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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**LAW ON REFERENDUM OF THE REPUBLIC OF MONTENEGRO
(SERBIA AND MONTENEGRO)**

of 19 February 2001

OSCE–ODIHR Unofficial translation

I. BASIC PROVISIONS

Article 1

The present Law regulates the calling and administration of a referendum, being the form of a prior pronouncement of citizens, as well as bodies in charge of the administration of a referendum and protection of citizens' rights in the administration of a referendum.

Article 2

Referendum in the Republic of Montenegro (hereinafter referred to as: the republican referendum), shall be called in the territory of the Republic or a part thereof, for the purpose of a prior pronouncement of citizens on specific issues lying within the competence of the Assembly of the Republic of Montenegro (hereinafter referred to as: the Assembly of the Republic).

Referendum in a municipality, the capital city of the Republic i.e. the administrative center (hereinafter referred to as: the municipality) shall be called for the purpose of a prior pronouncement of citizens on specific issues lying within the competence of the municipal assembly.

Article 3

The republican referendum must be called for the purpose of a prior pronouncement of citizens on any changes in the status of the country, changes in the form of a government and any changes of frontiers.

The republican referendum can be called for the purpose obtaining an opinion of citizens prior to making a decision on specific issues lying within the competence of the Assembly of the Republic.

The municipal referendum must be called for the purpose of a prior pronouncement of citizens on the establishment of new municipalities, abolishment or amalgamation of the existing municipalities and any changes in the domicile of municipalities.

The municipal referendum can be called for the purpose of obtaining an opinion of the citizens prior to making a decision on specific issues lying within the competence of the municipal assembly, in the manner and following the procedure prescribed by the municipal statute in conformity with the present Law.

Article 4

The outcome of a referendum shall be binding on the assembly calling the referendum.

Article 5

The decision on calling a republican referendum shall be made by the Assembly of the Republic, by majority of votes of the total number of representatives in the Assembly.

The decision to call a referendum in a municipality shall be made by the municipal assembly, in conformity with the statute of the municipality.

The decision on calling a referendum shall determine specifically, the wording of the question on which the citizens are to pronounce themselves in the referendum, as well as the date of holding the referendum.

The decision to call a referendum shall be publicized in the manner applicable to the regulations of the authority calling the referendum.

Article 6

Citizens shall pronounce themselves in the referendum on one or more questions.

Article 7

No less than 45 days and no more than 90 days shall pass between the day a referendum is called and the day it is held.

Article 8

The right to pronounce themselves in a referendum shall be enjoyed by the citizens who, pursuant to election laws, enjoy voting rights.

Article 9

No one shall, on whatever account, hold any citizen liable for having voted in a referendum, nor shall any citizen be requested to state who he has voted for or why he has abstained from voting.

Article 10

Referendum shall be administered by secret ballot.

Voting shall be performed by voting tickets/ballots.

Every citizen shall vote only in person.

Article 11

The authority which has called the referendum shall be obliged, not later than 15 days from the day of submittal of a report by a competent commission, to ascertain the outcome of the referendum.

Should the outcome of a referendum entail an obligation on the part of the authority referred to in Paragraph 1 of this Article to pass an act, the above authority shall, within 60 days from the day of the referendum, pass the respective act.

Article 12

If citizens have voted in a referendum against a specific question, a 12month period is required to pass before the same question can be re-proposed for the vote in a referendum.

Article 13

The administration of a referendum shall be performed by the referendum administration bodies i.e. commissions and polling committees.

Article 14

The funds required for the administration of a referendum shall be apportioned to in the budget of the Republic i.e. a municipality.

All activities and actions related to the administration of a referendum shall be exempt from any fees whatsoever.

Article 15

The procedure of administering a referendum shall be made public.

Publicity of the referendum administration procedure shall imply the right of every citizen to be informed in a timely and truthful manner and under equitable terms by means of public media, on all stages of the above procedure and the varied attitudes and opinions in respect to a referendum question.

The competent assembly shall, by passing a special ordinance, prescribe more detailed conditions in respect to public campaigning by means of media.

Public referendum campaigning by means of media and public gatherings shall cease 48 hours prior to the referendum day.

Article 16

The protection of citizens' rights in the administration of a referendum shall be provided by the referendum administration commissions, the Constitutional Court of the Republic of Montenegro and other competent courts.

II. REFERENDUM ADMINISTRATION BODIES

Article 17

Bodies in charge of the administration of a referendum shall act in compliance with the law. The referendum administration bodies shall be responsible to the authorities that have appointed them.

State government agencies and organizations, as well as local self-government/municipal agencies shall be obliged to provide the referendum administration bodies with the relevant data and information needed for performing their activities.

Article 18

Bodies in charge of the administration of a referendum shall decide by majority of votes of the total number of their members.

Article 19

The activities of the referendum administration bodies shall be made public.

Article 20

Commissions for administration of a referendum shall be composed of a chairman, a secretary and a certain number of members.

The principle of a proportionate representation of political parties in the assembly that has called the referendum, must be observed when appointing the members of commissions.

Deputies are appointed to the chairman, secretary and members of referendum commissions.

The term of office of the chairman, secretary and members of referendum commissions shall last until the ascertainment of the referendum outcome by the assembly that has called the referendum.

The chairman, secretary and members of commissions in charge of a referendum shall be appointed from among the jurists and must have a voting right.

Article 21

A republican referendum shall be administered by:

- the Republican Commission in charge of the administration of a referendum hereinafter referred to as: the Republican Commission),
- the commission for administering a republican referendum in a municipality, and polling committees.
- Commissions referred to in Paragraph 1 of this Article shall be appointed by the Assembly of the Republic of Montenegro, not later than 10 days after coming into force of the decision on calling the referendum.

Article 22

The Republican Commission shall be composed of a chairman, a secretary and nine members.

The Commission for administering a republican referendum in a municipality shall be composed of a chairman, secretary and seven members.

Article 23

The Republican Commission shall:

- adopt its internal regulations,
- provide for a lawful administration of a republican referendum,
- coordinate the activities of commissions and furnish them with instructions for the administration of a republican referendum,
- supply the voting material to all bodies administering a republican referendum, and provide for technical preparation for the referendum,
- prescribe forms for the administration of a republican referendum,
- establish the outcome of the vote in a republican referendum,
- report to the Assembly of the Republic on the outcome of the vote in a republican referendum, and
- likewise perform other tasks as stipulated by the present Law.

Article 24

The Commission in charge of administering a republican referendum in a municipality shall:

- adopt its internal regulations,
- determine polling stations,
- appoint polling committees and provide for proper performance of their activities,
- provide for technical preparations for voting in a republican referendum,
- take over from the polling committees the voting material in a republican referendum,
- establish the outcome of the vote in a republican referendum in the territory of the municipality,
- report on the outcome of the voting to the Republican Commission,
- likewise perform other duties as stipulated by the present Law.

Article 25

A municipal referendum shall be administered by the:

- Commission for administering a municipal referendum, and
- polling committees.

The Commission for administering a municipal referendum shall be appointed by the municipal assembly, not later than 10 days from coming into force of the decision on calling the referendum.

The decree on the establishment/appointment of the commission for administering a municipal referendum shall prescribe the number of members and appoint the members of the commission, in conformity with the present Law.

Article 26

The Commission for administering a municipal referendum shall:

- adopt its internal regulations,
- provide for a lawful administration of a municipal referendum,
- supply the voting material and prescribe forms for the administration of a municipal referendum,
- determine polling stations,
- appoint polling committees and provide for proper performance of their activities,
- establish the outcome of the vote in a municipal referendum,
- report on the outcome of the voting in the municipal referendum to the municipal assembly,
- publicize the results of a municipal referendum by every polling station in the municipality, and
- likewise perform other duties as stipulated by the present Law.

Article 27

A polling committee shall be appointed for each polling station, not later than 10 days before the day determined for the pronouncement of citizens in a referendum.

A polling committee shall be composed of a chairman and six members.

Deputies shall be appointed to the chairman and members of polling committees.

The chairman and members of polling committees shall be appointed for each referendum.

The principle of a proportionate representation of political parties in the assembly that has called the referendum, must be observed when appointing the polling committee.

The chairman and members of polling committees must have a voting right.

Article 28

Polling committees administer the voting at polling stations, provide for regularity and secrecy of voting and establish the results of voting at their respective polling stations.

Polling committees shall provide for maintenance of order at polling stations during the pronouncement of citizens in a referendum.

A polling committee appoints, from among its members, two commissioners who shall be in charge of administering the voting out of the polling station; if possible, one of these commissioners shall represent one of two opposition parties in the respective assembly that has won the largest number of votes in the previous elections.

III. ADMINISTERING A REFERENDUM

Article 29

Provisions of the Law on Election of Councilmen and Representatives related to polling stations and voting at polling stations, voting by mail; voting material; voting; establishing of voting results; repeated elections; observation of elections; financing elections and other matters shall be applied accordingly to the procedure of administering a referendum, if not otherwise provided by the present Law.

Article 30

Referendum shall be administered in conformity with the voters' registers that are used for elections.

In the procedure of administration of a referendum, provisions of the Law on Voters' Registers shall be applied accordingly.

Article 31

The voting ticket/ballot shall contain the following:

1. the designation of the authority which has called the referendum,
2. the date when the referendum shall be held,
3. the question on which the citizens are to pronounce themselves in the referendum,
4. the words "FOR" and "AGAINST" printed one beside the other, if there is only one question; if there are more referendum questions, in that event each of the questions shall be preceded by a respective ordinal number and printed one below the other,
5. the seal of the competent commission.

In addition to the data referred to in Paragraph 1 of this Article, each voting ticket shall contain also, in the upper right corner of its back side, the title of the municipality, the title of the polling station, designation of the polling station and the seal of the polling committee comprising the title and the name of the respective polling station.

Article 32

A voting ticket shall be comprised of two portions i.e. of a counterfoil or a stub of a ballot with a uniform serial number, and of a ballot paper.

A uniform serial number must not be printed on the ballot paper.

The counterfoil or a stub of the ballot and the ballot are separated by perforations.

The range of serial numbers on the counterfoil corresponds to the number of voters enlisted in the voters' register, while the number of voting tickets shall be determined for each polling station according to the order of serial numbers on counterfoils.

The counterfoil or stub of a ballot is printed widthwise, in such a manner as not to exceed a half of the voting ticket width.

Article 33

If there is only one question in a referendum, a citizen shall vote by circling the word "FOR" or the word "AGAINST".

If there are more questions on which citizens are to pronounce themselves in a referendum, a citizen shall vote by circling the ordinal number printed in front of the question.

If there is one question in a referendum, invalid shall be deemed any ballot paper which has been left blank, or which has been marked in such a manner that it could not be established with certainty what the citizen has voted for, or a ballot on which both the word "FOR" and the word "AGAINST" have been circled.

If there are more questions on which citizens are to pronounce themselves in a referendum, invalid shall be deemed any ballot paper which has been left blank i.e. on which no ordinal number has been circled, or which has been marked in such a manner that it could not be established with certainty what the citizen has voted for, or a ballot on which several ordinal numbers have been circled.

Article 34

Transparent/invisible ink – spray and optical readers shall be used in a referendum.

Article 35

After the voting has finished, the polling committee shall undertake to establish both the number of citizens who voted "FOR" and the number of citizens who voted "AGAINST", if there has been only one question in the referendum; if there have been more questions in the referendum, the polling committee shall establish also the number of votes awarded to each particular question.

The record or the report of the referendum administration body shall contain the data referred to in Paragraph 1 of this Article.

Article 36

The Republican Commission shall establish and make public the outcome of the republican referendum.

The Commission for administration of a municipal referendum shall make public the data on:

- the number of voters enlisted in the voters' register,
- the number of voters who have voted at the polling station,
- the number of voters who have voted out of the polling station,
- the number of voters who have actually voted,
- the number of received ballot papers,
- the number of unused ballot papers,
- the number of used/marked ballot papers,
- the number of valid ballot papers,
- the number of invalid ballot papers,
- the number of voters who have voted "FOR",
- the number of voters who have voted "AGAINST",

- the number of votes awarded to each particular question.

The outcome of the republican referendum shall be publicized in the Official Gazette of the Republic of Montenegro, and the outcome of the municipal referendum shall be publicized in the Official Gazette of the Republic of Montenegro – Municipal Regulations, not later than 15 days from the date of holding a referendum.

Article 37

The decision in a referendum is taken by a majority vote of the citizens who have voted, provided that the majority of citizens with voting rights has voted.

IV. PROTECTION OF THE RIGHTS OF CITIZENS IN THE ADMINISTRATION OF A REFERENDUM

Article 38

Every citizen who has the right to pronounce himself in referendum can make, on the account of irregularities in the administration of a referendum, representations to the competent commission.

Representations referred to in Paragraph 1 of this Article shall be made within 72 hours of passing a decision i.e. conducting an act.

Representations referred to in Paragraph 1 of this Article shall be lodged directly with a competent commission.

Article 39

Representations against a decision, an act or a failure from the part of a polling committee shall be lodged with a competent commission.

Representations against a decision, an act or a failure from the part of a commission in charge of administering a republican referendum in a municipality, shall be lodged with a Republican Commission.

Article 40

A competent commission shall take a decision on the representations within 24 hours after representations have been made and deliver it to a person making a representation.

Should a competent commission approve a representation, a respective decision or an act shall be made void.

Should it happen that a competent commission fails to pass a decision on a respective representation within a period of time stipulated by the present Law, the representation shall be deemed as being approved.

Article 41

Against a decision of the commission for administration of a municipal referendum, denying or rejecting a representation, or against a decision, an act or a failure on the part of this Commission, a citizen can lodge a complaint with the Constitutional Court of the Republic of Montenegro.

Article 42

Against a decision of the commission for administration of a republican referendum in a municipality, denying or rejecting a representation, a citizen can lodge a complaint with the Republican Commission.

Against a decision of the Republican Commission denying or rejecting a representation, or against a decision, an act or a failure on the part of this Commission, a citizen can lodge a complaint with the Constitutional Court of the Republic of Montenegro.

V. CONCLUDING PROVISIONS**Article 43**

On the day on which the present Law shall come into force, the Law on Referendum (Official Gazette of the Republic of Montenegro, Nos. 3/92 & 7/92) shall cease to be valid.

Article 44

This Law shall come into force on the day of its publication in the Official Gazette of the Republic of Montenegro.