



Strasbourg, 27 September 1999

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Avis N° 098/1999

Restricted
CDL (99) 47
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**DRAFT LAW
OF THE REPUBLIC OF ALBANIA
“ON REFERENDA”**

**REPUBLIC OF ALBANIA
THE ASSEMBLY**

DRAFT LAW

No. _____, dated

"ON REFERENDA"

In application of Articles 108, paragraphs 2 and 4, 150, 151, 152, 177, paragraph[s] 4, 5, and 8, 178, paragraph 2, as well as Article 84 of the Constitution, the Assembly of the Republic of Albania, upon the proposal of the Council of Ministers,

DECIDED:

CHAPTER I:

GENERAL PROVISIONS

Article 1

1. The referendum is an institution of direct exercise of the people's sovereignty through voting regarding a defined issue or law.
2. The voting for a referendum is free, equal, and general.
3. The lists, commissions, procedures, and organisation of the voting are regulated by Law ____, No._____, dated _____.
4. The announcement of the voting results of the referendum by the CEC¹ and their publication in the Official Journal (*Fletorja Zyrtare*) is regulated by Law _____, No._____, dated ____.

Article 2

1. No referendum can be held the day of the general or local elections.
2. No constitutional referendum can be held during the time the President of the Republic is in temporary impossibility to exercise his functions or when his position is vacant until the election of the new President, as well as in the case provided in Article 65/3 of the Constitution.
3. No request for general referendum can be filed in the last year of the mandate of the Assembly, as well as no general referendum can be held until six months from the first meeting of the Assembly.
4. No request for local referendum can be filed in the last six months of the mandate of the local government organs, as well as no local referendum can be held until three months from the first meeting of the local councils.
5. The procedure for holding a general referendum is suspended for one year, when it is decided for anticipated elections for the Assembly.

¹ CEC is the acronym for the Central Election Commission, but the draft does not spell it out in this Article.
(Translator's note)

6. The procedure for holding a local referendum is suspended for one year, when it is decided for anticipated elections in that entity of the local government.

Article 3

The ballots for each referendum are made of the same type and colour. When more than one referendum are held in the same day, the ballots for each of them are of different colours. The colour of the ballot shall not serve to influence the voter.

CHAPTER II THE CONSTITUTIONAL REFERENDUM

Article 4

1. The initiative of not less than one fifth of the members of the Assembly for the revision of the Constitution by referendum, based in paragraph 1 and 4 of Article 177 of the Constitution, which is filed with the Assembly, shall contain the text of the draft law on the revision of the Constitution.
2. The Constitutional Court reviews preliminarily the constitutionality of this initiative on the basis of the request with the signatures of not less than one fifth of the members of the Assembly, verified by the General Secretary of the Assembly, in compliance with paragraphs 2 and 3 of Article 151 and paragraph 8 of Article 177 of the Constitution, within 60 days from the submission of the request.
3. The Assembly, on the basis of paragraph[s] 4 of Article 177 of the Constitution, may decide with two thirds of its members to hold a constitutional referendum only after the announcement of a positive decision of the Constitutional Court, or after the expiry of the term within which the Constitutional Court should have had decided.
4. The General Secretary of the Assembly sends immediately to the President of the Republic, and as well files with the CEC verified copies of the Assembly's decision and the text of the draft law to be voted by referendum. The decision of the Assembly, together with the text of the draft law, is published immediately in the Official Journal.
5. The President of the Republic decides the date of the referendum within 60 days from its approval by the Assembly.
6. The Assembly makes possible the publication of the text of the draft law on the revision of the Constitution 30 days before the day of the referendum for 3 consecutive days in the three newspapers of the highest distribution in the country.
7. The ballot for the referendum pursuant to Article 177, paragraph 4 of the Constitution is done on the basis of appendix 1.
8. The draft law on the revision of the Constitution is approved when the majority of the voters have voted in favor, but not less than 1/3 of those who have the right to vote.
9. In this case, the law is promulgated on the basis of paragraph 7 of Article 177 of the Constitution.

Article 5

1. The request for a constitutional referendum based in paragraph 5 of Article 177 of the Constitution is submitted to the President of the Republic within 20 days from the approval by the Assembly of the law on the revision of the Constitution. If there is no request for a

constitutional referendum within this time term, the President of the Republic promulgates the law pursuant to Article 177, paragraph 6 of the Constitution.

2. The request for referendum shall contain the title and number of the law and the date of approval by the Assembly, the signatures of not less than 1/5 of all the members of the Assembly, verified by the General Secretary of the Assembly, as well as the authorization for representation for three of the signatories.
3. The request for referendum is sent to the President of the Republic, and, at the same time, is filed with the Constitutional Court and the Central Election Commission.
A protocol for the filing is kept.
4. The Constitutional Court reviews preliminarily the constitutionality of the request in compliance with paragraph[s] 2 and 3 of Article 151, and paragraph 8 of Article 177 within 60 days from the submission of the request.
5. In case the Constitutional Court decides that the request for the referendum is not in compliance with the Constitution, the President of the Republic promulgates immediately the law on the revision of the Constitution pursuant to Article 177, paragraph 6 of the Constitution. In case of a positive decision or silence of the Constitutional Court, the President of the Republic promulgates the date of the referendum within 45 days from the announcement of the positive decision of the Constitutional Court or the termination of the time term within which the Constitutional Court should have given a decision.
6. The ballot for the constitutional referendum pursuant to Article 117, paragraph 5, is done pursuant to appendix 2.
7. The law on the revision of the Constitution does not enter into force when the majority of the voters have voted against, but not less than 1/3 of those who have the right to vote.
8. In case the majority needed by the above paragraph is not reached, the President of the Republic promulgates the law immediately pursuant to Article 177, paragraph 6 of the Constitution.

Chapter III **THE GENERAL REFERENDUM**

Article 6

1. The initiative for a referendum pursuant to Article 150, paragraph 1 of the Constitution is registered with the Central Election Commission with the request signed by a group of not less than 12 initiators. The request shall contain the title, number and date of approval of the law, that is requested to be repealed, as well as the number of the [O]fficial [J]ournal where it [the law] is published, or a clear formulation of the issue of special importance regarding which it is requested to hold the referendum. The registration is carried out by a protocol, a copy of which is given to the initiators.
2. The Central Election Commission, within 20 days from the registration of the initiative for referendum, provides the initiators, against payment, with the sample-papers for gathering signatures for the referendum. At the head of the sample-paper is typed the request for holding the referendum on repealing the law or for holding the referendum on an issue of special importance phrased clearly, as well as the seal of the Central Election Commission. In the sample-paper, the name, father's name, surname, place of birth, date of birth, place of residence, and the number of the identification document of the signatory are put by the side of the signature. (Appendix 3 and 4).
3. The request for holding a referendum on an issue of special importance, pursuant to Article 150, paragraph 1 of the Constitution, is submitted to the President of the Republic, and, at the same time, is filed with the Central Election Commission. The President of the Republic

may decide to hold the referendum within 30 December of the current year. The President of the Republic may preliminarily request information from the CEC.

4. The request with the signatures of 50.000 voters for a referendum pursuant to Article 150, paragraph 1 of the Constitution is filed with the Central Election Commission by a protocol signed by the chairman (secretary) of the Central Election Commission and three representatives of the referendum supporters, to whom a copy is given. The protocol contains the date of submission of the request, the declaration of the representatives regarding the number of signatories that support holding the referendum and the official address of these representatives.
5. The request for a referendum pursuant to Article 150, paragraph 1 of the Constitution, is filed with the Central Election Commission from 1 January until 30 November of each year, in order for the referendum to be carried out in the next year, except for the cases provided in Article 2.
6. On the basis of this law, the Central Election Commission verifies the request for referendum, and within 45 days, but not later than 15 January of the subsequent year takes the decision for its acceptance or rejection. The decision is communicated to the representatives of the request immediately. The decision for rejection shall define clearly which formal irregularities of the request are the causes of rejection. Within 5 days from the day the decision is taken, but not later than January 20, the initiatory group may communicate to the CEC its goal to correct the irregularities, and for this purpose the Central Election Commission put at [their] disposal another 20 days, but not later than 10 February, and within three days from receiving the improved request, the CEC decides again to accept or reject the request. Within 5 days from the day the CEC decided to reject the request for referendum, the representatives may appeal the decision to the High Court, which decides within 20 days but not later than 10 February.
7. The CEC may decide to join in one the same issues within a request, or join the requests on the same issue, which is immediately communicated to the representatives of the request/requests.

Article 7

1. When the Assembly decides for a referendum according to Article 150, paragraph 2 of the Constitution, the norms and procedures provided in Article 4, paragraph[s] 4 and 6, Article 6 paragraphs 5, 7, 8, 10, 11, 13, and 15 apply by analogy.
2. The ballot for the referendum pursuant to Article 150, paragraph 2 of the Constitution, is done pursuant to appendix 6 or 7, depending on the case.
3. The law approved by referendum is promulgated and enters into force according to Article 151, paragraph 1, and Article 84, paragraph[s] 1 and 3 of the Constitution.

CHAPTER IV THE LOCAL REFERENDUM

Article 8

1. A number of citizens with the right to vote in an entity of the local government, not smaller than 5% of the number of citizens with the right to vote there, have the right to request to hold a local referendum pursuant to Article 108, paragraph 4 of the Constitution, on an important issue of local self-government in that entity of the local government.

2. A number of municipality/commune councils, which represent not less than one third of the population of the region have the right to request the holding of a local referendum regarding important issues of local self-governance in their region.
3. The local referendum on the same issue cannot be repeated in the same entity of the local government before five years have passed.
4. Regarding the local referendum, pursuant to Article 108, paragraph 4 of the Constitution, the norms and procedures provided in Article 4, paragraph 4 and 6, and Article 6, paragraph[s] 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 15 apply by analogy.
5. The sample paper for gathering the signatures for the local referendum pursuant to Article 108, paragraph 4 of the Constitution, is done on the basis of appendix 8.
6. The ballot for the local referendum according to Article 108, paragraph 4 of the Constitution, is done on the basis of appendix 9.