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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SERBIA

DRAFT LAW

**ON THE REFERENDUM
AND THE PEOPLE'S INITIATIVE**

AND RATIONALE

DRAFT 02.08.2021.

**LAW
ON THE REFERENDUM AND THE PEOPLE'S INITIATIVE**

I. BASIC PROVISIONS

Object of Law

Article 1.

This law regulates the manner of conducting the referendum and the manner of realizing the people's initiative.

Referendum

Article 2.

A referendum is a form of direct decision-making by citizens on issues determined by the Constitution, law and statute of the autonomous province and local self-government unit, as well as regarding issues within the competence of the National Assembly, the autonomous province assembly and the local self-government unit assembly for which the Assembly decides on its own initiative or at the request of a certain number of voters.

The provisions of this law that refer to the local self-government unit bodies are apply accordingly to the implementation of the referendum and the people's initiative before the bodies of the city municipality.

A referendum may also be called for the purpose of prior declaration, i.e. for the purpose of confirming an act passed by the competent body.

Decision made at the referendum from para. 1 to 3 of this article is valid and obligatory if the majority of voters in the territory for which the referendum was called voted for it.

A referendum can also be called in order to obtain the opinion of citizens on the decision to be made (advisory referendum), and a decision made in an advisory referendum is valid if the majority of voters in the territory for which the referendum was called voted for it.

People's Initiative

Article 3.

At the people's initiative, citizens propose changes to the Constitution, laws, other regulations and general acts within the competence of the National Assembly, i.e. the statute, other regulations and general acts within the competence of the Assembly of the Autonomous Province and the local self-government unit and submit other proposals in accordance with the Constitution and the law, i.e. the statute of the autonomous province and the unit of local self-government.

The right to vote, that is, participate

Article 4.

Citizens who, in accordance with the regulations on elections, have the right to vote and reside in the territory for which the referendum is called, and are registered in the voter list, have the right to vote in the referendum.

If a referendum called for the territory of a local self-government unit or a part of its territory decides on the rights and obligations of citizens – owners of immovable property whose residence is outside that territory, the right to vote also belongs to those citizens, in accordance with election regulations right.

In addition to the citizens from para. 1 and 2 of this Article, the right to vote in a national referendum also belongs to the following:

1) citizens who, starting from the day after calling the referendum, and no later than five days before the day of concluding the voter list, submitted a request for registration in the voter list in order to vote at the upcoming national referendum according to their place of residence abroad, i.e. according to the chosen place of residence.

2) citizens according to the registered residence for internally displaced persons.

Citizens referred to in paragraph 3, item 2) of this Article shall exercise the right to vote in a referendum called for the territory of the autonomous province or local self-government unit, according to the registered residence.

The list of citizens referred to in paragraph 2 of this Article shall be compiled by the municipal or city administration as a entrusted job.

Citizens who have the right to vote in accordance with the regulations on elections have the right to participate in the people's initiative.

The freedom to vote, that is, participate

Article 5.

Citizens are free to vote in the referendum and they are free to decide on their participation in the people's initiative.

No one can hold a citizen accountable for voting or not voting in a referendum, or for participating or not participating in a people's initiative.

The manner of voting, that is, participation

Article 6.

At the referendum, the citizens declare themselves in person and by secret ballot.

Citizens participate in the people's initiative by signing an appropriate proposal.

Signature authentication

Article 7.

The signature is verified by a notary public or at the municipal or city administration, and in cities and municipalities for which notaries public have not been appointed in the basic court, court unit, reception office of the basic court or municipal or city administration.

The amount of the fee for the authentication of signatures is determined by a special act of the ministry in charge of justice, up to the amount of the fee paid for the verification of signatures for conducting elections.

Signature authentication are not subject to signatures given electronically, in accordance with the regulation governing the electronic people's initiative.

Protection of rights

Article 8.

Citizens, and authorized proposers and other authorized subjects have the right to protection from irregularities in the procedure of conducting a referendum and exercising a people's initiative, in accordance with this law.

Personal data on citizens, collected in the process of conducting a referendum and exercising a people's initiative, may not be used for other purposes and enjoys protection in accordance with the law governing the protection of personal data.

No fees are paid for complaints and appeals submitted by citizens and authorized proposers in order to gain protection from irregularities in the procedure of conducting the referendum and realizing the people's initiative.

II. REFERENDUM

Mandatory referendum

Article 9.

The National Assembly, the Assembly of the Autonomous Province and the Assembly of the Local Self-Government Unit are obliged to make a decision on calling a referendum regarding an issue for which the Constitution or law, i.e. the Statute of the Autonomous Province or Local Self-Government Unit stipulates that citizens may decide on it by means of a referendum.

When it is determined that, in the referendum referred to in paragraph 1 of this Article, the citizens vote on the confirmation of the adopted act in the Assembly, the Assembly is obliged to make a decision on calling a referendum simultaneously with the adoption of that act.

If it is determined that the citizens in the referendum referred to in paragraph 1 of this Article determine the draft decision or that the decision of the assembly is preceded by a referendum, the assembly is obliged to make a decision on calling a referendum within 30 days from the decision on the issue referred to in paragraph 1 of this Article.

Referendum at the request of the assembly**Article 10.**

The request for calling a referendum on an issue within the competence of the Assembly may be submitted by a majority of the total number of all members of parliament, ambassadors or councilors.

The National Assembly, the Assembly of the Autonomous Province and the unit of local self-government shall be obliged to call a referendum, within 30 days from the day of the adoption of the request for calling a referendum referred to in paragraph 1 of this Article.

At the referendum referred to in paragraph 1 of this Article, citizens shall previously vote on the issue that should be regulated by an act of the Assembly or vote on the confirmation of the adopted act in the Assembly, before its promulgation.

The decision on calling a referendum shall determine the type of declaration in terms of paragraph 2 of this Article.

Referendum at the request of the voters**Article 11.**

At the request of voters whose minimum number is determined by the Constitution, law or statute of the autonomous province, the National Assembly, i.e. the assembly of the autonomous province and local self-government unit, is obliged to call a referendum within 30 days of adopting the referendum request.

The request referred to in paragraph 1 of this Article shall state whether a referendum is requested for a preliminary statement on the issue to be regulated by an act of the Assembly or whether the adoption of the act, its amendment or repeal is proposed.

The request of voters referred to in paragraph 1 of this Article is considered to be a request supported by the signatures of the required number of voters, which refers to an issue that can be decided in a referendum and is made in accordance with the provisions of this law.

In addition to the conditions from Art. 1 to 3 of this Article, the request for calling a referendum on the territory of an autonomous province, i.e. local self-government unit, should also meet the conditions determined by the statute of the autonomous province, i.e. local self-government unit.

At the referendum referred to in paragraph 1 of this Article, citizens shall previously vote on an issue that should be regulated by an act of the Assembly, i.e. vote on the adoption of an act proposed by the voters or on complete or partial repeal of the act passed by the Assembly.

The attitude of the assembly**Article 12.**

When the National Assembly calls a referendum at the request of at least 100,000 voters, it can determine the position on the issue to be decided in the referendum and inform the citizens about its position on the official website and via the media.

The position of the National Assembly on the issue to be decided on in the referendum shall be adopted at the same time as the decision on calling the referendum.

The Assembly of the Autonomous Province, i.e. the Assembly of a Local Self-Government Unit, also has the right referred to in paragraph 1 of this Article, when it calls a referendum at the request of voters, in accordance with the Statute of the Autonomous Province.

Advisory referendum**Article 13.**

The National Assembly, i.e. the Assembly of the Autonomous Province and the unit of local self-government, may call a referendum on an issue of wider significance within its competence in order to obtain the opinion of citizens on the decision to be made on that issue (advisory referendum).

The Assembly that called the advisory referendum is obliged to make a special statement on the acceptance or non-acceptance of the obtained opinion of the citizens when making the decision.

Decision on calling a referendum**Article 14.**

The decision to call a referendum must contain: an indication of the territory or area for which the referendum is called; the title of the act, i.e. the issue on which the citizens vote in the referendum; the act on which the citizens vote in the referendum and the explanation of that act, i.e. the

explanation of the issue on which the citizens vote in the referendum; the date of the referendum; time of voting in the referendum; and the type of referendum being called.

The decision to call a referendum shall be published in the official gazette of the Republic of Serbia, i.e. in the official gazette of the autonomous province, i.e. the unit of local self-government. The referendum may be held no earlier than 30 and no later than 60 days from the day of calling the referendum.

In the case of calling a referendum on changing the Constitution, the referendum may be held no earlier than 30 days from the day of calling the referendum, and no later than 60 days from the day of adopting the act on changing the Constitution.

The bodies responsible for conducting a referendum

Article 15.

The bodies for conducting the referendum are the competent election commission and the voting board.

The competent election commission for conducting the national referendum is the Republic Election Commission, for conducting the provincial referendum – the provincial election commission, and for conducting the referendum in the local self-government unit – the municipal or city election commission (hereinafter: the competent commission).

When a referendum is called for the territory of the Republic and the Autonomous Province or for their part, the election commission of the local self-government unit (hereinafter: subcommittee) performs the tasks determined by this law.

In the city of Belgrade, the tasks of the subcommittee are performed by the election commissions of the city municipalities.

If there is no election commission in a local self-government unit on the day the decision on calling a republic referendum enters into force, the Republic Election Commission shall form a subcommittee for the territory of that local self-government unit within seven days of the entry into force of the decision on calling a referendum.

The subcommittee formed by the Republic Election Commission has a president, four members and their deputies, who are appointed at the proposal of parliamentary groups in proportion to their representation in the National Assembly on the day the decision to call a referendum enters into force.

When forming the subcommittee, the Republic Election Commission, on the proposal of the head of the administrative district, appoints the secretary and deputy secretary of the subcommittee, who participates in its work without the right to make the decision.

The Republic Election Commission may, by its decision, entrust the sub-commission formed by it with the competence for several neighboring units of local self-government in which there are no local election commissions.

Representative of the authorized proposer in the bodies responsible for conducting a referendum

Article 16.

The person who submitted an application on the basis of which the decision to call a referendum was made (hereinafter: the authorized proposer) may appoint their representatives (member and deputy member) to the bodies for conducting the referendum.

Competent commission

Article 17.

The competent commission performs the following tasks:

- 1) takes care of the legal conduct of the referendum;
 - 2) issues instructions for conducting the referendum;
 - 3) takes care of providing materials for conducting the referendum;
 - 4) prescribes forms for conducting referendums;
 - 5) determines the polling stations;
 - 6) forms voting committees;
 - 7) determines and announces the results of the referendum;
 - 8) performs other tasks determined by this Law and the decision on calling a referendum.
- Subcommittee shall make technical preparations for conducting the republican or provincial referendum, determine polling stations, determine voting results based on received material from

of all polling stations and submit them to the Republic or Provincial Election Commission, and perform other tasks determined by this Law and the decision on calling a referendum.

Notwithstanding paragraph 2 of this Article, when a referendum is called for the territory of the Republic, the Republic Election Commission shall determine the polling stations abroad and in the institutes for the execution of criminal sanctions.

In addition to the tasks referred to in paragraph 1 of this Article, the Republic Election Commission or the Provincial Election Commission shall issue instructions for the work of sub commissions, and coordinate and supervise their work with regard to the application of the provisions of this Law.

Voting committees

Article 18.

Voting committees manage the voting process at polling stations, ensure the regularity and secrecy of voting and determine the results of voting at polling stations, in accordance with the instructions of the competent commission.

The voting board has a president, a deputy president, four members and four deputy members.

The voting board abroad and in the institutes for the execution of criminal sanctions has a president, a deputy president, two members and two deputy members.

The president, deputy president, members and deputy members (hereinafter: members of the voting committee), except for polling stations abroad and in institutes for the execution of criminal sanctions, are appointed on the proposal of parliamentary or councilor groups that are represented in the National Assembly, provincial assembly or assembly of the local self-government unit on the day of the referendum, depending on the territory for which the referendum was called.

When appointing voting committees, care shall be taken to ensure proportional representation of representatives of parliamentary or councilor groups referred to in paragraph 4 of this Article in voting committees that corresponds to their representation in the National Assembly, provincial assembly or local self-government unit assembly.

Proportional representation referred to in paragraph 5 of this Article shall be provided in relation to the total number of seats of members of all voting committees in the territory for which a referendum is called.

Members of the voting board at polling stations abroad and in the institutes for the execution of criminal sanctions shall be appointed in accordance with the law governing the election of members of parliament.

When determining the proposal of candidates for members and deputy members of the voting board, the parliamentary or councilor group should give priority to the person who has been trained by the Republic Election Commission to work in the polling board and who has experience in conducting elections.

Proposals for members of the voting committees shall be submitted to the competent commission no later than ten days before the day set for holding the referendum.

If the parliamentary or councilor group does not submit a proposal for the appointment of a person to the voting board in a timely manner, the competent commission shall appoint a person nominated by the head of the municipal or city administration to the voting board.

Members of the voting committees shall be appointed no later than seven days before the day set for the referendum.

The replacement of a member of the voting board shall be performed by the competent commission at the request of the authorized nominator no later than three days before the day set for holding the referendum.

Exceptionally, the competent commission, i.e. a member of the commission when authorized to do so, may replace a member who cannot be on the voting board due to legal restrictions, at the latest until the opening of the polling station for voting.

Objection against the decision on the appointment of voting boards

Article 19.

Against the decision on the appointment of the voting committee, the submitter of the proposal of the members of the voting committee may file an objection to the competent commission within 24 hours from the announcement of the decision.

The deadline for filing an objection due to failure to make a decision on the proposal for the appointment of a member, i.e. deputy member of the voting board within the legally prescribed deadline, starts from the moment when the deadline in which the competent commission was obliged to make and publish a decision.

Polling stations

Article 20.

Polling stations are determined and regulated in accordance with the law governing polling stations for the election of members of parliament.

The act on announcing the referendum and the text of the act, i.e. the issue to be decided on in the referendum, must be displayed at the polling station.

Records of citizens with the right to vote

Article 21.

Lists of citizens with the right to vote are used for voting in the referendum, as well as lists of citizens who own real property when it comes to the referendum referred to in Article 4, paragraph 2 of this Law, pursuant to the law governing the voter list.

In case of conducting a referendum referred to in Article 4, paragraph 2 of this Law, the local self-government unit shall submit, no later than five days before the day of concluding the voter list, data on citizens who own real estate in the area for which a referendum is called, on the prescribed form in electronic format determined by the regulation governing the electronic people's initiative.

Day and time of the referendum

Article 22.

The referendum is held during one day, as a rule on Sundays.

The duration of voting in a referendum is determined in such a way as to enable all citizens who have the right to vote in a referendum to vote.

Voting ends at the end of the time set for voting, and citizens who happened to be at the polling station at the time of its closing are allowed to vote.

If all citizens who are listed in the register of citizens with the right to vote voted at the polling station, the voting is concluded even before the expiration of the time set for voting.

Notification and referendum campaign

Article 23.

The Government is obliged, within eight days from the day of calling the national referendum, to adopt an act providing citizens with objective information on the issue, i.e. on the act to be decided on in the referendum, and to publish it on the official website, in the media, especially in the national and the provincial media public service and, and deliver it to the citizens at the address of residence.

In the case of calling a provincial referendum, the duty referred to in paragraph 1 of this Article shall be held by the provincial government, and in the case of a referendum in a local self-government unit, the municipal or city council shall have that duty.

Information from para. 1 and 2 of this Article should faithfully and equally reflect the views of the parties advocating different answers to the referendum question, and be available in all languages in official use in the area for which the referendum is called.

The media are obliged to provide equal access to the parties that advocate different answers to the referendum question, as well as to provide equal and correct reporting.

The concept of a referendum campaign

Article 24.

A referendum campaign is a set of activities starting from the day of calling a referendum and ending on the day of the referendum, for the purpose of publicly presenting referendum proposals and inviting voters to vote in favor of or against the proposed decision subject to the referendum, which includes: organizing and holding meetings; promotion, production and distribution of advertising material, brochures, leaflets and publications; advertising; public opinion research, media, marketing, PR and consulting services as well as other similar organized activities.

In order to conduct a referendum campaign, voters may not be promised or given any material resources from private or public sources, nor may any kind of intangible assistance be promised. For the purposes of this Law, the performance of tasks within the competence of state and other bodies determined by this Law shall not be considered a referendum campaign.

Organizer of the referendum campaign

Article 25.

The organizer of the referendum campaign can be any domestic legal entity or group of citizens, formed in accordance with the regulations governing elections of members of parliament.

Method of financing the referendum campaign

Article 26.

To finance the costs of the referendum campaign, the campaign organizer may use its own funds, as well as collect and use funds from other private sources.

The rules on financing the election campaign in accordance with the law governing the financing of political activities shall apply accordingly to the collection of funds referred to in paragraph 1 of this Article and the use of own funds.

It is forbidden to finance the costs of the referendum campaign from: foreign countries; foreign natural and legal persons, international political associations; anonymous donors; public institutions, public enterprises, companies and entrepreneurs providing services of general interest; institutions and companies with the participation of state capital; other natural and legal persons exercising public authority; unions; churches and religious communities; gambling organizers; endowments or foundations; importers, exporters and producers of excise products; legal entities and entrepreneurs who have due and outstanding liabilities based on public revenues.

It is prohibited to finance the costs of the referendum campaign with funds obtained from public sources that political subjects receive for financing regular work or election campaign costs.

For the implementation of activities within the referendum campaign, public officials, civil servants as well as employees in the autonomous province and local self-government unit are prohibited from using the budget funds at their disposal for the performance of their official duties.

The organizers of the referendum campaign are prohibited from using public resources during the campaign, including official premises, vehicles, web presentations and inventory of state, provincial and local authorities, public institutions and public companies, except for those public officials who use public resources to protect personal safety, if such use of public resources is regulated by regulations in that area or by a decision of the services that take care of the safety of officials.

The organizer of the referendum campaign may use for the campaign the premises and services of bodies of the Republic of Serbia, autonomous provinces and units of local self-government, as well as other organizations of which they are the founders, if those premises and services are available under equal conditions to all organizers of the referendum campaign, based on publicly available decisions of those bodies and organizations.

Referendum campaign costs

Article 27.

The costs of the referendum campaign are the costs of carrying out all activities referred to in Article 24, paragraph 1 of this Law.

The funds collected to finance the costs of the referendum campaign may be used only for the activities referred to in paragraph 1 of this Article.

Regulations and rules governing the conduct of the media in the election campaign apply to any advertising in the media.

Special account for financing the referendum campaign

Article 28.

For the purpose of raising funds for financing the referendum campaign referred to in Article 26, paragraph 1 of this Law, the organizer of the referendum campaign shall open a special account that cannot be used for other purposes.

All funds intended for the financing of the referendum campaign shall be paid into the account referred to in paragraph 1 of this Article and all payments of the costs of the referendum campaign shall be made from that account.

Report on the costs of the referendum campaign

Article 29.

The organizer of the referendum campaign is obliged to submit a report on the costs of the referendum campaign to the agency responsible for the prevention of corruption (hereinafter: the Agency), within 30 days from the day of publishing the final results of the referendum.

The report on the costs of the referendum campaign is published on the Agency's website.

The content of the report on the costs of the referendum campaign is regulated in detail by the Director of the Agency.

In exercising control over the report on the costs of the referendum campaign, the Agency has obligations and powers provided by the law governing the financing of political activities.

Authorized person

Article 30.

The appropriate decision of the organizer of the referendum campaign must determine the authorized person who is responsible for the use of funds for financing the referendum campaign, submission of reports and contact with the Agency.

A group of citizens shall designate an authorized person referred to in paragraph 1 of this Article by an agreement on their education.

Within three days from the day of opening the account for financing the referendum campaign, the organizer of the referendum campaign is obliged to submit to the Agency the data on the person referred to in paragraph 1 of this Article.

The organizer of the referendum campaign is obliged to, in case of any change of the authorized person, inform the Agency about the change within three days from the change.

Appropriate implementation

Article 31.

The provisions of this law governing the referendum campaign shall apply accordingly to the organization of the campaign in support of the people's initiative.

The provisions of the law governing the financing of political activities shall apply accordingly to issues not regulated by this Law, which concern the referendum campaign.

Public access to the referendum procedure

Article 32.

Conducting the referendum and the work the bodies do for conducting the referendum may be monitored by domestic and foreign observers, in accordance with the regulations governing the monitoring of elections for members of parliament.

Referendum question

Article 33.

The question on which the citizens vote in the referendum must be expressed clearly and unambiguously, so that it can be answered with the word "for" or "against," or the word "yes" or "no," and must not be expressed in such a way as to give priority or suggests one of the possible answers.

Ballot paper

Article 34.

The ballot paper for voting in the referendum contains: the name of the body that called the referendum, the day of the referendum, the question on which the citizens should vote in the referendum, the words "for" and "against," i.e. "yes" and "no" printed next to each other, instructions on the manner of voting and the imprint of the seal of the body that called the referendum.

The ballots are prepared by the competent commission for conducting the referendum, and are printed in one place and under the control of three persons determined by the competent commission.

Ballots and other material for voting at the republic referendum are printed by the Public Company "Official Gazette".

Voting

Article 35.

Citizens who are registered in the register of citizens with the right to vote at the polling station by circling one of the possible answers on the ballot.

Citizens who are not able to vote at the polling station, i.e. to vote themselves, exercise their voting right by applying the regulations governing elections for members of parliament.

During the voting referred to in paragraph 2 of this Article, all conditions for free expression of voters and publicity of the referendum procedure must be provided, in accordance with this Law.

Voting in special situations

Article 36.

When, due to a natural disaster, epidemic or other reasons, voting at certain polling stations cannot be conducted according to the rules of this law without endangering the safety and health of voters, the competent commission, after obtaining an opinion from the competent state bodies, shall prescribe special rules, form voting committees, hand over the voting material and conduct voting at those polling stations.

In no case may the competent commission form a voting committee with less than three members, nor may it deviate from the rules prescribed for the election of members of parliament, concerning: determining the correctness and completeness of election material, actions to take when election material is incomplete or incorrect, regulating the polling station, checking the correctness of the ballot box, voting at the polling station, instructing voters, special guarantees of secrecy of voting and maintaining order at the polling station.

Determining the voting results

Article 37.

After the voting is finished, the voting board determines the results of voting at the polling station itself.

If the result of the voting cannot be determined at the polling station without endangering the safety and health of the members of the voting board and the safety of the voting material, the competent commission may prescribe moving the voting material to another place and determining the voting result there.

When moving the voting material, the voting board is obliged to seal the ballot box, unused ballots and an excerpt from the voter list.

An invalid ballot is one on which both possible answers are circled, or neither of the possible answers, or which is filled in such a way that it is not possible to determine with certainty how the citizen voted.

The following shall be entered in the record drawn up by the voting board: the date and place of the voting; polling station; a proposal put to a referendum; personal names of voting board members; number of citizens with the right to vote at the polling station; the number of citizens who voted; the number of received, unused and invalid ballots and the number of votes cast for each of the possible answers.

The competent commission may prescribe other facts of importance for the course of voting and determining the results of voting, which shall be entered in the record of the work of the voting board.

The record shall be signed by all members of the polling station committee and submitted, together with other materials from the voting, to the election commission of the local self-government unit or subcommittee, within 12 hours from the closing of the polling station.

Determining and publishing the results of the referendum and storage of voting material

Article 38.

The election commission of the local self-government unit determines the results of the referendum within 48 hours from the closing of the polling stations, and when it acts as a subcommittee, it submits them to the competent commission, within 24 hours from the time of determining the referendum results.

In case of conducting a republican or provincial referendum, the competent commission shall determine the overall results of the conducted referendum within 48 hours from the receipt of all results determined by the subcommittee.

In the event of a referendum in a local self-government unit, the election commission of the local self-government unit shall determine the overall results of the referendum, within 48 hours of the closing of the polling stations.

The result of the referendum is announced in the same way as the decision to call a referendum. Ballots and excerpts from the voter list are kept for one year from the day of publishing the overall report on the results of the referendum.

Other voting material and documentation related to the conduct of the referendum shall be kept in accordance with the regulations governing the keeping of archives and documentary material.

Implementing the decision

Article 39.

If the citizens made a decision to confirm the act in a referendum, that act is considered adopted on the day of the referendum and is proclaimed in accordance with the Constitution and the law, i.e. in accordance with the statute of the autonomous province or local self-government unit, and if the citizens did not confirm the act in the referendum, it is considered that the act was not passed.

The manner determined in paragraph 1 of this Article shall also be followed when the act whose adoption was proposed by the request of the voters was adopted at the referendum.

When the citizens have previously voted on a certain issue at the referendum, the body that issues the act regulating that issue is obliged to pass it in accordance with the results of the referendum within 60 days from the day of the referendum.

When the citizens voted in a referendum to amend or repeal the act passed by the Assembly, the Assembly is obliged to adopt an appropriate act on the basis of the conducted referendum no later than 60 days from the day of the referendum.

The provision of paragraph 4 of this Article does not refer to the procedure of confirming the change of the Constitution.

Obligation of the decision

Article 40.

The National Assembly, i.e. the Assembly of the Autonomous Province or the Assembly of a Local Self-Government Unit, may adopt an act contrary to the decision made in a referendum or amend its essence only after the expiration of one year from the day of the referendum, with the obligation to repeat the referendum.

The obligation of the decision referred to in paragraph 1 of this Article does not exist in the case of conducting an advisory referendum.

Recalling of the referendum

Article 41.

If the citizens did not confirm the act by referendum, i.e. did not vote for the issue that was the subject of the declaration, that act, i.e. the issue cannot be decided again in a referendum within less than a year from the day of voting in the referendum.

Financing the implementation of the referendum

Article 42.

Financial resources for the implementation of the national referendum are provided from the national budget, and for the implementation of the provincial referendum or the referendum in the local self-government unit from the provincial budget, i.e. the budget of the local self-government unit.

2. Republic Referendum

Object to be decided on

Article 43.

The National Assembly is calling a referendum for the territory of the Republic of Serbia when the citizens should decide:

1) on an issue which is determined by the Constitution;

- 2) on an issue within the competence of the National Assembly at the request of a majority of all members of parliament;
- 3) an issue within the competence of the National Assembly at the request of at least 100,000 voters.

Referendum on changing the Constitution

Article 44.

In the event that the National Assembly, according to the Constitution, is obliged to put the act amending the Constitution to a republic referendum for confirmation, the National Assembly shall make a decision on calling a referendum to confirm that act.

In the event that the Constitution does not provide for the obligation to confirm an act amending the Constitution in a republic referendum, the National Assembly may make a decision to call a referendum in order to confirm that act.

Issues on which a referendum cannot be called

Article 45.

The subject of a referendum on an issue regulated by law may not be inconsistent with the Constitution, generally accepted rules of international law and ratified international treaties, nor may it reduce the achieved level of human and minority rights nor jeopardize the principles of civil democracy and rule of law.

The subject of a referendum on which an issue is decided which is regulated by an act of lower legal force than the law, must be in accordance with the Constitution and the law.

Referendum in a certain part of the territory

Article 46.

The National Assembly may also call a referendum for a part of the territory of the Republic of Serbia if the issue to be decided refers exclusively to that part of the territory.

At the republic referendum, which was announced for a part of the territory of the Republic of Serbia, only citizens with permanent residence and internally displaced persons according to the registered residence, in that part of the territory, can vote.

A republic referendum for a part of the territory of the Republic of Serbia may be called in order to obtain the opinion of citizens on the decision which is to be made in connection with that issue, and it must be called before making a decision on establishing, abolishing or changing the territory of an autonomous province or local self-government unit.

Republic referendum at the request of voters

Article 47.

When at least 100,000 voters submit a request for calling a referendum, the Speaker of the National Assembly shall submit that request to the deputies, the Government and the competent working bodies of the National Assembly.

According to the opinion of the competent working bodies of the National Assembly, the Speaker of the National Assembly is obliged to include the request for calling a referendum in the draft agenda of the National Assembly session.

Application procedure and decision making

Article 48.

The request for calling a referendum is submitted in writing, with an explanation.

The competent committee of the National Assembly shall determine whether the request referred to in paragraph 1 of this Article was submitted by the proposer authorized by the Constitution and in the prescribed form, as well as whether the case falls within the competence of the National Assembly and whether it relates to issues covered by Article 45 of this Law, which prescribes what cannot be the subject of a referendum.

A representative of the applicant is invited to the session of the competent committee.

If the representative referred to in paragraph 3 of this Article has not been appointed, the first signed Member of Parliament, i.e. the voter, shall be invited to the session of the competent committee.

If it is determined that the prescribed conditions for acting upon the request have been met, the competent committee shall submit to the National Assembly a proposal for a decision on calling

a referendum, and if it determines that the prescribed conditions for acting upon the request have not been met, the competent committee shall leave a 15-day additional deadline.

If the applicant does not eliminate the deficiencies within the deadline referred to in paragraph 5 of this Article, the National Assembly shall issue a decision rejecting the request.

The National Assembly shall consider the request referred to in paragraph 5 of this Article no later than six months from the day of submission.

After the end of the debate, the National Assembly decides on calling a referendum.

The procedure for calling a referendum in the event of a change in the Constitution is regulated in more detail by the Rules of Procedure of the National Assembly.

If the National Assembly rejects the request to call a referendum at the request of voters, for the reasons stated in paragraph 2 of this Article, the applicant may file a lawsuit with the Administrative Court if he considers that the Assembly acted incorrectly in deciding on the request of voters to call a referendum.

The lawsuit shall be filed within eight days from the day of receiving the decision on the decision of the Assembly or from the day the deadline for decision-making expires.

The Administrative Court decides on the lawsuit within 15 days from the day of receipt of the lawsuit and its decision on the lawsuit is final.

3. Provincial referendum and referendum in a local self-government unit

Object of the provincial referendum

Article 49.

In a referendum called for the territory of an autonomous province or part of its territory (provincial referendum), citizens decide on determined by the statute of the autonomous province and on issues within the competence of the autonomous province assembly decided by the autonomous province assembly on its own initiative or upon request which is submitted by the statute of the autonomous province determined by the number of voters.

The object of a provincial referendum may be issues determined by the statute of the autonomous province as the competence of the assembly of the autonomous province, except for the proposal to repeal the statute of the autonomous province, issues related to the budget and final budget of the autonomous province and issues related to electoral competencies.

The object of a provincial referendum may not be in conflict with Article 45 of this Law.

Provincial referendum at the request of voters

Article 50.

The request for calling a referendum is submitted to the Assembly of the Autonomous Province in writing, with an explanation.

If the prescribed conditions of this Law are not met, the Assembly of the Autonomous Province shall leave a subsequent deadline of 15 days to the applicant for elimination of deficiencies.

If the applicant does not eliminate the deficiencies within the period referred to in paragraph 2 of this Article, the Assembly of the Autonomous Province shall issue a decision rejecting the request.

When the number of voters determined by the statute of the Autonomous Province submits a request for calling a referendum, and the Assembly of the Autonomous Province considers that this is not an issue within its competence or is not in accordance with Article 45 of this law or the statute of the autonomous province, the assembly is obliged to make a decision rejecting the request, at the next session.

If the Assembly rejects the request to call a referendum at the request of voters, the applicant may file a lawsuit with the Administrative Court if he considers that the Assembly acted incorrectly in deciding on the request of voters to call a referendum.

The lawsuit shall be filed within eight days from the day of receiving the decision on the decision of the Assembly or from the day the deadline for decision-making expires.

The Administrative Court decides on the lawsuit within 15 days from the day of receipt of the lawsuit and its decision on the appeal is legally binding.

The object of the referendum in the local self-government unit

Article 51.

In a referendum called for the territory of a local self-government unit or for a part of its territory (referendum in a local self-government unit), citizens decide on issues determined by the statute of the local self-government unit as well as on issues within the competence of the local self-government unit assembly, for which that assembly decides on its own initiative or at the request submitted by the number of voters determined by law.

The object of a referendum in a local self-government unit may be issues determined by the statute of the local self-government unit as the competence of the local self-government unit assembly, except for the proposal to repeal the statute, issues related to the budget and final account of the local self-government unit budget, and issues concerning the electoral competencies of the assembly of the local self-government unit.

The subject of a referendum in a local self-government unit may not be in conflict with Article 45 of this Law, nor with the statute of the autonomous province, in the case of local self-government units located on the territory of the autonomous province.

Referendum in the local self-government unit at the request of voters

Article 52.

The request for calling a referendum is submitted to the assembly of the local self-government unit in writing, with an explanation.

If the prescribed conditions of this Law are not met, the assembly of the local self-government unit shall leave a subsequent deadline of 15 days to the applicant for elimination of deficiencies. If the applicant does not eliminate the deficiencies within the deadline referred to in paragraph 2 of this Article, the assembly of the local self-government unit shall issue a decision rejecting the request.

When the number of voters determined by law submits a request for calling a referendum, and the assembly of the local self-government unit considers that this is not an issue within its competence or is not in accordance with Article 45 of this of the law, the statute of the autonomous province or the statute of the local self-government unit, the assembly is obliged to make a decision rejecting the request, at the first following session.

If the Assembly rejects the request to call a referendum at the request of voters, the applicant may file a lawsuit with the Administrative Court if he considers that the Assembly acted incorrectly in deciding on the request of voters to call a referendum.

The lawsuit shall be filed within eight days from the day of receiving the decision on the decision of the Assembly or from the day the deadline for decision-making expires.

The Administrative Court decides on the lawsuit within 15 days from the day of receipt of the lawsuit and its decision on the appeal is legally binding.

III. PEOPLE'S INITIATIVE

The form of people's initiative

Article 53.

The people's initiative can be submitted in the form of:

- 1) a general proposal for the adoption, amendment or repeal of an appropriate act or for resolving a certain issue, provided that the proposal clearly shows the directions of changes, i.e. the proposed solution (general initiative), or
- 2) a specific proposal for the adoption, amendment or repeal of an appropriate act, with a draft legal act and an explanation (concretized initiative).

Initiative board

Article 54.

In order to realize the people's initiative, the citizens form an initiative committee of at least three members who have the right to vote.

The Initiative Committee may form special committees to collect signatures in certain places.

Notice of the proposal

Article 55.

The Initiative Board formulates the proposal in one of the forms provided for in Article 53 of this Law, signs it and submits it to the Assembly responsible for passing the act, i.e. for resolving the issue, for the purpose of informing and verifying the proposal.

The proposal referred to in paragraph 1 of this Article may be submitted in written or electronic form.

The proposal submitted in electronic form must be signed by a qualified electronic signature of the members of the initiative committee, i.e. in accordance with the regulation governing the electronic people's initiative.

The proposal is recorded in the records of received proposals and a confirmation of its receipt is issued to the initiative committee.

From the moment the proposal is submitted, the proposal cannot be supplemented and changed, except for the purpose of eliminating shortcomings in the proposal verification procedure.

Proposal verification

Article 56.

The President of the Assembly to which the initiative committee submitted the proposal determines whether the proposal is formulated in accordance with Art. 45 and 53 of this Law and whether it refers to issues within the competence of the Assembly and, if that is the case, informs the initiative committee within seven days (verification of the proposal).

If the conditions prescribed by this Law are not met, the President of the Assembly shall set a subsequent deadline of 15 days to the initiative committee for elimination of deficiencies.

If the initiative committee sticks to the submitted proposal, and the President of the Assembly considers that the submitted proposal is not formulated in accordance with Art. 45 and 53 of this Law or not to refer to issues within the competence of the Assembly, they are obliged to include that proposal in the proposal of the agenda of the first following session of the Assembly and to inform the initiative committee about it.

A representative of the submitter of the proposal is present at the session of the Assembly, at which the submitted proposal is considered.

If the representative of the submitter of the proposal is not appointed, the first signatory in the initiative committee is invited to the assembly session.

The Assembly may decide to verify or reject the submitted proposal, and the President of the Assembly shall notify the initiative committee of the decision of the Assembly within seven days from the date of the decision.

If the President of the Assembly or the Assembly does not act in accordance with para. 1, 2 and 6 of this Article, the proposal shall be deemed to have been verified.

Collecting signatures

Article 57.

The Initiative Board may start collecting signatures after receiving the notification from the President of the Assembly on the verification of the proposal, and is obliged to complete the collection of signatures and submit the list of signatories to the Assembly no later than 90 days from the day of receiving the notification.

In the case referred to in Article 56, paragraph 7 of this Law, the deadline for collecting signatures begins to run from the expiration of the deadline for notifying the initiative committee on the verification of proposals, i.e. from the end of the assembly session at which the assembly was to decide on verification of proposals.

If the initiative committee does not submit the list of signatories to the assembly by the expiration of the deadline referred to in paragraph 1 of this Article, it shall be considered that the people's initiative has not been submitted either.

The list of signatories shall be submitted to the Assembly on a form in an electronic format determined by the decree governing the electronic people's initiative.

The method of collecting signatures

Article 58.

The Initiative Board is obliged to submit to the competent organizational unit of the Ministry of the Interior and the President of the Assembly, at least three days before the beginning of the collection of signatures, a list of places where they will collect signatures and a copy of the proposal for collecting signatures.

The places where signatures are collected must be available to the public, and their use for the purposes of collecting signatures may not interfere to a significant extent with the normal use of those places, nor violate public order regulations.

If the use of signature collection points interferes with the normal use of these places or violates public order regulations, the competent organizational unit of the Ministry of the Interior may prohibit further collection of signatures at these places.

The signature can also be given electronically, in accordance with the regulation governing the electronic people's initiative.

The internet address on the "eGovernment Portal" shall be reported as the place of collecting signatures referred to in paragraph 4 of this Article, in order to implement the people's initiative.

Informing citizens about the initiative and the campaign

Article 59.

The initiative committee can lead a campaign for a people's initiative and invite citizens to join that initiative, while respecting the principles of voluntariness and freedom of opinion of every citizen.

No material resources from private and public sources can be promised or given for joining the citizens' initiative and collecting signatures, nor can any kind of intangible assistance be provided or promised.

Campaign financing and costs

Article 60.

After receiving the notification, i.e. the expiration of the notification deadline referred to in Article 57 of this Law, the initiative committee may start collecting funds for financing the campaign for the implementation of the people's initiative.

The provisions of Article 25 to 31 of this Law shall apply to the collection of funds for financing the campaign and costs for the people's initiative, except for the provisions of the law which regulate the financing of political activities, in the part of the amount of the attachment.

Contents of the signatory list

Article 61.

Citizens' signatures are collected on the form of the list of signatories of the people's initiative, which contains:

- 1) name, surname and signatures of the members of the initiative committee, i.e. the committee that collected the signatures;
- 2) indication of the proposal for which signatures are collected with the reception number of the assembly;
- 3) ordinal number of the signatory of the initiative, his legibly written name and surname, place of residence or stay, address, unique personal identification number of citizens and signature;
- 4) date and place of collecting signatures.

A citizen can only sign once on the list of signatories of a people's initiative, and the given signature cannot be withdrawn.

Sufficient number of signatures

Article 62.

The minimum number of signatures for a people's initiative is considered to be the minimum number of signatures determined by the Constitution, law or the statute of the autonomous province.

Checking if the conditions are met

Article 63.

The Assembly to which the list of signatories of the people's initiative has been submitted shall check whether that list has been made in accordance with the provisions of this Law and whether a sufficient number of signatures has been collected.

The list of signatories of the people's initiative is checked by comparing the data on the signatories with the data in the voter list.

The verification referred to in paragraph 2 of this Article shall be performed by the ministry in charge of administrative affairs for the list of signatories of the national initiative submitted to the republican or provincial assembly, and the competent administrative body of the local self-government unit for the list submitted to the assembly of that local self-government unit.

If the Assembly determines that the list has not been compiled in accordance with the provisions of this Law or that not enough signatures have been collected, the President of the Assembly shall notify the initiative committee of the decision within seven days, and set a deadline of 15 days for eliminating these deficiencies.

When it is considered that the initiative has been launched

Article 64.

When the list of signatories of a people's initiative has been compiled in accordance with the provisions of this Law and a sufficient number of signatures have been collected for this purpose, it is considered that the people's initiative has been launched.

Deciding on the initiative

Article 65.

The National Assembly is obliged to decide on the proposal contained in the initiated national initiative at the first subsequent session in the regular session schedule, and no later than within six months from the day of initiating the national initiative in the manner and according to the procedure determined by the Constitution, the law or Rules of Procedure of the National Assembly.

The Assembly of the Autonomous Province or local self-government unit is obliged to decide on the proposal contained in the initiated people's initiative at the first following session, i.e. no later than 90 days from the day of initiating the people's initiative, in the manner and according to the procedure established by the Constitution and the law i.e. Statute of the Autonomous Province or Local Self-Government.

When the assembly accepts the general initiative, it obliges the competent authority, i.e. body, to prepare a proposal of the appropriate legal act and to decide on that act within 180 days.

A representative of the initiative committee has the right to participate in the preparation of the act referred to in paragraph 3 of this Article.

Notice of non-acceptance of the initiative

Article 66.

When the Assembly decides not to accept the proposal contained in the people's initiative, it is obliged to submit a reasoned decision to the initiative committee and publish it on its website, within seven days from the day the decision was made.

IV. PROTECTION OF RIGHTS

Protection of rights before the competent commission

Article 67.

A citizen may file a complaint to the competent election commission within 24 hours from the closing of the polling station where they are registered, if the polling board unreasonably prevented them from voting or their right to free and secret voting was violated at the polling station.

The authorized proposer, i.e. their representative, and each Member of Parliament, ambassador or councilor, depending on the territory for which the referendum was called, has the right to, within 24 hours from the moment when the decision was made, i.e. the action was

performed or the omission of the Competent commission, voting committee or subcommittee was made, submit an objection to the competent commission if they consider that irregularities in the conduct of the referendum have been committed.

In the case of a referendum on changing the Constitution, the authorized proposer of the change of the Constitution who proposed the change of the Constitution on the occasion of which the referendum was called also has the right to submit an objection.

If 150,000 voters are the authorized proposer who proposed the change of the Constitution, the complainant on behalf of the authorized proposer is the initiative committee, in accordance with this law.

The competent commission shall decide on the complaint within 48 hours from the submission of the complaint.

The competent commission delivers the decision on the complaint to the complainant in writing, directly or by mail and publishes it on its website.

If the competent commission does not decide on the complaint within the deadlines provided by this law, it will be considered that the complaint has been adopted.

Annulment and re-declaration

Article 68.

If it is determined that an irregularity committed at one or more polling stations has significantly affected the voting results, the competent commission shall annul the actions at those polling stations and determine the time of their repetition.

If the irregularities in the conduct of the referendum called for the territory of the Republic, i.e. the autonomous province, occurred due to the action of the subcommittee, the competent commission shall annul the actions of the subcommittee and order that they be repeated.

Appeal against the decision of the competent commission

Article 69.

Against the decision of the competent commission made on the complaint from Article 67 of this Law, the complainant may file an appeal to the Administrative Court within 48 hours from the receipt of that decision.

The Administrative Court decides on the appeal referred to in paragraph 1 of this Article within 48 hours of receiving the appeal with writings and its decision is final and extraordinary legal remedies provided by the law governing the administrative dispute may not be filed against it.

The Administrative Court decides on the appeal by applying the provisions of the law governing the procedure in administrative disputes.

Appeal against the decision of the Assembly

Article 70.

The initiative committee, deputies, deputies in the assembly of the autonomous province and councilors to the assembly of the local self-government unit may file an appeal to the Administrative Court if they consider that the assembly acted incorrectly in deciding under Article 56, paragraph 6 of this Law.

The appeal shall be submitted within 15 days from the day the decision of the Assembly was made.

Deadline for resolving appeals

Article 71.

The Administrative Court decides on the appeal referred to in Article 70 of this Law within 15 days from the day of receipt of the appeal and its decision is final and extraordinary legal remedies provided by the law governing the administrative dispute may not be filed against it.

V. REFERENDUM CAMPAIGN PROTECTION MEASURES

Violations by the organizers of the referendum campaign

Article 72.

A fine of 200,000 to 2,000,000 dinars will be imposed on the organizer of the referendum campaign, if:

- 1) acts contrary to the provisions governing the financing of the costs of the referendum campaign referred to in Article 26 of this Law;
- 2) uses funds contrary to the purpose for which they were collected in accordance with this Law referred to in Article 27, paragraph 2 of this Law;
- 3) does not open and/or does not use a special account to finance the referendum campaign, in accordance with Article 28 of this Law
- 4) fails to submit a report on the costs of the referendum campaign in accordance with this Law in accordance with Article 29, paragraph 1 of this Law;
- 5) fails to enable the Agency to exercise the powers referred to in this Law in accordance with Article 29, paragraph 4 of this Law;
- 6) fails to appoint an authorized person and/or fails to notify the Agency thereof, in accordance with Article 30, paragraph 3 of this Law;
- 7) fails to notify the Agency of the change of the authorized person, in accordance with Article 30, paragraph 4 of this Law.

For the offenses referred to in paragraph 1 of this Article, the authorized person referred to in Article 30 of this Law shall also be fined from 50,000 to 150,000 dinars.

Funds obtained by committing a violation from paragraph 1, item 1) and 2) of this Article shall be confiscated.

Offenses by donors

Article 73.

A fine ranging from 200,000 to 2,000,000 dinars shall be imposed on a legal entity if it fails to enable the Agency to exercise the powers under this Law in accordance with Article 29, paragraph 4 of this Law.

An entrepreneur shall be fined from 100,000 to 500,000 dinars if they do not enable the Agency to exercise the authorizations from this Law in accordance with Article 29, paragraph 4 of this Law.

For the misdemeanor referred to in paragraph 1 of this Article, the responsible person in the legal entity shall also be fined from 50,000 to 150,000 dinars.

For the misdemeanor referred to in paragraph 1 of this Article, a natural person shall be fined from 50,000 to 150,000 dinars.

VI. TRANSITIONAL AND FINAL PROVISIONS

Appropriate application of election regulations

Article 74.

With regard to polling stations, voting materials, appointment of members of polling stations, the manner in which polling stations operate, ballots, voting, determining the results of voting at polling stations and other issues related to voting not regulated by this law, the relevant provisions of the law regulate the election of members of parliament.

When the Law shall cease to have effect

Article 75.

On the day this law enters into force, the Law on Referendum and People's Initiative ("Official Gazette of RS," No. 48/94 and 11/98) shall cease to have effect.

On the day this Law enters into force, the provisions of Article 4, para. 3 and 4 of the Law on Determining the Jurisdiction of the Autonomous Province of Vojvodina ("Official Gazette of RS," No. 99/09 and 67/12 - US), Article 47, paragraph 3 of the Law on the Capital "Official Gazette of RS," 129/07, 83/14 - other law, 101/16 - other law and 37/19) in the part that reads: "provided that more than half of the total number of citizens voted," Article 70, paragraph 3 of the Law on local self-government ("Official Gazette of RS," No. 129/07, 83/14 - other law, 101/16 - other law and 47/18) in the part: "provided that more than half of the total number of citizens with the right to vote on the territory of the municipality" and Article 23, paragraph 3 of the Law on Financing of Local Self-Government "Official Gazette of RS," No. 62/06, 47/11, 93/12, 83/16, 104/16 - other law and 95/18 - other law).

Deadline for the adoption of bylaws

Article 76.

The Government shall issue a decree regulating the electronic people's initiative within six months from the day this law enters into force.

The act regulating the content of the report on the costs of the referendum campaign referred to in Article 29, paragraph 3 of this Law shall be adopted by the Director of the Agency within three months from the day this Law enters into force.

Entry into force

Article 77.

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Serbia."

R A T I O N A L E

FOR THE DRAFT LAW ON THE REFERENDUM AND THE PEOPLE'S INITIATIVE

I. CONSTITUTIONAL BASIS FOR ENACTMENT OF THE LAW

The constitutional basis for the enactment of this law is contained in the provision of Article 97, item 2 of the Constitution of the Republic of Serbia, which stipulates that the Republic of Serbia regulates and ensures the exercise and protection of freedoms and rights of citizens, and in the provision of Article 108, paragraph 1 of the Constitution which regulates announcement of the referendum at the request of a majority of all parliamentarians or at least 100,000 voters, in accordance with the Constitution and the law.

II. REASONS FOR ENACTMENT OF THE LAW

The Constitution of the Republic of Serbia stipulates that sovereignty originates from citizens who exercise it through a referendum, a popular initiative and through their freely elected representatives (Article 2, paragraph 1). In accordance with the principle of civil sovereignty, Article 176, paragraph 1 of the Constitution stipulates that citizens have the right to provincial autonomy and local self-government, which they exercise directly and through their freely elected representatives.

According to Article 107, paragraph 1 of the Constitution, at least 30,000 voters (popular initiative) have the right to propose laws. Article 108, paragraph 1 stipulates the obligation of the National Assembly to call a referendum on an issue within its competence at the request of a majority of all parliamentarians or at least 100,000 voters, and paragraph 2 of the same article stipulates which issues cannot be the subject of a referendum. Article 182, paragraphs 3 and 4, determine that the proposal for the establishment of new or abolition, i.e. merging of the existing autonomous provinces is determined by the citizens in a referendum, in accordance with the law, and that the territory of the autonomous province cannot be changed without the consent of its citizens expressed in the referendum, by law. Article 188, paragraph 3 of the Constitution stipulates that the establishment, abolition and change of the territory of a local self-government unit shall be preceded by a referendum in the territory of that local self-government unit.

Also, at least 150,000 voters can submit a proposal to change the Constitution (Article 203, paragraph 1 of the Constitution). The adoption of an act amending the Constitution, when it comes to issues determined by Article 203, paragraph 7, requires confirmation at the republic referendum, while the adoption of an act amending the Constitution relating to other issues is subject to the right of the National Assembly to decide whether it will present that act for confirmation to the citizens at the republic referendum (Article 203, paragraph 6 of the Constitution). In this regard, the Venice Commission, in its opinion on the Constitution of the Republic of Serbia (CDL-AD/2007/004) of 17-18 March 2007, recommended that "in order to implement Article 203 of the Constitution, the Serbian legislator will have to adopt a law on the organization of a constitutional referendum, which should be in accordance with the principles set out in *the Code of Good Practice in the Field of Referendums*".

Bearing in mind that the Constitution, in said article 203, determines the preliminary (previous) procedure and conditions for calling a referendum, and also determines the deadline to hold a referendum and governs the issue of the manner of making a decision in a referendum to confirm the change of the constitution, and in provision of paragraph 8 of the said article it stipulates: „When the act on the change of the Constitution is put to be confirmed, the citizens declare in a referendum no later than 60 days from the day of adoption of the act on the change of the Constitution. The change of the Constitution is adopted if the majority of voters voted for the change in the referendum” - it is clear that the Constitution of the Republic of Serbia does not know/recognize the condition for the success of the referendum that it is necessary that a majority of the registered number of voters participates in the referendum, and such a legal solution is proposed by this law.

It is clear from the above that the Constitution has attached great importance to the referendum and popular initiative as forms of direct democracy, i.e. the exercise of civic sovereignty, and that this commitment is in full accordance with the principles of the Constitution and modern democratic processes in most European and other countries.

The current Law on Referendum and Popular Initiative was adopted in 1994 and by a number of its solutions it is restrictive, outdated and inconsistent with the provisions of the new Constitution, as well as the recommendations of the Council of Europe in this area (Recommendation 1704/2005 entitled: "Referendums: Towards Good Practices in Europe" and Recommendation 1821/2007 entitled "Code of Good Conduct in the Field of Referendums"). Basically, this law does not allow citizens to effectively exercise their right to participate in the exercise of power through popular initiative and referendum. The application of a number of solutions of that law in practice has shown great shortcomings, which is why the referendum and popular initiative are rarely used. First of all, the popular initiative is significantly limited by an inappropriately short deadline of seven days for collecting signatures, as well as the obligation to report the collection of signatures to the internal affairs bodies (Police) in advance. Legal solutions do not know, nor do they regulate, all types of referendums that the new Constitution knows. The current law authorizes 50 parliamentarians and the Government to submit a proposal for calling a referendum, while the Constitution (Article 108) provides for a majority of all parliamentarians without the Government's authority to submit a proposal for calling a referendum. Within the existing legal solutions, there are no rules that correspond to the changes in the election legislation, nor is adequate judicial protection of the rights of voters and signatories of the popular initiative provided, with referring to the Supreme Court as competent to decide on disputes in this area.

In addition, the National Assembly adopted the Law on Ratification of the Additional Protocol to the European Charter of Local Self-Government on the Right to Participate in the Affairs of Local Authorities ("Official Gazette of the RoS - International Agreements", 8/18). The Additional Protocol provides a legal framework that guarantees the right to participate in the affairs of local authorities and determines the content of that right; the obligation of the signatory states to take all measures in the function of exercising the right to participate in the affairs of local authorities is determined, specifying them in more detail in the same document.

Given all the above, there is an obvious need for the adoption of a new Law on Referendum and Popular Initiative, which would be materially and formally harmonized with the Constitution and enable wider participation of citizens in exercising power through referendums and popular initiatives.

III. EXPLANATION OF SOME SOLUTIONS

BASIC PROVISIONS

The basic provisions (Articles 1 - 9) define the subject regulated by the law, defining: referendum (by types and conditions for validity/effectiveness and obligatory nature of adopted decisions), popular initiative, right, freedom and manner of voting, i.e. participation in the referendum and in popular initiative, exemption from payment of fees, protection of rights and the rule on the manner of the course of time limits during the break between parliamentary sessions.

Article 2 stipulates that a referendum is a form of direct decision-making by citizens on issues for which it is determined by the Constitution, law and statute of the autonomous province and local self-government unit, as well as on issues within the competence of the National Assembly, the autonomous province assembly and the assembly of a local self-government unit, for which the respective assembly decides so on its own initiative or at the request of a certain number of voters.

The referendum can be republic, provincial and local (according to the area for which it is held), and by the manner of calling obligatory (in cases determined in advance by the

Constitution, law or statute of the province, municipality and city) and optional (at the request of the majority of parliamentarians or a certain number of citizens). By the moment in which it is called, the referendum can be preliminary (for the purpose of prior declaration) and subsequent (for the purpose of confirming the adopted act). Also, the referendum can be of an advisory nature (in order to obtain the opinion of citizens on the decision to be made). A decision in a referendum is made if the majority of voters (general rule) or another majority determined by the Constitution, law or the statute of the province, municipality and city voted for it.

Article 3 stipulates that citizens, by the popular initiative, propose changes to the Constitution, laws, other regulations and general acts within the competence of the National Assembly, i.e. the statute, other regulations and general acts within the competence of the assembly of an autonomous province and local self-government unit and submit other proposals in accordance with the Constitution and the law, i.e. the statute of the autonomous province and the local self-government unit.

Articles 4 - 6. determine the right, freedom and manner of voting in the referendum, i.e. participation in the popular initiative so that the right to vote in the referendum have citizens who, in accordance with election regulations, have the voting right and reside in the territory for which the referendum is called, and in the republic referendum, the citizens who have a residence in the territory of the Republic of Serbia, and at the time of the referendum are abroad, while the right to participate in the popular initiative have citizens who have the voting right in accordance with election regulations. Internally displaced persons also have the right to vote in the referendum, and in the called republic referendum also voters according to the chosen place of voting. Citizens freely vote in the referendum and freely decide on their participation in the popular initiative, and regarding the manner of voting, it is prescribed that citizens vote in the referendum in person and by secret ballots, and participate in the popular initiative by signing an appropriate proposal.

Besides, the basic provisions, in Art. 7-8, stipulate the fee for the verification of signatures, as well as the right to protection from irregularities in the procedure of conducting the referendum and exercising the popular initiative.

SPECIAL RULES FOR THE REFERENDUM

For every type of referendums, special, closer rules have been established (Articles 9-13), so Article 9 prescribes when a mandatory referendum is conducted - on an issue for which the Constitution or law, or the statute of an autonomous province or local self-government unit, determine that citizens decide on it by referendum, and Article 10 stipulates how a referendum is conducted at the request of the assembly and determines that the National Assembly is obliged to call a referendum on the issue within its competence within 30 days at the request of the majority of all parliamentarians, and the assembly of an autonomous province, i.e. local self-government unit is obliged to call a referendum on the issue within its competence by the same deadline at the request of the majority of parliamentarians, i.e. councilors.

Article 11 regulates the referendum at the request of voters by stipulating that the National Assembly, i.e. the assembly of an autonomous province or local self-government unit, is obliged to call a referendum within 30 days from the day of submitting a proper request of voters whose minimum number is determined by the Constitution or statute of an autonomous provinces and a local self-government unit, and Article 12 stipulates that the National Assembly may notify citizens of its position on the issue to be decided in a referendum, when it calls a referendum at the request of at least 100,000 voters.

The advisory referendum is regulated by Article 13, so that the National Assembly, i.e. the assembly of an autonomous province and local self-government unit, may call a referendum on an issue of wider significance within its competence in order to obtain citizens' opinions on the decision to be made in that regard.

Then, the content of the decision on calling a referendum is regulated (Article 14), and the competent election commission and the voting board are defined as the bodies for conducting the referendum. The competent election commission for conducting the republican referendum is the Republic Election Commission, for conducting the provincial referendum the provincial election commission, and for conducting the referendum in the local self-government unit the city or municipal election commission.

The competent commission for conducting the referendum shall form voting boards, which have a president, a deputy president, four members and four deputy members. The procedure is regulated if on the day the decision on calling a republic referendum enters into force, there is no election commission in the local self-government unit (Articles 15-19).

Other issues of importance for the conduct of the referendum are regulated in Art. 20 - 39. These issues include provisions on polling stations, voter records, day and time of the referendum, referendum campaign and its financing, referendum question, ballot, voting method, determination of voting results, publication of referendum results and implementation of the decision. The voting procedure in special situations is regulated (Article 36). A decision made in accordance with the law is obligatory and the Assembly cannot significantly change it or make a decision contrary to the one made in the referendum within one year (Article 40).

The section on the republic referendum (Articles 43-48) contains special rules relating to the subject of decision-making, the referendum on amending the Constitution and the referendum on an international agreement, issues that cannot be the subject of a referendum, holding a referendum in a part of the territory of the Republic, referendum at the request of parliamentarians and voters.

Specific issues concerning the provincial and local referendum are regulated in the following section (Articles 49-52).

RULES FOR THE CONDUCT OF THE POPULAR INITIATIVE

Provisions on the popular initiative at the republic, provincial and local levels are contained in Articles 53- 66. There is a general and concretized initiative; the first submits a general proposal for the adoption/enactment, amendment or repeal of an appropriate act or for resolving a certain issue, while the second implies a specific proposal with a draft legal act and an explanation.

In order to realize the initiative, an initiative committee is formed, which formulates the proposal and submits it to the competent assembly. That proposal should be verified, solely to avoid citizens collecting signatures for initiatives that are not legally possible. Then the collection of signatures begins, which can last 90 days, with prior notification of the Ministry of the Interior and the municipality president, i.e. the mayor about the places envisaged for collecting signatures.

The initiative committee can lead the campaign for the popular initiative, and the funds for that campaign are provided from domestic sources, from the contributions of citizens and legal entities. The content of the list of signatories has also been regulated, as well as checking the fulfillment of conditions for the validity of the submitted list. The Assembly to which the proper initiative has been submitted has the obligation to decide on the proposal within 90 days from the day of submitting the list of signatories of the popular initiative and to notify the initiative committee thereof.

PROTECTION OF RIGHTS IN THE PROCEDURE FOR CONDUCT OF THE REFERENDUM OR POPULAR INITIATIVE

The issues of protection of the rights of citizens, referendum proposers and initiators of the people's initiative - the initiative committee (Articles 67 - 71) are specially regulated. The protection procedure in the event of a referendum takes place before the referendum commission

and the Administrative Court. The procedure for the protection of rights before the competent commission is additionally regulated (Articles 67-69). Citizens, i.e. the initiative committee, as well as parliamentarians in the National Assembly, parliamentarians in the assembly of the autonomous province and councilors in the assembly of the local self-government unit have the possibility of judicial protection before the Administrative Court in case of starting the initiative (Articles 70-71).

CIVIL LIABILITY PROVISIONS

Articles 72 and 73 stipulate the civil liability provisions for the organizers of the referendum campaign and providers of funds as measures for the protection of the referendum campaign.

TRANSITIONAL AND FINAL PROVISIONS

Transitional and final provisions regulate accordant application of election regulations, termination of applicability of the existing law and certain provisions of other laws, deadline for adoption of bylaws based on this law as well as entry into force of this law.

Article 74 prescribes the accordant application of the law governing the election of parliamentarians in terms of polling stations, voting materials, the manner of work of voting boards, voting, determining the results of voting at polling stations and other issues related to voting that are not regulated by this law.

Article 75 stipulates that on the day this law enters into force, the Law on Referendum and Popular Initiative ("Official Gazette of the RoS", No. 48/94 and 11/98) as well as the provisions of Article 4, paragraphs 3 and 4 of the Law on Determining the Jurisdiction of the Autonomous Province of Vojvodina ("Official Gazette of the RoS", no. 99/09 and 67/12 – Constitutional Court), Article 47, paragraph 3 of the Law on the Capital ("Official Gazette of the RoS", No. 129/07, 83/14 - other law, 101/16 - other law and 37/19) in the part that reads: "provided that more than half of the total number of citizens voted", Article 70, paragraph 3 of the Law on Local Self-Government ("Official Gazette of the RoS", No. 129/07, 83/14 - other law, 101/16 - other law and 47/18) in the part: "provided that more than half of the total number of citizens with the voting right in the territory of the municipality voted" and Article 23, paragraph 3 of the Law on Financing the Local Self-Government ("Official Gazette of the RoS", No. 62/06, 47/11, 93/12, 83/16, 104/16 - other law and 95/18 - other law).

Article 76 prescribes a six-month deadline from the date of entry into force of this Law for the adoption of a Government Decree regulating the electronic popular initiative.

Article 77 sets a deadline of eight days from the date of publication in the "Official Gazette of the RoS" for the law to become effective.

IV. FUNDS NECESSARY FOR IMPLEMENTATION OF THE LAW

It is not necessary to provide funds in the budget of the Republic of Serbia for the implementation of this law.

