

LAW
ON THE REFERENDUM ON STATE-LEGAL STATUS
OF THE REPUBLIC OF MONTENEGRO

I – BASIC PROVISIONS

Article 1

The present law shall regulate: the calling for the referendum on state-legal status of the Republic of Montenegro (hereinafter referred to as: the referendum), referendum administration bodies, financing of the referendum expenses, conducting of the referendum campaign, media coverage of the referendum campaign, observing the referendum and protection of the right of citizens in the referendum procedures.

Unless otherwise provided by the present law, provisions of the Law on Referendum ("Official Gazette of the Republic of Montenegro" no.9/01), Law on the Election of Councilors and Representatives ("Official Gazette of the Republic of Montenegro" no. 4/98, 17/98, 14/00, 9/01, 41/02 and 46/02) and the Law on Voters' Register ("Official Gazette of the Republic of Montenegro" no. 14/00) shall apply on the referendum on state-legal status of the Republic of Montenegro (hereinafter referred to as: the Republic)

Article 2

Should the citizens on the referendum, which is called for in accordance with the present law, vote against the question on state-legal status of the Republic, such question can not be put on the referendum within the time period of three years.

Article 3

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

II - CALLING FOR THE REFERENDUM

Article 4

The decision on calling for the referendum on state-legal status of the Republic shall be enacted by the Assembly of the Republic of Montenegro (hereinafter referred to as: the Assembly), by majority of votes of the total number of representatives in the Assembly.

The decision on calling for the referendum shall determine the date of holding of the referendum.

No less than 75 days shall pass between the day the referendum is called for and the day it is held.

The decision to call for the referendum shall be adopted and published in the manner applicable to the acts adopted in the Assembly.

Article 5

The question on the referendum shall read as follows:

"Do you want the Republic of Montenegro to be an independent state with full international and legal personality?"

Article 6

The decision in favour of independence shall be considered as valid, if 55% of the valid votes are cast for the option "yes", provided that the majority of the total number of registered voters has voted on the referendum.

III - REFERENDUM ADMINISTRATION BODIES

Article 7

The referendum administration bodies shall work in conformity with the law, on the basis of the highest professional standards and with the objective to ensure the transparency and credibility of the referendum process.

The referendum administration bodies shall be responsible for their work before the body that appointed them.

Chairpersons, secretaries and members of the referendum administration bodies as well as other persons monitoring the work of the referendum bodies shall have a duty to act in conformity with the rules on conduct set down by the Republic Referendum Commission.

Should any of the referendum administration body members and persons monitoring their work break the rules on keeping order, or in any other way disrupt the work of the referendum administration bodies, the chairperson of a referendum administration body may order to remove such persons from the spot, eventually assisted by the Police, while recording such event in the Minutes.

State bodies, organisations and local self-government bodies shall have a duty to offer professional and technical assistance to the referendum administration bodies and provide them with all necessary support in their work.

Article 8

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

Article 9

The referendum shall be administered by:

- the Republic Commission for administering the referendum on state-legal status of the Republic of Montenegro (hereinafter referred to as: the Republic Commission);
- the Commission for administering the referendum on state-legal status of the Republic of Montenegro in a municipality (hereinafter referred to as: the Municipal Commission), and
- Polling Boards.

Commissions from paragraph 1 of this article shall be appointed by the Assembly no later than 10 days following the entry into force of the Decision on calling for the referendum.

Polling Committees shall be appointed by the Municipal Commissions no later than 10 days prior to the day of voting of citizens on the referendum.

Article 10

The Republic Commission shall be composed of: the Chairperson, Secretary and 16 members.

The members of the Republic Commission shall be appointed on the basis of the principle of equal representation of both options participating in the referendum process.

Members of the Republic Commission have the voting right in the Commission.

The Secretary of the Republic Commission shall be appointed from amongst administrative staff of the Assembly and shall not have the voting right in the Commission.

The Chairperson of the Republic Commission shall vote only in case of an equal number of «yes» and «no» votes.

Article 11

The Chairperson of the Republic Commission shall be appointed by the Assembly from amongst the relevant European organisations.

Article 12

Members of the Republic Commission shall have deputies.

The Secretary and members of the Republic Commission shall be appointed from amongst graduate lawyers.

The mandate of the Chairperson, Secretary and members of the Republic Commission shall expire on the day on which the results of the referendum are acknowledged by the Assembly.

Article 13

The Municipal Commission shall be composed of ten members.

The Chairperson and the Secretary of the Municipal Commission shall be elected from amongst its members.

Members of the Municipal Commission shall have deputies.

The members of the Municipal Commission shall be appointed on the basis of the principle of equal representation of both options participating in the referendum process.

The Chairperson and the Secretary of the Municipal Commission can not be from the same referendum option.

The mandate of members of the Municipal Commission shall expire on the day on which the results of the referendum are acknowledged by the Assembly.

Article 14

The Commission for Elections and Appointments of the Assembly shall determine by lottery the Chairperson of the Municipal Commission from amongst the representatives of the two referendum options in the municipality with biggest number of voters in the last elections in Montenegro.

A representative of the referendum option who was not determined as Chairperson of the Municipal Commission, shall be determined as candidate for the Secretary of the Municipal Commission.

The Chairpersons of other Municipal Commissions shall be appointed at the proposal of representatives both referendum options, alternatively, following the sequence of Municipal Commissions based on the criteria of number of registered voters in those Municipal Commissions, at the last parliamentary elections in Montenegro.

Article 15

The Polling boards shall be composed of six members that are appointed on the basis of the principle of equal representation of both referendum options.

The Chairperson and the Vice-Chairperson of the Polling board shall be appointed from amongst the members of the Polling board.

Members of the Polling board shall have deputies.

The Chairperson and the Vice-Chairperson of the Polling board shall not be from the same referendum option.

Article 16

The Chairperson of the Polling board in the polling station with the highest number of voters at the last elections in Montenegro shall be elected from amongst the representatives of the referendum option whose candidate was not elected as Chairperson of the Municipal Commission.

The Chairpersons of the remaining Polling boards shall be appointed from amongst the representatives of both referendum options, in alternate manner, following the sequence of polling stations based on the criteria of number of registered voters in those polling stations, at the last elections in Montenegro.

Article 17

Referendum administration bodies can perform their work in full legal validity, if the half of the total number of members are present, and the decisions are adopted by the majority of votes of the present members.

Article 18

The Republic Commission shall:

- adopt its internal regulations,
- establish the working body in accordance with paragraph 3, Article 32 of the
- present Law,
- provide for an administration of the referendum in accordance with the Law,
- coordinate the activities of municipal commissions and furnish them with
- instructions for the administration of the referendum,
- supply the voting material to all bodies administering the referendum,
- and provide for technical preparation for the referendum,
- prescribe forms for the administration of a referendum,
- establish and make public the total number of voters in the Republic per unit of
- local self-government and per polling station, within the time frame prescribed
- by the Law on Voter Registers,
- establish and make public the preliminary outcome of the vote in the
- referendum,
- establish and make public the final outcome of the vote in the referendum, per
- each of the polling stations
- submit the report to the Assembly on the outcome of the vote in the referendum,
- distribute the funds provided for the work of the referendum administration
- bodies, referendum material and other costs and perform the control over the
- use of those funds
- perform other tasks as stipulated by the present Law.

The Republic Commission shall have its own webpage where it shall publish all acts and data of the significance for the administration of the referendum.

Article 19

The municipal commission shall:

- adopt its internal regulations,
- designate polling stations,
- provide for the regularity of the work of polling boards,
- provide for technical preparations of voting in the referendum,
- take over from the polling boards the voting material in the referendum,

- establish the outcome of the vote on the territory of the municipality,
- report on the outcome of the voting to the Republic Commission,
- perform other tasks as stipulated by the present law.

Article 20

The Republic Commission shall take over responsibilities within the competence of the Municipal Commission in case the latter fails to carry out its duties set forth by the present law, i.e. does not take decisions within the scope of its competence.

Article 21

The Polling board shall administer the voting at the polling station, provide for regularity and secrecy of voting and establish the results of voting at the polling station.

The Polling board shall provide for maintenance of order at polling stations during the voting in the referendum.

The Polling board shall appoint, from among its members or deputies, two trustees from both referendum options in charge with the home-bound voting.

Article 22

The state flag of the Republic of Montenegro and the flag of the State Union of Serbia and Montenegro shall be displayed at the polling station.

Article 23

The ballot boxes shall not be transparent.

Article 24

The ballot shall be printed on specially protected 90-gram paper with voter seal.

Article 25

Provisions of the Law on Election of Councilors and Representatives referring to: polling stations; voting at the polling station and voting by the means of a letter, voting material; voting; repeated voting and other matters, as well as the rules and other acts passed on the basis of this law, shall accordingly apply to the referendum administration procedure, unless otherwise provided by the present law.

Article 26

The Republic Commission shall publish on its web-site the preliminary results immediately upon receipt of reports from all polling stations, providing information on:

- the number of voters registered 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 voted,
- the number of received ballot papers,
- the number of unused ballot papers,
- the number of used ballot papers,
- the number of valid ballot papers,
- the number of invalid ballot papers,
- the number of voters who have voted "YES",
- the number of voters who have voted "NO",

Municipal commissions and polling boards shall immediately make public the results in their area of responsibility.

The outcome of the referendum shall be published in the "Official Gazette of the Republic of Montenegro" within 15 days from the day of holding the referendum.

IV - REFERENDUM CAMPAIGN

Article 27

The status of a subject of the referendum campaign shall be granted to the political party represented in the Assembly that sustains in the Assembly the decision on calling for the referendum on state-legal status.

The subject of the referendum campaign shall be registered with the Republic Commission.

When in support to one referendum option, at least two political parties represented in the Assembly acquire the status of the subject of the referendum campaign pursuant to paragraph 1 of this article, they shall conclude an agreement on joint participation in the referendum campaign.

The agreement from paragraph 3 of this article shall be deposited with the Republic Commission.

The subject of the referendum campaign can be other political party or NGO registered in Republic that with the consent of political organizations from paragraph 3 of this article signs the Agreement on joint participation in the referendum campaign

Article 28

Republic Commission shall register subjects of the referendum campaign that acquired this status pursuant to Article 27 of the present law in 48 hours period, starting from the moment of the submission of the according application.

Article 29

By means of the Agreement on joint participation in the referendum campaign, subjects of the referendum campaign shall regulate their mutual rights and obligations that specifically relate to access to media, use of the funds and other matter of common interest.

Article 30

During the referendum campaign, state and municipal officials shall not use for the referendum campaign any resources allocated to them in order to perform their ordinary official functions, such as transport, communications including mobile phones for official use, etc., unless the special security regulations for high state officials (escort and close protection) require so.

State or municipal resources shall not be used to print or otherwise produce material favouring either option in the referendum campaign. There shall be no advertisements paid for by public resources, other than from funds allocated to parties from the budget for campaigning, with exception of official announcements of the referendum administration bodies.

In cases there are no other premises available, State and local administration bodies may make premises available for the referendum campaign, ensuring equal conditions for both referendum campaign options.

Article 31

Public officials nominated or appointed by the Government of Montenegro and those elected or nominated by the local self-government bodies, civil servants and state employees shall not take part in the referendum campaign and shall not express publicly a position on the referendum during the working hours, i.e., while on duty.

There shall be no pressure on persons from paragraph 1 of this article on the matter of them voting in a specific manner at the referendum, or not to vote at all. Persons violating this prohibition shall be subject to criminal prosecution, in accordance with the law.

Article 32

For the purpose of ensuring full respect of the legislation in force, the Republic Commission shall receive, speedily consider and make public complaints related to the misuse and abuse of state resources and official authorizations during the referendum campaign.

The Republic Commission shall take decisions upon complaints from paragraph 1 of this article only within limits of its competence and, where appropriate, forward the rest of the complaints promptly to competent state bodies for further investigation, as well as to authorized observers.

The Republic Commission can perform activities from paragraph 2 of this Article in the plenary, or within the working body established for this purpose from amongst its members.

Article 33

Police officers and members of the Agency for National Security shall not participate in the referendum campaign in any way.

Police officers shall not vote, or enter in polling stations in their uniforms, except in cases of the request of the chairman of the Polling Board, for the purpose of preventing of direct threat to the public order and safety inside the polling station.

Police officer shall have a right to leave from his/her official duty, for a sufficient (necessary) time, on the voting day, for the purpose to exercise his/her right to vote.

V - FINANCING OF THE REFERENDUM EXPENSES

Article 34

The financial resources required for the administration of the referendum shall be apportioned to in the budget of the Republic.

In addition to financing the organization of the referendum itself, an amount of 2.000.000 Euro shall be put at the disposal from the budget of the Republic, no later than 3 days from the day the decision on calling for the referendum is adopted, for the purpose of financing campaign of both referendum options (1.000.000 Euro for each referendum option).

Contributions for the referendum campaign shall be assigned to the referendum campaign subjects, registered in accordance with the present Law.

The subjects from Paragraph 3 of this Article may also receive campaign contributions from private natural and legal persons, the total

sum of which may not exceed the amount designated by the Law on financing of political parties for this purpose. The identity of donors who provide financial support from private sources shall be disclosed.

Should contribution from private sources exceed the amount set forth in paragraph 4 of this Article, the exceeding part shall be returned to the donor.

All activities, files, submissions and other acts related to financing of the referendum expenses shall be exempt from any fees whatsoever.

Article 35

During the referendum campaign, the expenses of the campaign determined in the Article 9 of the Law on financing of political parties, shall be financed.

Article 36

The Assembly shall, by means of a special decision, simultaneously with adoption of the decision on calling for the referendum, establish the Referendum Financing Committee (hereinafter as: the Committee).

The Committee from paragraph 1 of this Article shall consist of six members appointed on the basis of principle of equal representation of both referendum options.

The Assembly shall appoint the Chairperson and Secretary of the Committee from amongst its members, belonging to the different referendum options.

The Chairperson of the Committee shall be appointed at the proposal of the option for maintaining the State Union of Serbia and Montenegro.

Conditions for the work of the Committee shall be provided by the Assembly.

Article 37

The Committee shall:

- adopt its rules of the procedure,
- distribute the budgetary funds for financing the referendum campaign in equal portions to both referendum options,
- monitor the expenditures of the referendum campaign,
- monitor the exercise of the principle of impartiality in financing both referendum options, by insight in proceedings, acts and activities of state authorities, local self-government authorities and other authorities and organizations, public enterprises and institutions and enterprises with major or decisive participation of the state in its ownership, in accordance with the law,
- react, in timely manner, on abuse of state resources during the referendum campaign, by submission of reports to the respective authorities and complaints to the authorized observers regarding the noticed unlawful acts and proceedings related to the referendum campaign financing.

Article 38

Provisions on prohibition for certain persons set forth in articles 7 and 8 of the Law on financing of political parties, shall be accordingly applied to the referendum campaign financing.

Article 39

For the purpose of collecting funds for financing the referendum campaign, the bodies designated in accordance with Art. 34 of this Law shall open a special referendum campaign account with the competent institution in charge of financial transactions and that account may not be used for any other purposes.

All transactions related to the referendum campaign, including income and expenditures shall be effectuated from the account from paragraph 1 of this Article.

Article 40

The subjects to which the Committee has distributed the funds in accordance with Article 34 of the present Law, shall nominate the person responsible for their effective use and the preparation of the report.

The signature of the nominated person in paragraph 1 of this Article shall be deposited with the competent institution in charge of financial transactions.

Article 41

Strict report on the origin, amount and structure of collected and spent contribution for referendum campaign shall be completed and submitted, within 30 days from the referendum day to the Republic Commission and the Committee.

The Minister of Finance shall determine the content and the form of the report from the paragraph 1 of this Article.

The report from paragraph 1 of this Article shall be published by the Republic Commission in the "Official Gazette of the Republic of Montenegro", on the web site of the Republic Commission as well as in a daily newspaper of the Republic of Montenegro.

Article 42

A fine from 100 to 200 minimal salaries shall be levied upon a subject determined in article 34 of this Law which :

- accepts and spends a donation from an unauthorized source;
- applies pressure on legal or private persons while collecting contributions for referendum campaign subject;
- make a promise or likelihood of any form of privilege or personal benefit to the donors of the referendum campaign
- does not open a special referendum campaign account in accordance with the article 39 of the present Law;
- does not nominate the person collecting the funds, who is responsible for effective use of contributions and the preparation of the report;
- does not submit a complete report in accordance with, and within the deadline from the article 41 of this Law.

The person within campaigning subject and responsible for collecting the funds who committed one of the quoted offences in paragraph 1 of this Article, shall be fined to an amount of 15 to 20 minimal salaries in the Republic.

VI - MEDIA COVERAGE OF THE REFERENDUM CAMPAIGN**Article 43**

The media shall assist voters during the referendum process in making an informed choice on the option they will favor, in particular by means of specific information programs and public debates involving both referendum options.

The publicity of the referendum process shall be provided in compliance with the standards contained in the international documents on human rights and freedoms (UN, OSCE, Council of Europe, EU, etc.) implying the right of every citizen to be informed in a truthful, timely and unbiased manner, under equitable terms, about all stages of the procedure and different referendum options.

The rights and freedoms mentioned in paragraph 2 of this Article shall be respected by all media.

Article 44

Participants in the referendum campaign shall respect the Constitution of the Republic of Montenegro, laws and codes of professional ethics, and be obliged to behave in a fair manner, refraining from defamation and libel, infringement of the rules of decency and insults to the public feelings.

Provisions of the Media Law, Broadcasting Law, and Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro" shall apply accordingly to referendum campaign by means of the media, unless provided otherwise by the present Law.

Article 45

During the referendum campaign, public service broadcasters shall provide equal presentation of different referendum options, on the basis of separate regulations to be adopted by the councils of the public service broadcasters.

The managing bodies of the daily "Pobjeda" and "Koha Javore" shall pass a book of rules providing for equality in presentation of both referendum options during the referendum campaign.

Public service broadcasters shall announce, no later than 10 days after the calling for the referendum, in daily press and in other ways accessible to the public, the manner and conditions of presentation of different referendum options.

Article 46

Both referendum options shall be presented in all public services, radio and television of Montenegro, public and local services and media founded by the Republic or the local self-government authority through, but not limited to the following:

- Press releases,
- Reports from the promotion gatherings,
- Reportages from the spot of the promotion gatherings,
- Announcement for a promotion gathering,
- Presentation of the political program of both referendum options,
- Thematic debates,
- Reacting and other form of presentations.

Article 47

The broadcast media shall not include in their programs, ten days prior to the referendum day, the results of the public opinion polls, other researches and analyses related to the citizens' positions concerning the referendum question.

On the referendum day, before the polling stations have been closed, the broadcast media shall not publish in their programs the estimated results of the voting, with the exception of the estimates concerning the turnout of voters.

Article 48

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

Article 49

Paid advertising in broadcast media shall be clearly marked as such in accordance with the Rulebook of advertising and sponsorship in public broadcast media.

Print media shall pass a rulebook on paid advertising similar to the one applied by the public broadcast media from paragraph 1 of this article.

In accepting paid advertising, private media shall not discriminate between supporters of the two referendum options.

Article 50

All media shall, during informative shows, out of the radio and TV programs and paper columns envisaged for the pre-referendum campaign, provide information on current affairs and activities of officials and political party officials, obeying the principles of journalism, objectivity and professional ethics.

Reporting on regular activities and work of state authorities, officials, members of the Government, and municipal officials shall be performed without any political messages, obeying the code of journalism.

The media, when reporting on the current affairs and activities of state authorities and governmental officials, can not comment or provide texts that would point to the party affiliation or represent one party propaganda.

Contact programs and special broadcasts the participants of which are state officials and political party officials or within which political engagement of the above officials is used for the purpose of pre-referendum campaign, may not be broadcast outside of a special TV and radio program and a special supplement in the "Pobjeda" and "Koha Javore" daily.

Shows with cultural, documentary, sport, entertainment or other character which do not have strictly informative character shall strive to avoid the contents directed to propaganda of one or another referendum option.

Article 51

Private media shall adopt the code of conduct interceded in favour to the fair editorial policy as well as to the equal coverage of the referendum campaign. These principles shall be also applied by the media established outside of the territory of Montenegro, but which are accessible at the territory of Montenegro.

Article 52

The Assembly, by means of a special decision, simultaneously with the adoption of the decision on calling for the referendum, shall establish the Committee for media coverage of the referendum campaign.

The Committee shall consist of 12 members appointed on the basis of principle of equal representation of both options participating in the referendum.

The Assembly shall, among the members of the Committee, appoint the Chairperson and the Secretary of the Committee belonging to the different referendum options.

The Chairperson of the Committee shall be appointed at the proposal of the option for independence of Montenegro.

The Committee shall be open to media institutions and civil society that shall monitor the activities of the Committee.

Article 53

The Assembly shall provide for necessary resources for the work of the Committee (premises, equipment, staff expenses).

The Committee shall:

- monitor the respect of the provisions of this chapter,
- issue the internal acts of the Committee,
- receive the complaints on media behavior and examine such complaints,
- report the public on performed examination and its findings,
- issue warnings and make its conclusions public, without interfering with the editorial independence of the media outlets.

Article 54

Media shall, during the referendum campaign, have a duty to publish the findings of the Committee by which it is declared that some media had violated these rules, as well as principles of equality, uniformity and objectivity in informing the citizens on political programs of both referendum options.

Article 55

The right to media coverage in the referendum campaign shall start from the day of certification of the authorized participants in the referendum campaign by the competent authority (Republic Commission), and shall cease 48 hours prior to the referendum day.

VII – OBSERVATION OF THE REFERENDUM**Article 56**

European Union, other international organizations, international non-governmental organizations and authorized representatives of foreign countries shall be registered for observation of the referendum, including the work of authorities in charge for administration of the referendum and other state authorities, monitoring of media coverage of the referendum, exercise of the right to vote and other connected political and civil rights in the referendum process.

Observation period shall run from the day of calling for the referendum and shall cease with the official publication of the referendum results inclusively.

Observers from the paragraph 1 of this Article shall supply information on the course of the referendum process, in accordance with their habitual procedures.

Article 57

Foreign observers referred to in Article 56 of this Law, who wish to observe the referendum, shall lodge an application for monitoring the referendum to the Ministry of Foreign Affairs of the Republic of Montenegro, 10 days prior to the referendum day at latest.

The application referred to in paragraph 1 of this Article shall include the name of the country the observer comes from, the title of the Organization, the certificate of entering the registry, the number and composition of the representatives and time/duration of their stay.

The Ministry of Foreign Affairs shall, on the day following the receipt of the application, forward the application to the Republic Referendum Commission.

The Republic Referendum Commission shall, within 48 hours from the receipt of the application, issue the official authorization for observing the referendum or render a decision refusing the issuance of such an authorization.

Article 58

Authorized representatives of domestic non-government organization, registered for monitoring of the exercise of political rights and freedoms, can observe the course of the referendum and work of the authorities in charge of administering the referendum, in accordance with the law.

Article 59

Domestic non-government organizations, who wish to observe the referendum, shall lodge an application for monitoring the referendum to the Republic Referendum Commission, which shall, within 48 hours from the receipt of the application, issue the official authorizations for observing the referendum or render a decision refusing the issuance of such an authorization.

The application referred to in paragraph 1 of this Article shall include the title of the organization, the certificate of entering the registry, the number and composition of the representatives.

The application shall be lodged 5 days prior to the referendum day at latest.

Article 60

To the persons referred to in Articles 56 and 58 of this Law, the Republic Commission shall issue identification cards bearing the name and the surname of the observer, the name of the country he comes from and the title of the organization and institution he belongs to.

The person, to whom the identification card is issued, shall be obliged to carry it in a conspicuous manner.

Article 61

The referendum administration bodies shall have a duty to provide for an undisturbed observing of the referendum process and of the activities of the referendum administration bodies by foreign and local observers.

The Polling Board shall enter into the Record the presence of observers at the polling stations.

Article 62

The Republic Commission may, on the proposal of the referendum administration bodies, take away the issued authorization and identification card from any person who fails to observe the rules with regard to the maintenance of order at the polling stations, or rules on the work of the referendum administration bodies.

VIII – FINAL PROVISION**Article 63**

The present Law shall enter into force on the day of its publication in the "Official Gazette of the Republic of Montenegro"