



International Foundation  
for Electoral Systems

# **Referendum in Serbia**

## *January 16, 2022 Constitutional Referendum*

Frequently Asked Questions

Europe and Eurasia

International Foundation for Electoral Systems

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## Frequently Asked Questions

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## When is the referendum?

The Republic of Serbia will hold a constitutional referendum on judicial reform on Sunday, January 16, 2022 across the country and in ten designated voting locations abroad. Voting will take place from 7:00 a.m. until 8:00 p.m. in 8,000 voting stations and in 29 medical and detention facilities in designated locations. Regular polling stations will be staffed by roughly 80,000 poll workers, while polling stations in medical and detention facilities and locations abroad will be staffed by roughly 234 poll workers, as required by law.<sup>1</sup>

## Why is this referendum important?

The Government of Serbia is organizing this referendum to adjust the constitutional process by which members of the judiciary are elected: “The adoption of the act amending the constitution aims to ensure greater independence, efficiency and accountability of the judiciary, greater independence and accountability of the public prosecutor's office, better protection of citizens' rights and strengthening the rule of law.”<sup>2</sup> A key change under the new amendments is that senior judiciary members would be elected by a High Judicial Council and a High Prosecutorial Council rather than by parliament, as defined under the current system.

The referendum question will be “Are you in favor of confirming the act on changing the Constitution of the Republic of Serbia?” Voters will be able to respond by circling the words “YES” or “NO.”<sup>3</sup>

In its opinion on the revised draft constitutional amendments, the Council of Europe's European Commission for Democracy Through Law (Venice Commission) found that “most of its key recommendations from the October opinion have been met, most notably the recommendation on the composition of the High Judicial Council.”<sup>4</sup> The Commission also notes that “some other recommendations have not [been met], but [that] there is scope to implement them through legislative changes.” Finally, the Venice Commission noted “the missed opportunity” to implement some of the remaining recommendations and reiterates the importance of such future changes, adequate implementation, and transparency and inclusiveness of the adoption process.

The upcoming referendum will be held under a new, recently passed law on referendum, in which the minimum 50 percent turnout threshold required for a referendum to pass was removed.<sup>5</sup> While the Venice Commission opinion was receptive to most of the changes to the referendum law, it cautioned against changing the legal framework within a limited timeframe ahead of the anticipated referendum.<sup>6</sup>

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<sup>1</sup> Law on the Referendum and the People's Initiative, Article 22.

<sup>2</sup> Website of the Republic Election Commission of Serbia. *Information About the Act*. December 3, 2021. Accessed [here](#).

<sup>3</sup> Law on the Referendum and the People's Initiative, Article 36.

<sup>4</sup> Venice Commission. *Serbia: Urgent Opinion on the Revised Draft Constitutional Amendments on the Judiciary*. November 24, 2021. Accessed [here](#).

<sup>5</sup> Radio Free Europe/Radio Liberty. *Serbian Lawmakers Pass Law Removing Turnout Threshold in Referendums*. November 26, 2021. Accessed [here](#).

<sup>6</sup> Venice Commission. *Serbia: Urgent Opinion on the Revised Draft Law on the Referendum and the People's Initiative*. November 9, 2021. Accessed [here](#).

## Who is eligible to vote and how many registered voters are there?

The Republic Electoral Commission (REC) announced 6,510,233 voters are included in the voter registry for the upcoming referendum.<sup>7</sup> To be eligible to vote is open to any Serbian citizen at least 18 years old on the day of the referendum,<sup>8</sup> who has permanent residence in Serbia, and who is included in the voter register.<sup>9</sup> Elderly and/or incapacitated citizens also have the option of voting from home. Citizens residing abroad are also eligible to vote in the national referendum. According to the REC, at least 100 voters must apply to a given consular posting in order to open a polling station at that location.<sup>10</sup> Serbian citizens residing abroad, if registered, will have the opportunity to vote if they reside in Austria (Vienna), Belgium (Brussels), Italy (Rome), Germany (Munich), Norway (Oslo), Russia (Moscow), North Macedonia (Skopje), France (Strasbourg), Croatia (Vukovar) and Switzerland (Zurich).<sup>11</sup>

## Who is responsible for managing the referendum process?

The Law on the Referendum and People's Initiative empowers the REC to administer the referendum. Under this legal framework, the REC is responsible for the following:

- Taking care of the lawful conduct of the referendum;
- Issuing instructions for the conduct of the referendum;
- Taking care of providing materials for conducting the referendum;
- Prescribing the forms for conducting the referendum;
- Designating voting stations;
- Establishing voting boards;
- Establishing and proclaiming referendum results;
- Performing other tasks specified by this law and the decision on calling a referendum.<sup>12</sup>

Voting boards are responsible for managing the voting process at a voting site, ensuring the regularity and secrecy of voting and establishing the results of voting at voting stations, in accordance with the instructions of the competent commission.<sup>13</sup> Polling board members must be appointed no later than seven days before the referendum, or in this case by January 9.<sup>14</sup> Election administration has also implemented training programs for poll workers prior to the referendum.<sup>15</sup>

## What is the election management body doing to protect voters from COVID-19?

The COVID-19 pandemic has reached a record-breaking number of positive cases in Serbia, as of January 12, 2022. In order to protect voters from infection on Election Day, the REC announced the following measures to prevent the spread of COVID:

- Voting stations will be disinfected and ventilated at least 24 hours before voting day, while restrooms will be equipped with soap, hand towels, and trash cans;

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<sup>7</sup> Official Website of the Republic of Serbia. *The total number of voters in the upcoming referendum has been determined.* January 3, 2022. Accessed [here](#).

<sup>8</sup> Constitution of the Republic of Serbia, Article 37 and 52.

<sup>9</sup> Law on the Referendum and the People's Initiative, Article 3.

<sup>10</sup> Republic Election Commission. *For Determination of Polling Stations in the Procedure of Conducting a National Referendum.* November 29, 2021. Accessed [here](#).

<sup>11</sup> Republic Election Commission. *On Determination of Polling Stations Abroad, for Voting in the Republic Referendum, Announced for January 16, 2022.* December 26, 2021. Accessed [here](#).

<sup>12</sup> Law on the Referendum and the People's Initiative, Article 21.

<sup>13</sup> Law on the Referendum and the People's Initiative, Article 22.

<sup>14</sup> Law on the Referendum and the People's Initiative, Article 22.

<sup>15</sup> IFES interview with election management body.

- Ballot boxes will be kept 1.5 meters apart (though this is already required under voter privacy laws), as will people present at the voting station;
- Voting Board members will wear masks during the voting process and make sure advised distance and adequate queuing is respected;
- Same instructions as above apply for voting outside of the voting station;
- Unlike for the 2020 elections, voting at home is also possible for COVID-positive voters—in this case, a member of the Polling Board will assist with the voting process outside of the voter's building and material used for voting will be disinfected upon returning to the station.<sup>16</sup>

To support compliance with the above measures, the REC has implemented a voter information campaign, which includes the dissemination of informational posters.

### **When will the referendum results be announced?**

Local election management bodies (EMBs) must determine voting results for all polling stations within their jurisdictions by 8:00 p.m. on January 18, 2020, 48 hours from the time polling stations close.<sup>17</sup> The local EMBs have 24 hours, until January 19, to deliver the results to the REC. The REC then has 48 hours, until January 21, to decide the overall referendum results. The results of the referendum will then be published in the *Official Gazette of the Republic of Serbia*.

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<sup>16</sup> Republic Election Commission. *For Conducting Voting in the Republic Referendum Announced for January 16, 2022 in the Conditions of the Epidemic of the Infectious Disease COVID-19*. January 8, 2022. Accessed [here](#).

<sup>17</sup> Law on the Referendum and the People's Initiative, Article 41.

## Resources

- [Constitution of the Republic of Serbia](#)
- [Law on the Referendum and the People's Initiative](#)
- [Republic Electoral Commission Referendum Information](#)
- [Venice Commission Opinion on the Constitutional Amendments on the Judiciary](#)
- [Venice Commission Opinion on the Revised Draft Law on the Referendum and the People's Initiative](#)

## About IFES in Serbia

The International Foundation for Electoral Systems' (IFES) democratic assistance in Serbia began in 1997 with the engagement of a number of key governmental actors and nongovernmental stakeholders to support efforts to reform and strengthen the electoral process. IFES is currently implementing a series of activities focused on supporting the professional development of election administration and anti-corruption oversight bodies in Serbia. Building the capacity of domestic institutions, IFES supports both the Republic Electoral Commission to organize and conduct elections and the Agency for the Prevention of Corruption in Serbia to fulfill its mandate in accordance with the law and international best practices. IFES also is supporting local civil society and media to build their capacity to monitor, report, and advocate on electoral corruption challenges.