



## Resolution 2538 (2024)<sup>1</sup>

# Promoting the revised Code of Good Practice on Referendums

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2251 \(2019\)](#) “Updating guidelines to ensure fair referendums in Council of Europe member States” in which, taking note that the process of revision of the guidelines had already started, it asked the European Commission for Democracy through Law (Venice Commission) to take into account the increasing use of referendums, the rise of digital media and the changed nature of political campaigning.
2. Through this text, the Assembly wished to provide an input to the work of the Venice Commission, having taken note that, in recent years, the process and/or the fairness of the outcome in a number of national referendums had been questioned and that, in other cases, important innovations had been introduced, the knowledge of which could benefit legislators in all member States.
3. The Venice Commission emphasised the need for referendums to respect the rule of law and, in particular, to comply with the legal system as a whole, especially with the procedural rules on constitutional revision. It also warned against the use of referendums to bypass important constitutional safeguards, such as the requirement for a qualified majority in parliament. As regards the substance of the proposed changes, the Venice Commission was concerned that most of these referendums were aimed at concentrating powers and reducing democratic control by parliament. On that basis, the Venice Commission initiated the process of revision of the Code of Good Practice on Referendums and, in June 2022, it adopted the revised Code of Good Practice on Referendums (“revised code”).
4. The revised code responds to the Assembly’s concerns and takes into account developments with respect to a number of referendums which have been held by Council of Europe member States in recent years.
5. The revised code specifies that it “does not intend to determine whether and under which circumstances recourse to referendums is desirable as such. The answer to this question varies according to the nature of the constitutional system and tradition. It belongs to national constitutional law to establish whether referendums are at all foreseen, what their scope is, and what procedure must be followed to hold them. However, a number of guarantees are necessary to ensure that they genuinely express the wishes of the electorate and do not go against international standards in the field of human rights, democracy and the rule of law.”
6. The revised code includes the “Guidelines on the Holding of Referendums” and an explanatory memorandum, which refers, when necessary, to the various items of the guidelines in order to elaborate on their content and background. The guidelines contain the principles of Europe’s electoral heritage, the conditions for implementing these principles and specific rules.
7. This Resolution is intended to elaborate on those aspects of the guidelines that are specific to referendums. Accordingly, it does not comment on the principles and general rules applicable to both elections and referendums.

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1. *Assembly debate* on 15 April 2024 (9th sitting) (see [Doc. 15940](#), report of Committee on Political Affairs and Democracy, rapporteur: Ms Isabel Meirelles). *Text adopted by the Assembly* on 15 April 2024 (9th sitting).



8. The revised code applies to referendums at the different levels of the State structure (national, regional and local). However, it is mainly focused on national referendums. Its general rules are to be adapted to the reality of local and regional referendums, in conformity with national constitutional traditions.
9. In light of these considerations, the Assembly:
  - 9.1. welcomes the drafting of the revised Code of Good Practice on Referendums and endorses it as adopted;
  - 9.2. decides to disseminate the revised Code of Good Practice on Referendums and recommends it to the parliaments of the Council of Europe member and observer States, as well as to the parliaments enjoying observer or partner for democracy status with the Assembly;
  - 9.3. invites parliaments and other relevant bodies of Council of Europe member States to promote the revised Code of Good Practice on Referendums and to take it into account when revising the relevant national rules or developing best practices;
  - 9.4. encourages parliaments and other relevant bodies of Council of Europe member States to enter into dialogue as to how to improve the existing national rules on referendums;
  - 9.5. invites parliaments of Council of Europe member States to update their rules on referendums on the basis of the revised Code of Good Practice on Referendums;
  - 9.6. invites parliaments of the Council of Europe member States to develop best practices which would improve the legal and institutional environment for referendums;
  - 9.7. invites the political groups in the Assembly to promote the revised Code of Good Practice on Referendums.
10. As regards its own activities, the Assembly resolves to play a greater role in promoting the revised Code of Good Practice on Referendums by:
  - 10.1. encouraging its political groups to enhance discussions on how to improve the legal framework for referendums;
  - 10.2. holding debates on how to develop the legal, including the soft law, environment and best practices relating to referendums;
  - 10.3. stepping up interparliamentary co-operation activities addressing the improvement of the legal framework for referendums;
  - 10.4. creating a Parliamentary Assembly network of election observers, notably to promote the revised Code of Good Practice on Referendums and other Council of Europe standards in electoral matters, in line with the proposal to reinforce electoral activities endorsed by the Assembly in January 2024;
  - 10.5. continuing to review, in co-operation with the Venice Commission, the revised Code of Good Practice on Referendums and the issues raised in it, with a view to developing it further if required.