other than those specified by county election boards. County election boards shall determine the squares where collective verbal electioneering can be made by selecting places where meetings are held without interfering with the traffic and preventing operation of market places and preferentially the places having electrical installation. Upon application of political parties for collective verbal electioneering, the county election board shall determine the square, date, order and time of the meeting by drawing names and notify it to whom it may concern. A day of the week shall be reserved for independent candidates under identical conditions.

It is forbidden to make collective verbal electioneering in public places from two hours after sunset until sunrise.

**ARTICLE 51 Indoor Electioneering Activities –**

Meetings may be held in closed spaces in the name of political parties or independent parties participating in elections. Parties or individuals wishing to organise a meeting in closed spaces shall establish a committee consisting of three members and inform nearest police executive or officer of its intention. In villages, informing the alderman or his deputy shall be satisfactory. The committee shall be obliged to maintain the order of the meeting and to prevent any act contrary to laws, customs and traditions and any behaviour soliciting any offence or criminal act. In case of occurrence any event mentioned above, the Committee shall take all steps to prevent it and call the police if necessary. The committee may determine or limit persons to deliver a speech in the meeting. Speeches delivered in such meetings may be broadcast through loud speakers, provided that the provisions of Article 56 are reserved. Meetings in closed spaces shall never be intervened by the executives or officers of any security force or the alderman or aldermen council unless requested by the committee managing the meeting or decided by authorised election boards. Indoor meetings shall be prohibited in temples, schools, military barracks, military headquarters, military units, buildings and facilities as well as in other places where public services are rendered.

**ARTICLE 55 A Broadcasting Through Private Radios And Televisions**

Broadcasts made by private radios and televisions from the date of beginning of elections until the date of voting shall be subject to Articles 5, 20, 22 and 23 of Turkish Radio and Television Law No. 2954 and of Paragraph 2 of Article 31 of the same Law.

(Additional second clause: 8/4/2010-5980/4 art) Political parties' representatives and independent candidates may attend programs, panels, interviews on radios and televisions from the beginning of elections until 24 hours prior to election day to explain their views. Political parties and candidates open or closed area meetings may be broadcasted live.

The Supreme Board of Elections shall be responsible for and authorised to define the principles of broadcasting by private radios and televisions according to the provisions of the preceding paragraph. The Supreme Board of Elections shall be responsible for and authorised in supervising, auditing and evaluating the conformity of broadcasts to principles set forth above by private radios and televisions broadcasting throughout Turkey and the county election boards of the location where broadcasting is made, for private radios and televisions operating locally.

Objections may be lodged to provincial election boards within 24 hours against decisions of county election boards. The decision of the provincial election board shall be final. The Supreme Board of Elections shall be authorised to describe the private radios and televisions broadcasting throughout Turkey. The resolution of the Supreme Board of Elections with that respect shall be published in the Official Gazette.

**ARTICLE 55/B Media, Communication Tools and Electioneering on Internet**

Political parties and independent candidates may conduct electioneering activities orally, visually or in writing by advertisements and announcements in press or launching internet sites until the end of electioneering period.

It is forbidden to conduct electioneering activities by sending e-mails to the e-mail addresses of voters or sending visual messages or SMS'es to their mobile phones and fixed lines. Yet, political parties are free to send such messages to their members.

In the ten days period before the election date, it is forbidden to make broadcasting or sending any messages, which include information that may positively or negatively affect the opinion of voters under any names such as polls, public inquiry, estimations or mini referendums. Broadcasting before abovementioned ten days period, shall follow the principles of objectivity, accuracy and integrity. During the publishing of public polls and public inquiries, it is obligatory to announce the number of participants as well as the name of the institution

undertaking the inquiry. Supreme Board of Election shall determine principles of electioneering and broadcastings conducted within the framework of this article.

**Article 56 Electioneering Through Loud Speakers** - From the beginning of electoral calendar till the end of electioneering period, propaganda through loud speakers shall be allowed provided that public peace and comfort is not disturbed and the provisions of the last paragraph of Article 50 is adhered to. Provided however that, electioneering through loud speakers shall not be allowed concomitantly with an outdoor or indoor electioneering meeting of another party or independent candidate in such manner as heard in and disturbing the area or building where the indoor or outdoor meeting is held. County election boards shall be authorised to determine the place, time and other conditions of electioneering through loud speakers either on its own initiative or upon request of political parties, by considering the properties of the location. Political parties may, if they wish, utilise municipal public announcement system against charge, according to a program to be established by the county election board.

**Article 57 Distribution of Handouts and Materials for Electioneering Purposes– (Amended by: 8/4/2010-5980/6 md.)** Political parties, independent candidates participating in elections shall be free to hand out to convey information about themselves via brochures, fliers, CD and DVD's including audio visual information and all kinds of printed matter as such. Political parties and candidates are not allowed to distribute any kind of souvenirs, gifts other than the ones defined in this clause or make them distributed by third parties and offices or institutions. Those who distribute the materials defined above shall be over eighteen years old.

**Article 58 Restrictions Regarding Electioneering Publications and Language to be used During Electioneering Activities –**

It is strictly forbidden to print Turkish flag and religious statements on handouts and all kinds of printed matter used for electioneering purposes. (Amended by 2/3/2014-6529/1 art.) Political parties and candidates may conduct all kinds of electioneering activities in Turkish as well as in other languages and dialects other than Turkish.

**Article 59 - Exemption**

(Amended by Law No. 2234 on 17.5.1979) Printed matter in the form of handouts used for electioneering purposes shall be exempted from all kinds of duties and charges from commencement of election until expiration of electioneering period

**Article 62 Distribution Of Printed Materials** - Persons to distribute printed materials in the form of handouts must be eligible to vote. Persons employed as officer or servant in government agencies, administrations with mixed budget, provincial private administrations, municipalities and all offices and establishments affiliated thereto, state economic enterprises and establishments and partnerships as well as in other public organisations thereof shall not be entitled to distribute handouts.

**Article 63 Acts Forbidden During The Period Of Election** - Officers mentioned in Article 62 and associations operating for public benefit as well as officers and employees employed therein shall be obliged to be impartial during elections. Provided that the prohibitive provisions of Law no. 5830 are reserved, the persons specified above shall, during elections, not be entitled to: a) provide grants, donations and assistance to political parties or independent candidates under any name whatsoever; b) have their officers and servants as well as all of their equipment, supplies and facilities used for the benefit and under the order of a political party or an independent candidate or have the same operated in any political activity. Persons specified in the first paragraph and organisations subject to Banks Law shall be prohibited from making any publication in favour of or against a political party or an independent candidate or in a manner to influence the votes of citizens. Also all books, brochures, posters and similar publications printed and published before and having the nature as set forth above shall be subject to these provisions

**Article 64- Restrictions on Ceremonies** During the period elapsing between the date of beginning of electioneering until the day following the election day, it is forbidden to organise ceremonies, deliver speeches, make declarations related to works and services performed from resources of all offices, agencies, organisations and establishments specified in Article 62 as well as institutions subject to Banks Law (including opening and foundation laying ceremonies) and make publications through any and all means with respect to said works and services. (Prohibitions specified in this paragraph shall be limited with the election district for interim elections) (\*)

**ARTICLE 65 Restrictions on The Prime Minister and Ministers** - (Amended Paragraph 1: 3330 - 19.2.1987) During the period elapsing between the date of beginning of electioneering until the day following the election day, the Prime Minister, Ministers and Deputies shall not be entitled to make electioneering tours throughout Turkey with their official vehicles or with vehicles assigned to public service. In their travels for electioneering

purposes, ceremonies for welcoming or seeing off the Prime Minister, Ministers and Deputies or other ceremonies shall not be performed and no official banquet shall be given. During the period specified above, the Prime Minister and Ministers shall be bound by the provisions hereof in their activities and speeches related to elections.

**ARTICLE 66 - Officers Prohibited From Participating In Tours** (Amended by Law No. 3330 on 19.2.1987)  
During the period elapsing between the date of beginning of electioneering until the day following the election day, no government officers shall be entitled to be made by the Prime Minister, Ministers and candidates for electioneering purposes.

Article 5/b of the Law NO: 3376, Law Concerning Referendums on Constitutional Amendments ensures propaganda on Public TV (Turkish Radio and Television/TRT).

Political party groups in the Grand National Assembly of Turkey and President of the Republic shall have a right to explain and promote their views on the referendum starting from the seventh day before the day of the referendum to one day (at 18:00) before the day of the referendum on radio and television according to following principles:

1. Two 10-minute speeches shall be given to the political party groups in the Grand National Assembly of Turkey
2. 10-minute speech time shall be given to the ruling party (In case there is a coalition 10 minutes to each party forming the coalition) additional 10-minute speech time shall be given to the party having the most MP's in the coalition (Ruling party shall deliver its speech after other political parties finish their speeches. If there is a coalition, the last speech shall belong to the party having the most MP's)
3. Two 10-minute speeches shall be given to the President of the Republic (One of these speeches shall be the last speech should the President of the Republic chooses so)

\* There is no regulation regarding the use of social media in referendum campaigns yet the the Supreme Board of Election shall be in charge in case doubt or conflict arises concerning this issue.

## ALBANIA

1. What is the legal basis for referendum in your country?
2. Do you have any other forms of direct democracy except for referendum (e.g. plebiscite)? What is the distinction between different forms of direct democracy in your country?
3. What is the nature of the referendum results?
  - a) Are the referendum results binding directly or other (legal) steps are necessary? (e.g. by the legislative body)
  - b) What is the legal force of the referendum result in your country?

Referring on Constitution of Albania Referendum is regulated as follow,

### REFERENDUM

#### Article 150

1. The people, through 50 thousand citizens, who enjoy the right to vote, have the right to a referendum for the abrogation of a law, as well as to request the President of the Republic to hold a referendum about issues of special importance.
2. The Assembly, upon the proposal of not less than one - fifth of the deputies or the Council of Ministers, can decide that an issue or a draft law of special importance be presented for referendum.
3. Principles and procedures for holding a referendum, as well as its validity, are provided by law.

#### Article 151

1. A law approved by referendum is promulgated by the President of the Republic.



2. Issues related to the territorial integrity of the Republic of Albania, limitations of fundamental human rights and freedoms, budget, taxes, financial obligations of the state, declaration and abrogation of the state of emergency, declaration of war and peace, as well as amnesty, cannot be voted upon in a referendum.

3. A referendum upon the same issue cannot be repeated before 3 years have passed since it was held.

## Article 152

1. The Constitutional Court reviews preliminarily the constitutionality of the issues presented for a referendum according to Article 150, paragraphs 1 and 2, Article 151, paragraphs 2 and 3, as well as Article 177, paragraphs 4 and 5, within 60 days.

2. The importance of special issues, as provided in paragraphs 1 and 2 of article 150, is not subject to adjudication in the Constitutional Court.

3. The date of the referendum is set by the President of the Republic within 45 days after the promulgation of the positive decision of the Constitutional Court or after the term within which the Constitutional Court had to have expressed itself has expired. Referenda can be held only in one day of the year

### 4. How many referendums have been held in your country since 1950? Please, specify:

a) what type of direct democracy was held each time?

*In our country, there are three broad public consultations in total, constitutional referendums in 1994 and 1998, as well as a referendum on the election of the governing system, were held in 1997.*

b) statistic data about each referendum result (or of other form of direct democracy)

c) statistic data about turnout in each referendum (or of other form of direct democracy), how many people voted "Yes" and how many "No"

d) asked questions/topics in each referendum (or in other form of direct democracy)

- Constitutional Referendum of 1994

The vote was attended by 84.30 percent of voters, of whom 53 percent voted against the constitutional draft and 41 percent pro.

- Referendum on the monarchy in 1997

-

The final result determined that 65 voters were pro-republics,

- Constitutional Referendum of 1998

-

The final result was pro-rated votes of 93.5 percent of voters

## LITHUANIA

With regard to the Seimas of the Republic of Lithuania, the answers to the following questions are as follows:

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Under Article 2 of the Law on Referendum<sup>53</sup> citizens who have reached the age of 18 years have the right to participate in the referendum. Citizens, whom the court has recognized as legally incapable, may not participate in a referendum.

<sup>53</sup> Link to the English translation of the Act: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/6d2bc8a09def11e796fec328fe7809de?positionInSearchResults=0&searchModelUUID=993f92dc-0516-433e-9a99-e0deb4dce216>

Displaced voters and voters living abroad are entitled to vote. Displaced voters are entered into electoral rolls according to their stated place of residence.

Out of country voting is conducted by Lithuanian diplomatic missions and consular posts. There are approximately 50 embassies and consular posts where voting commissions are set up in order to conduct voting abroad.

Lithuanian citizens residing or staying temporarily abroad must fill a voter registration application in order to be entered on the electoral roll. This application can be submitted online. A voter must decide whether he/she will choose to vote by post or at a respective diplomatic mission or consular post. Citizens of Lithuania who are staying temporarily or residing in other states are registered in the Vilnius city electoral roll.

Only national referendums are held in Lithuania.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Central Electoral Commission is a permanent supreme state institution for organising and conducting elections and referendums, provided for in the Constitution of the Republic of Lithuania.

According to Article 7 of the Law on the Central Electoral Commission<sup>54</sup> the Seimas sets up the Central Electoral Commission no later than 200 days and no earlier than 140 days after regular or early elections to the Seimas.

The Central Electoral Commission is composed of:

- 1) the Commission Chairman;
- 2) two persons with the university law degree who are nominated by the Minister of Justice and appointed by the Seimas by secret ballot;
- 3) two persons with the university law degree who are nominated by the Lithuanian Bar Association and appointed by the Seimas by secret ballot;
- 4) two persons with the university degree who are nominated by the President of the Republic and appointed by the Seimas by secret ballot;
- 5) the persons nominated by the parties which have received mandates of the Seimas members in the multi-member constituency, where such persons have the university degree and the experience of working in electoral committees.

Upon the recommendation of the Seimas Speaker, the Seimas appoints the Chairman of the Central Electoral Commission by secret ballot.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

The provisions of the Law on Referendum concerning referendum agitation are applied from the day when the referendum agitation campaign starts. Expenses of initiators and opponents of a referendum for referendum agitation and expenses for political advertising incurred prior to the beginning of referendum agitation must be declared in accordance with the procedure laid down by law and may not exceed the maximum permissible amount of expenses related to referendum agitation campaign, as fixed by law.

Under Article 4 of the Law on Funding of, and Control over Funding of, Political Campaigns<sup>55</sup> an election (referendum) campaigning stage begins when an election (referendum) date is announced in accordance with the procedure laid down by the law and end when the statutory period of time, during which election (referendum) campaigning is prohibited, begins. A referendum campaigning stage begins when a citizens' initiative group for a referendum is registered at the Central Electoral Commission or a motion is submitted to the Seimas by a group of Seimas members to call a referendum and ends when a time limit set by the Law on Referendum, during which referendum campaigning is prohibited, begins.

According to Article 8 of the Law on Funding of, and Control over Funding of, Political Campaigns

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<sup>54</sup> Link to the English translation of the Act: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/ea463d10f30311e3a8c1a1dee39661ca?jfwid=rivwzvpvg>

<sup>55</sup> Link to the English translation of the Act: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/93249de2f1a011e5bf4ee4a6d3cdeb874?positionInSearchResults=0&searchModelUUI=D=3990660f-3a3c-440c-a4f9-1f6e9d0466a2>

political campaigns of other independent political campaign participants may be financed from:

- 1) donations of natural persons who under this Law have the right to donate and donations of political parties to candidates, lists of candidates or referendum initiators, or referendum opponents;
- 2) own (personal) funds;
- 3) interest on the funds kept in the political campaign account.

Funds designated to finance political campaign must be kept in the political campaign account. The political campaign account must not be subject to any interim measures.

It is prohibited to finance political campaigns of other independent political campaign participants with other funds which are not specified in this Article.

In order to fund his own political campaign a candidate in a single-member constituency and candidates included in the lists nominated by the public election committees, and referendum initiators may donate a donation which does not exceed the amount of 20 average monthly earnings (AME) or 17 696 EUR (AME in 2017 is 884,8 EUR).

A natural person must declare in accordance with the procedure established by the law his/her assets and income before donating to an independent political campaign participant.

Under Article 13 of the Law on Funding of, and Control over Funding of, Political Campaigns the following persons have the right to make donations to political campaign participants:

- 1) citizens of Lithuania – to independent political campaign participants of all political campaigns;
- 2) permanent residents of Lithuania holding the citizenship of any other EU Member State – to independent political campaign participants of political campaigns of elections to the European Parliament and municipal councils;
- 3) permanent residents of Lithuania who do not hold the citizenship of any other EU Member State or stateless persons – to independent political campaign participants of political campaigns of elections to municipal councils.

Political parties enjoy the right to make donations for political campaigns of candidates, lists of candidates, referendum initiators or referendum opponents.

Cash donations of natural persons that exceed EUR 290 must be donated only by bank transfer. Cash donations of natural persons for the political campaign received not by bank transfer must be transferred by the political campaign treasurer to the political campaign account not later than the next day after receipt of the donation.

**Article 14. Political campaign expenditure and spending limits (Law on Funding of, and Control over Funding of, Political Campaigns)**

1. When a political campaign begins all political campaign expenditure may be paid only from the funds kept in the political campaign account.

2. In those cases where the constituency covers the entire territory of the Republic of Lithuania, the maximum amount of political campaign expenditure of one independent political campaign participant shall be calculated in the following manner: the number of voters entered on the electoral roll of the Republic of Lithuania shall be multiplied by EUR 0.29 and the received product shall be rounded up within the accuracy of the first two significant digits.

3. In those cases where the constituency covers a part of the territory of the Republic of Lithuania, the maximum amount of political campaign expenditure of one independent political campaign participant shall be calculated in the following manner: the number of voters of one constituency shall be multiplied by EUR 0.58 and the received product shall be rounded up within the accuracy of the first two significant digits. If the received product is less than EUR 5 792, the fixed maximum amount of political campaign expenditure shall be EUR 5 792. In elections to municipal councils a political party, which has nominated a list (lists) of candidates, may additionally spend for this political campaign not more than 10 per cent of the maximum amount of political campaign expenditure of the list (lists) of candidates nominated by this party.

4. Expenditure and assumed liabilities of a political campaign participant during a political campaign shall be recognised as political campaign expenditure, where such liabilities and expenditure are designated for:

- 1) production or distribution of political advertising or any other campaigning material through any means of the mass media or in any other public mode;
- 2) remuneration of the political campaign treasurer and performance of his functions;
- 3) payment for the services of a political campaign audit firm or auditors;
- 4) rent of movable or immovable property necessary during the political campaign;
- 5) rent, exploitation of vehicles used for the political campaign;
- 6) communications, meals, provision of accommodation and transport of political campaign volunteers, political party's or candidate's representatives for the election or election (referendum) observers;
- 7) other needs related to the political campaign as prescribed by this Law.

5. Expenditure satisfying the purpose indicated in paragraph 4 of this Article but incurred not during a political campaign, if the property and other assets specified in the said paragraph are intended for the political campaign or if the services are received during the political campaign, shall be recognized as political campaign expenditure. In this case political campaign participants must inform the Central Electoral Commission about this, attaching copies of the documents confirming the expenditure. Where necessary, the Central Electoral Commission may request additional information.

6. The amount of every political campaign participant's expenditure referred to in paragraphs 4 and 5 of this Article may not exceed the maximum amounts of political campaign expenditure set in paragraph 2 or 3 of this Article. In the cases where a run-off voting is conducted under the election law, the maximum amount of political campaign expenditure of a candidate participating in the run-off voting shall be increased by 25 per cent."

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

Under the legal acts national and local government cannot use public resources to campaign on the subject of the referendum being held.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

***Article 17. Conditions and Procedure of the Use of Mass Media (Referendum Law of the Republic of Lithuania)***

1. A right to use the National Radio and Television of Lithuania free of charge shall be extended to the group representatives, Seimas members, President of the Republic, Prime Minister, ministers, parties, public organizations and citizens. The Central Electoral Commission having coordinated with the head of the National Radio and Television of Lithuania shall approve the rules of preparing broadcasts intended for referendum agitation and the actual duration and time of the National Radio and Television of Lithuania broadcasts. It shall also distribute the broadcast time in such a way that the principles of equality of the group and its opponents' representatives would not be violated. The representatives of both the group and its opponents' representatives shall be accorded at least seven hours each of the public (national) radio and television time for holding debates between them.

2. The group shall propose the participants of the radio and television broadcasts, who support the initiative of calling a referendum and the resolution put to a referendum for adoption, and it shall inform the Central Electoral Commission of this. The opponents of the group shall be the representatives of the parties and public organizations and other persons, who do not approve of the initiative of calling a referendum and of the resolution put to a referendum for adoption. They shall inform the Central Electoral Commission of their desire to take part in the debates. The Central Electoral Commission, adhering to the order of priority set forth in paragraph 3 of this Article, shall comprise a list of the persons who will take part in the debates held in radio and television broadcasts intended for referendum agitation.

3. The following order of priority shall be set for the persons in opposition to the group, who participate in the debates held in the radio and television broadcasts: the President of the Republic, Members of the Seimas (their order shall be determined through mutual agreement or by drawing lots); the Prime Minister; the ministers (their order shall be determined through mutual agreement or by drawing lots); the representatives of the parties whose candidates have been elected in multi-member constituency (their order of priority shall be determined through mutual agreement or by drawing lots); the representatives of the parties whose candidates have been elected only in a single-member constituency (their order of priority shall be determined through mutual agreement or by drawing lots); representatives of the parties whose candidates had not been elected

or did not take part in the election to the Seimas, (their order of priority shall be determined through mutual agreement or by drawing lots); the representatives of public organizations (their order of priority shall be determined through mutual agreement or by drawing lots); citizens (their order of priority shall be determined by drawing lots). If some persons, who only support the calling of a referendum and the resolution put to a referendum for adoption or only oppose these, shall take part in the radio and television debates, they shall hold discussions with the broadcast presenter or the broadcast participants invited by him.

4. Only the amount of the special accounts of a referendum shall limit the agitation in commercial mass media. The procedure for marking referendum agitation by specifying the source of funds or that referendum agitation is being announced free of charge shall be set out by the Central Electoral Commission.

5. It shall be prohibited to set up and communicate outdoor political advertising:

- 1) on the buildings occupied by state administration, law-enforcement and other state and municipal institutions and establishments;
- 2) on means of transport and public transport;
- 3) in motorways and their sanitary protection areas, as well as in streets and along the side thereof, if it might block technical traffic regulation means and road signs, decrease visibility thereof, blind traffic participants, detract attention thereof, thus increasing the danger to traffic participants, and also it is prohibited to use advertising that imitates road signs;
- 4) on sculptures and monuments;
- 5) within 50 meters around the building which houses a polling station;
- 6) without permission of the owner of the land, construction works or other structures on or in which it is being set up;
- 7) in the places, which are not approved by a city, regional referendum committee in the manner laid down in paragraph 8 of this Article.

6. Outdoor political advertising on/in protected territories and immovable cultural properties, as well as their territories shall be permitted only upon co-ordination with a state agency responsible for protection of cultural properties and an agency authorized by the founder of the protected territory.

7. In order to communicate political advertising in compliance with the principle of equality of a group and its opponents, each shall be provided with at least one special place within the territory of every referendum district. According to this Law the outdoors political advertising shall be political advertising communicated by means of outdoor advertising. Political advertising communicated in public places, buildings, means of transport shall be regarded as outdoor political advertising. A local authority shall with its own funds make fit places of outdoor political advertising. Outdoor political advertising shall be produced and communicated with the funds of independent participants of political campaign.

8. Places in which outdoor political advertising may be set up and disseminated within the territory of a municipality must be selected and presented for approval to a city, regional referendum committee by the director of the municipal administration not later than 35 days prior to the day of voting. If consents or arrangements specified in paragraphs 5 or 6 of this Article are necessary in order to disseminate outdoor political advertising or they are mandatory according to other laws, their copies shall be submitted together with the recommendation of the director of the municipal administration. If stands, screens or provided places are not suitable for outdoor political advertising or are not made properly fit, the city, regional referendum committee shall request that suitable places be provided or that provided places be made properly fit. An equal area of advertising, indicated by the chairman of the referendum committee of the district, shall be reserved for a group and its opponents in each place designated for outdoor political advertising. Outdoor political advertising shall be communicated by a group, its opponents or persons authorized by them in the areas of advertising provided for them. If outdoor political advertising is communicated in the places, which are not designated for this purpose, the director of the municipal administration must ensure immediate removal of such advertising.

9. Persons who violate the requirements of the procedure for setting up and communicating outdoor political advertising shall be held liable under the law.

10. All disputes concerning the referendum agitation shall be settled by the Central Electoral Commission in compliance with this Law."

Legal acts do not provide any provisions regarding the use of social media in this respect.

## ESTONIA

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Information provided in our reply only covers national referendums.

Pursuant to section 105 of the Constitution of the Republic of Estonia, the Parliament has the right to submit a Bill or other issue of national importance to a referendum.

*§ 105. The Riigikogu has the right to submit a Bill or other issue of national importance to a referendum.*

*The decision of the people is made by a majority of the votes cast in the referendum.*

*A law which is passed by a referendum is promptly promulgated by the President. The decision of the referendum is binding on all public bodies.*

*If a Bill which has been submitted to a referendum fails to receive a majority of the votes cast, the President calls an extraordinary election of the Riigikogu.*

*§ 106. Issues regarding the budget, taxation, financial obligations of the national government, ratification and denunciation of international treaties, the declaration or termination of a state of emergency, or national defence may not be submitted to a referendum.*

*The procedure for holding a referendum is provided in the Referendum Act.*

An Estonian citizen who has attained eighteen years of age by the day of a referendum may participate in the referendum.

Voters shall be registered on the following information entered in the population register: given name and surname; date of birth; personal identification code; information on citizenship; information on divestment of active legal capacity; information on place of residence.

A voter shall vote in the voting district where he or she is entered in the list of voters, except in the cases prescribed in the Referendum Act (advance voting held outside voting district of residence; advance voting held outside voting district of residence at location of voter; voting in custodial institutions, hospitals and twenty-four hour social welfare institutions; home voting; voting in Estonia by voters residing in foreign states; Electronic voting).

On advance voting days, voters may vote outside the voting district of their residence in a voting district designated by the State Electoral Office or by rural municipality or city government. Voting in a foreign state for voters permanently residing in the foreign state and voters temporarily staying there shall be organised by foreign missions of Estonia.

(With regard to participation of rural municipality or city residents in exercise of local government, referendums are not regulated in the Constitution of the Republic of Estonia. Local government may be *inter alia* exercised by means of opinion polls or public initiatives. Additionally, pursuant to Local Government Organisation Act, residents of a rural municipality or city with the right to vote have a right to initiate a bill on certain conditions.)

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The management of referendums is the same as for local elections and general elections.

The function of the National Electoral Committee is to ensure compliance with the principles of a referendum provided for in the Referendum Act, to ascertain the voting results across the whole country, to exercise supervision over the activities of the voting managers, to settle complaints and to perform other functions arising from law.

The National Electoral Committee comprises the following members:

- 1) a judge of a court of first instance appointed by the Chief Justice of the Supreme Court;

- 2) a judge of a court of appeal appointed by the Chief Justice of the Supreme Court;
- 3) an adviser to the Chancellor of Justice appointed by the Chancellor of Justice;
- 4) an official of the State Audit Office appointed by the Auditor General;
- 5) a public prosecutor appointed by the Chief Public Prosecutor;
- 6) an official of the Government Office appointed by the State Secretary.
- 7) an information systems auditor appointed by the management board of the Board of Auditors.

Voting shall be organized by:

- 1) the State Electoral Office (The Electoral Office is situated at the parliamentary chancellery and is holding independent election management duties);
- 2) rural municipality and city secretaries;
- 3) voting district committees;
- 4) vote counting committees.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Referendum campaign expenditure is not regulated.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

There are no relevant regulations. Pursuant to section 10 of the Referendum Act, active campaigning in favour of or against the issue submitted to a referendum or relating to participation in or refusal to participate in the referendum is prohibited on the day of a referendum.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Equal broadcasting time has been regulated by section 6(5) of the Estonian Public Broadcasting Act which stipulates that similarly to local elections, equal opportunities shall be created in the event of referendums.

*(5) The programmes of Public Broadcasting shall be politically balanced. In particular, the political balance requirement shall be adhered to during the period of active election propaganda in the elections of the President of the Republic, the Riigikogu, the European Parliament and local government councils. For such purpose, Public Broadcasting shall give equal opportunities to all the candidates participating in the elections of the President of the Republic, to all the political parties and independent candidates participating in the elections of the Riigikogu and the European Parliament and, taking account of a large number of election coalitions and independent candidates, in the elections of local governments, shall create opportunities for as many powers as possible who participate in the elections and have an integral programme to adequately present their position. Similarly to the elections of local governments, equal opportunities shall be created in the event of referendums. The rules for reflecting elections in the programme services of Public Broadcasting shall be approved by the Public Broadcasting Council and such rules shall be disclosed not later than within a week after the date of announcement of the elections.*

There are no provisions regarding the use of social media.

## PORTUGAL

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Article 1(1) of the [Legal Regime governing Referenda](#) (Law no. 15-A/98 of 3 April 1998) governs the cases and terms for holding national referenda established in Article 115 of the [Constitution of the Portuguese Republic](#). Article 37 of the Legal Regime governing Referenda (LORF) establishes that “electors who are registered on the electoral roll in Portuguese territory may be called upon to pronounce themselves directly by means of referenda” and “when a referendum addresses a matter that also specifically concerns them, citizens who reside abroad and are properly registered on the electoral roll under the provisions of Article 121(2) of the Constitution shall also be called upon to participate”.

We highlight two questions that are relevant to understanding the above-mentioned matter:

- Electors who are registered on the electoral roll in Portuguese territory;

Article 38 of the LORF establishes that citizens of other Portuguese-speaking countries who reside in Portuguese territory and enjoy the special status of equality of political rights under the terms of an international convention shall, subject to conditions of reciprocity, enjoy the right to participate in referenda, on condition that they are registered as electors in Portuguese territory. Article 15(3) of the CRP establishes this, by providing for special treatment for citizens of Portuguese-speaking countries (Brazil and African countries), naturally including a clause on reciprocity, which in practice means that the right to participation is dependent on those countries assigning equal rights to Portuguese citizens that are resident there at the same time.

- When a referendum addresses a matter that also specifically concerns them, citizens who reside abroad and are properly registered on the electoral roll under the provisions of Article 121(2) of the CRP shall also be called upon to participate.

On this point of Portuguese citizens resident abroad, we should look at the stance of the Constitutional Court which, in the first ruling made on the proposed national referendum to decriminalise abortion (Ruling N° 288/98), when carrying out a prior review of the constitutionality and legality of the referendum as well as considering the requirements regarding the scope of electors to be consulted, mentions that “the broadening of the scope of electors to include such citizens is only justified for matters whose legal processing may particularly deal with the interests of Portuguese emigration”.

In the two referenda already held in Portugal, the group of electors called upon to pronounce was restricted to citizens resident and registered in Portuguese territory, and the same happened on the referendum scheduled for 11 February 2007 on the decriminalisation of abortion (See Constitutional Court Ruling no. 617/2006 published in the *Diário da República* 1st Series no. 223 of 20 November 2006).

It should further be noted that the questions may vary if it is a regional referendum under the terms of Article 232(2) of the CRP: “The Legislative Assembly of the autonomous region has the competence to submit draft regional referenda by means of which the President of the Republic may decide to call upon the citizens who are registered to vote in the respective territory to directly and bindingly pronounce on questions that are of important specific interest to the region. The provisions of Article 115 apply to such referenda, mutatis mutandis.”

Local authorities may also submit matters within the competence of their bodies to referendum for the relevant registered electors (Article 240 of the CRP).

In the last two considerations, the scope of registered electors is restricted to the relevant autonomous region or local authority.

## **2. Is there an electoral management body who regulates the conduct of referendum and, if so, who determines its membership?**

Under the terms of Article 41(4) of the LORF, it is the National Election Commission (CNE) that is responsible for overseeing the regular process and registration of groups of registered electors. The CNE is a high-level electoral administration body with competences to regulate and inspect all acts of registration and electoral operations for the elected bodies of sovereignty, the autonomous regions and local government and to the European Parliament, as well as in the scope of referenda. It comprises an associate justice of the Supreme Court of Justice, appointed by the Supreme Judicial Council, who is president; citizens of recognised standing to be appointed by the Assembly of the Republic, included in a list (one appointed by each parliamentary group); one member of technical staff appointed by each of the government departments responsible for internal administration, foreign affairs and the media.

## **3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

Regarding revenue for campaigns, Article 71 of the LORF states that “campaign financing is subject, mutatis mutandis, to the principles and rules governing the financing of campaigns for elections to the Assembly of the Republic, except as regards public subsidies”. Subparagraph 2 of the same article expressly states that groups of registered electors are subject to a regime equivalent to those governing political parties, mutatis mutandis.



As regards campaign expenses, Article 72 of the LORF establishes that the regime governing the campaign expenses of parties and groups of registered electors is the same as that governing expenses in campaigns for elections to the Assembly of the Republic and are met by the party or group of registered electors that have taken on the relevant responsibility.

Accounts are submitted to the National Election Commission by each party or group of electors within a maximum time limit of 90 days after the results have been proclaimed (Article 74 of the LORF), and the NEC considers the legality of the revenue and expenses and their regularity, publishing them in the *Diário da República* (Article 75 of the LORF). If the CNE finds irregularities in the accounts, a time limit of 15 days is granted for them to be corrected. If these irregularities cannot be explained or overcome, they are sent by the National Electoral Commission to the Court of Auditors for the latter to pronounce on them within a time limit of thirty days. The decision of the Court of Auditors is published in the *Diário da República*.

The CNE plays a fundamental role in this process, scrutinising public accounts and ensuring that parties or groups of electors follow a culture of openness and transparency.

#### **4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum held?**

We should consider [Law no. 72-A/2015 of 23 July 2015](#) on this matter, which establishes the legal regime governing journalistic coverage during electoral periods, regulates electoral propaganda through the channels of commercial advertising and revokes [Executive Law no. 85-D/75 of 26 February 1975](#).

Article 10 lays down the following:

Electoral propaganda through the channels of commercial advertising

Article 10  
Commercial advertising

- 1 – From the moment when the decree scheduling the date of the election or referendum onwards, political propaganda made directly or indirectly through channels of commercial advertising is prohibited.
- 2 – Advertisements, identified as such, in periodical publications are exempt from the prohibition laid down in the previous paragraph provided that they are restricted to using the name, symbol and abbreviation of the party, coalition or group of electors and the information referring to the holding of a certain event.
- 3 – Under the same terms as the previous paragraph, advertisements on broadcasting stations and social networks and other internet channels are similarly exempted from the prohibition laid down in paragraph (1).
- 4 – During the period mentioned in paragraph (1), institutional advertising by bodies that belong to the state and the public administration of acts, programmes, works or services is similarly prohibited, except in cases of serious and urgent public necessity.

Looking at paragraphs (1) and (4) of this article together leads us to believe that from the moment of the decree scheduling the referendum, political propaganda and institutional advertising by the bodies that belong to the state and the public administration using commercial advertising channels are prohibited. Nonetheless, this prohibition does not stop information from being disclosed regarding the existence of the referendum, the date and locations of the vote, etc., like that carried out by the CNE.

#### **5. How is ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Within the scope of [Law no. 72-A/2015 of 23 July 2015](#), already mentioned in the previous point, we highlight Article 6, which enshrines the principle of equality of opportunities and treatment of the different candidatures by the media. Therefore, “during the election campaign, media bodies should observe balance, representativity and equality in the treatment of news stories, reports of facts or events of informational value regarding the different candidatures, taking into account their editorial relevance and in accordance with the actual coverage opportunities of each body”.

Debates between candidatures are defined in Article 7 of that law, as follows:

1 – During the electoral period, debates between the candidatures organised by media bodies obey the principle of editorial freedom and autonomy of scheduling, and should take into consideration the political and social representativity of the competing candidatures.

2 – The political and social representativity of the candidatures is ascertained taking into consideration the candidature having achieved representation in the previous elections, regarding the body for which it is running.

3 – The provisions in the previous paragraph do not prejudice the possibility of media bodies including, within the exercise of their editorial freedom, other candidatures in debates that they may organise.

Per Article 9 of the above-mentioned law, representatives of candidatures that consider themselves to have been harmed by the actions of the media may lodge a complaint with the National Election Commission, which refers it to the Media Regulatory Body (ERC) within 48 hours.

There is also a sanctioning regime, laid down in Article 12, for illicit commercial advertising, which may lead to fines of between 15,000 and 75,000 euros.

## DENMARK

### Ad 1)

The answer to the question differs whether the referendum is binding or guiding and national, regional or local.

In order to have the right to vote in a national binding referendum in Denmark, you must have the right to vote in Parliament Elections, and you must be included in the electoral register.

Any person, who has attained the age of 18 years, is a national of Denmark, and resides in Denmark, has the right to vote in Parliament Elections and therefore also national referendums. However, people under guardianship who have been deprived of their legal capacity, do not have the right to vote.

Any person with the right to vote in referendums is included in the electoral register automatically.

As mentioned above, you must reside in Denmark in order to have the right to vote. However, there are some Danish citizens, who retain their right to vote despite living abroad. This could be Danish citizens employed in the Danish state and ordered for service outside of Denmark. This could also be Danish citizens who are temporarily living abroad, e.g. students studying abroad, persons living abroad for health reasons, etc. Accompanying spouses and partners also retain the right to vote. Danish citizens living abroad must send in an application to their last residence municipality in order to be included in the electoral register. In some cases the application is forwarded to the Electoral Board, who decides on whether Danish citizens staying abroad are to be included in the electoral register. As a Danish citizen living temporarily abroad you can be included in the electoral register for up to 8 years.

Guiding referendums can be held at any time. At guiding referendums that are held only in a smaller part of Denmark, e.g. in a region or in a municipality, the persons who have the right to vote can be limited to the persons residing in the area of the part of Denmark, where the referendum is held, e.g. in the region or municipality.

At the moment, there is no legislation regulating binding municipal referendums. However, such legislation will soon be presented to the Parliament.

### Ad 2)

There is no electoral management body, who regulates the conduct of referendums. However, there is an election unit in the Ministry for Economic Affairs and the Interior, headed by a Chief Election Officer. Amongst other things, the election unit manages the issuance of detailed, permanent rules and guidelines for the entire election administration.

### Ad 3)

This is not regulated or controlled. However, it should be noted that political parties who stand for Parliament Elections and lists of candidates who apply for public party grants must submit either their accounts (political parties) or a declaration (lists of candidates), which must contain the amount of expenditure used for political work in the past year.

**Ad 4)**

No.

**Ad 5)**

This is not regulated in the electoral legislation.

**AUSTRIA**

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

The [Austrian Federal Constitution](#) foresees two types of referenda on the federal level:

- The Obligatory Referendum: Art. 44 (3) Federal Constitutional Law stipulates that any total revision of the Federal Constitution shall upon conclusion of the parliamentary process be submitted to a referendum by the federal people.
- The Facultative Referendum:
  - If one third of the Members of the National Council or the Federal Council so demands, any partial revision of the Federal Constitution shall upon conclusion of the parliamentary process be submitted to a referendum by the federal people (Art. 44 (3)).
  - If the National Council so resolves or if the majority of members of the National Council so demands, every enactment of the National Council shall be submitted to a referendum upon conclusion of the procedure pursuant to Art. 42 resp. pursuant to Art. 42a but before its authentication by the Federal President. (Art. 43 Federal Constitutional Law)

The procedure for conducting referendums is governed by its own law, the [Volksabstimmungsgesetz 1972](#) (People's Voting Act 1972 unfortunately only available in German). According to this all men and women are entitled to take part in a referendum, who have the right to vote for the National Council on the day of voting. Accordingly, all Austrian citizens who are at least 16 years old on voting day and who are not excluded from voting rights because of certain judicial convictions are entitled to vote in a referendum.

It's also possible to vote by ballot paper for people who will not be present at the municipality or electoral district where they are registered as a voter or who are in prison on the voting day. They can vote with that ballot paper at another polling station or by postal vote. Austrians living abroad can take part in referendums by postal vote if they are registered in the electoral register of an Austrian municipality on the relevant reference date. The registration is valid for a period of ten years and for all election events, except for the European elections, for which a separate application is required.

So far, there were two referendums in Austria. A facultative referendum on a federal law on the civil use of nuclear power in 1978 and an obligatory referendum on Austria's accession to the EU.

In the Austrian federal provinces there is also the possibility to hold referendums. The regulations differ from each other depending on the state but the regional regulations are quite similar to the regulations on the federal level. In each case, the persons eligible to vote in the provincial parliament are entitled to vote in the referendum.

On the municipal level there is a wide variation of regulations and a comprehensive overview is, unfortunately, lacking.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The municipal election authorities, district electoral authorities, provincial electoral authorities and the Federal Electoral Authority are the referendum authorities that are appointed to carry out the referendum. The relevant provisions of the [Nationalrats-Wahlordnung 1992](#) ([National Council Electoral Code 1992 – NRWÖ](#)), including

the provisions on international election observation (especially § 20a NRW), shall apply correspondingly. Provincial and municipal regulations are, more or less, modelled on the NRW.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

There are no regulations for referendums, only for elections ([§ 4 Parteiengesetz 2012](#), [Political Parties Act 2012](#)). There was a draft bill in 2013 ("[Demokratiepaket 2013](#)") and a discussion about this matter for the case that a popular initiative could lead to an obligatory referendum. But it didn't come into force.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

No.

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

No. It was also discussed in connection with the draft bill in 2013 ("[Demokratiepaket 2013](#)"). But it didn't come into force.

**CYPRUS**

**1. In your country, who has the right to vote on a referendum and how is the registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

Although Referendums are not usually carried out in the Republic of Cyprus, recourse to a national referendum occurred in 2004 for the adoption or rejection of the proposed UN Anan Plan for the settlement of the Cyprus problem. In this regard and although there is a Law regulating the conduct of Referendums in the Republic of Cyprus, (Referendum's law of 1989-2006/1989), for the purpose of the 2004 Referendum, a special law entitled "The practical arrangements and the conduct by the Greek Cypriot community of the referendum of 24 April 2004" (Law of 2004 (74(I)- 2004), was enacted and implemented.

All people above 18 years of age who have been registered as voters on the electoral list are entitled to vote.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The Ministry of Interior of the Republic of Cyprus is the competent authority for the regulation and conduct of referendums. The Minister of Interior appoints a General Commissioner for the Referendum and Assistant Commissioner(s), Commissioners and Assistants for this purpose. They have the overall supervision of the referendum.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

NA –

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

NA –

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

NA –

## GREECE

**1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?**

With regard to referendums, our Constitution provides for two types of referendums, both on national level, in its provisions of article 44 para 2<sup>56</sup>:

(a) The referendum on "crucial national matters", which can be proclaimed by a decree of the President of the Republic, following a resolution voted by an absolute majority of the total number of Members of Parliament, taken upon proposal of the Cabinet

(b) The referendum on "bills passed by *Parliament regulating important social matters*", with the exception of the fiscal ones, which is proclaimed by decree by the President of the Republic, if this is decided by 3/5 of the total number of its members, following a proposal of 2/5 of the total number of its members, and as the Standing Orders and the law for the application of the present paragraph provide.

Law 4023/2011 ("Strengthening direct and participatory democracy by holding a referendum", Government Gazette A'220 / 24.10.2011) sets the conditions for the referendum process. It is a law that specifies and further regulates the procedure for the application of Article 44 (2) and (3) of the Constitution. Pursuant to art. 4 of this law referendums shall be held by direct, universal and secret ballot. All Greek citizens, who are on the general electoral roll and, on the day of the voting, are located within the boundaries of the Hellenic territory have the right to participate. According to article 50 of Presidential Decree No. 26/2012 (Election Code) and article 12 of Law 4023/2011 (Referendum Law), all types of elections are held on one day, on a Sunday from 7 am to 7 pm.

With regard to the electoral roll, it must be noted, that, in general, the persons entitled to vote are all Greek citizens, provided that they are aged over 17 (the age limit used to be 18 years old, but recently, through L.4406/16 this has changed to 17 years old), they are registered in an electoral roll of some municipality or community in Greece and they have not been deprived of their voting rights.

**2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?**

The procedure for referendums, regarding the management of the election procedure, is the same as in the case of national elections. The overall responsibility for the carrying out of the Elections lies with the Ministry of Interior. Pursuant to article 19 of L. 4023/11, the competent Court of First Instance, the next day after the elections, gathers the results and starts ranking them for each constituency. As soon as all results for a single constituency are gathered, the Court of First Instance drafts and issues a table of results, which is signed by the head judge of the Court and a certified copy of it is sent to the Ministry of Interior. Based on the aforementioned tables of results for each constituency the Supreme Elections Committee issues the final table of overall results, which is published, under the responsibility of the Ministry of Interior, in the Government Gazette. The Supreme Elections Committee is based in the Ministry of Interior, it comprises of Supreme Court judges and high-rank officials of the Ministry of Interior, as it is determined by the electoral law.

It must be also noted that, pursuant to article 100 of the Hellenic Constitution, the Special Highest Court is the competent authority to verify of the validity and returns of a referendum held.

**3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?**

<sup>56</sup> Article 44 – Hellenic Constitution

1. [...]

2. *The President of the Republic shall by decree proclaim a referendum on crucial national matters following a resolution voted by an absolute majority of the total number of Members of Parliament, taken upon proposal of the Cabinet.*

*A referendum on Bills passed by Parliament regulating important social matters, with the exception of the fiscal ones shall be proclaimed by decree by the President of the Republic, if this is decided by three-fifths of the total number of its members, following a proposal of two-fifths of the total number of its members, and as the Standing Orders and the law for the application of the present paragraph provide. No more than two proposals to hold a referendum on a Bill can be introduced in the same parliamentary term.*

*Should a Bill be voted, the time-limit stated in article 42 paragraph 1 begins the day the referendum is held.*

Before embarking into the question of how expenditure and donations are regulated, it is worth noting the way in which “sides” are structured during the pre-electoral phase of a referendum. According to article 10 of Law 4023/2011, on the basis of their position on the question or the questions posed to the voters, the political parties, the associations, the trade unions and any other civil society organization can participate in the respective “Support Committee”, informing the Minister of Interior with a statement within three days of the announcement of the referendum. Support Committees appoint their electoral representatives to the country's polling stations, one in each section for each Commission.

Pursuant to art. 6 of the aforementioned law, revenues and expenses during the period from the decision of the Plenum of the Parliament, which accepts the proposal for holding a referendum, until the vote is held, are considered as electoral ones, according to the provisions of Law 3023/2002, which provides for the general rules and structures for controlling the funding of political parties and MPs. Especially for referendums, article 6 provides that no state funding is granted to campaign groups participating in the referendum. There is also a set of prohibitions and limitations regarding funding and any other form of grants or allowances to campaign groups or members of “support committees”:

- An absolute prohibition applies for natural persons who do not have Greek nationality or are owners of media, for legal entities governed by public or private law and for local authorities.
- Funding from the same person may not exceed five thousand (5,000) euros.

The sanctions for breaching the above rules are also provided in the same article, both for the groups involved and for the donors.

**4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?**

As mentioned above, no state funding is granted to campaign groups for referendums and there is an absolute prohibition regarding funding or allowances from legal entities governed by public law or from local authorities. For time restrictions regarding the campaign, please see our answer to question 5, as there is a total campaign ban during the day (always a Saturday) preceding the referendum (which is by law held on a Sunday).

**5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?**

Pursuant to article 9 of L. 4023/2011, broadcast time is allocated to Support Committees (campaign groups) as follows:

During the period from the publication of the Presidential Decree announcing the holding of a referendum, until Friday before voting, public and private radio stations, free-to-air television stations, as well as the operators of subscription and television services of all kinds are required to broadcast messages from those participating in the referendum. The length of time for the transmission of messages is determined by a joint decision of the Minister of the Interior and the Minister responsible for the supervision of the Media, following the opinion of the National Council of Radio and Television. The time available is spread equally among those who favor each of the answers to the question posed. The same decision, subject to the same conditions, determines the time available in the newscasts of the public and private radio and television stations for the presentation of their activity. The transmission of the messages and the presentation of the activity shall be free of charge and shall be free of any fees.

Regarding outdoor advertising space for political messages, the political parties, associations of persons, scientific, professional or trade union organizations, as well as any other civil society organizations involved in holding a referendum, are considered beneficiaries and following their participation in the correspondent support committees, the general rules of the electoral law apply accordingly.

There are no particular rules regarding the use of social media.

<b>SPAIN</b>
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1. Does your Parliament hold follow-up sessions and/or take initiatives on resolutions adopted by PACE? If so, systematically or occasionally?

In general terms, the Spanish parliament does not celebrate monitoring sittings on PACE initiatives or resolutions. Nevertheless, it is MPs that use the PACE working papers for their parliamentary work.

2. Are Assembly resolutions referred to relevant parliamentary committees? If yes, what kind of action is taken by committees?

Resolutions are not remitted to the parliamentary committees, notwithstanding in some occasions they may be sent via the Speaker of the Chamber –as in the case of GRECO reports

3. Does your national parliamentary delegation to PACE systematically draw up reports on the activities of the Assembly? If so, are these reports circulated and discussed in your Parliament?

The Clerk appointed to the Delegation elaborates a report on each one of the plenary sittings with referrals to discussions on every point, with special mention to the speeches of the members of the Delegation. At the same time, the report is made public at the web page of the Congress of Deputies for free access.

4. What other measures are in force in your Parliament in this context?

Prior each plenary sitting, the appointed Clerk elaborates a document to analyze the impact of each text to be discussed in Spain. On the other hand, occasionally notes and reports can be produced on the issues to be treated.

**Appendix 1**

13.02.2018

## **Title: Updating guidelines to ensure fair referendums in Council of Europe member States**

A new cycle of work on referendums has started almost simultaneously at the level of the Parliamentary Assembly of the Council of Europe (PACE) and the Venice Commission.

Ms Cheryl Gillan, British parliamentarian, European Conservatives Group, was appointed Rapporteur on *Updating guidelines to ensure fair referendums in Council of Europe member States* by the Committee on Political Affairs and Democracy of the PACE.

As you will see in the enclosed introductory memorandum, the objective, from the Assembly's point of view, is to provide a political analysis and concrete proposals on the possible need to update existing guidelines on referendums and thus contribute to the revision of the Code of Good Practice on Referendums.

The final product of this work will therefore be a joint venture as was the case back in 2005/2007, with the 2007 Code of Good Practice on Referendums

We have already started cooperation with the Venice Commission and have been able to insert in its questionnaire (appended to the enclosed introductory memorandum) most of the questions that the Rapporteur would like to cover in her report. The Venice Commission is at the moment in the process of completing its study on the basis of the replies it received.

In the meantime, the Rapporteur would like to have some additional questions on referendums covered, which have not been included in the Venice Commission's questionnaire, this is why this questionnaire is being sent to you.

### **Questionnaire**

1. In your country, who has the right to vote on a referendum and how is registration handled? Are displaced voters or the diaspora entitled to vote and, if so, where? Does the answer to the above questions differ depending on whether the referendum is national, regional or local?
2. Is there an electoral management body who regulates the conduct of referendums and, if so, who determines its membership?
3. How is expenditure regulated and controlled during the referendum campaign? Are there any specific provisions regarding donations to campaign groups?
4. Is there a period for national and local government institutions when they cannot use public resources to campaign on the subject of the referendum being held?
5. How is it ensured that neutral or balanced information is readily available on the subject and effects of the referendum? Do all sides have equal broadcasting time and, if so, how is this enforced? Are there any provisions regarding the use of social media in this respect?

**Deadline for receipt of responses: 30 March 2018**

Please send your replies to: Ms Despina Chatzivassiliou  
☎: +33 / 3 88 41 30 75  
Email: [Despina.chatzivassiliou@coe.int](mailto:Despina.chatzivassiliou@coe.int)



13.02.2018

## **Titre : Actualiser les lignes directrices pour garantir des référendums équitables dans les États membres du Conseil de l'Europe**

Un nouveau cycle de travail sur les référendums a commencé quasi simultanément au sein de l'Assemblée parlementaire du Conseil de l'Europe (APCE) et de la Commission de Venise.

Mme Cheryl Gillan, parlementaire britannique, Groupe des conservateurs européens, a été nommée Rapporteuse sur *Actualiser les lignes directrices pour garantir des référendums équitables dans les États membres du Conseil de l'Europe* par la Commission des questions politiques et de la démocratie de l'APCE.

Comme vous pourrez le constater à la lecture de la note introductive ci-jointe, l'objectif, du point de vue de l'Assemblée, est de fournir une analyse politique et des propositions concrètes sur l'éventuelle nécessité d'actualiser les lignes directrices sur les référendums existantes et, ainsi de contribuer à la révision du Code de bonne conduite en matière référendaire.

Ces travaux seront le fruit, une fois encore, d'un partenariat, comme en 2005/2007, avec le Code de bonne conduite en matière référendaire de 2007.

Nous avons déjà démarré une coopération avec la Commission de Venise et avons pu insérer dans le questionnaire de la Commission de Venise (en annexe à la note introductive ci-jointe) la plupart des questions que la Rapporteuse souhaitait aborder dans le cadre de son rapport. La Commission de Venise est actuellement en train de finaliser son étude sur la base des réponses qu'elle a reçues.

Dans l'intervalle, la Rapporteuse souhaite que certaines questions complémentaires qui ne figurent pas dans le questionnaire de la Commission de Venise soient abordées dans son rapport, c'est pourquoi ce questionnaire vous est adressé.

### **Questionnaire**

1. Dans votre pays, qui peut voter lors d'un référendum et quelles sont les modalités d'inscription ? Les électeurs déplacés et la diaspora sont-ils habilités à voter et, si oui, où ? La réponse à cette question dépend-elle du fait que le référendum soit national, régional ou local ?
2. Existe-t-il un organe électoral réglementant la conduite des référendums et si oui, qui décide de sa composition ?
3. De quelle manière les dépenses sont-elles réglementées et contrôlées durant une campagne référendaire ? Y a-t-il des dispositions particulières concernant les dons versés aux collectifs de campagne ?
4. Y a-t-il une période pendant laquelle les autorités nationales et locales ne peuvent pas utiliser les fonds publics pour faire campagne sur l'objet du référendum qui est organisé ?
5. Comment garantir que des informations neutres et objectives soient mises à disposition sur l'objet et les effets du référendum ? Est-ce qu'il y a égalité de temps d'antenne pour toutes les parties et si oui, comment la faire respecter ? Quels sont, à cet égard, les ajustements nécessaires à l'ère des réseaux sociaux ?

**Date limite de réception des réponses : 30 mars 2018**

Veuillez s'il vous plaît envoyer vos réponses à : Mme Despina Chatzivassiliou

☎ : +33 / 3 88 41 30 75

Email: [Despina.chatzivassiliou@coe.int](mailto:Despina.chatzivassiliou@coe.int)