

## Civic Initiatives' comments on the Draft Law on Referendum and People's Initiative

Civic Initiatives participated in the round table in Belgrade, organized by the Ministry of Public Administration and Local Self-Government, where the Draft Law on Referendum and People's Initiative was presented. Civic Initiatives presented proposals and solutions, the implementation of which would improve the quality of the presented law.

Bearing in mind that the current law dates back to 1994, passing a new law is necessary, first of all, in order to align with the Constitution of 2006, but also to answer a number of questions that remain undefined or poorly regulated by the current law. The overall assessment of the presented Draft Law is that it is a step in the right direction, but that some solutions, to some extent, restrict the freedom of direct participation of citizens in decision-making.

During the round table, and at a later stage of the submission of written proposals, Civic Initiatives pointed to the need to exempt citizens from paying the fees for verification of signatures, whose collection launches a people's initiative to adopt, amend or repeal a particular act. The imposition of financial levies renders the very idea of participatory democracy and active citizen participation, and denotes the institute of people's initiative as an expensive and ineffective tool.

Considering that the regulation for the collection of signatures electronically, for which no fee is needed, was not part of the public hearing, citizens will in the future be forced to use the conventional method of signature collection and will not be able to avoid significant financial costs. The draft leaves a period of 6 months for the adoption of this regulation and does not specify deadlines for the actual exercise of the right to collect signatures electronically.

The alternative proposal was to suspend the article on signature authentication pending the establishment of a functional system to support the electronic signature of a people's initiative. The proposal is based on past practices and deadlines for drafting by-laws. Also, when establishing electronic systems for the general public so far, deadlines have been constantly extended, due to the need for platforms to be adequately tested, and due to the coordination of different parts of public administration. With all this in mind, it cannot be stated with certainty at what point citizens of Serbia will be able to support people's initiatives electronically, and signature verification remains the only possible way to support people's initiatives.

The Draft Law remained vague in terms of judicial protection in the event that the competent authority fails to adopt an act in accordance with the decision that the citizens opted for in the previous referendum, or in relation to further action if the Administrative Court approves the initiative committee's appeal regarding the National Assembly's decision to reject a submitted proposal for a people's initiative. Judicial protection is one of the most important elements of a people's initiative and in relation to its regulation, one can speak of the essential contribution of this mechanism to civic participation in a country. Considering the low level of responsibility of the MPs due to the weaknesses of the electoral system which cannot be overcome by the provisions of this law, it is necessary to ensure that the procedure is repeated by the President of the National Assembly, so that even the mechanism of judicial protection defined as such, could have its useful value. In this regard, a more detailed

regulation should prescribe obligations and deadlines, but in a way that will not impose additional obligations on the initiative's committee.

In addition, the obligation to inform the public about the amount and manner of spending the funds raised for the needs of the referendum and campaign for the implementation of the people's initiative is not clearly stated. We believe that this issue should be addressed in as much detail as possible, bearing in mind that the People's Initiative is intended for the general public as well, not only for political parties and organizations with experience in campaigning, and that in this respect the definitions that say that informing the public on spending should be done "properly" only creates confusion among interested citizens. Such legal loopholes and vague definitions leave too wide a space for arbitrary interpretations and foster uncertainty, which, instead of motivating, produces the effect of alienating citizens from direct involvement in the creation of useful policies.

A more detailed mechanism for informing the Assembly of irregularities during the collection of signatures is also needed. This is necessary in order to reduce the scope for possible misuse in order to affect the credibility of the proposal of the People's Initiative or the members of the Initiative's Committee and thus devalue the institute of the People's Initiative in the context of strong social polarization, documented in numerous domestic and international reports.

It would also be useful to introduce the obligation to publicly disclose the identity of the members of the Organizing Committee in order to better and more fully inform the citizens who wish to support the initiative. Bearing in mind that signing an initiative requires providing sensitive personal data, citizens should be aware of who is authorized to carry out their processing. Also, from the citizens' perspective, the question of the legitimacy of the initiative itself can often depend on the legitimacy of the representatives of the initiative's committee.

For the initiative to make sense, it is necessary to allow the authorized petitioner to be involved at all stages of the procedure. It is especially important to allow him to participate in the plenary session, to be able to explain and replicate himself. It is also of great importance to regulate the issue of the procedure in the case of the submission of amendments by the members of the Assembly on the proposal of the text of the People's Initiative, or to what extent it can be changed, as well as the issues of simultaneous submissions of two or more initiatives, or the commencement of initiatives if a similar, or the same, Government proposal entered the procedure.

Although the presented draft has weaknesses, public debates organized in Nis, Novi Sad and Belgrade provided the voice of relevant civil society organizations, representatives of the professional public and political organizations who came up with a number of useful proposals and ideas. If these proposals become adopted, Serbia will get a law that regulates this area in accordance with European standards. On the other hand, if the ministry ignores the proposals, the law will remain qualitatively imbalanced and in practice its implementation will largely depend on the political will and arbitrary decisions of individuals.

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