

Date Printed: 02/10/2009

JTS Box Number: IFES_46

Tab Number: 28

Document Title: DRAFT: PROPOSAL ON ADOPTION OF AN ACT
URGENTLY TO AMEND THE ACT ON ELECTION AND

Document Date: 1993

Document Country: MAC

Document Language: ENG

IFES ID: EL00627



★ 6 5 1 A 8 4 6 4 - E 0 4 D - 4 1 0 3 - A 7 0 D - 8 4 E 3 C 1 C 6 9 2 F 8 ★

law/MAC/1993/002/eng

PROPOSER: GOVERNMENT OF THE REPUBLIC OF
MACEDONIA

MEMBERS : TUŠE GOŠEV, MINISTER OF JUDICIAR
AND ADMINISTRATION, and
GORDANA SILJANOVSKA, M.Sci.,
MINISTER WITHOUT PORTFOLIO

REPRESENTATIVE: ELENA POPOVA, SECRETARY OF THE
SECRETARIAT OF LEGISLATION

1993
proposal
amend

PROPOSAL ON ADOPTION OF AN ACT URGENTLY
to Amend the Act on Election and Recall
of Representatives and Councillors, with
a - Proposal Act

F Clifton White Resource Center
International Foundation for Election Systems

93

Skopje, June 22, 1993

GOVERNMENT
OF THE REPUBLIC OF MACEDONIA
No.23-1/17-2

Skopje, July 22, 1993

TO: PRESIDENT OF THE ASSEMBLY
OF THE REPUBLIC OF MACEDONIA
S K O P J E

Based on Article 91, line 2 of the Constitution of the Republic of Macedonia and Articles 344 and 345, paragraph 2 of the Enactment of the Assembly of the Republic of Macedonia, the Government submits a Proposal for urgent adoption of of an Act to Amend the Act on Election and Recall of Representatives and Councillors, with the Proposal Act, adopted at its session held on July 22, 1993.

Tuše Gošev, Minister of Judiciary and Administration and Gordana Siljanovska, M.Sci., Minister without portfolia shall act as representatives of the Government in the Assembly, while Elena Popovska, Secretary of the Secretariat of Legislation, shall act as a agent.

PRESIDENT,
Branko Crvenkovski

PROPOSAL TO ADOPT AN ACT UNDER
URGENT PROCEDURE

The need to adopt the Act to amend the Act on Election and Recall of Representatives and Councillors under urgent procedure results from the requirement to carry out elections which are to be in accordance with the Constitutional provisions for election of representatives, in case the representatives pass a decision for dismissal of the Parliament of the Republic of Macedonia based on Article 63, paragraph 6 of the Constitution of the Republic of Macedonia.

Due to the reasons stated above it is required and proposed that this Act is adopted under urgent procedure, as set forth in Article 344 and Article 345 of the Rules of Procedure of the Assembly of the Republic of Macedonia.

PROPOSAL TO ADOPT AN ACT
to Amend the Act on Election and Recall of
representatives and councillors

I. REASONS REQUIRING ADOPTION
OF THE ACT

When the Constitution of the Republic of Macedonia was adopted, new foundations of the political system were established with a strict division of the legislative, executive and judiciary power in the Republic of Macedonia. Thus, the election of representatives in the legislative body of the Republic of Macedonia, being a representative body of the citizens, requires that the existing Act on Election and Recall of Representatives and Councillors be harmonized. Due to these reasons, the Constitutional Act on Implementing the Constitution of the Republic of Macedonia, Article 10 stipulates the obligation to adopt an Election Act by which the fundamental values of the constitutional order, i.e. the political pluralism and free and direct democratic elections, shall consistently be achieved.

II. BASIC PRINCIPLES ON WHICH
THE ACT IS FOUNDED

Basically the Act is founded on the same principles on which the Act on Election and Recall of Representatives and Councillors was adopted.

III. CONTENTS OF THE ACT

The contents of the proposed Act in the form of Proposal for an Act, is in accordance with Article 291 of the Rules of Procedure of the Assembly of the Republic of Macedonia.

A C T

to Amend the Act on Election and Recall
of Representatives and Councillors

Article 1

The title of the Act on Election and Recall of Representatives and Councillors ("Official Gazette of SRM" No. 28/90) shall be changed to read:

"Act on Election of Representatives and on Election and Recall of Councillors" (or "Act on Election of Representatives and Councillors and on Recall of Councillors").

Article 2

Article 1 shall be changed to read:

"This Act shall govern the manner and conditions for election of representatives in the Assembly of the Republic of Macedonia, as well as the manner and conditions for election and recall of councillors in the Assembly of the Municipality and in the Assembly of Skopje City (hereinafter "Representatives in the Assemblies")".

The provisions set forth in this Act regarding the election and recall of councillors in the Assembly of the Municipality shall adequately apply to the election and recall of councillors in the Assembly of Skopje City.

Article 3

Article 2 shall be changed to read:

"The citizens shall elect the members in the assemblies at general, direct and free elections, by secret ballot:

The citizen who reached an age of eighteen and who is capable to work shall have the right to elect and be elected as a member of the assembly".

Article 4

Article 4 shall be changed to read:

"The office of representative shall not be compatible to the office President of the Republic, President of the Government of the Republic of Macedonia, ministers, judges of the Constitutional Court, judges, public prosecutor and other holders of offices elected or appointed by the Assembly or the Government of the Republic of Macedonia, as well as of workers in the administration, the Armed Forces of the Republic, the public institutions, the public enterprises and other public services, organizations or institutions executing public authorizations.

The office of representative shall not be subject to election for a period of three years upon termination of employment of the active military persons in the Armed Forces and of the authorized persons in the security services".

As of the day of verification of the term of office for representative as set forth in paragraph 1 to this Article, his/her office shall cease to exist, while the rights and obligations arising from employment for the workers and employers, shall be in a state of rest .

Article 5

Article 5 shall be changed to read:

"The councillor may be recalled only by the constituency which elected him/her".

Article 6

A new Article 5-a shall be added, after Article 5, to read:

"Article 5-a

~~A tax shall not be imposed on the activities, records, forms and other documents regarding the carrying out of the elections for the members in the assemblies and for recall of councillors."~~

Article 7

The full stop at the end of the sentence of Article 6, paragraph 1 shall be deleted to add the following words:
"of the Assembly of the Republic of Macedonia".

The word "decision" of Article 6, paragraph 3 shall be replaced by the word "act", the words "two months" shall be replaced with the words "90 days", after the words "until the day of" the words "holding of" shall be added, while the words "one month" shall be replaced with the words "30 days".

A new paragraph 4 shall be added after paragraph 3, to read:

" In case of dismissal of the Assembly, not more than 60 days or less than 30 days shall elapse as of the day the elections are scheduled until the day the elections are held".

Paragraph 4 shall become paragraph 5 and shall be changed to read:

" The elections must be held within 30 (15) days the most before the expiration of the term of office of the representatives in the Assembly whose term of office expires".

Two new paragraphs 6 and 7 shall be added after the paragraph 5, to read:

~~"The act for scheduling the election shall also define~~
the date from which the terms for performing election activities shall be valied.

In case the Assembly shall be dismissed, the President of the Assembly shall schedule elections as of the day of ist dismissal".

Article 8

Paragraph 4 of Article 10 shall be changed to read:

" Within the Election Commissions, each submitter of a proposal for a candidate for representative in the Assembly, may assign one representative and his/hers deputy, who are to consist the variable composition of the Election Commissions"

Paragraph 5 shall be deleted.

Paragraph 6 shall be changed to read:

"The president of the Election Commission shall, immediately and the latest within five days (8 days), upon the completion of the procedure for proposing candidates, convoke a session of the Commission at which the persons of paragraph 4 to this Article, shall also be invited. Upon establishing the right from paragraph 4 to this Article, the variable composition of the election commission shall be individually established (giving full name and surname).

Article 9

Article 13 shall be changed to read:

~~"The Municipal Election Commission of permanent composition shall:~~

1. Confirm whether the proposed candidates to be elected councillors were proposed in accordance with the law;
2. Confirm the lists of proposed candidates, by a decision;
3. Define the election posts;
4. Appoint election boards;
5. Give instructions to the election boards regarding their work and management of the election at the election post and shall take care for correct and legal work of the election boards.
6. Make technical preparations for the elections;
7. File and submit statistical data to the Republican Bureau of Statistics;

8. Perform other activities established by this Act.

The Municipal Election Commission of permanent composition shall work with all its members.

The Municipal Election Commission of variable composition shall:

1. Be concerned for legal scheduling of the elections and recall of councillors;

2. Supervise the legality of the work of the election boards;

3. Make a common list of candidates for councillors and shall announce and publish it;

4. Evaluate and announce the results from the voting on election and recall of councillors and shall give statements from the voting results;

5. Perform other activities set forth by this Act".

Article 10

Article 14 shall be changed to read:

"The election commission of the election unit of permanent composition shall:

1. Establish whether the proposed candidates to be elected representatives are proposed in accordance with the law;

2. Confirm the lists of proposed candidates, by decision;

3. Define election posts;
4. Appoint election boards;
5. Give instructions to election boards regarding carrying out of the elections;
6. Perform technical preparations for the elections;
7. File and submit statistical data to the Republican Bureau of Statistics;
8. Perform other activities established by this Act.

The election commission of the election unit of variable composition shall:

1. Be concerned for legal scheduling of the elections in the election unit;
2. Supervise the work of the election boards;
3. Make a common list of candidates for representatives and announce it;
4. Evaluate the results from the voting on election of representatives in the election unit;
5. Perform other activities set forth by this Act."

Article 11

The words: "and recall", respectively "voting on recall" of paragraph 1 items 1, 2 and 3 and of paragraph 2 items 1, 3 and 4 of Article 15 shall be deleted.

Article 12

The words "and defining" in the title of Chapter V "Proposal and Defining Candidates for Representatives", shall be deleted.

Article 13

Paragraph 2 of Article 20 shall be changed to read:

"The candidates for representatives in the assemblies may, under the terms set forth in this Act, be proposed by the registered political parties, separately or jointly, and by the citizens".

Paragraph 3 shall be changed to read:

"The registered political parties having at least three thousand (3.000) members have the right to propose representatives in the assemblies by submitting a list of candidates for representatives and councillors in each election unit, while the registered political parties having at least five hundred (500) members have the right to propose candidates for councillors in the assembly of the municipality by submitting a list of candidates for councillors in the assembly of the municipality in each election unit". When submitting joint proposals of candidates for representatives, the political parties may submit the number of three thousand (3.000) members in aggregate. When proposing candidates two or more political parties, apart from the name of the party, may jointly use one name which they jointly have chosen.

The word "organizations" of paragraph 4 shall be replaced by the word "parties", the words "other forms of organizing and association, as well as " shall be deleted, the number and the word "100 (hundred)" shall be replaced by

the number and word "300 (three hundred)", while the number and word "50 (fifty)" shall be replaced by the number and word "100 (one hundred)".

The word "organization" in paragraphs 6 and 7 shall be replaced by the word "parties", and the words "and other forms of organizing and association" shall be deleted.

Article 14

In Article 21 after the word "residence" a comma shall be placed and the words "registry number" shall be added.

Article 15

In Article 20 paragraphs 1, 2, 3, 4 and 8, Article 22, 24 paragraphs 1 and 4, Articles 27, 30 paragraphs 1 and 2, Article 66 paragraph 1, the words "and defining", "and define", "and defined" shall be deleted.

Article 16

After paragraph 2 of Article 25 a new paragraph 3 shall be added and shall read:

"The list of candidates must be accompanied by a document confirming that the proposed candidates have a right to be elected".

Article 17

After paragraph 1 of Article 26, two new paragraphs 2 and 3 shall be added and shall read:

"If the election commission concludes that the list of candidates is made in accordance with this Act and that it is submitted promptly, it shall confirm the list of candidates with a decision, immediately or the latest within 24 hours upon receipt.

The election commission shall, without delay, submit to the submitter of the list the decision confirming the list set forth in paragraph 1 of this Article".

In paragraph 3 which shall become paragraph 5, the words "does not confirm the list of candidates" shall be replaced by the words "shall pass a decision by which the confirmation of the list is rejected, within the next 48 hours".

Article 18

The word "five" in Article 27 shall be replaced by the word "eight".

In paragraph 1 Article 19 the full stop shall be deleted and the words "not more than a thousand (1.000) electors" shall be added. In paragraph 1 of Article 35, the full stop shall be deleted and the words "not more than a thousand (1.000) electors" shall be added.

Article 20.

In paragraph 1 of Article 39, after the words "for recalling the words "of the councillors" shall be added, while the word "member" in this paragraph and in paragraph 2 of the same Article shall be replaced by the word "the councillor".

Article 21

In paragraph 3 of Article 40, after the words "for recalling" the words "of councillors", shall be added.

Article 22

After paragraph 2 of Article 42, a new paragraph 3 shall be added and shall read:

"When order is disturbed in the polling place, the election board may interrupt the voting until order is established. The voting may also be interrupted in cases of will of God and other extraordinary circumstances. In case the voting is interrupted for a period longer than 1 hour, the voting shall be extended for the period of duration of the interruption, but not longer than three hours. The period for which the voting had to be extended and the reasons for the interruption shall be included in the minutes".

Article 23

After the word "list" in Article 44, the full stop shall be deleted and the words "and in case it is established that he is registered based on the identity card or establish his/her identity on the basis of other documents by which his/her nationality of the Republic of Macedonia may be confirmed", and after the words "identity card", the words "with other document by which his/her nationality of the Republic of Macedonia may be confirmed", shall be added.

Article 24

A new paragraph 2 shall be added after the paragraph 1 of Article 45, which shall read:

"Elector who shall not be in a position to vote at the polling place (prevented), and wishes to vote, shall duly inform the election board which is to provide for his/her voting in a manner providing secret ballot."

In paragraph 2, which now shall become paragraph 3, the word "such" shall be deleted, while after the word "case" the words "from paragraphs 1 and 2 of this Article" shall be added.

Article 25

The words "Socialist Federal Republic of Yugoslavia" of paragraph 2, Article 46, shall be replaced by the words "Republic of Macedonia".

Article 26

The words "municipal authority" of paragraph 1, Article 47, shall be replaced with the word "the authority", while the word "people's" shall be deleted.

The words "Socialist Federal Republic of Yugoslavia" of paragraph 2 shall be replaced by the words "Republic of Macedonia"

Article 27

A new Article 47-a shall be added after Article 47, which shall read:

"Article 47-a

Citizens who are detained or imprisoned, shall vote in the institution in which they are detained or imprisoned.

Based on the data of the authority competent for the election list, the relevant commission shall make the list as set forth in paragraph 1 of this Article, and the list, together with the required number of certified ballots and the required number of envelopes addressed to the relevant election commission, shall submit to the institution in which these citizens are detained, respectively imprisoned".

Article 28

After the words "of Article 46" in paragraph 1 of Article 46, the words "and Article 47-a paragraph 1" shall be added, while after the words "the institution" the words "or the competent institution in which he/she is detained or imprisoned" shall be added.

After the words "of Article 46" in paragraph 3, the words "and Article 47-a" shall be added.

Article 29

After the words "for recall" in paragraph 1 of Article 49, the words "of the councillors" shall be added.

Article 30

Paragraph 3 of Article 54 shall be changed to read:

" During the repeated voting (second round of voting), both candidates who during the first round of voting had highest number of votes or all candidates who during the first round of voting had equal and at the same time highest numbers of votes, shall be put to a voted for".

Paragraph 4 shall be deleted.

Article 31

Item 1 in paragraph 1, Article 59, shall be deleted.

Item 3 shall be changed to read:

"3. Should he/she be convicted for a crime for which imprisonment of at least 5 years is imposed".

Two new item 7 and 8 shall be added after the item 6, to read:

"7. Should he/she be deprived of the mandate in cases set forth in Article 65 paragraph 4 of the Constitution;

8. Should he/she be no longer a national of the Republic of Macedonia";

After number 5 of paragraph 2 a comma shall be added, while after the number 6 the conjunction "and" and the number "8" shall be added".

Paragraph 4 shall be changed to read:

"The term of office of a representative, as set forth in paragraph 1, item 7 of this Article, shall expire as of the day of the session of the Assembly at which a decision is adopted for depriving him/her of the mandate".

A new paragraph 5 is added after the paragraph 4, to read:

"Besides the cases set forth in paragraph 1 to this Article, the councillor shall cease to have a mandate when recalled. In such case his/hers mandate shall expire with the adoption of the decision for his/her revocation".

Article 32

Item 2 in paragraph 2 of Article 60 shall be deleted.

Article 33

The full stop after the word "candidate" in the fourth line of paragraph 1, Article 61, shall be replaced by a full stop, while the words " and at the repeated elections made due to the reasons set forth in paragraph 1, item 2 of Article 60 of this Act, the voting shall be done in accordance with the new list of candidates established in a manner stipulated in this Act", shall be deleted.

Article 34

THE WORDS " items 1 and 2" in paragraph 1, Article 62 shall be replaced by the words "item 1".

Article 35

A new Article 64-a shall be added after Article 64, to read:

"Article 64-a

The mandate of a representative elected during additional elections shall last until the expiration of the term of the member whose mandate expired".

Article 36

A new Chapter IX "SPECIAL PROVISIONS" and 7 new Articles shall be added after Article 65, to read:

"Article 65-a

To the Assembly of the Republic of Macedonia 20 representatives shall be elected on a proportionate system basis.

The entire territory of the Republic of Macedonia shall be considered as constituency when electing representatives set forth in paragraph 1 to this Article.

Article 65-b

The political parties shall submit the election lists for candidates for representatives, as set forth in Article 65-a of this Act, to the Republican Election Commission.

The political parties set forth in paragraph 3 Article 20 of this Act shall have the right to propose election lists for candidates.

The Republican Election Commission shall, within 8 days the latest, upon expiration of the term set forth in Article 25 of this Act, make a list of all submitted election lists, including the names of all candidates with data about his/her year of birth, occupation and place of residence.

The sequence of names of all candidates in the list of the election lists shall be established according to the sequence of their confirmation.

Article 65-v

The elector may vote only for one election list out of the list of election lists.

Article 65-g

The Republican Election Commission shall confirm the total number of votes for each separate election list and shall confirm the number of mandates for each of these lists.

Each election list is entitled to a number of mandates proportionate to the number of vote won.

Article 65-d

The Republican Election Commission shall, upon confirming the results from the voting in the Republic, confirm the number of electors' votes required to obtain one representative seat in the Assembly (election quotient).

The election quotient shall be obtained when the total number of valid electors' votes in the Republic is divided with the number of representatives in the Assembly (20 representatives elected on the proportionate system basis).

Each list of candidates shall be entitled to as many seats (mandates) in the Assembly as the election quotient is contained in the number of the votes for the list.

The list of candidates for representatives who won less than 5% of the total number of valid electors' votes in the Republic, shall not be considered during the distribution of the seats.

Should all the seats be not distributed in the manner set forth in paragraph 3 to this Article, the undistributed seats shall be distributed in such a way that the remaining number of electors' votes for each list of candidates shall be divided with the numbers 1 to the number of undistributed seats

inclusively, and these seats shall be added to the lists with the highest quotients.

Article 65-dž

Upon the distribution of the mandates from each political party, candidates nominated by the political party within the proposed candidates of the list, shall be considered as elected candidates.

Article 65-e

Should the mandate of a representative from Article 65-a of this Act expire on the basis of Article 59 of this Act, the political party shall elect a representative from among the candidates proposed on the list.

Article 37

Chapter "X Recall" shall be changed to read: "X RECALL OF COUNCILLORS".

Article 38

After the word "candidate" of paragraph 1 Article 70, the words "any proposer of candidates" are added.

The number "48" of paragraph 2 shall be replaced by the number "24".

The words "three days" of paragraph 3 shall be replaced by the words "24 hours".

The words "three days" in paragraph 4 shall be replaced by the words "48 hours", while the word "the submission" shall be replaced by the word "receipt".

Article 39

The words "2.000 to 25.000 denars" of paragraph 1 Article 73 shall be replaced by the words "50 to 250 wages".

The words "1.000 to 2.500 denars" of paragraph 2, shall be replaced by the words "5 to 15 wages".

Article 40

The words "500 to 2.500 denars" of paragraph 1 Article 74 shall be replaced by the words "one and a half to two and a half wages".

Article 41

The words "the political organizations and other forms of organization and association" of Articles 21 paragraph 2, 22, 23, 28 paragraphs 1 and 3, and 32 paragraphs 2, 3, 4 and 5 and Article 69 paragraph 3 shall be replaced by the words "political parties".

Article 42

After the word "recall" from Articles 16 paragraph 1 and 2, 39 paragraph 1, 40 paragraph 3, 70 paragraph 1 and 2 and Article 71, the words "of councillors" shall be added, while the word "submission" shall be replaced by the word "receipt".

Article 43

The word "representative" used in singular and plural of Articles 66, 68 and 69 paragraph 1 shall be replaced by the word "councillor" in singular or plural.

Article 44

The word "Socialist" appearing before the words "Republic of Macedonia" in Article 11 paragraph 2 and 3, 15 paragraph 2 item 3 and 4, 19, 20 paragraphs 2 and 3 and Article 57 shall be deleted.

Article 45

The legislative-legal commission*of the Assembly of the Republic of Macedonia shall be authorized to make the right wording of the text of the Act.

Article 46

This Act shall come into force on the eighth day upon its publication in the "Official Gazette of the Republic of Macedonia".

J u s t i f i c a t i o n

Article 62, paragraph 5 of the Constitution of the Republic of Macedonia, represent a constitutional base for the adoption of this Act.

Although the basic principles on which the Act on Election and Recall of Representatives and Councillors is founded are generally the same, yet the adoption of the Constitution of the Republic of Macedonia imposed the need for its amendment and change.

Since the Constitution of the Republic of Macedonia clearly defines that the representatives cannot be recalled, the amendments give a proposal for deleting the provisions governing their recall. Regarding the recall of the councillors in the Assembly of the municipality, it is still stipulated that they can be recalled simply because the Constitution do not establish a ban for their recall.

The main novelty proposed in this Act is the possibility that 20 representatives may be elected based on the proportional system. It is believed that this will result in overcoming of certain defects present in the majority system of election of representatives in the Assembly of the Republic of Macedonia. The number of representatives who are elected on the basis of the proportional model is also stipulated in the Constitution of the Republic of Macedonia with the provision of Article 62, stating that the Assembly consists from 120 to 140 representatives. Since an Act on the electoral units is required, it is believed that the number of 120 representatives who are elected on the basis of the majority principle should remain without the need to change this Act.

Besides these changes, this Act also gives some changes to improve the election procedure, as indicated by the suggestions of the Republican Election Commission given during the conducting of the first parliamentary elections.

