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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**CONSTITUTIONAL PROVISIONS
FOR AMENDING THE CONSTITUTION**

THE NEED FOR REFERENDUMS

**POSSIBILITIES OF ADOPTING AN ENTIRELY NEW CONSTITUTION
INSTEAD OF AMENDING IT**

**THE ROLE OF CONSTITUTIONAL COURTS
IN AMENDING THE CONSTITUTION**

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I. THE NEED FOR REFERENDUMS

1. The Constitution of Albania

“Article 177

...

4. The Assembly may decide, by two-thirds of all its members, that the proposed constitutional amendments be voted on in a referendum. The proposed constitutional amendment becomes effective after ratification by referendum, which takes place not later than 60 days after its approval by the Assembly.

5. An approved constitutional amendment is submitted to referendum when one-fifth of the members of the Assembly request it.

...”

“Article 150

...

3. Principles and procedures for conducting a referendum, and its validity, are provided by law.”

2. The Constitution of the Principality of Andorra

“Article 106

The revision of the Constitution shall require the approval of the Consell General by a majority of two-thirds of the members of the Chamber. Immediately after its approval the proposal shall be submitted to ratification in a referendum.”

3. The Austrian Federal Constitutional Law

“Article 44

...

(3) Any total revision of the Federal Constitution shall upon conclusion of the procedure pursuant to Art. 42 above but before its authentication by the Federal President be submitted to a referendum by the entire nation, whereas any partial revision requires this only if one third of the members of the National Council or the Federal Council so demands.

Article 45.

(1) For a referendum the absolute majority of the validly cast votes is decisive.

(2) The result of a referendum shall be officially announced.”

4. The Constitution of the Republic of Azerbaijan

“Article 3

I. People of Azerbaijan may solve any questions involving their rights and interests by way of referendum.

II. The following questions may be solved only by way of referendum:

1. acceptance of the Constitution of the Azerbaijan Republic and introduction of amendments thereto;

2. change of state borders of the Azerbaijan Republic.”

“Article 152

Changes in the text of the Constitution of the Azerbaijan Republic may be made only by way of referendum.”

5. The Constitution of the Republic of Estonia

“Article 163

The Constitution may be amended by a law which is adopted by:

- 1) referendum;
- 2) two successive memberships of the Riigikogu;
- 3) the Riigikogu, in matters of urgency.

A draft law to amend the Constitution shall be considered during three readings in the Riigikogu, whereby the interval between the first and second readings shall be at least three months, and the interval between the second and third readings shall be at least one month. The manner in which the Constitution is amended shall be decided at the third reading.

Article 164

In order to put a proposed amendment to the Constitution to referendum, the approval of a three-fifths majority of the membership of the Riigikogu shall be mandatory. The referendum shall not be held earlier than three months from the time that such a resolution is adopted in the Riigikogu.

Article 165

In order to amend the Constitution by two successive memberships of the Riigikogu, the draft law to amend the Constitution must receive the support of the majority of the membership of the Riigikogu.

If the next membership of the Riigikogu adopts the draft which received the support of the majority of the previous membership, without amendment, on its first reading and with a three-fifths majority of its membership, the law to amend the Constitution shall be adopted.

Article 166

A proposal to consider a proposed amendment to the Constitution as a matter of urgency shall be adopted by the Riigikogu by a four-fifths majority. In such a case the law to amend the Constitution shall be adopted by a two-thirds majority of the membership of the Riigikogu.

Article 167

The law to amend the Constitution shall be proclaimed by the President of the Republic and it shall enter into force on the date determined by the same law, but not earlier than three months after its proclamation.

An amendment to the Constitution dealing with the same issue may not be re-introduced within one year of the rejection of the respective draft by referendum or by the Riigikogu.”

6. The Constitution of Denmark

“Part X

Should the Folketing pass a Bill for the purposes of a new constitutional provision, and the Government wish to proceed with the matter, writs shall be issued for the election of members of a new Folketing. If the Bill is passed unamended by the Folketing assembling after the election, the Bill shall, within six months after its final passage, be submitted to the electors for approval or rejection by direct voting. Rules for this voting shall be laid down by statute. If a majority of the persons taking part in the voting, and at least 40 per cent of the electorate, have voted in favour of the Bill as passed by the Folketing, and if the Bill receives the Royal Assent, it shall form an integral part of the Constitutional Act.”

7. The French Constitution

“Article 89

The President of the Republic, on the recommendation of the Prime Minister, and Members of Parliament alike shall have the right to initiate amendments to the Constitution.

A Government or a Private Member's Bill to amend the Constitution shall be passed by the two Houses in identical terms. The amendment shall take effect after approval by referendum.

However, a Government Bill to amend the Constitution shall not be submitted to referendum where the President of the Republic decides to submit it to Parliament convened in Congress; the Government Bill to amend the Constitution shall then be approved only if it is passed by a three-fifths majority of the votes cast. The Bureau of the Congress shall be that of the National Assembly. ...”

8. The Constitution of the Republic of Iceland

“Article 79

Proposals to amend or supplement this Constitution may be introduced at a regular as well as an extraordinary session of the Althingi. If the proposal is adopted, the Althingi shall forthwith be dissolved and general elections be held. If the Althingi then passes the resolution unchanged, it shall be confirmed by the President of the Republic and shall thereupon come into force as constitutional law.

If the Althingi adopts an amendment to the status of the Church pursuant to Article 62, the matter shall be submitted by referendum to a vote of all those eligible to vote in the country, for approval or rejection by secret ballot.”

9. The Constitution of Ireland

“Article 46

1. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.

2. Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum.

3. Every such Bill shall be expressed to be “An Act to amend the Constitution”.

4. A Bill containing a proposal or proposals for the amendment of this Constitution shall not contain any other proposal.

5. A Bill containing a proposal for the amendment of this Constitution shall be signed by the President forthwith upon his being satisfied that the provisions of this Article have been complied with in respect thereof and that such proposal has been duly approved by the people in accordance with the provisions of section 1 of Article 47 of this Constitution and shall be duly promulgated by the President as a law.

Article 47

1. Every proposal for an amendment of this Constitution which is submitted by Referendum to the decision of the people shall, for the purpose of Article 46 of this Constitution, be held to have been approved by the people, if, upon having been so submitted, a majority of the votes cast at such Referendum shall have been cast in favour of its enactment into law.

2. 1^o Every proposal, other than a proposal to amend the Constitution, which is submitted by Referendum to the decision of the people shall be held to have been vetoed by the people if a majority of the votes cast at such Referendum shall have been cast against its enactment into law and if the votes so cast against its enactment into law shall have amounted to not less than thirty-three and one-third per cent of the voters on the register....”

10. The Constitution of the Italian Republic

“Article 138

Laws amending the Constitution and other constitutional laws shall be adopted by each House after two successive debates at intervals of not less than three months, and shall be approved by an absolute majority of the members of each House in the second voting.

The said laws are submitted to a popular referendum when, within three months of their publication, such request is made by one fifth of the members of a House or five hundred thousand electors or five region councils. The law submitted to referendum shall not be promulgated if not approved by a majority of valid votes.

A referendum shall not be held if the law has been approved in the second voting by each of the Houses by a majority of two-thirds of the members.”

11. The Constitution of Japan

“Article 96:

1) Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify.

2) Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.”

12. The Constitution of Kazakhstan

“Article 91

1. Amendments and additions to the Constitution of the Republic of Kazakhstan may be introduced only by an all-nation referendum held by the decision of the President of the Republic made on his own initiative, at the recommendation of Parliament or the Government. The draft of amendments and additions to the Constitution shall not be submitted to an all-nation referendum if the President decides to pass it to the consideration of Parliament. In this case, Parliament's decision shall be adopted according to the

procedure established by this Constitution. In case the President of the Republic refuses the proposal of the Parliament on submission of amendments and additions to the Constitution for the consideration of the Republican referendum, the Parliament has the right by majority of not less than four-fifths of votes of the total number of deputies of each Chamber of the Parliament to adopt the law on making of these amendments and additions to the Constitution. In such case the President of the Republic shall sign this law or submit it for the consideration of the Republican referendum which shall be deemed valid if more than half of the Republican citizens, possessing the right to participate in the Republican referendum, take part in it. Amendments and additions to the Constitution, which are submitted for the consideration of the Republican referendum, shall be deemed adopted, if more than half of citizens, taking part in it, vote for it.

2. The unitary status and territorial integrity of the Republic, the forms of government may not be changed.”

13. The Constitution of the Republic of Korea

“Article 128

(1) A proposal to amend the Constitution can be introduced either by a majority of the total members of the National Assembly or by the President.

(2) Amendments to the Constitution for the extension of the term of office of the President or for a change allowing for the re-election of the President are not effective for the President in office at the time of the proposal for such amendments to the Constitution.
...”

“Article 130

(1) The National Assembly decides upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly requires the concurrent vote of two-thirds or more of the total members of the National Assembly.

(2) The proposed amendments to the Constitution are submitted to a national referendum not later than thirty days after passage by the National Assembly, and are confirmed by more than one half of all votes cast by more than one half of voters eligible to vote in elections for members of the National Assembly.

(3) When the proposed amendments to the Constitution receive the concurrence prescribed in Paragraph (2), the amendments to the Constitution is finalized, and the President promulgates it without delay.”

14. The Constitution of Kyrgyzstan

“Article 98

1. The Constitution, new statutory wording of the Constitution or a law amending and supplementing the present Constitution may be adopted by referendum (nationwide vote) called by the President with the consent of the majority of the total number of deputies of the *Jogorku Kenesh*. In such a referendum the Constitution, new statutory wording of the Constitution or a law amending and supplementing the present Constitution shall be deemed adopted if it is voted for by over half of the voters taking part in the ballot, on condition that over half of the voters enrolled on the electoral registers turned out.

...

4. The *Jogorku Kenesh*, taking into account the conclusion of the Constitutional Court, shall adopt a law amending and supplementing the present Constitution no later than 6 months after receiving the conclusion of the Constitutional Court. The text of a draft law amending and supplementing the present Constitution may be amended in the course of its discussion in the *Jogorku Kenesh* on the basis of the conclusion of the Constitutional Court and with the formal

consent of its initiator. A law amending and supplementing the present Constitution shall be adopted by the *Jogorku Kenesh* by a majority of no less than two-thirds of the total number of deputies of the *Jogorku Kenesh* after the holding of no fewer than two readings with an interval of three months between readings. At the demand of the majority of the total number of deputies of the *Jogorku Kenesh* a law amending and supplementing the present Constitution may be put to a referendum.”

15. The Constitution of the Republic of Latvia

“Article 77

If the Saeima has amended the first, second, third, fourth, sixth or seventy-seventh Article of the Constitution, such amendments, in order to come into force as law, shall be submitted to a national referendum.”

“Article 1

Latvia is an independent democratic republic.

Article 2

The sovereign power of the State of Latvia is vested in the people of Latvia.

Article 3

The territory of the State of Latvia, within the borders established by international agreements, consists of Vidzeme, Latgale, Kurzeme and Zemgale.

Article 4

The Latvian language is the official language in the Republic of Latvia. The national flag of Latvia shall be red with a band of white.”

“Article 6

The Saeima shall be elected in general, equal and direct elections, and by secret ballot based on proportional representation.

Article 79

An amendment to the Constitution submitted for national referendum shall be deemed adopted if at least half of the electorate has voted in favour. A draft law, decision regarding membership of Latvia in the European Union or substantial changes in the terms regarding such membership submitted for national referendum shall be deemed adopted if the number of voters is at least half of the number of electors as participated in the previous Saeima election and if the majority has voted in favour of the draft law, membership of Latvia in the European Union or substantial changes in the terms regarding such membership.”

16. The Constitution of the Principality of Liechtenstein

“Art. 112

...

2) Any amendments to or universally binding interpretations of this fundamental law may be proposed either by the Government or by the Diet or through the initiative procedure (Art. 64). These shall require the approval of the Diet, either by the unanimous vote of the

members present or by a majority of three-quarters of the members present at two successive sittings of the Diet, where appropriate a referendum (Art. 66) and in any event the subsequent assent of the Prince Regnant, with the exception of the procedure to abolish the Monarchy (Art. 113).

Art. 113

1) Not less than 1,500 citizens as a minimum requirement have the right to introduce an initiative to abolish the Monarchy. In the event of this proposal being accepted by the People, the Diet shall draw up a new, republican Constitution and submit it to a referendum after one year at the earliest and two years at the latest. The Prince Regnant has the right to submit a new Constitution for the same referendum. The procedure specified in the following therefore replaces the procedure to amend the Constitution laid down in Art. 112 Para. 2.

2) If only one draft has been submitted, an absolute majority is sufficient for its adoption (Art. 66 Para. 4). If two drafts have been submitted, the citizens entitled to vote may choose between them and the existing Constitution. In this case, the citizens have two votes in the first ballot and shall award them to the two alternative Constitutions that they wish to go through to the second ballot. The two alternatives with the most first and second votes shall go through to the second ballot. In the second ballot, which must be held 14 days after the first, the citizens shall each have one vote. The Constitution that obtains an absolute majority is then adopted (Art. 66 Para. 4).”

“Article 66

1) Every law passed by the Diet which it does not declare to be urgent or any financial resolution which it does not declare urgent, if it involves a new non-recurrent expenditure of not less than 300,000 francs or a new annual expenditure of 150,000 francs, shall be submitted to a referendum if the Diet so decides or if not less than 1,000 citizens with the right to vote or not less than three communes submit a petition to that effect, according to the procedure prescribed in Art. 64, within 30 days of the official publication of the resolution of the Diet.¹⁴

2) If the issue affects the Constitution as a whole or in part, the demand for a referendum must be made by not less than 1,500 citizens with the right to vote or by not less than four communes.¹⁵

3) The Diet is authorized to call for a referendum on the adoption of any of the principles embodied in a proposed law.

4) The referendum shall be held by communes; the acceptance or rejection of the resolution on the enactment of the law shall be decided by an absolute majority of the valid votes recorded in the whole of the country.

5) Resolutions on the enactment of laws subject to a referendum shall not be submitted to the Prince Regnant for sanction until the referendum has been held or until the statutory period of thirty days within which a petition for a referendum may be submitted has expired without any such action.

6) If the Diet rejects a bill drawn up in due form and accompanied if necessary by proposals for providing the necessary funds and which has been submitted to it through the procedure of the popular initiative (Art. 64 Para. 1 lit. c), the said bill shall be submitted to a referendum. The acceptance of the bill by the citizens entitled to vote shall then have the same force as a resolution of the Diet otherwise necessary for the adoption of a law.”

17. The Constitution of the Republic of Lithuania

“Article 148

The provision of Article 1 of the Constitution that the State of Lithuania is an independent democratic republic may only be amended by a referendum in which at least three- fourths of the electorate of Lithuania vote in favour thereof.

The provisions of Chapter 1 ("The State of Lithuania") and Chapter 14 ("Amending the Constitution") may be amended only by referendum.”

18. The Constitution of Montenegro

“Article 157

Change of Articles 1, 2, 3, 4, 12, 13, 15, 45 and 157 shall be final if minimum three fifths of all the voters support the change in the national referendum.”

“The State Article 1

Montenegro is an independent and sovereign state, with the republican form of government.

Montenegro is a civil, democratic, ecological and the state of social justice, based on the rule of law.

Sovereignty Article 2

Bearer of sovereignty is the citizen with Montenegrin citizenship.

The citizen shall exercise power directly and through the freely elected representatives.

The power not stemming from the freely expressed will of the citizens in democratic election in accordance with the law, can neither be established nor recognised.

State territory Article 3

The territory of Montenegro is unified and inalienable.

State symbols Article 4

Montenegro shall have a coat of arms, a flag and a national anthem.

The coat of arms of Montenegro shall be the golden double-headed eagle with lion on its chest.

The flag of Montenegro shall be red in color, with the coat of arms in the center and the golden brim.

The national anthem of Montenegro shall be “Oj svijetla majska zoro”.

“Montenegrin citizenship
Article 12

In Montenegro there shall be a Montenegrin citizenship.

Montenegro shall protect the rights and interests of the Montenegrin citizens.

Montenegrin citizen shall not be expelled or extradited to other state, except in accordance with the international obligations of Montenegro.

Language and alphabet
Article 13

The official language in Montenegro shall be Montenegrin.

Cyrillic and Latin alphabet shall be equal.

Serbian, Bosniac, Albanian and Croatian shall also be in the official use.”

“Relations with other states and international organizations
Article 15

Montenegro shall cooperate and develop friendly relations with other states, regional and international organizations, based on the principles and rules of international law.

Montenegro may accede to international organizations.

The Parliament shall decide on the manner of accession to the European Union.

Montenegro shall not enter into a union with another state by which it loses its independence and full international personality.”

“Electoral right
Article 45

The right to elect and stand for elections shall be granted to every citizen of Montenegro of 18 years of age and above with at least a two-year residence in Montenegro.

The electoral right shall be exercised in elections.

The electoral right shall be general and equal.

Elections shall be free and direct, by secret ballot.”

19. The Constitution of the Republic of Poland

“Article 235

...

6. If a bill to amend the Constitution relates to the provisions of Chapters I, II or XII, the subjects specified in para. 1 above may require, within 45 days of the adoption of the bill by the Senate, the holding of a confirmatory referendum. Such subjects shall make application in the matter to the Marshal of the Sejm, who shall order the holding of a referendum within 60 days of the day of receipt of the application. The amendment to the Constitution shall be deemed accepted if the majority of those voting express support for such amendment...”

20. The Constitution of Romania

“Article 150 – Initiative of Revision

(1) Revision of the Constitution may be initiated by the President of Romania on proposal of the Government, by at least one quarter of the number of Deputies or Senators, as well as by at least 500,000 citizens with the right to vote.

(2) The citizens who initiate the revision of the Constitution must belong to at least half the number of the counties in the country, and in each of the respective counties or in the Municipality of Bucharest, at least 20,000 signatures must be recorded in support of this initiative.

“Article 151 – Procedure of Revision

(1) The draft or proposal of revision must be adopted by the Chamber of Deputies and the Senate, by a majority of at least two thirds of the members of each Chamber.

(2) If no agreement can be reached by a mediation procedure, the Chamber of Deputies and the Senate shall decide thereupon, in joint session, by the vote of at least three quarters of the number of Deputies and Senators.

(3) The revision shall be final after approval by a referendum held within thirty days at the most from the date of passing the draft or proposal of revision.”

21. The Constitution of the Russian Federation

”Article 134

Proposals on amendments to and revision of provisions of the Constitution of the Russian Federation may be put forward by the President of the Russian Federation, the Council of the Federation, the State Duma, the Government of the Russian Federation, legislative (representative) bodies of subjects of the Russian Federation as well as by a deputies group of not less than one fifth of the total number of deputies of one of the chambers of the Federal Assembly.

Article 135

1. Provisions of Chapters I, 2 and 9 of the Constitution of the Russian Federation shall be not subject to revision by the Federal Assembly.

2. In case a proposal to change provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation has been supported by three fifth of votes of the total number of deputies of the chambers of the Federal Assembly, in conformity with federal constitutional law the Constitutional Assembly shall be convened.

3. The Constitutional Assembly shall either confirm the immutability of the Constitution of the Russian Federation or elaborate a draft of a new Constitution of the Russian Federation which is adopted by the Constitutional Assembly by a vote of two thirds of the total number of its members or is submitted to a nation-wide vote. In case of a nation-wide vote the Constitution of the Russian Federation shall be considered adopted when approved by a majority of voters casting their votes, provided that more than one half of voters have cast their votes.

Article 136

Amendments to Chapters 3 - 8 of the Constitution of the Russian Federation shall be adopted following the procedure envisaged for the adoption of federal constitutional law and shall come into effect after their approval by the bodies of legislative power of not less than two thirds of the subjects of the Russian Federation.”

22. The Constitution of Serbia

“Article 203 – of the amendment to the Constitution

...

The National Assembly shall be obliged to put forward the act on amending the Constitution in the republic referendum to have it endorsed, in cases when the amendment of the Constitution pertains to the preamble of the Constitution, principles of the Constitution, human and minority rights and freedoms, the system of authority, proclamation the state of war and emergency, derogation from human and minority rights in the state of emergency or war or the proceedings of amending the Constitution.

When the act on amending the Constitution is put forward for endorsement, the citizens shall vote in the referendum within no later than 60 days from the day of adopting the act on amending the Constitution. The amendment to the Constitution shall be adopted if the majority of voters who participated in the referendum voted in favour of the amendment.

The act on amending the Constitution endorsed in the republic referendum shall come into force once promulgated by the National Assembly.

If the National Assembly does not decide to put forward the act on amending the Constitution for endorsement, the amendment of the Constitution shall be adopted by voting in the National Assembly, and the act on amending the Constitution shall come into force once promulgated by the National Assembly.

...”

23. The Constitution of the Republic of Slovenia

“Article 170

Ratification of Constitutional Amendment by Referendum.

Any proposal for the amendment of this Constitution before the National Assembly must be presented to the electorate at a referendum if the same is demanded by no less than thirty of its Deputies.

An amendment shall be deemed to have been carried at such a referendum if a majority of all voters eligible to vote, voted at the referendum and a majority of those voters who were voting voted in favour of same.”

24. The Constitution of Spain

“Article 167

1. Bills on Constitutional amendment must be approved by a majority of three-fifths of the members of each House. If there is no agreement between the Houses, an effort to reach it shall be made by setting up a joint Commission of Deputies and Senators which shall submit a text to be voted on by the Congress and the Senate.

2. If approval is not obtained by means of the procedure outlined in the foregoing clause, and provided that the text has been passed by an absolute majority of the members of the Senate, Congress may pass the amendment by a two-thirds vote in favour.

3. Once the amendment has been passed by the Cortes Generales, it shall be submitted to ratification by referendum, if so requested by one tenth of the members, of either House within fifteen days after its passage.

Article 168

1. If a total revision of the Constitution is proposed, or a partial revision thereof, affecting the Preliminary Title, Chapter Two, Section 1 of Title 1, or Title 11, the principle shall be approved by a two-thirds majority of the members of each House, and the Cortes shall immediately be dissolved.

2. The Houses elected must ratify the decision and proceed to examine the new Constitutional text, which must be approved by a two-thirds majority of the members of both Houses.
3. Once the amendment has been passed by the Cortes Generales, it shall be submitted to ratification by referendum.”

25. The Federal Constitution of the Swiss Confederation

“Art. 140 Mandatory Referendum

- 1 The following shall be submitted to the vote of the People and the Cantons:
 - a. Revisions of the Federal Constitution;
 - b. The entry into organizations for collective security or into supranational communities;
 - c. Federal Statutes declared urgent which have no constitutional basis and whose validity exceeds one year; such Federal Statutes must be submitted to the vote within one year after their adoption by the Federal Parliament.
- 2 The following shall be submitted to the vote of the People:
 - a. Popular initiatives for total revision of the Federal Constitution;
 - b. Popular initiatives for partial revision of the Federal Constitution in the form of a general suggestion which were rejected by the Federal Parliament;
 - c. The question whether a total revision of the Constitution should be carried out if both Chambers disagree. “

“Art. 142 Required Majorities

- 1 Proposals submitted to the vote of the People shall be accepted if the majority of those voting approves them.
- 2 Proposals submitted to the vote of the People and the Cantons shall be accepted if the majority of those voting and the majority of the Cantons approve them.
- 3 The result of a popular vote in a Canton determines the vote of that Canton.
- 4 The Cantons of Obwald, Nidwald, Basle-City, Basle-Land, Appenzell Outer Rhodes and Appenzell Inner Rhodes have each one half of a cantonal vote.”

26. The Constitution of the Republic of Turkey

“Article 175

The constitutional amendment shall be proposed in writing by at least one-third of the total number of members of the Turkish Grand National Assembly. Proposals to amend the Constitution shall be debated twice in the plenary session. The adoption of a proposal for an amendment shall require a three-fifths majority of the total number of members of the Assembly by a secret ballot.

The consideration and adopting of proposals for the amendment of the Constitution shall be subject to the provisions governing the consideration and adoption of legislation, with the exception of the conditions set forth in this article.

The President of the Republic may refer the laws related to the Constitutional amendments for further consideration. If the Assembly adopts the draft law referred by the President by a two-thirds majority, the President may submit the law to referendum.

If a law is adopted by a three-fifths or less than two-thirds majority of the total number of votes of the Assembly and is not referred by the President for further consideration, it will be published in the Official Gazette and shall be submitted to referendum.

A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Turkish Grand National Assembly directly or if referred by the President for further consideration, or its articles as considered necessary may be submitted to a referendum by the President. Laws or related articles of the Constitutional amendment not submitted to referendum shall be promulgated in the Official Gazette.

Laws related to Constitutional amendment which are submitted for referendum shall require the approval of more than half of the valid votes casted.

The Turkish Grand National Assembly, in adopting the laws related to the Constitutional amendment, shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually.”

II. POSSIBILITIES TO ADOPT AN ENTIRELY NEW CONSTITUTION INSTEAD OF AMENDING IT

1. The Austrian Federal Constitutional Law

“Article 44

(3) Any total revision of the Federal Constitution shall upon conclusion of the procedure pursuant to Art. 42 above but before its authentication by the Federal President be submitted to a referendum by the entire nation, whereas any partial revision requires this only if one third of the members of the National Council or the Federal Council so demands.”

2. The Constitution of the Republic of Azerbaijan

“Article 3

I. People of Azerbaijan may solve any questions involving their rights and interests by way of referendum.

II. The following questions may be solved only by way of referendum:

1. acceptance of the Constitution of the Azerbaijan Republic and introduction of amendments thereto;
2. change of state borders of the Azerbaijan Republic.”

3. The Constitution of the Republic of Bulgaria

“Article 158

A Grand National Assembly shall:

1. adopt a new Constitution;
2. resolve on any changes in the territory of the Republic of Bulgaria and ratify any international treaty envisaging such a change.
3. resolve on any changes in the form of state structure or form of government;
4. resolve on any amendment to Art. 5 paras 2 and 4 and Art. 57 paras 1 and 3 of this Constitution;
5. resolve on any amendment to Chapter nine of the Constitution.”

4. The Constitution of Montenegro

“Article 155

The proposal to change the Constitution may be submitted by the President of Montenegro, the Government or minimum 25 Members of the Parliament.

With the Proposal to change the Constitution it may be proposed to change or amend individual provisions of the Constitution or to adopt the new Constitution.

The Proposal to change individual provisions of the Constitution shall contain the indication of the provisions for which change is demanded and the justification.

The Proposal to change the Constitution shall be adopted in the Parliament if two thirds of the total number of Members of the Parliament vote in favour of it.

If the proposal to change the Constitution has not been adopted, the same proposal shall not be repeated prior to the expiry of one year from the day when the proposal was rejected.”

5. The Constitution of the Russian Federation

“Article 135

1. Provisions of Chapters I, 2 and 9 of the Constitution of the Russian Federation shall be not subject to revision by the Federal Assembly.
2. In case a proposal to change provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation has been supported by three fifth of votes of the total number of deputies of the chambers of the Federal Assembly, in conformity with federal constitutional law the Constitutional Assembly shall be convened.
3. The Constitutional Assembly shall either confirm the immutability of the Constitution of the Russian Federation or elaborate a draft of a new Constitution of the Russian Federation which is adopted by the Constitutional Assembly by a vote of two thirds of the total number of its members or is submitted to a nation-wide vote. In case of a nation-wide vote the Constitution of the Russian Federation shall be considered adopted when approved by a majority of voters casting their votes, provided that more than one half of voters have cast their votes.”

6. The Constitution of the Slovak Republic

“Article 84

- (1) The National Council of the Slovak Republic has a quorum, if more than half of all Members of Parliament are present.
- (2) For a valid resolution, the consent of more than half of Members of Parliament present shall be required, save this Constitution provides otherwise.
- (3) In approving an international treaty according to Art. 7 paras. 3 and 4, and in adopting a law returned by the President of the Slovak Republic according to Art. 102 letter o), the consent of the absolute majority of all Members of Parliament shall be required.
- (4) For the purpose of adopting or amending the Constitution, a constitutional law, in approving an international treaty according to Art. 7, para. 2, for the adoption of a resolution on plebiscite on the recall of the President of the Slovak Republic, for bringing a prosecution of the President and for the declaration of war on another state, the consent of a three-fifths majority of all Members of Parliament shall be required.”

7. The Constitution of Spain

”Article 168

1. If a total revision of the Constitution is proposed, or a partial revision thereof, affecting the Preliminary Title, Chapter Two, Section 1 of Title 1, or Title 11, the principle shall be approved by a two-thirds majority of the members of each House, and the Cortes shall immediately be dissolved.
2. The Houses elected must ratify the decision and proceed to examine the new Constitutional text, which must be approved by a two-thirds majority of the members of both Houses.
3. Once the amendment has been passed by the Cortes Generales, it shall be submitted to ratification by referendum.”

8. The Federal Constitutional of the Swiss Confederation

Art. 192 Principle

- 1 The Federal Constitution may be subjected to a total or a partial revision at any time.
- 2 Where the Federal Constitution and implementing legislation do not provide otherwise, the revision shall follow the legislative process.

Art. 193 Total Revision

- 1 A total revision of the Federal Constitution may be proposed by the People or by one of the Chambers, or may be decreed by the Federal Parliament.
- 2 If the initiative emanates from the People or if the Chambers disagree, the People shall decide whether a total revision shall be undertaken.
- 3 Should the People accept a total revision, both Chambers shall be newly elected.
- 4 The mandatory provisions of international law may not be violated.

III. THE ROLE OF CONSTITUTIONAL COURTS IN AMENDING THE CONSTITUTION

1. The Constitution of the Republic of Azerbaijan

“Article 153

If proposals about changes in the text of Constitution of the Azerbaijan Republic are presented by Milli Majlis of the Azerbaijan Republic or the President of the Azerbaijan Republic, then Constitutional Court of the Azerbaijan Republic should give its conclusion beforehand.

Article 154

Constitutional Court of the Azerbaijan Republic shall not take decisions concerning changes in the text of Constitution of the Azerbaijan Republic made by way of referendum.”

2. The Constitution of Kyrgyzstan

“Article 98

1. The Constitution, new statutory wording of the Constitution or a law amending and supplementing the present Constitution may be adopted by referendum (nationwide vote) called by the President with the consent of the majority of the total number of deputies of the *Jogorku Kenesh*. In such a referendum the Constitution, new statutory wording of the Constitution or a law amending and supplementing the present Constitution shall be deemed adopted if it is voted for by over half of the voters taking part in the ballot, on condition that over half of the voters enrolled on the electoral registers turned out.

2. Amendments and supplements to the provisions of chapters three to eight of the present Constitution may be adopted by the *Jogorku Kenesh* at the proposal of the President or of the *Jogorku Kenesh* itself or on the initiative of no fewer than 300,000 voters. Amendments and supplements to the present Constitution adopted by the *Jogorku Kenesh* may be examined in the light of a conclusion of the Constitutional Court.

3. The Constitutional Court shall render its conclusion no later than three months from the date of submission by the *Jogorku Kenesh* to the Constitutional Court of the draft law amending and supplementing the present Constitution.

If the conclusion of the Constitutional Court on the draft law amending and supplementing the present Constitution is negative, the draft law in question shall be returned by the *Jogorku Kenesh* to its initiator. The rejected draft law may be resubmitted to the *Jogorku Kenesh* no earlier than one year later.

4. The *Jogorku Kenesh*, taking into account the conclusion of the Constitutional Court, shall adopt a law amending and supplementing the present Constitution no later than 6 months after receiving the conclusion of the Constitutional Court.

The text of a draft law amending and supplementing the present Constitution may be amended in the course of its discussion in the *Jogorku Kenesh* on the basis of the conclusion of the Constitutional Court and with the formal consent of its initiator.

A law amending and supplementing the present Constitution shall be adopted by the *Jogorku Kenesh* by a majority of no less than two-thirds of the total number of deputies of the *Jogorku Kenesh* after the holding of no fewer than two readings with an interval of three months between readings.

At the demand of the majority of the total number of deputies of the *Jogorku Kenesh* a law amending and supplementing the present Constitution may be put to a referendum.

3. The Constitution of the Republic of Moldova

“Article 141

Initiatives for Constitutional Revision

(1) The revision of the Constitution may be initiated by:

a) at least 200,000 voting citizens of the Republic of Moldova. The citizens initiating the revision of the Constitution must come from at least half of the nation's level 2 administrative and territorial districts, and in each of these districts at least 20,000 signatures must have been registered in support of this initiative;

b) no less than a third of the members of Parliament;

c) the Government.

(2) Constitutional law projects shall be submitted to Parliament on condition that the Constitutional Court issues the appropriate recommendation supported by at least 4 judges.”

4. The Constitution of the Republic of Turkey

“Article 148

The Constitutional Court shall examine the constitutionality in respect of both form and substance of laws, decrees having force of law, and the Rules of Procedure of the Turkish Grand National Assembly. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging the unconstitutionality as to the form or substance of decrees having force of law, issued during a state of emergency, martial law or in time of war.

The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Verification as to the form may be requested by the President of the Republic or by one-fifth of the members of the Turkish Grand National Assembly. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date on which the law was promulgated; nor shall objection be raised.

...”

5. The Constitution of Ukraine

“Article 157

The Constitution of Ukraine shall not be amended, if the amendments foresee the abolition or restriction of human and citizens' rights and freedoms, or if they are oriented toward the liquidation of the independence or violation of the territorial indivisibility of Ukraine.

The Constitution of Ukraine shall not be amended in conditions of martial law or a state of emergency.

Article 158

The draft law on introducing amendments to the Constitution of Ukraine, considered by the Verkhovna Rada of Ukraine and not adopted, may be submitted to the Verkhovna Rada of Ukraine no sooner than one year from the day of the adoption of the decision on this draft law.

Within the term of its authority, the Verkhovna Rada of Ukraine shall not amend twice the same provisions of the Constitution.

Article 159

A draft law on introducing amendments to the Constitution of Ukraine is considered by the Verkhovna Rada of Ukraine upon the availability of an opinion of the Constitutional Court of Ukraine on the conformity of the draft law with the requirements of Articles 157 and 158 of this Constitution.”