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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SERBIA

LAW

ON THE ELECTION OF THE PRESIDENT OF THE REPUBLIC

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I. GENERAL PROVISIONS

Scope of the Law

Article 1

This Law shall regulate the election of the President of the Republic (hereinafter: the election).

The President of the Republic shall be elected for a term of five years.

Core principles of the elections for the President of the Republic

Article 2

Citizens shall elect President of the Republic on the basis of universal and equal suffrage. Elections shall be free and direct, and voting shall be carried out by secret ballot in person.

Suffrage

Article 3

Every adult citizen of the Republic of Serbia over whom parental rights have not been extended, or who has not been wholly divested of legal capacity shall have the right to elect President of the Republic and to be elected as a President of the Republic.

A person partly divested of legal capacity may elect President of the Republic and be elected as a President of the Republic, unless a court has declared him/her incapable of exercising the right to vote under the decision on partial deprivation of legal capacity.

Freedom to vote

Article 4

A voter shall be free to decide whether and how to vote.

No one has the right to prevent or force a voter to vote, to take him/her to account for voting or failure to vote, or to demand a voter to declare for whom he/she has voted or why he/she has not voted.

Authority to conduct elections

Article 5

The election shall be conducted by the authorities in charge of conducting elections for Members of Parliament.

Funds for conducting elections

Article 6

Funds for conducting the election shall be provided in the budget of the Republic of Serbia.

Legal remedies in the election procedure

Article 7

Legal remedies in the election procedure shall be a request for annulment of voting at the polling station, complaint and appeal.

Analogous application of other laws

Article 8

The provisions of the law governing the election of Members of Parliament shall apply accordingly to elections for the President of the Republic in matters not specifically regulated by this law.

The provisions of the law governing general administrative procedure shall apply accordingly to deciding on the request for annulment of voting at the polling station and to deciding on the complaint.

The provisions of the law governing administrative dispute shall apply accordingly to deciding on the appeal against a decision of the Republic Electoral Commission on the complaint.

II. CALLING THE ELECTIONS

Competence to call the elections

Article 9

Elections for the President of the Republic shall be called by the Speaker of the National Assembly.

The decision on calling the elections shall enter into force on the day when it is published in the "Official Gazette of the Republic of Serbia".

Deadlines for calling the elections and voting

Article 10

The decision on calling the elections shall be made 90 days prior to the end of the term of office of the incumbent President of the Republic.

Should the term of office of the President of the Republic be extended due to the state of war or the state of emergency, the elections shall be called in a manner providing that they are held no later than three months from the day when the state of war or state of emergency ended.

Should the term of office of the President of the Republic be terminated before the expiration of the term for which he/she has been elected, the elections shall be called in a manner providing that they are held no later than three months from the day when the term of office of the President of the Republic ended.

From the day of calling the elections until the polling day no less than 30 and no more than 60 days may elapse.

Contents of the decision on calling the elections

Article 11

The decision on calling the elections shall state the date of voting.
The day of voting shall be a non-working day.

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A candidate may not be nominated by a coalition formed by a political party and a group of citizens.

Deadline for the submission of the nomination of a candidate and its contents

Article 13

The nomination of a candidate shall be submitted directly to the Republic Electoral Commission, in written and electronic form on the prescribed form, no later than 20 days before the day of elections.

The nomination of a candidate shall contain the name of the proposer of the candidate, the name, surname, unique master citizen number (hereinafter: UMCN), occupation, place and address of residence of the candidate, as well as name, surname, UMCN, place and address of residence, telephone number, e-mail address and signature of the person submitting the nomination of a candidate.

Documentation submitted along with the nomination of a candidate

Article 14

Along with the nomination of a candidate, the following documents must be submitted to the Republic Electoral Commission:

1) written consent of the candidate, confirming that he/she accepts the candidacy for the President of the Republic, on a form prescribed by the Republic Electoral Commission, containing his/her name, surname, UMCN, occupation, place and address of residence;

2) document with the candidate's read out ID card, if with a microcontroller (chip), or ID card photocopy, if without a microcontroller;

3) at least 10,000 written statements of voters supporting the nomination of the candidate on a form prescribed by the Republic Electoral Commission, certified before the expiry of the deadline for the submission of the nomination of a candidate, which shall contain name, surname, UMCN, place and address of residence for each voter;

4) a list of voters who signed the submitted statements of voters supporting the nomination of the candidate in the electronic form, on the form prescribed by the Republic Electoral Commission, which shall contain surname, name and UMCN of each voter, and data on the certifying authority who certified the signatures on the statements;

5) authorisation to submit the nomination of a candidate on behalf of a political party, if it is not submitted by its representative entered in the Register of Political Parties, which shall be given in writing, and shall contain the name, surname, UMCN, place and address of residence of the authorized person;

6) coalition agreement if the candidate is nominated by a coalition;

7) authorisation to conclude a coalition agreement on behalf of a political party, if it has not been concluded by its representative entered in the Register of Political Parties, which shall be given in writing, and shall contain the name, surname, UMCN, and place and address of residence of the authorized person;

8) agreement on the formation of a group of citizens if the candidate is nominated by a group of citizens;

9) written consent to use personal name of a natural person or name of a legal entity in the name of the coalition, or group of citizens, which shall contain the name, surname, UMCN, place and address of residence of the natural person, or the name and seat of the legal entity, or the group of citizens, if their name contains personal name of that natural person, or name of a legal entity and if that natural person has not signed another document submitted along with the electoral list, and whose signing is considered giving consent to use his/her personal name in the name of the coalition or group of citizens.

Withdrawal of the nomination of a candidate

Article 15

The proposer of the candidate may withdraw the nomination of a candidate no later than the day when the list of candidates for the election of the President of the Republic is established.

The nomination of a candidate submitted by a coalition may be withdrawn if all political parties that have concluded the coalition agreement so agree, unless otherwise stipulated by the coalition agreement.

The nomination of a candidate submitted by a group of citizens may be withdrawn if all voters who have formed the group of citizens so agree, unless otherwise stipulated by the agreement on the formation of a group of citizens.

The Republic Electoral Commission shall render decision establishing that the nomination of a candidate has been withdrawn within 24 hours, and no later than the day when the list of candidates for the election of the President of the Republic is established.

Candidate withdrawal

Article 16

A candidate may file a certified written statement to the Republic Electoral Commission withdrawing his candidacy for President of the Republic no later than the day when the list of candidates for the election of the President of the Republic is established.

The Republic Electoral Commission shall render decision establishing that the proclaimed candidate has withdrawn within 24 hours, and no later than the day when the list of candidates for the election of the President of the Republic is established.

List of candidates for the election of the President of the Republic

Article 17

The Republic Electoral Commission shall render a decision establishing the list of candidates for the election of the President of the Republic and publish it in the "Official Gazette of the Republic of Serbia" no later than 15 days before the polling day.

The list of candidates for the election of the President of the Republic shall contain the following information for each candidate:

- 1) name and surname;
- 2) year of birth;
- 3) occupation;
- 4) the name of the proposer.

In the municipality / city in which a national minority language is in official use on the day of calling the elections, in addition to the list of candidates for the election of the President of the Republic printed in the Serbian language and in Cyrillic script, also a list of candidates for the election of the President of the Republic in the language and script of the national minority shall be made, using the same font type and size.

Nominations of candidates for the President of the Republic shall be proclaimed in the order in which nominations of candidates who meet the conditions for proclamation have been submitted.

The order of candidates on the list of candidates for the election of the President of the Republic shall be determined by drawing lots, in the presence of representatives of the nominators of candidates.

The procedure for drawing of lots shall be regulated by the Republic Electoral Commission.

No complaints shall be allowed against the results of the drawing of lots, but the result of the drawing of lots may be challenged by filing a complaint against the decision determining the list of candidates for the President of the Republic.

The order of candidates on ballot shall be in line with the order of candidates on the list of candidates for the President of the Republic.

The nominator of the proclaimed candidate may file a complaint to the Republic Electoral Commission against the decision determining the list of candidates for the President of the Republic, within the 48 hours following the publication of this decision on the website.

The complaint against the decision determining the list of candidates for the President of the Republic may not contest the validity of the proclaimed nomination of the candidate.

IV. VOTING AND DETERMINATION OF ELECTION RESULTS

Ballot paper

Article 18

The ballot paper for the election of the President of the Republic shall contain as follows:

- 1) the name of the election and the date of voting;
- 2) ordinal number placed in front of the name and surname of the candidate;
- 3) the name and surname of the candidate and name of the candidate's nominator;
- 4) a note that the voter should vote for one candidate only, by circling the ordinal number in front of the name of his/her name and surname;

5) a note that voting is secret, that the voter should vote behind the voting screen, and that after filling in the ballot paper, the voter should fold it so that it is not visible how it was filled, and insert it thus folded into the ballot box;

6) imprint of the seal of the Republic Electoral Commission.

Consolidated report on voting results

Article 19

Within 96 hours from the closing of polling stations, the local electoral commission shall compile for all polling stations located within its territory a consolidated report on the results of voting, containing: the number of voters entered in the electoral roll, the number of voters who turned out, the number of ballot papers found in the ballot boxes, the number of invalid ballot papers, the number of valid ballot papers and the number of votes received by each candidate, and forward it, without delay, to the Republic Electoral Commission.

The consolidated report on the results of voting abroad shall be rendered by the Republic Electoral Commission.

If a legal remedy has been filed due to irregularities during the conduct of voting at the polling station, or if a legal remedy has been filed against the decision establishing that the voting results cannot be determined at the polling station, or the decision annulling voting at the polling station, the deadline for compiling and forwarding the consolidated report on the results of voting shall be counted from the day when the decisions on all filed legal remedies are delivered to the local electoral commission.

If repeat voting is conducted at certain polling stations, the deadline for compiling and forwarding a consolidated report on the results of voting shall be counted from the closing of the polling station where the voting was repeated last, or from the day when decisions on all filed legal remedies in connection with the repeat voting have been delivered to the local electoral commission.

If a request for sample control of records on operation of the polling board has been submitted, the deadline for compiling and forwarding the consolidated report on the results of voting shall be counted from the conclusion of the control of the records on operation of the polling board.

Against the consolidated report on the results of voting, the nominator of the proclaimed candidate and the voter registered in the electoral roll at a polling station located within the territory of the local electoral commission may file a complaint with the Republic Electoral Commission within 72 hours of publishing consolidated report on the website.

Against the consolidated report on the results of voting abroad, the nominator of the proclaimed candidate and the voter registered in the electoral roll at a polling station abroad may file a complaint with the Republic Electoral Commission within 72 hours of publishing consolidated report on the website.

General elections report

Article 20

Within 96 hours from the receipt of all consolidated reports on voting results, the Republic Electoral Commission shall render and publish general elections report for all polling stations, containing the number of voters entered in the electoral roll, the number of voters who turned out, the number of ballot papers found in the ballot boxes, the number of invalid ballot papers, the number of valid ballot papers and the number of votes received by each candidate.

The number of voters who cast their vote shall be determined based on the number of ballot papers in the ballot boxes.

If a legal remedy has been filed against consolidated report on voting results, the deadline for rendering and publishing the general elections report shall be counted from the day when the decision on the legal remedy is delivered to the Republic Electoral Commission.

Against the general elections report, the nominator of the proclaimed candidate and the voter may file a complaint with the Republic Electoral Commission within 72 hours of publishing general elections report on the website.

Candidate elected as President of the Republic

Article 21

The candidate who received the majority of votes cast by the voters that voted shall be elected President of the Republic.

Repeat voting

Article 22

If no candidate receives a majority of the votes cast, the Republic Electoral Commission shall, within three days from the day when the general elections report became final, issue a decision ordering a repeat vote within 15 days from the date of issuing this decision on repeat voting.

If the appeal has been filed against the decision on the complaint against general elections report, the deadline for issuing decision on repeat voting shall be counted from the day when the decision on the appeal is delivered to the Republic Electoral Commission.

The day of repeat voting shall be determined by the Republic Electoral Commission, by a decision which shall be published in the "Official Gazette of the Republic of Serbia".

The day of repeat voting shall be a non-working day.

Candidates in the repeat voting

Article 23

The two candidates who receive the largest number of votes cast shall participate in the repeat voting.

More than two candidates shall participate in the repeat voting:

- 1) if more than two candidates share the first place;
- 2) if one candidate has won the first place, and two or more candidates share the second place.

The candidate who received the largest number of votes cast in the first voting, shall be the first in order on the ballot paper in the repeat voting.

The order of candidates who received the same number of votes shall be determined according to their order in the first round of voting.

Polling board responsible for conducting a repeat voting

Article 24

A repeat voting shall be conducted by the same polling board in the standing composition.

A polling board in the expanded composition that conducts repeat voting shall consists of members and deputy members appointed at the proposal of the nominators of candidates who participate in the repeat voting.

At the request of the authorised nominator, a member or deputy member of a polling board may be replaced no later than three days before the date of repeat voting.

If the nominator of a candidate who participates in the repeat voting had not proposed a member / deputy member of the polling board in the expanded composition, he/she shall have the right to propose them for conducting the repeat voting.

Observers monitoring the repeat voting

Article 25

The authorisation issued by the Republic Electoral Commission for monitoring the work of authorities responsible for conducting elections shall also be valid for the repeat voting.

The submitter of the observer application shall have the right to replace its representative for observing the repeat voting, or if it did not have a representative observing the work of a certain authority responsible for conducting the elections, it may submit application to observe repeat voting.

Candidate elected as President of the Republic in the repeat voting

Article 26

The candidate who receives the largest number of votes in the repeat vote for the President of the Republic, shall be elected.

If the candidates receive equal number of votes in the repeat voting, the vote shall be repeated within 15 days from the day of rendering decision on the repeat voting.

Loss of a candidate's right to vote between the first and repeat voting

Article 27

Should a candidate lose his/her right to vote in the period between the first and repeat voting, the entire election process shall be repeated.

V. SIMULTANEOUS HOLDING OF ELECTIONS FOR PRESIDENT OF THE REPUBLIC AND ELECTIONS FOR MEMBERS OF PARLIAMENT

Coordinated conduct of elections

Article 28

If elections for the President of the Republic and elections for members of parliament are held on the same day, voting shall take place at the same polling stations, and voting shall be conducted by the same polling boards.

Election material

Article 29

Ballot papers, as well as control slips for the elections for the President of the Republic and the elections for members of parliament, may not be of the same colour.

Separate excerpts from the electoral roll and separate ballot boxes for the elections for the President of the Republic and for the elections for members of parliament shall be provided for each polling station.

Separate storage bags for election material for the elections for the President of the Republic and for the elections of members of parliament, which may not be the same colour, shall be provided for each polling station.

Invitation to vote

Article 30

If elections for the President of the Republic and elections for members of parliament are held on the same day, the municipal / city administration shall deliver voters single invitations to vote.

Election bodies in the expanded composition

Article 31

Each nominator of the proclaimed candidate and the submitter of the proclaimed electoral list of MP candidates (hereinafter: electoral list) shall have the right to propose a member and a deputy member to election body in the expanded composition.

A political party, coalition or a group of citizens that is both the nominator of the proclaimed candidate and the submitter of the proclaimed electoral list may nominate only one member and one deputy member to election body in the expanded composition.

Assessment of the identity of coalitions or citizens' groups

Article 32

Sameness of coalitions, or groups of citizens in terms of nominating a member and deputy member to the election bodies in the expanded composition shall not be assessed according to the name of the coalition, or group of citizens, but according to the signatories of the coalition agreement, or agreement on forming a group of citizens.

The coalition that is the nominator of the proclaimed candidate and the coalition that is the submitter of the proclaimed electoral list shall be deemed to be the same coalition if both were formed by more than half of the same political parties.

The group of citizens that is the nominator of the proclaimed candidate and the group of citizens that is the submitter of the proclaimed electoral list shall be deemed the same group of citizens if both were formed by more than half of the same voters.

Treatment of a political party that participates in one election independently, and in the other within a coalition

Article 33

If two or more political parties participate in one election independently, and in others in a coalition, each of them will have the right to nominate one member and one deputy member to an authority responsible for implementing elections with an expanded composition.

If two or more political parties participate in one elections independently, and in the other within a coalition, each of them shall have the right to nominate one member and one deputy member to the election body in the expanded composition

Position of member of the election bodies in the expanded composition

Article 34

A member of the election body in the expanded composition appointed at the proposal of a political party, coalition, or group of citizens participating in one election may vote only for those decisions of the election body that are common to both election procedures (such as designation of polling stations, formation of polling board in the standing composition) and which relate only to the election procedure in which his/her nominator participates.

VI. TRANSITIONAL PROVISIONS

Temporary increase in the number of members of election bodies in the standing composition

Article 35

The first elections for the President of the Republic to be called after the entry into force of this Law shall be conducted by the Republic Electoral Commission, whose standing composition, in addition to members and deputy members appointed on the basis of the law governing elections for members of parliament, shall also include six more members and their deputies, appointed by the National Assembly on the proposal of the Speaker of the National Assembly, within seven days of the entry into force of this Law, and their term of office shall last until the general elections report becomes final.

Local electoral commissions that shall participate in the conduct of the first elections for the President of the Republic to be called after the entry into force of this Law, shall have in their standing composition, in addition to members and deputy members appointed on the basis of the law governing local elections, also a member and deputy member appointed by the Republic Electoral Commission on the proposal of the Speaker of the National Assembly, and their term of office shall last until the consolidated report on voting becomes final.

Polling boards that shall participate in the conduct of the first elections for the President of the Republic to be called after the entry into force of this Law, shall have in their standing composition, in addition to members and deputy members appointed on the basis of the law governing elections for members of parliament, also per one more member and deputy member appointed by the Republic Electoral Commission on the proposal of the Speaker of the National Assembly.

If the first elections for the President of the Republic to be called after the entry into force of this Law are held on the same day as elections for members of parliament, members of the election bodies in standing composition appointed on the proposal of the Speaker of the National

Assembly to conduct elections for members of parliament shall also participate in the work authorities responsible for conducting elections for the President of the Republic.

VII. FINAL PROVISIONS

Regulation that is repealed

Article 36

On the day this Law enters into force, the Law on the Election of the President of the Republic ("Official Gazette of RS", nos. 111/07 and 104/09 - other law) shall cease to apply.

Entry into Force of the Law

Article 37

This Law shall come into force on the next day following the date of its publication in the "Official Gazette of the Republic of Serbia".