

Chamber of Local Authorities

40th SESSION Second part

Check against delivery

Strasbourg, France, 15 June 2021

Holding referendums at local level

Presentation by the Rapporteur: Vladimir PREBILIC

Dear members,

I am very pleased to present to you the report on “Holding referendums at local level” which is today for your adoption, including Resolution and Recommendation. This report is meant to be a follow-up on the work of our colleagues from the Parliamentary Assembly who have touched on this very topic some time ago and tasked the Venice Commission to update the existing guidelines last year in light of new developments. Our report aims to complement this with a unique view we can offer from the perspective of locally elected representatives, indeed mindful of the new Congress Priority 6.b on the quality of representative democracy and citizen participation.

As you are aware, referendums at different levels of government have been increasingly used as a tool of direct democratic involvement for resolving issues which are of fundamental importance for peoples’ lives. Often, referendums go hand in hand with controversies due to the potentially divisive nature of their questions and the problems that may occur over the respective referendum campaigns. Although national referendums have lately attracted much attention, it is in fact the local referendums that are most widespread in the Council of Europe member States.

Local referendums are essential for sounding out the citizens' will on concrete issues of local importance that directly affect their everyday lives. Bearing this in mind, effective guidelines are needed for member States to use local referendums responsibly in the framework which is in line with Council of Europe standards, most notably the European Charter of Local Self-Government, as well as with the international standards and best practices.

While local referendums share many general features with referendums held at national level, certain technical aspects of organising referendums can differ, considering that in the local context regulatory frameworks may be less elaborated, supervision less strict and administration less professionalised. This requires adaptation of general rules to the local context, while still respecting the general principles of free and fair elections which are applicable also to referendums.

The report approaches this issue comprehensively from various perspectives, providing an overview of relevant international standards and best practices, and guides the reader through different stages of the referendum process, starting with the referendum campaign and ending with the polling day. In addition, this report addresses issues that are of particular relevance for referendums, also on local level, such as initiation or substantive and formal validity of the local referendum.

Let me now say a few words on the latter issue concerning validity of local referendums. Clearly, one of the often-mentioned drawbacks of referendums is the risk that they can be misused by populist movements to circumvent, by a simple majority and after a misleading campaign, higher ranking laws or principles whose change would normally require more substantial debate and broader consensus. Even more alarming is the possibility that referendums can be held in order to implement policies contrary to the principles of the Council of Europe: democracy, human rights and the rule of law.

Make no mistake, this can happen on the local level as well as on the national one.

Also for this reason, it is essential that local referendums are held in a way that voters are familiar with procedures, being able to understand the referendum question and consequences of their vote. Therefore, referendum questions should be put in concrete terms and clearly, should be neutral and should not be composed of sub-questions on very different matters.

Indeed, it is also relevant here whether local referendums should be held separately from other elections or simultaneously with them. My personal opinion on this matter is that in order for voters to be able to make a perfectly clear decision at the polls, only one race should take place at one time. However, I admit that in many Council of Europe states it is a well-established practice to hold local referendums together with other electoral races to boost voter turnout and achieve more efficiency. Not least, this may be also a question of cost-saving.

Finally, the campaign period is another potential pitfall of referendums mentioned in this report. The campaign should ensure a balance between the different sides and allow voters access to balanced and quality information in order to be able to make an informed choice. Transparency of campaign funding is of course essential. In addition, deliberative methods can be used to deepen voters' understanding and ownership prior to referendums and during the campaign, as well as to address voters' lack of trust and feeling of disconnection from decision-making processes.

This brings me to the Resolution and Recommendation included in this report on which you will vote after my presentation.

The local and regional authorities are encouraged, when holding referendums in their respective areas of responsibility, to observe the guidelines and good practices as contained in the present Explanatory Memorandum, in order to counter some of the negative tendencies.

Both, the local and regional authorities, as well as responsible state authorities are encouraged to implement existing guidelines and good practices regarding

the holding of referendums, in particular as defined by the Venice Commission in the Code of Good Practice in Electoral Matters and in the Revised Guidelines on the Holding of Referendums, when applicable to the local level.

Authorities on all levels are invited to consider making more use of citizens' assemblies and similar deliberative democracy tools, in line with the Charter, to accompany the holding of local referendums in order to alleviate tensions and enhance citizens' informed decisions.

Finally, state authorities are called upon to grant the right to vote in local referendums to foreigners who have been residing legally in their country for a period of five years, by analogy with the provisions on participation in local elections as contained in the Convention on the Participation of Foreigners in Public Life at Local Level.

Dear colleagues, thank you for your attention, I recommend this report for adoption.