

CRTA:

**CRTA's key comments on the
solutions from the Draft Law
on Amendments and
Supplements to the Law on the
Unified Voters' Register**

As a member of the Working Group for the Improvement of the Electoral Process, organized by the National Assembly of Serbia, CRTA has prepared and submitted its proposal for the Draft Law on Amendments and Supplements to the Law on the Unified Voters' Register on May 13, 2024. Members of the Working Group received a new draft proposal from the National Assembly on September 23, which, as CRTA believes, does not sufficiently contribute to addressing the key issues with the voters' register despite using CRTA's proposal as a starting point. These issues were most evident and prominent during the parliamentary, local, and provincial elections in December 2023, as well as during the new local elections in Belgrade and other local self-government units in June 2024. Regarding the draft law proposal, which has been submitted to the members of the Working Group for further consideration, CRTA highlights the key shortcomings of the proposed solutions.

Under the corresponding articles, there are CRTA's key comments on the solutions from the Draft Law on Amendments and Supplements to the Law on the Unified Voters' Register, which has been submitted to the members of the Working Group for further consideration.

DRAFT LAW ON AMENDMENTS AND SUPPLEMENTS TO THE LAW ON THE UNIFIED VOTERS' REGISTER

Article 1

In the Law on the Unified Voters' Register ("Official Gazette of the Republic of Serbia," nos. 104/09, 99/11, and 44/24), in Article 14, after paragraph 2, new paragraphs 3 through 5 are added, which read:

"After the voters' register has been closed, the Ministry of Public Administration and Local Self-Government, for the purpose of displaying the voters' register to the public on its website, shall enable access to data on voters (name, one parent's name, surname, and an indication of whether the voter is listed in the voters' register based on residence or temporary residence), categorized by polling stations for the area of the local self-government unit, as well as data on the number of voters per household or address and apartment number.

Access to the data from paragraph 3 of this article is allowed only after entering the citizen's personal identification number and the registration number of the ID card or passport of the interested party accessing the data on the website of the Ministry of Public Administration and Local Self-Government.

The municipal or city administration shall, every seven days, publish on the website of the Ministry of Public Administration and Local Self-Government

data on the number of changes in the voters' register for the area of that local self-government unit, as well as the legal basis for those changes over the previous seven days. After the voters' register has been closed, the mentioned data shall be published by the Ministry of Public Administration and Local Self-Government on its website."

CRTA Comment: The draft law regulates the possibility of viewing relevant voter data sorted by polling stations, excluding the voter's address. The numerical display of data on the number of voters per household (at a specific address) will be available in a separate search, but only after the voters' register is closed. However, the proposal stipulates that all data, including numerical data, will be available to the public only after a period of one year from the date of enactment of this legal solution. This provision unnecessarily restricts the transparency of the data and makes it difficult for citizens and interested parties to continuously and promptly monitor changes in the voters' register and point out potential problematic occurrences. For this reason, CRTA believes that the relevant institutions should immediately publish all available relevant data after the amendments and supplements to the Law come into force, and that any data requiring additional time for systematization, collection, and processing should be published as soon as possible. Furthermore, CRTA advocates that all data, as provided by the Draft Law, which is published in a numerical format, should be made available to the public regularly and updated monthly, not only after the voters' register is closed.

Article 2

Article 21 is amended to read:

„Article 21

From the moment the electoral list is legally declared, the submitter of the declared electoral list has the right to view all data about voters in the voters' register, except for the citizen's unique identification number, through an authorized person using a special module on the website of the Ministry of Public Administration and Local Self-Government, accessed with two-factor authentication.

The submitter of the declared electoral list also has the right to submit a request for changes to the voters' register to the competent authority, which must include authorization from the voter to whom the request pertains and appropriate evidence."

Article 3

In Article 22, after paragraph 2, a new paragraph 3 is added, which reads:

"Members of the permanent composition of the Republic Electoral Commission also have the right to supervise the updating of the voters'

register and, in doing so, have the right to view all data about voters in the voters' register, except for the citizen's unique identification number, through a special module on the website of the Ministry of Public Administration and Local Self-Government, accessed with two-factor authentication."

Article 4

After Chapter VI, a new Chapter VIa and Article 24a are added, which read:

"VIa PERSONAL DATA PROTECTION

Article 24a

All persons who, under any legal basis provided in this law, have access to personal data in the voters' register, are required to handle such data in accordance with the law governing personal data protection and solely for the purpose of exercising the powers entrusted to them by this law."

Article 5

For the purpose of conducting a review and establishing the facts regarding the management, maintenance, and accuracy of the voters' register, and for monitoring the accuracy and the process of updating the voters' register, as well as contributing to increased transparency and public trust in the voters' register, a temporary commission for the review, verification, and control of the accuracy and updating of the voters' register is established (hereinafter: the Commission).

CRTA Comment: The final draft law proposal, which defines the Commission as a temporary body, implies that the Commission will complete its work well before the next regular elections in 2027, meaning that the updating process of the voters' register for the next elections will occur without independent oversight. The need to establish an independent body, i.e., the Commission, stems from the growing public mistrust and justified concerns about the accuracy and up-to-dateness of the voters' register, a necessity highlighted in the long-standing recommendations of the ODIHR's international observation mission. Therefore, CRTA argues that a "significant" review, as recommended by ODIHR's priority recommendations, can only be achieved by establishing the Commission as a permanent body that would exercise its authority over a longer period. The nature of the Commission's authority is such that its essential tasks are impossible to fulfill within the proposed short period of 15 months.

Article 6

The task of the Commission is to, within nine months from the appointment of its members, conduct a review of the voters' register and submit a report to the National Assembly within 30 days of completing the review.

The report on the review of the voters' register shall include recommendations for improving the accuracy and updating of the voters' register.

Article 7

For the purpose of carrying out the task from Article 6 of this law, the Commission is authorized to:

- 1) Analyze the data in the voters' register at the level of personal data (name, father's name, surname, place of residence, and residential address);
- 2) Analyze the legal validity of decisions on which changes in the voters' register are based;
- 3) Analyze/monitor the statistical parameters of changes in the voters' register;
- 4) Analyze the process of updating and authorizing changes in the voters' register;
- 5) Analyze data on conducted inspections and proposed or mandated measures in the process of inspection supervision over the application of regulations governing the unified voters' register;
- 6) Analyze data from the Ministry of Internal Affairs regarding population movements and the alignment of this data with the voters' register;
- 7) Analyze the actions of the officials from the Ministry of Internal Affairs responsible for dealing with citizens (approval of residence and temporary residence for citizens);
- 8) Initiate field checks of voters based on the analysis of the voters' register, conducted by the Ministry of Internal Affairs;
- 9) Initiate the correction of identified irregularities in the voters' register;
- 10) Initiate proceedings to establish accountability if, during the determination of facts about the management and accuracy of the voters' register, it is found that there are grounds for suspicion of law violations, by reporting such violations to the competent authorities;
- 11) Obtain data from the competent authorities on statistical trends in the voters' register, residence, temporary residence, deactivation, and other relevant data related to the voters' register;
- 12) Produce periodic reports on the status of the voters' register;
- 13) Initiate a voter education campaign about updating the voters' register in cooperation with public media services, the Ministry of Public

Administration and Local Self-Government, and the Republic Electoral Commission;

14) Initiate cooperation with relevant institutions to effectively implement measures to improve the integrity of the voters' register;

15) Conduct other analyses necessary to determine the degree of integrity in the process of updating the voters' register.

CRTA Comment: CRTA believes it is necessary to foresee that the Commission, for the purpose of reviewing the voters' register, is also authorized to initiate and analyze the state of information security of the voters' register software to protect the entire system from unauthorized access or hacking by third parties. This solution is a way to contribute to enhancing accountability and public trust in the maintenance of the voters' register after the review has been conducted.

Article 8

The report on the review of the voters' register, with recommendations, shall be considered by the competent committees of the National Assembly within 30 days of its submission to the National Assembly.

After reviewing the report on the review of the voters' register, the competent committees, in line with the recommendations of the Commission, shall determine recommendations for improving the accuracy and updating of the voters' register and submit them to the competent authorities and organizations, as well as to the Commission.

The competent authorities and organizations are required to act upon the recommendations from paragraph 2 of this article within 120 days of receiving them.

Article 9

After submitting the report on the review of the voters' register, the Commission shall monitor the management and updating of the voters' register and the implementation of the recommendations of the competent committees of the National Assembly and report on this to the National Assembly within 30 days of the deadline from Article 8, paragraph 3 of this law for implementing the recommendations of the competent committees of the National Assembly.

In performing the supervision from paragraph 1 of this article, the members of the Commission have the right to view all data about voters in the voters' register, except for the citizen's unique identification number, through a special module on the website of the Ministry of Public Administration and Local Self-Government., accessed with two-factor authentication.

Article 10

The mandate of the Commission shall cease upon the submission of the report from Article 9, paragraph 1 of this law, or upon the expiration of the deadline for its submission.

Article 11

The Commission shall consist of ten members and their deputies, appointed by the National Assembly.

Eight members of the Commission and their deputies shall be appointed upon the proposal of parliamentary groups in the National Assembly, while two members of the Commission and their deputies shall be appointed upon the proposal of associations authorized by the Republic Electoral Commission to observe at least three electoral processes and to publish at least three reports on the findings of such election observations.

CRTA Comment: CRTA considers this legal solution to be flawed in terms of inclusiveness, as the process requires the participation of all interested parties, as stipulated by ODIHR's priority recommendation. The proposal for a Commission with an unequal number of members, combined with the provision requiring a two-thirds majority for decision-making, carries a significant risk of Commission deadlock. Therefore, CRTA advocates that a broader societal consensus is necessary for revising the voters' register, which can only be achieved if all Commission members proposed by all authorized proposers (government, opposition, associations) have an equal number of delegated members (3-3-3).

Article 12

A candidate for the position of a member or deputy member of the Commission may be proposed only if:

- 1) The candidate is a citizen of the Republic of Serbia and has permanent residence on its territory;
- 2) The candidate holds a higher education degree in law, mathematics, demography, information sciences, or economics, or in social-statistics and other related scientific fields, and has at least five years of professional experience in their field.

A person cannot be proposed or elected as a member or deputy member of the Commission if they are a member of the National Assembly, or if they are employed, elected, appointed, or assigned in the Ministry of Public Administration and Local Self-Government or the Ministry of Internal Affairs.

Article 13

The five largest parliamentary groups in the National Assembly that voted for the election of the Government shall each propose one member and one deputy member of the Commission.

The three largest opposition parliamentary groups in the National Assembly (parliamentary groups that did not vote for the election of the Government) shall each propose one member and one deputy member of the Commission.

Associations shall, by mutual agreement, propose two members and two deputy members of the Commission.

CRTA Comment: In accordance with the previous comment on Article 11, CRTA believes that the only solution that contributes to inclusivity and equality in the Commission's work is to have an equal number of members (3-3-3), ensuring that all authorized proposers have the same number of delegated members.

Article 14

Proposals for candidates for members and deputy members of the Commission shall be submitted to the committee of the National Assembly responsible for administrative affairs (hereinafter: the competent committee) within 15 days from the date this law enters into force.

The candidate's proposal must contain:

- 1) The candidate's full name;
- 2) The candidate's date and place of birth;
- 3) The candidate's residential address, phone number, and email address;
- 4) Information about the candidate's education;
- 5) Information about the candidate's professional experience.

Along with the proposal, the following documents must be submitted:

- 1) A written statement of the candidate accepting the nomination for Commission membership, including their full name, unique citizen number, and a declaration that there are no obstacles to their selection for the Commission as outlined in Article 12, paragraph 2 of this law;
- 2) An official identification document with a microcontroller (chip) or a photocopy of the candidate's ID card without a microcontroller;
- 3) Proof of higher education;
- 4) Proof of professional experience in the field.

Associations, along with the candidate's proposal, must also provide proof that they meet the conditions outlined in Article 11, paragraph 2 of this law.

Article 15

The competent committee shall, within seven days from the expiration of the deadline for nominating members and deputy members of the Commission, review the submitted proposals and verify whether the proposals were submitted by authorized proposers and whether the candidates for members and deputy members of the Commission meet the requirements for Commission membership.

The committee shall not consider any proposal that was not submitted by an authorized proposer under Articles 11 and 13 of this law, and will notify the proposer of such rejection in writing.

If any parliamentary group that is an authorized proposer does not submit a proposal for a member and deputy member of the Commission, the competent committee shall address the next parliamentary group in line by size, requesting that they submit a proposal for a member and deputy member of the Commission within seven days of receiving the request.

If the competent committee determines that any of the proposed candidates for membership or deputy membership in the Commission do not meet the conditions for Commission membership, it will request the proposer to submit a new candidate proposal within seven days of receiving the request.

Article 16

The competent committee shall compile a list of ten candidates for members and ten candidates for deputy members of the Commission (hereinafter: the Candidate List) and submit it to the National Assembly for consideration and approval.

The President of the National Assembly is obligated to include the Candidate List on the agenda of the next session of the National Assembly.

The National Assembly shall vote on the Candidate List as a whole.

If the Candidate List does not receive the required majority of votes, the process of proposing members and deputy members of the Commission shall be repeated within 15 days of the conclusion of the National Assembly session at which the Candidate List was voted on.

Article 17

A member or deputy member of the Commission shall lose their mandate by force of law, and the National Assembly shall formally recognize the termination of the mandate:

- 1) In the event of death;

- 2) If they lose the right to vote;
- 3) If they are convicted by a final court decision to a prison sentence of at least six months;
- 4) If they lose the ability to work;
- 5) If they are elected as a member of the National Assembly

The National Assembly shall relieve a member or deputy member of the Commission of their duties:

- 1) If they submit a resignation;
- 2) If it is subsequently determined that they do not meet the conditions for Commission membership as prescribed by this law;
- 3) If they unjustifiably fail or refuse to perform their duties as a member or deputy member of the Commission for at least one continuous month.

A member or deputy member of the Commission shall submit their resignation in writing to the President of the National Assembly, and the signature of the submitter must be notarized in accordance with the law governing signature notarization.

Article 18

The new member or deputy member of the Commission shall be proposed by the authorized proposer who originally proposed the member or deputy member whose mandate has been terminated by force of law or who has been relieved of duty, within 15 days from the date of determining the termination of the mandate by force of law or the date of relieving the member or deputy member of duty.

The National Assembly shall elect the new member or deputy member of the Commission within 45 days from the date of determining the termination of the mandate by force of law or the date of relieving the member or deputy member of duty.

The provisions of Articles 15 and 16 of this law shall apply accordingly to the process of electing a new member or deputy member of the Commission.

CRTA Comment: CRTA disagrees with the solutions proposed in Articles 17 and 18, as they rely on the temporary nature of the Commission. In accordance with the comments on Article 5 and CRTA's position that the Commission should be a permanent body in order to effectively carry out a review of the voters' register, CRTA believes that Articles 17 and 18 should be amended to reflect the permanent nature of the Commission. This would involve stipulating that the term of office for Commission members be five years and that the expiration of this term should be the reason for the termination of the mandate. In addition, it is necessary to foresee that the National Assembly must initiate the selection process for new members/deputies 90 days before the expiration of the mandate

of the current members/deputies.

Article 19

The Commission makes decisions by a two-thirds majority of all its members.

A deputy member of the Commission substitutes for a member of the Commission in case of their absence or termination of the mandate, until a new member of the Commission is elected.

The deputy member of the Commission has the right to vote in the absence of the member of the Commission whom they are replacing.

The deputy member of the Commission has the same rights and duties as the member of the Commission they are substituting.

CRTA Comment: CRTA expresses serious concern that the requirement for a two-thirds majority, together with the provisions of the Draft Law regarding the composition of the Commission, which consists of 10 members divided in a 5-3-2 ratio, will lead to a deadlock in the Commission's work. Achieving the required majority of 7 votes for decision-making will be extremely difficult. Therefore, CRTA reiterates that it is necessary to envisage a Commission composition where all authorized proposers have an equal number of representatives, ensuring fair representation and avoiding possible blockades.

Article 20

The first session of the Commission is convened by the President of the National Assembly.

At the first session, the Commission:

1) Elects three members of the Commission, one from the group proposed by the parliamentary groups that voted for the Government, one from the opposition parliamentary groups, and one from the associations, who will rotate monthly as Chairperson of the Commission;

2) Adopts the Rules of Procedure, which regulate the organization and manner of work of the Commission;

3) Adopts the Commission's Work Plan.

Article 21

The Chairperson of the Commission convenes the Commission's sessions, chairs the sessions, ensures order at the sessions, oversees the implementation of the Commission's Work Plan, and signs the Commission's acts.

In the event of the Chairperson's absence or inability to chair the session, the session shall be chaired by the deputy member of the Commission proposed by the same authorized proposer as the Chairperson.

CRTA Comment: Regarding Articles 20 and 21, CRTA believes that the proposed solution, which foresees the rotation of three members of the Commission (nominated by three different authorized proposers) in the role of Chairperson, could lead to a lack of continuity in the Commission's work and may significantly affect its efficiency. Therefore, CRTA advocates for a solution where the Commission functions as a single-member body (suggesting that the Chairperson of the Commission be elected from among the members nominated by associations).

Article 22

The following persons shall participate in the work of the Commission without the right to vote:

- 1) Three representatives from the Ministry of Public Administration and Local Self-Government;
- 2) One representative from the Ministry of Internal Affairs;
- 3) One representative from the Commissioner for Information of Public Importance and Personal Data Protection.

The authorities listed in paragraph 1 of this article are obligated to designate their representatives within 15 days of receiving a written request from the Commission.

Other individuals may also participate in the work of the Commission without the right to vote if invited by the Commission, including:

- 1) Representatives of international organizations and experts with relevant knowledge in the field of the Commission's work;
- 2) Civil servants in state administrative bodies and officials in the bodies of autonomous provinces or local self-government units with relevant knowledge in the field of the Commission's work, designated by the head of the body in which these persons are employed.

The individuals invited under paragraph 3 of this article are obligated to make available to the Commission all information necessary for achieving the Commission's goals and tasks as prescribed by this law.

Article 23

The work of the Commission is public.

The public nature of the Commission's work is ensured through the publication of notices on the National Assembly's website, including the scheduling of Commission sessions, the reports submitted by the Commission to the National Assembly, the Commission's Work Plan, the minutes of the Commission's sessions, and other information relevant to the public.

Exceptionally, the Commission may decide, at the proposal of a member, to exclude the public for reasons prescribed by law.

Article 24

The National Assembly shall provide the conditions for the Commission's work.

The funds for the Commission's operations are provided from the budget of the Republic of Serbia.

Members of the Commission do not receive compensation for their work in the Commission.

Commission members are entitled to reimbursement of expenses incurred in connection with their work in the Commission, in accordance with the Decree on Reimbursement of Expenses and Severance for State Employees and Appointees ("Official Gazette of the Republic of Serbia," nos. 98/07 - consolidated text, 84/14, 84/15, 74/21, and 119/23) and the Decree on Compensation and Other Remunerations for Appointed and Elected Officials in State Bodies ("Official Gazette of the Republic of Serbia," nos. 44/08 - consolidated text and 78/12).

Administrative and technical work for the Commission shall be performed by employees of the National Assembly's Service, designated by the Secretary-General of the National Assembly.

CRTA Comment: In order to increase transparency and allow the public to follow the process of reviewing the voters' register, CRTA advocates that the Draft Law provide for the possibility for representatives of other civil society organizations and international organizations to attend Commission sessions as observers without the right to participate, as long as the session is not closed to the public. Interested organizations would need to submit a request in a timely manner to attend the sessions, and the Chairperson of the Commission would notify the observers in advance of the date and time of the sessions. The same rules applicable to observers of election management bodies (election commissions) could apply to this process.

Article 25

The Ministry of Internal Affairs is required to provide the necessary data for the implementation of Article 1 of this law to the Ministry of Public Administration and Local Self-Government within six months from the date this law comes into force.

Article 26

The Minister of Public Administration and Local Self-Government is required to adopt the regulations provided for by this law within six months from the date this law comes into force.

Article 27

This law shall enter into force eight days after its publication in the "Official Gazette of the Republic of Serbia," except for Article 1, which shall apply one year after the law enters into force.

CRTA Comment: In accordance with CRTA's comment on Article 1 of the Draft Law, the provision allowing for a period of one year, after the amendments take effect, before public authorities are required to make voters' data publicly available, unnecessarily restricts transparency. Therefore, CRTA advocates that all relevant institutions immediately publish all available relevant data as soon as the amendments and supplements to the Law take effect. For data requiring additional time for collection and processing, they should be made publicly available as soon as possible.