



National Assembly of the Republic of Serbia

The Passage of a Law



The **P**assage of a Law

What is a law?

A law is a general legal act of the state adopted by the National Assembly in accordance with a previously determined legislative procedure. With the exception of the Constitution, a law is the highest legal act within the legal system of the Republic of Serbia. Within the system of legal acts, it is the only act that is founded in the Constitution and under its authority all other legal acts of lower legal power (by-laws) are adopted.

The Passage of a Law

Why are laws adopted?

Laws regulate social relations in all aspect of life. Laws transform social rules into legal norms that are binding to all citizens. All persons are considered equal before the law.

Which acts regulate the passage of a law?

The legislative procedure is regulated by the Constitution of the Republic of Serbia, the Law on the National Assembly, the National Assembly Rules of Procedure, and the Government Rules of Procedure.

Who can propose a law?

The proposal of a law may be submitted by: An MP, the Government, the Assembly of the Autonomous Province, a minimum of 30,000 voters, as well as the Ombudsperson and the National Bank of Serbia in their respective field of competence.

What is a draft law?

A draft law is the work-in-progress version of a law prepared by the Government, with rationale. The draft law is usually prepared by the line ministry which sets up a working group consisting of lawyers and other professionals, who are assisted by scientists, experts and other relevant persons equipped to improve the quality of the text of a draft law.

A public debate to discuss a draft law is often organized and all interested parties are invited to consider and comment on the draft.

The public debate must be organised when the draft law in question is significantly changing the way an issue is regulated or it governs an issue of particular public interest.

The Government approves the draft law by formulating a Bill which is then submitted to the National Assembly for enactment.

What does a bill look like?

A bill consists of two parts: the text of the bill, and the rationale. A law is proposed in the form in which it is to be adopted, in line with the National Assembly Rules of Procedure (hereinafter: the Rules of Procedure) and the Uniform Methodological Rules for Legislative Drafting;

What are the mandatory elements of a bill's rationale?

The bill's rationale contains the following: constitutional/legal grounds for its adoption; reasons for the adoption; explanation of the main legal institutes and individual solutions; estimated amount of funds needed for implementation of the law, including the sources of funding; a general interest that validates retroactive implementation, when the bill contains provisions that should be implemented retroactively; reasons for enactment under urgent procedure, if such a procedure is proposed; reasons why it is proposed that the law comes into effect sooner than the eighth day from the day of publication thereof in "The Official Gazette of the Republic of Serbia"; a list of provisions of the current regulation that are being modified/amended.

The proposer must submit a bill accompanied by a Statement of Compliance of the Bill with the European Union Acquis, or a statement confirming that there is no obligation for such a compliance, or that there is no possibility to harmonise the Bill with the European Union Acquis, and a Table of Compliance of the Bill with the European Union regulations.

What are the optional elements of a bill's rationale?

Rationale of a bill may also include an analysis of the effects of the law which contains appropriate explanations envisaged by the Rules of Procedure, such as: the subjects to be most probably affected by the regulation and the manner in which they would be affected by the bill, whether the positive effects of regulation adoption are of the kind that will justify the expense it will create, whether the regulation supports the creation of new economic entities on the market and stimulates market competition, etc.

To whom is a bill submitted?

Submission of a bill is completed by the authorized proposer to the National Assembly, in writing or electronic form. Immediately upon receipt, the Bill submitted to the National Assembly, shall be communicated by the Speaker of the National Assembly to all MPs, the competent parliamentary committee and the Government, if the Government is not the proposer.

What happens when a bill is not prepared in accordance with the Rules of Procedure?

If a Bill is not prepared in accordance with the Rules of Procedure (for example, it does not contain a rationale), the Speaker of the National Assembly shall request the proposer to bring it in line with the provisions of the Rules of Procedure, specifying in detail wherein the incompatibility is identified.

If the proposer of the Bill does not act in accordance with the request of the Speaker of the National Assembly, the Bill is deemed withdrawn.

When is the bill put on the Agenda of the National Assembly?

A Bill that is to be adopted under regular procedure may be put on the agenda of the National Assembly within no less than 15 days from the date of its submittal.

A Bill that is to be adopted under procedure may be put on the agenda of a sitting of the National Assembly if it has been submitted no later than 24 hours prior to the scheduled beginning of the sitting.

Which parliamentary committees consider a bill?

The Committee on Constitutional Issues and Legislation reviews each bill from the aspect of its conformity with the Constitution and the legal system of the Republic of Serbia.

The European Integration Committee reviews the bill from the aspect of its conformity with regulations of the European Union and the Council of Europe.

Other committees of the National Assembly review the bills in accordance with their scope of work and remits, as determined by the Rules of Procedure.

What is a public hearing?

A public hearing is an institutional proceeding organized for the purpose of providing committee members and other MPs with the necessary information or professional opinions and comments on proposed acts which are in the parliamentary procedure, on the implementation and application of enacted legislation, and other issues within a committee's scope of work.

What is an amendment?

An amendment is a proposal for the modification or addition to an existing bill. An amendment is submitted by an authorised proposer, or a competent committee of the National Assembly. An amendment must contain the elements stipulated by the Rules of Procedure. The Unique Methodological Rules for Drafting Regulations standardize the drafting of amendments.

Why are amendments submitted?

An amendment is submitted when a change or addition to a proposed solutions is moved, be it a substantive change or addition, a legal or technical correction of proposed provisions, or their harmonization.

What is a debate in principle?

A debate in principle is the first stage of a Bill's passage through the National Assembly. During the debate in principle, MPs discuss the proposed law from the aspect of the need and reasoning for its adoption and the general principles the proposed solutions are based on. Before the debate is held at the plenary sitting of the National Assembly, a debate in principle is conducted at the sitting of the competent committee. If the competent committee or the Government, if it is not the bill proposer, propose to the National Assembly to approve the bill in principle, they are obliged to specify whether they accept the Bill in its entirety or with changes which they are submitting in the form of amendments.

At the proposal of an MP, the National Assembly may decide to have a cognate debate in principle on several Bills that are on the agenda of the same sitting, which are mutually conditioned, or contain related provisions.

What is a debate in detail?

Having gone through the agenda and completed the debate in principle on all bills, the National Assembly will move to holding a debate in detail on all bills listed on the agenda. A debate in detail represents a consideration of all articles of the Bill to which amendments have been submitted and on the amendments proposing introduction of new provisions. A debate in detail is held in the same way at the sitting of the competent committee.



At least twenty four hours must pass between the completion of a debate in principle and the opening of a debate in detail on the bill. Within this period, only the competent committee may submit an amendment to the bill.

Does the proposer of the bill have the right to withdraw a bill from procedure?

The Bill proposer is entitled to withdraw the Bill from the procedure until the debate on the Bill is concluded of at a sitting of the National Assembly.

What is a Voting day?

The National Assembly decides on the bill in detail and in its entirety on a Voting Day. If the Bill is approved in principle, the National Assembly votes on individual amendments. Finally, MPs vote on a bill in its entirety.

How does the National Assembly reach decisions?

The National Assembly decides by a majority of votes cast at the sitting attended by the majority of MPs.

The National Assembly decides by a majority vote of the total number of MPs (126 MPs) on the legislation governing different spheres of public and social life, such as: referendum and people's initiative; exercise of individual and collective rights of members of national minorities; development and spatial plans; public debt; territories of autonomous provinces and local self-governing units; signing and ratification of international treaties, and other issues stipulated by the Constitution of the Republic of Serbia

What is an urgent procedure?

Exceptionally, a law may be adopted by urgent procedure if it regulates issues and relations which have arisen as a result of unforeseen circumstances, and if failure to adopt the law by use of urgent procedure could have negative consequences on the health and safety of the people, the security of the state, and the functioning of institutions and organizations; as well as for the purpose of fulfilment of international obligations and harmonisation of national legislation with the European Union Acquis. It differs from standard procedure in shorter time limits than prescribed, of certain stages in the legislative process.

The Bill proposer shall specify the reasons for suggesting the bill to be adopted by urgent procedure in the rationale.

What are the specific features of the urgent procedure?

The National Assembly decides on each motion to put a bill for urgent procedure when approving the agenda of the sitting. If the motion is accepted, the bill is included in the agenda of the sitting, if it is declined, the bill remains in the parliamentary procedure and is examined in regular procedure.

Bills regulating defence and security issues may be placed on the agenda of the National Assembly sitting even if submitted on the date the sitting is held, two hours before the scheduled beginning of the sitting, and when the proposer of the bill is the Government, the Bill may be placed on the agenda even if submitted during the course of the sitting of the National Assembly, provided that the sitting is being attended by a minimum of 126 MPs.

Amendments to the Bill, which is examined in an urgent procedure, may be submitted at the latest, before the debate in principle on the Bill commences.

What is the promulgation of a law?

Once, a law is enacted by the National Assembly, it is submitted to the President of the Republic who issues a decree of promulgation of the law, within a period of fifteen days from the day of its enactment. If the law is enacted by urgent procedure, it has to be promulgated within a period of seven days from the day of its enactment.

Can the President of the Republic refuse to promulgate a law?

The President of the Republic can refuse to promulgate a law that has been adopted by the National Assembly. The President of the Republic returns such a law to the National Assembly for reconsideration and voting, along with a written explanation.

The National Assembly decides on the returned law at the first following sitting. If the National Assembly decides to vote again on the law the President of the Republic has returned for reconsideration, the law is adopted by a majority vote of the total number of MPs.

The President of the Republic is obliged to promulgate the law that has been approved for a second time by a majority vote of the total number of MPs.

Who promulgates the law when the President of the Republic neither issues a decree of promulgation nor demands a second vote on the law?

If the President of the Republic does not issue a decree on the promulgation of the law within a time-limit specified by the Constitution, nor requests the National Assembly to take another vote on the enacted law, the law is promulgated by the Speaker of the National Assembly.

Is the adopted law published?

A law adopted by the National Assembly is published before its coming into effect. This provides all interested parties with opportunity to get acquainted with the text of the law.

Adopted laws are published in "The Official Gazette of the Republic of Serbia" and on the National Assembly's webpage.

When does a law come into force?

A law comes into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Serbia".

A law may come into force sooner only under specific valid circumstances that have to be determined at the time of its enactment (for example, "force majeure", defence and security interests, etc.). A law may contain a provision which allows that certain Articles, or the entire law, come into effect after the expiration of a certain period of time, or on a specifically set date.

Can a law have a retroactive effect?

No law can have a retroactive effect.

Exceptionally, certain provisions of a law may have a retroactive effect, if it is considered to be in the general interest of the public as determined at the time of the adoption of the law. In this case, the proposer of the law is obliged to provide a special explanation of the general interest that requires a retroactive effect of the law.

Also, a provision of criminal law can have retroactive effect only if it is more lenient for the perpetrator of a criminal offence.

Who executes the law?

The Government executes the laws by passing regulations and other by-laws.

What happens when it is suspected that a law is not in accordance with the Constitution?

The Constitutional Court decides on the conformity of laws with the Constitution, generally accepted rules of international law and ratified international treaties.

After a law has been voted on at the National Assembly, and before it has been promulgated and come into effect, at the request of at least one third of the total number of MPs (84 MPs), the Constitutional Court is obliged to assess the constitutionality of the said law within seven days. If the law is promulgated before the decision is made on its (un)constitutionality, the Constitutional Court will continue with the procedure as requested, in accordance with the regular procedure for the assessment of constitutionality of laws.

Proceedings to assess the constitutionality of a law in effect can be launched before the Constitutional Court by a state authority, institution of an autonomous territory, or local self-government bodies, as well as a minimum of twenty five MPs. The proceedings could also be launched by a Constitutional Court itself.

On the other hand, any legal or physical entity has the right to initiate proceedings for the assessment of constitutionality and legality.

What happens when the Constitutional Court rules that a law is not in accordance with the Constitution?

The law that is ruled to be not in conformity with the Constitution ceases to be in effect on the day the decision of the Constitutional Court is published in "The Official Gazette of the Republic of Serbia".

When does a law cease to have effect?

On most occasions, a law ceases to have effect once a new law that regulates the same field is adopted.

A law that only regulates a specific situation, specific relations, or activities that are not going to be repeated, ceases to have effect once it has been executed (for example, Law on Consolidation, etc.). A law also ceases to be in effect after the expiration of the time period for which it has been adopted. Certain provision of a law may cease to be in effect with the adoption of amendments and modifications to the law.

A law may also cease to be in effect on the basis of a decision of the Constitutional Court. If that is the case, only certain provisions of the law may become ineffective.



LAW MAP

authorised submitters of bills

any MP
Government
Assembly of the Autonomous Province
no less than 30 000 voters
Ombudsman within his purview
National Bank of Serbia within its purview

Draft Law
(relevant ministry)

opinion
obligatory

opinion
when needed

supplements
obligatory

Republic Legislation Secretariat
Ministry of Finance

Ministry of Foreign Affairs
Ministry of Justice
Republic Public Attorney's Office
Public administration body

European Integration Office
Office for Regulatory Reform and Regulatory
Impact Assessment

public debate
(obligatory in cases stipulated
by the Government Rules of Procedure)

Bill

Members of Parliament

National Assembly

Government, unless
it is the submitter

Committee on Constitutional and
Legislative Issues

relevant committee

European Integration Committee,
when needed

report

report

report

opinion

authorised submitters of amendments

authorised submitter of the bill
relevant committee

amendment

National Assembly Speaker

Members of Parliament

submitter of the bill

Government

Committee on Constitutional
and Legislative Issues

relevant committee

at least 24 hours must elapse
during which the relevant
committee can submit an
amendment

National Assembly Session
discussion in principle
discussion on the particulars
Voting Day

report

report

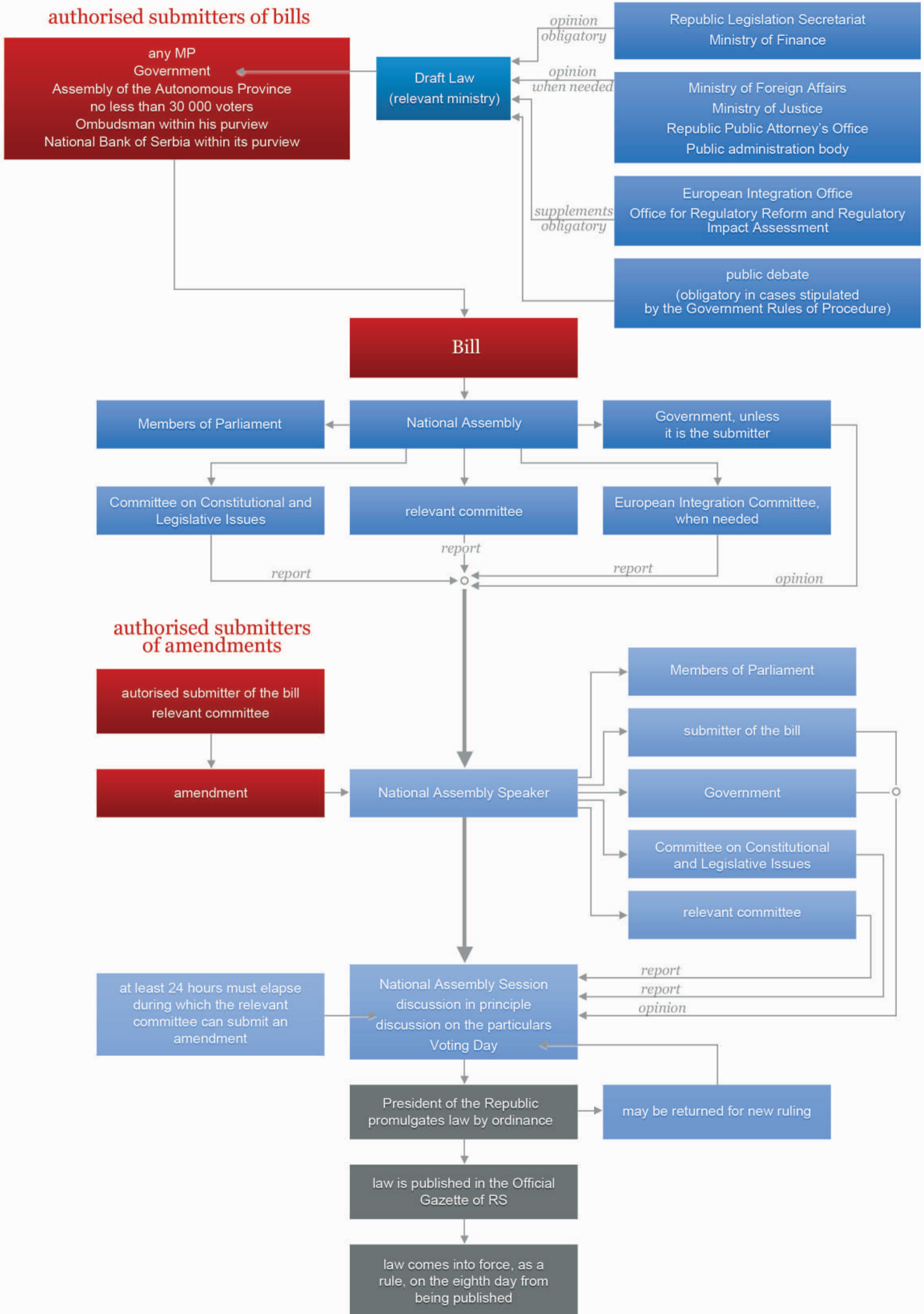
opinion

President of the Republic
promulgates law by ordinance

may be returned for new ruling

law is published in the Official
Gazette of RS

law comes into force, as a
rule, on the eighth day from
being published



www.parlament.rs

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