



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COUNCIL FOR CONSTITUTIONAL MATTERS  
OF THE PARLIAMENT  
OF THE REPUBLIC OF MONTENEGRO**

**EXPERT TEXT**

**CONSTITUTION OF MONTENEGRO**

**8<sup>th</sup> September 2006**

**Mindful of:**

*Historic fact* that the state of Montenegro emerged from centuries-long struggle of Montenegrin people for freedom, that since the end of 19 century it developed as a civil state and that it is the will of the citizens of Montenegro for the state of Montenegro to develop and enhance as a civil state,

*Commitment* of the citizens of Montenegro to live in a state whose fundamental values are peace, liberty, respect for human rights and freedoms, national equality, multiculturalism, multiethnic harmony, tolerance, democracy, rule of law, equality of citizens before the law, security and social justice,

*Aspiration* to strengthen and further enhance the democratic relations in Montenegro, reinforce protection of human rights and freedoms, ensure social progress in all domains, provide for more balanced development of all its regions and sustainable development of Montenegro as a whole,

*Conviction* that nature and healthy environment are the sources of health, a necessary and irreplaceable precondition for development, general social advancement and survival of humanity and that the state is responsible for preservation of nature and healthy environment,

*Will* of the citizens of Montenegro to live in the autonomous and independent state of Montenegro, expressed in the referendum held on 21<sup>st</sup> May 2006,

*Need* to ensure by its Constitution that the state of Montenegro is organised upon generally accepted democratic principles, open for cooperation based on equality with other states and oriented towards Euro-Atlantic integrations on democratic grounds,  
The Constitutional Parliament of the Republic of Montenegro hereby adopts and promulgates

## CONSTITUTION OF MONTENEGRO

### PART ONE

#### BASIC PROVISIONS

##### **Article 1**

*(Name of the State)*

The name of the state is Montenegro.

##### **Article 2**

*(Definition of the State)*

Montenegro is an independent, sovereign, democratic, social and ecological state.

Montenegro is the state of all its citizens, based on the sovereignty of citizens, human rights and freedoms, rule of law and legal state, market economy, social security, principles of justice and fairness.

##### **Article 3**

*(Power of Citizens)*

In Montenegro power is vested in citizens.

Citizens shall exercise power through their freely elected representatives and directly in referendum, civil initiative and other forms of direct vote.

No authority shall be either established or recognised which does not result from the freely expressed will of citizens.

##### **Article 4**

*(Form of Government)*

Montenegro is a republic.

##### **Article 5**

*(State Territory and Borders)*

The territory of Montenegro shall be single and indivisible.

The areas where municipalities are established shall be stipulated by law.

State border may be changed only if at least two thirds of citizens with the voting right voted for the change of borders in a state referendum.

##### **Article 6**

*(State symbols)*

Montenegro shall have a coat-of-arms, a flag and a hymn.

The coat-of-arms of Montenegro is in the shape of a golden crowned double-headed eagle, with spread raised wings in flight, with a sceptre in its right claw and an orb in its left claw, placed against a red background. On the chest of the eagle there is a shield with a golden lion passant. The lion is placed on a green field against a blue background. The crown above the eagle's heads and the sceptre are golden with a cross on their tops. The orb is blue with golden shackles and a cross.

The flag of Montenegro is of red colour with the coat-of-arms in its centre and with golden border. The ratio of flag length and width is two to one. The coat-of-arms on the flag covers two thirds of its height. The central point of the coat-of-arms coincides with the point

where the diagonals of the flag cross. The width of the golden edges is one twentieth of the narrower side of the flag.

The hymn of Montenegro shall be: "Oj svijetla majska zoro".

The application and use of the coat-of-arms, the flag and the hymn shall be regulated by law.

**Article 7**  
*(Capital City)*

The Capital City of Montenegro shall be Podgorica.  
Capital city shall be regulated by law.

**Article 8**  
*(Old Royal Capital)*

Cetinje, centuries-old historic, cultural and political seat and centre of Montenegro, shall be the Old Royal Capital of the state of Montenegro.

The residence of the President of Montenegro shall be at the Old Royal Capital.

Old Royal Capital shall be regulated by law.

**Article 9**  
*(Human Rights and Freedoms)*

Montenegro shall guarantee and protect human rights and freedoms.

The exercise of human rights guaranteed by the Constitution and all other human rights shall imply the responsibility and the duty to respect human rights and freedoms of others, a responsible relation towards the community and future generations.

Any provocation of, incitement to and stirring up of ethnic, racial, religious and other hatred and intolerance shall be prohibited and punishable.

The members of minority nations, national minorities and ethnic minorities<sup>1</sup>, shall also be guaranteed special rights needed to preserve their identity, expression and enhancement of their ethnic, cultural, linguistic, religious and other particularity.

**Article 10**  
*(Legal Order)*

The legal order of Montenegro shall be single.

The ratified and published international treaties and agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the domestic law and be directly applicable when regulating certain relations differently than the internal law.

Everyone shall be obliged to adhere to the Constitution and laws and to respect the legal order of Montenegro.

No one may be made to act contrary to the Constitution and law.

**Article 11**  
*(Exercise of Professional Duties within Public Bodies and Institutions)*

Entrusting the exercise of professional duties within public bodies and institutions at the state and local level, at institutions and organisations with public authorities or duties of public interest, and advancement in service, must be based on the criteria of professional ability and competency, consistent observation and application of the Constitution and laws, conscientiousness and responsibility.

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<sup>1</sup> The wording used here is taken from Article 1 of the Law on Minority Rights and Freedoms which, as was stated during its adoption and subsequently, was adopted with the agreement of all those involved in its drafting and enactment and the relevant European institutions.

Every citizen, under equal conditions and according to own abilities and professional performance, shall have the right to enter public service.

**Article 12**  
*(Limitation of Power)*

State authorities shall have the right to undertake only what they have been authorised to do by the Constitution, laws and regulations enacted pursuant to the Constitution.

The operation of any body and agency of the state and local governments, institution and organisation exercising public authorities or exercising duties of public interest shall be public. By law and pursuant to criteria stipulated by law, certain deeds and actions may, in the envisaged procedure, be designated as secret.

Any body and agency of the state and local governments, institutions and other organisations exercising public authorities shall be obliged to discharge the tasks within the scope of their competences in such a manner to create conditions that the opinion of scientific and professional institutions, associations and any other civil society organisation may be effectively expressed upon important matters dealt with.

**Article 13**  
*(Tax-paying Duty)*

Everyone shall be obliged to pay taxes and other duties proportional to their economic power.

Taxes and other duties may be imposed only through law.

**Article 13**  
*(Montenegrin Citizenship)*

Montenegro shall confer Montenegrin citizenship on its citizens

The grounds for acquiring Montenegrin citizenship and the conditions for discharge from citizenship shall be stipulated by law.

**Article 15**  
*(Language and Alphabet)*

In Montenegro Montenegrin language shall be the official language.

Cyrillic and Latin alphabets shall be deemed to be equal.

In the local governments in which the majority of population consists of national minorities, their respective languages and alphabets shall also be in the official use.

In the local governments where a substantial number of population consists of members of national minorities, under the conditions and in the manner envisaged by law, their respective languages and alphabets may also be in the official use.

**Article 16**  
*(Separation of Religious Communities from the State)*

Religious communities are separated from the state.

No religion and no religious community may be declared obligatory.

The abuse of religion, church and other religious communities to political purposes shall be contrary to the Constitution and punishable by law.

The state may extend material assistance to religious communities.

**Article 17**  
*(Relations with Other States and International Organisations)*

Pursuant to generally accepted principles and international law rules, Montenegro shall establish cooperation and develop amicable relations with other states, regional communities and international organisations.

Montenegro may accede to international organisations.

The Parliament shall decide on its accession to European Union.

Montenegro may not enter into a union with another state by which it loses its independence and full international personality.

ALTERNATIVELY for paragraph four: the same idea may be expressed with a positive provision as follows: Montenegro may enter into a union with another state provided that it retains own independence and full international personality.

## **PART TWO**

### **HUMAN RIGHTS AND FREEDOMS**

#### **Article 18**

*(Equality and Prohibition of Discrimination)*

Everyone in Montenegro is guaranteed human rights and freedoms.

Everyone shall be equal before the law.

Equality of men and women has to be secured in all areas of life.

Any discrimination, direct or indirect, on the grounds of sex, nationality, race, religion, language, colour, national or social origin, political or other beliefs, financial standing or any other personal feature shall be prohibited.

The freedom of expression of national background shall be guaranteed. No person shall be held obliged to express own national background.

#### **Article 18**

*(Protection of Human Rights and Freedoms)*

Everyone shall have the right to equal and efficient protection of own rights and freedoms in the procedure stipulated by law and before bodies envisaged to that purpose by law.

Courts, the Constitutional Court and other state bodies shall be obliged, within the scope of their competences, to provide for efficient and effective protection of rights and freedoms for everyone and to remove their consequences in case of violations.

The citizens shall have the right of recourse to international institutions for protection of human rights and freedoms.

#### **Article 20**

*(Principles for Interpretation of Provisions on Human Rights and Freedoms)*

Everyone shall have the duty to interpret the constitutional provisions on human rights and freedoms with regard to their essence and meaning, democratic values and in line with standards contained in the case law of international court and other institutions catering for human rights and freedoms and their protection.

No provision of the Constitution may be interpreted in such a manner to create constitutional grounds for undertaking any action that would abolish any right or freedom or limit it to the extent greater than allowed by the Constitution or in the manner adversely affecting full exercise of freedoms and rights guaranteed by the Constitution.

#### **Article 21**

*(Exercise of Human Rights and Freedoms)*

Everyone shall have the right to exercise the rights and freedoms guaranteed by Constitution directly, pursuant to the Constitution.

As envisaged by Constitution or when required by their nature, the implementation of certain human rights and freedoms guaranteed by the Constitution may be stipulated by law, provided that their fundamental nature is not affected.

The state is obliged to create conditions for everyone to exercise their rights in a timely manner and enjoy constitutionally guaranteed freedom.

**Article 22**

*(Rights and Freedoms of Others, Limitation of Rights and Freedoms of Everyone)*

Everyone shall have the right to freedom and to exercise of guaranteed rights.

Rights and freedoms of every individual shall be limited by equal rights and freedoms of others. Everyone shall be obliged to respect rights and freedoms of others. No one shall have the right to exercise own rights and freedoms in a manner that constitutes violation of rights and freedoms of others.

**Article 23**

*(Limitations of Human Rights and Freedoms)*

Any constitutionally guaranteed human right and freedom may be restricted only by a law enacted pursuant to the constitutional provision allowing for limitation. Guaranteed human rights and freedoms must not be limited more than allowed by the Constitution and more than necessary.

Public authorities are obliged at all times to take care that the purpose of limitations of rights or freedoms is achieved with as little time and other limitation as possible, taking care of their essence and meaning, the importance and purpose of the restriction and the proportionality of the necessity for limitation and its purpose.

**Article 24**

*(Inviolability of Human Life)*

Human life is inviolable.

Capital punishment may not be either stipulated or pronounced in Montenegro.

Cloning of human beings shall be prohibited.

**Article 25**

*(Human Dignity)*

Human dignity shall be inviolable.

Everyone shall have the right to protection of own dignity, honour and reputation and is obliged to respect the dignity, honour and reputation of others.

**Article 26**

*(Inviolability of Physical and Mental Integrity)*

Physical and mental integrity of an individual is inviolable.

No one shall be subjected to torture, inhuman and degrading treatment or punishment.

No one shall be subjected to medical or scientific testing without free consent.

**Article 27**

*(Prohibition of Slavery, Slavery-like Status and Forced Labour)*

No one may be kept as a slave or in slave-like status.

Trafficking in human beings in any form shall be prohibited and punishable.

Forced labour shall be prohibited.

Sexual or economic abuse of any person in a disadvantageous position shall be prohibited.

Forced labour shall not be understood to mean any work or service lawfully required of lawfully convicted persons, persons doing their military service or in the case of emergency situations.

**Article 28***(Guarantees for Protection in Case of Deprivation of Liberty)*

Deprivation of liberty shall be allowed only under the conditions stipulated by law.

No one may be deprived of liberty only because of his/her inability to perform a contractual duty.

Any person deprived of his/her liberty shall be notified forthwith, in the language he/she understands: of the reasons for his/her arrest or indictment, of the right to have a defence counsel of his/her choosing present at his/her examination, that he/she is not obliged to answer questions, to inform a person of his/her own choosing accordingly, to recourse to court to, in urgent procedure, examine the lawfulness of the arrest and order his/her discharge if the arrest has been found to be unlawful.

Without delay, and not later than within 24 hours upon the moment of arrest, any person deprived of his/her liberty must be taken before the relevant court; otherwise, he/she shall be released.

**Article 29***(Guarantees for Protection in Case of Detention)*

Any person reasonably suspected to have committed a crime, pursuant to the decision of the competent court, may be detained only if the conditions for detention stipulated by law have been fulfilled.

At the time of being held in detention, detainees shall be given the decision of detention.

Detainees shall have the right of appeal against the decision of detention, upon which the court shall decide within 48 hours from filing the appeal.

The duration of detention shall not last longer than necessary under law.

Detention per decision of first-instance court may last up to three months from the day of arrest. By a decision of a superior court, the detention may be extended for further three months at the most. If no indictment is raised by that time, the detainee shall be released.

Pre-trial panel of judges convened by the court which received the indictment shall decide upon holding in detention the charged person. Under the conditions stipulated by law, the detained charged person may be held in detention or released to await trial at liberty.

Release from detention shall be allowed if providing security that he/she will appear before the court when subpoenaed.

**Article 30***(Treatment of Persons Deprived of Their Liberty or Detainees)*

Everyone shall be obliged to treat humanly and with respect for human dignity any person deprived of liberty or held in detention.

Any violence against the person deprived of his/her liberty, or held in detention, or extortion of statement shall be prohibited..

**Article 30***(Special Guarantees to Defence)*

Everyone shall be guaranteed the right to defence before the court and other authority competent to conduct a criminal procedure.

The accused, or the charged person shall have the right to necessary time and appropriate conditions for the preparation of defence and unobstructed communication with own defence counsel.

The law shall stipulate when the defence counsel shall be appointed ex officio to an accused or charged person who must have a defence counsel.

Any accused or charged person shall have the right to the assistance of an interpreter if he/she does not understand and does not speak the language in which the procedure is conducted.

No one shall be obliged to admit guilt and give self-incriminating statements.



No one who is accessible to the court or some other authority competent for the conduct of a criminal procedure may be convicted if it has not been made possible for him/her to be heard and to defend him/herself.

**Article 32**

*(Right to Indemnity for Damages Caused by Unlawful Actions)*

Any person wrongfully deprived of liberty, detained or convicted shall be entitled to indemnity for damages by the state and other rights stipulated by law.

**Article 33**

*(Right to Fair Trial)*

Anyone whose guaranteed right or freedom has been violated shall have the right to seek and in reasonable time obtain protection from court or other competent authority.

Anyone shall have the right for his/her rights and duties, as well as the accusations made against him/her, to be decided upon without any delay by independent, impartial and lawfully established court or other authority and to be given the decision in reasonable time.

**Article 33**

*(Right to Appeal or Other Legal Remedies)*

Everyone shall have the right to appeal or some other legal redress against any decision on his/her rights, duties or legally founded interests in first instance procedure.

Exceptionally, the right to an appeal may be excluded by law if protection of rights and legality has been provided otherwise or it may be stipulated that the appeal does not postpone the enforcement of the first instance decision.

Anyone who believes that by an individual administrative enactment, coming into force in an administrative procedure, any human right or freedom guaranteed by the Constitution has been violated, has the right, within two months from the delivery of the enactment, to instigate the procedure for the protection of the right, or freedom by an individual appeal before the Constitutional Court.

Anyone who believes that by an enforceable court judgement, including the decision of the Supreme Court panel, brought in a civil procedure, any human right or freedom guaranteed by the Constitution has been violated, has the right, within one month from the delivery of the court decision, by an individual complaint for re-examining court judgements, to request from the Supreme Court to re-examine whether there violation of human rights and freedoms has occurred.

**Article 35**

*(Right to Use Own Language in Procedures before State Authorities)*

Anyone shall have the right to use own language in any procedure before the court, any state administrative authority or other state authority, local government, institutions or other organisations exercising public authorities when deciding upon their rights or duties.

The authority conducting the procedure is obliged to provide interpretation to the person who does not know the language in which the procedure is conducted.

**Article 36**

*(Presumption of Innocence)*

Everyone shall be presumed innocent until his guilt for a crime or other punishable act has been established by an enforceable decision of the court or other competent authority.

**Article 37***(Punishments Only for Acts Punishable by Law)*

No one may be punished for an act that, prior to being committed, was not determined by law or other regulation pursuant to the law as punishable and for which no punishment was envisaged.

Punishments shall be pronounced in accordance with the law in force at the time when the act was committed, unless a subsequent law is more favourable for the perpetrator. Criminal acts and criminal sanctions shall be stipulated by law.

**Article 38***(Ne bis in idem)*

No one may be tried twice for one and the same punishable act.

**Article 39***(Inviolability of the Right to Property)*

The right to property is inviolable.

Everyone shall be guaranteed the right to lawful acquisition and enjoyment of property.

The grounds for acquiring property shall be stipulated by law.

Intellectual property rights shall be guaranteed.

**Article 40***(Right to Inheritance)*

The right to inheritance shall be guaranteed.

The conditions for inheritance shall be stipulated by law.

**Article 41***(Indemnity for Damages Due to Unlawful or Wrongful Operation of Public Authorities)*

Everyone shall have the right to indemnity by the state or local government for damages suffered due to unlawful or wrongful operation of a person in official capacity, or an authority.

**Article 42***(Right to Inviolability of Home)*

Home shall be inviolable.

No one may enter other person's dwelling place or other premises against the will of their possessor and search them, unless on the grounds of a court warrant. Entry into other people's dwelling place or other premises without the court warrant shall be allowed solely if necessary for immediate apprehension of a person suspected of having committed a crime or in order to remove immediate and serious threat for people and property, in the manner stipulated by law.

**Article 43***(Right to Inviolability of Privacy of Correspondence)*

The secrecy of letters and other means of correspondence shall be inviolable.

Deviations from the principle of inviolability of secrecy of letters and other means of correspondence shall be permissible only for a definite period of time set by a court decision, if so is necessary for the purposes of conducting criminal proceedings or for protection of the constitutional order and independence of Montenegro, in the way stipulated by law.

**Article 44**  
*(Right to Protection of Personal Data)*

Everyone shall have the right to protection of personal data.

Collecting, processing, keeping and using personal data may be conducted solely pursuant to and as stipulated by law.

Collected personal data may be used solely for purposes for which they were collected.

Everyone shall have the right to inspect, in the manner stipulated by law, the collected data relating to him and the right to correct false information.

The use of personal data for purposes other than those for which they were collected shall be prohibited and punishable.

**Article 45**  
*(Right to Marriage)*

Marriage may be entered into solely on freely given consent of a woman and a man thereto.

Marital relations shall be based on equality of spouses.

Each of the spouses shall have the right to file for a divorce. Grounds for divorce of a marriage shall be stipulated by law. The competent court shall decide on marriage divorce and property relations of spouses.

**Article 46**  
*(Freedom of Thought, Conscience and Religion)*

Everyone shall have the right to freedom of thought, conscience, belief and religion. Practising religion shall be the private matter of each individual.

None shall be obliged to declare his religious and other beliefs.

Parents and legal guardians shall have the right to provide to their children under age the upbringing in accordance with their own convictions.

**Article 47**  
*(Freedom of Religious Rites and Matters)*

Montenegrin Orthodox Church, Serbian Orthodox Church, Roman Catholic Church, Islamic Religious Community and other religious institutions shall be free in the exercise of their religious rites and matters and free to independently regulate their internal organisation and the exercise of religious activities, and shall be obliged to respect the constitutional order of Montenegro.

Religious communities shall have the right to establish religious schools, social and charity organisations, in accordance with the law.

**Article 47**  
*(Conscientious Objection)*

The right to conscientious objection shall be recognised.

**Article 49**  
*(Freedom of Thought and Expression)*

Everyone shall have the right to freedom to seek, receive and impart information and ideas of expression by speech, writing, picture or in some other manner.

The right to freedom of expression shall be deemed to be abused if used to violate dignity, reputation and honour of others, public morality, endanger the state or its security and damage the authority of the court without grounds.

Everyone shall have the right to access documents and data filed with state or local authorities in the manner stipulated by law or other regulations pursuant to the law.

Exceptionally, it may be stipulated by law under which conditions access may be restricted to certain documents or data filed with state or local authorities.

**Article 50**  
*(Freedom of the Media)*

Any person may establish all types of the media, without approval, by entry into the register with the competent body, with the exception of television and radio stations which are established pursuant to the system of issuance of permits, as envisaged by law.

Freedom and pluralism of media shall be respected.

Censorship shall be prohibited.

Everyone shall have the right to a correction of any published untrue, incomplete or incorrectly stated information, response to already published information that infringes upon his right or his legitimate interest and the court protection of own dignity, physical and mental integrity violated by publication of untruths in the media, as envisaged by law.

By a decision of the competent court publication and dissemination of information may be prevented, when the court has ascertained that it is necessary in order to prevent incitement to discrimination, violence, racial, national, religious hatred or intolerance or propagating war.

**Article 51**  
*(Freedom of Assembly)*

Freedom of peaceful assembly, without arms, shall be guaranteed.

The obligation to notify the competent authority of the intention to assemble shall be stipulated by law.

The freedom of assembly may be restricted or prohibited by law if so is necessary for reasons of protection of public security, constitutional order, public morality or the rights of other persons.

**Article 52**  
*(Freedom of Political Association)*

The establishment and activities of political parties shall be free, without prior approval, by the entry into the register kept by the competent body.

Political parties shall participate in forming and expressing the political will of citizens.

Any political party shall be obliged to respect the Constitution in its activities and to exercise its role on democratic principles.

Persons without Montenegrin citizenship and domicile in the territory of Montenegro shall not be allowed to establish political parties or other forms of political association in its territory, neither shall the activities of political parties with their seat outside Montenegro be allowed.

ALTERNATIVELY for the last paragraph: The Law on Political Parties regulates the matters stipulated by the provisions of the last paragraph of this Article. Therefore, DELETE THE PROVISIONS OF THE LAST PARAGRAPH. It is believed that it is not necessary to establish the given principle at the constitutional level, notwithstanding it being a principle which falls under the scope of human rights and freedoms.

**Article 53**  
*(Freedom of Association)*

Freedom of association shall be guaranteed.

No one may be forced to become a member of an association.

**Article 54**  
*(Grounds for Prohibition of Activities of Parties and Associations)*

The activities of political parties and associations aimed at forcible destruction of the constitutional order, violation of territorial integrity of Montenegro, violation of human rights and

freedoms, provocation of national, racial, religious and other hatred, intolerance and violation of public morality shall be prohibited.

**Article 55**  
*(Legal Age)*

Any person shall be deemed as being of legal age on reaching the age of 18 years.

**Article 56**  
*(Suffrage)*

Any Montenegrin citizens of legal age, who has residence at its territory at least for two years in continuous duration immediately before the elections shall have the voting right.

A Montenegrin citizen with the voting right has the right to elect and to run for elections for the Parliament of Montenegro, local councils and other representative bodies of citizens.

Suffrage shall be general, equal and shall be exercised directly.

Casting vote shall be secret.

Voting right shall have court protection.

The citizen without civil capacity shall not have the voting right.

**Article 57**  
*(Right to Initiative and Petition)*

Everyone shall have the right to address the public bodies and institutions at the state and local level, institutions and organisations with public authorities or tasks of public interest individually or together with others, file initiatives, requests and petitions and give proposals, without harmful consequences due to the exercise of this right, and request response from them.

**Article 58**  
*(Right to Citizenship)*

A person born in the territory of Montenegro shall be entitled to Montenegrin citizenship, if he/she does not hold other citizenship.

No one may be deprived of Montenegrin citizenship nor the right to voluntary discharge from Montenegrin citizenship.

Each Montenegrin citizen shall have the right to freely leave the territory of Montenegro and to return thereto.

A Montenegrin citizen may not be expelled from Montenegro nor extradited to other state, and may, at the request of an international tribunal recognised by Montenegro, be extradited to be trialled.

Montenegro shall cater for the exercise and protection of rights and interests of its citizens who live or reside abroad.

**Article 59**  
*(Right to Personal Name)*

Any citizen of Montenegro shall have the right to personal name, free choice of name and entry into registers, and shall be obliged to use it in public life and communications.

**Article 60**  
*(Right to Legal Aid)*

Under the conditions stipulated by law, everyone shall be guaranteed the right to legal aid.

Legal aid shall be extended by lawyers and legal aid services established by local governments, as envisaged by law.

It shall be stipulated by law when legal aid is to be financed from public revenues.

**Article 61***(Right to Freedom of Movement and Settlement)*

Every citizen of Montenegro and every Montenegrin national shall have the right to free movement and settlement in the whole of its territory.

Some conditions for restricting the freedom of movement or settlement may be imposed by law when it is necessary for unimpeded criminal proceedings, for protection of public security and constitutional order or prevention of spreading contagious diseases.

**Article 62***(Rights of Foreign Nationals)*

The entry of foreign nationals into the territory of Montenegro and their stay thereon shall be regulated by law, in line with international law.

Foreigners legally staying in the territory of Montenegro shall have all the rights vested by the Constitution into Montenegrin citizens, except those expressly guaranteed by the Constitution for Montenegrin citizens only.

A foreigner legally staying in the territory of Montenegro may be expelled only on the grounds of the decision of the competent court, but not to where he would be facing conviction to death penalty, torture or inhuman degradation, persecution or severe violation of rights by this Constitution on the grounds of his race, colour, sex, national origin, religion, association with a certain social group or political beliefs.

Montenegro may grant asylum to a foreigner who reasonably fears that he might be persecuted on the grounds of his race, colour, language, religion, association with a nation or a group or due to own political beliefs.

The procedure for granting asylum shall be regulated by law.

**Article 63***(Freedom of Decision on Childbirth)*

Decision on childbirth shall be free, and may be limited solely for the sake of protection of the health of the mother.

It is the duty of the state to create systemic and other conditions to encourage births.

**Article 64***(Duties of Parents towards Minor Children)*

Parental rights constitute rights and duties of parents to cater for the personality, rights and interests of their children under age. In doing so, they shall be equal.

Parents are obliged to take care of the life and health of their children, to support them, school and educate them in accordance with their possibilities and to bring them up as useful members of society and make them ready for independent life.

Children born out of wedlock shall have the same rights as children born in wedlock.

All or some of these rights may be taken away from one or both parents or limited only by the court decision, in the manner and under the conditions envisaged by law, if it is in the interest of the child.

Children are obliged to take care of their parents who need help.

**Article 65***(Rights of a Child)*

Children shall enjoy human rights appropriate to their age and maturity.

Every child shall have the right to personal name and entry into register, as well as the right to know about their origin and to preserve their identity.

Every child shall have the right to maintain personal direct contact with both parents, except if the competent authority has established that it is contrary to his interests.

Special protection of children from mental, physical, social, economic and any other exploitation or abuse shall be guaranteed. The procedure and manner of this protection shall be regulated by law.

Protection of interests of a child is the primary aim of every action relating to children undertaken by public authorities, state or private institutions.

Children shall have the right to express freely their opinion, and it is the duty of all those taking care of them to take into account their opinion relating to themselves, in accordance with their age and maturity.

Engagement of minors on jobs harmful for their health and mental development shall be prohibited.

#### **Article 66**

##### *(Special Protection of Family, Mother and Child)*

Family shall have the right to respect of private family life.

Mother and child, minor children without parents or children without parental care, shall enjoy special protection of the state.

The mother's right to state support within a period prior to and after giving birth, as specified by law, shall be guaranteed.

Working mothers shall have the right to special protection during pregnancy, the right to maternity leave for the period of time envisaged by law, the right to compensation for salary during maternity leave and other rights stipulated by law.

#### **Article 67**

##### *(Right to Work)*

Everyone shall have the right to work.

Everyone shall have free-of-charge access to services for intermediation in employment.

The state shall create systemic and other conditions under which everyone can earn his/her living.

Everyone shall have the right to choose own vocation and employment and every work place shall be accessible to everyone, under equal conditions.

#### **Article 68**

##### *(Employee Rights)*

Employees shall have the right to respect of personal dignity at work, safe and healthy working conditions, required protection at work, limited working hours, daily and weekly time off work, paid annual holiday, allocation to work place according to their qualifications, knowledge and competencies, except in case of force majeure already having occurred or imminent, to appropriate remuneration, obligatory pension and disability insurance, professional in-service training and development, protection against unemployment and the rights stipulated by law and collective agreement in case of termination of employment.

Everyone shall have the right to protection against dismissal related to maternity rights and the exercise of parental rights upon childbirth.

The young, women and disabled persons shall have the right to special protection at work and special conditions of work.

Employees at all levels of organisation of work have to be timely informed on all important matters relevant for their status and their rights.

Harassment and unlawful dismissal of employees shall be prohibited.

Procedure and manner of exercising court and other protection of these rights shall be stipulated by law.

In case employers violate the rights of employees established by the Constitution, causing insecurity of employees, law may stipulate, apart from other measures, also the measures for instigating bankruptcy procedure or banning operation.

**Article 69***(Right to Trade Union Association)*

Employees shall have the right, without prior approval, to establish trade unions, to freely associate within them and through trade unions act in organised manner in order to protect their economic and social rights and interests stemming from work.

Trade unions may establish confederations and associate in international trade union organisations.

Association in trade unions shall not be allowed in public authorities, in the army and the police.

**Article 70***(Right to Collective Action and Strike)*

Employees through their representatives and employers shall have the right to enter into collective agreements. In case of the conflict of their interests, employees shall have the right to collective action for the defence and protection of their rights and interests stemming from work, including the right to strike.

The employees in public bodies and other state and local institutions, professional army and police personnel shall have no right to strike.

The sectors in which minimum continuation of work must be provided during strike shall be stipulated by law.

**Article 71***(Right to Health Protection)*

Everyone shall have the right to health protection.

Everyone shall have the right and duty to preserve and enhance own health.

Everyone shall have the right to preventive health care and the right to medical treatment. The condition for acquiring the right to medical treatment which is financed from public revenues shall be stipulated by law or pursuant to law.

Employees, their spouses and juvenile members of their families shall have the right to obligatory health insurance.

The state shall ensure health protection to children, pregnant women, mothers on maternity leave, single parents with children up to seven years of age and elderly people of the age envisaged thereto by law, if otherwise not holding health insurance.

The right to voluntary health insurance and to establishment of private health insurance funds, as envisaged by law, shall be guaranteed.

No one shall be forced to medical treatment except in cases established by law.

**Article 72***(Right to Social Protection)*

Local governments and the state, in accordance with law, shall provide material security to citizens incapacitated for work or the unemployed with no means for living.

Disabled persons shall have the right to special protection and professional training, as stipulated by law.

Children and young people with physical or mental development disabilities shall be entitled to education and training for active life and work from public revenues.

**Article 73***(Rights of Soldiers, Military Disabled People and Civil Casualties of Anti-fascist Liberation War)*

Soldiers, military disabled people and civil casualties of Anti-fascist Liberation War shall be guaranteed special social rights, as well as members of their families not having material means for living.



The family members of soldiers killed during the Anti-fascist Liberation War shall be entitled to social protection, if not otherwise been materially provided for, under the conditions stipulated by law.

**Article 74**  
*(Pension Insurance)*

The obtained right to age pension and disability pension acquired on grounds of permanent disability may not be limited or abolished.

The right to voluntary pension insurance and the establishment of private funds for pension and disability insurance shall be guaranteed, pursuant to law.

**Article 75**  
*(Right to Education)*

Everyone shall have the right to education under equal conditions.

Primary education shall be obligatory.

Primary and secondary education in the institutions established by the state shall be financed from public revenues.

The establishment of schools, faculties and universities shall be regulated by law.

Schools, faculties and universities may be state or private ones.

Entire education system shall be under professional supervision exercised by competent state bodies and institutions.

The state shall be obliged to create systemic and other conditions for the development and enhancement of the quality of education.

**Article 76**  
*(Freedom of Creative Scientific and Artistic Work)*

Scientific research and creative artistic work shall be free.

Academic freedom shall be respected.

The autonomy of universities and scientific institutions shall be guaranteed.

Creators of scientific and artistic works, and inventors, shall be guaranteed copyrights, pursuant to law.

**Article 77**  
*(Duty of State to Create Conditions for Development of Science, Culture and Arts)*

The state shall be obliged to create systemic, institutional, material and other conditions for the development of science, culture and artistic creation.

The state shall protect scientific, cultural, artistic and historical values.

**Article 78**  
*(Duty to Develop Spirit of Mutual Respect)*

It is the duty of everyone in the field of education, culture, media and public life to promote and develop the spirit of tolerance, mutual respect and cooperation among people regardless of their ethnic, cultural, linguistic and religious identity.

**Article 79**  
*(Right to Healthy Environment)*

Everyone shall have the right to a healthy environment and to receive timely and full information about the status of the environmental.

Everyone shall be bound to preserve and enhance the environment.

The state shall be obliged to undertake all the necessary measures in order to protect the environment.

**Article 81**  
*(Protection of Consumers)*

The state and local governments shall be obliged to ensure protection of the rights of consumers.

**SPECIAL MINORITY RIGHTS<sup>2</sup>**

**Article 81**  
*(Minority Rights to Preservation of Their Particularity)*

In order to preserve the identity, expression and development of ethnic, cultural, linguistic, religious and other particularities, members of national and ethnic minorities shall have the right to freely express, preserve, value, develop and openly manifest their national, ethnic, cultural and religious particularities; to use own language privately and in public life; to write and express own name and surname in own language and alphabet and to have them entered as such in public registers; to be provided personal ID in own language and alphabet; to be educated in own language in primary and secondary schools and other education institutions; to be informed of social events in own language; to be adequately represented in their local communities, in state bodies and local governments, provided that they meet professional qualification criteria; for communities where dominant or substantial number of population consists of their members; the names of places, state bodies and institutions, local bodies, schools, cultural, health and other institutions, business and other firms, names of streets, squares, and neighbourhoods be written in their language; pursuant to law, to use own symbols in public places; to have instruction in own language at state universities; to establish private education institutions and media in own language; to establish cultural, artistic and other societies of importance for preservation and enhancement of their identity, associations and other civil society organisations.

The state shall materially support, according to its abilities, the establishment of education and cultural institutions and media in minority languages.

Members of minorities shall have the right to freely establish links and cooperation with their compatriots in other states and to participate in regional and international non-governmental organisations.

Special minority rights may not be exercised contrary to Constitution, ratified and publicised international treaties, generally accepted rules of international law and territorial integrity of the state of Montenegro.

**Article 82**  
*(Minority Council)*

Members of minority nations, national minorities and ethnic minorities may establish a Minority Council for the purpose of joint exercise of own rights.

The Minority Council deliberates upon the issues of importance for the preservation, enhancement and protection of national, ethnic, cultural, linguistic and religious identity of the relevant minority, the exercise of special minority rights and freedoms guaranteed by Constitution, laws and international law, the establishment of education and cultural institutions, media and other institutions of importance for the relevant minority, and gives motions to competent state authorities, local governments, organisations and services exercising public authorities for undertaking appropriate measures; considers draft laws and bills, other

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<sup>2</sup> Provisions in Articles 81 and 82 are worded descriptively. The aim is to make explicit what minority rights include. However, in the final draft of the Constitution these norms may be written using the categories to replace exhaustive description.

regulations and education programmes that fully or partially relate to minority rights and freedoms and provide opinion thereof.

State and local bodies and institutions and other organisations exercising public authorities or activities of public interest shall be obliged to submit their response at the received motion.

Proposers of laws, other regulations and education programmes, if they do not adopt initiatives or proposals of the Minority Council, shall be obliged, in the rationale of the proposal of these enactments, to present the essence of the Minority Council's motion and the reasons why it was not adopted.

The procedure and manner for the election and establishment of the Minority Council shall be regulated by law.

#### **Article 82**

*(Constitutional Grounds for Establishing Other Minority Rights by Law)*

In order to provide for greater presence of minorities in public life, especially in bodies exercising legislative power, the law may stipulate other minority rights within the limits which do not infringe upon the equality of the rights of all citizens, territorial integrity of Montenegro, generally accepted rules of international law and interethnic harmony.

#### **Article 84**

*(Duty to Protect Cultural Heritage of Minorities)*

State bodies competent in the field of protection of cultural heritage shall cater for the preservation of the cultural heritage of minorities.

#### **Article 85**

*(Duty of Public Authorities to Provide Conditions for Full Exercise of Human Rights and Freedoms in their Policies and Measures)*

Public authorities shall be obliged, taking into account all the conditions and circumstances, to establish policies and measures for their implementation with the respect of guaranteed human rights and freedoms.

### **PART THREE**

#### **LOCAL GOVERNMENT**

#### **Article 86**

*(Right to Local Government)*

Citizens shall be guaranteed the right to local government.

The right to local government shall include the right of all citizens, within the limits stipulated by the Constitution and law, in line with own interests and at own responsibility, immediately and through elected bodies accountable to them, to decide upon matters of their immediate and common interest, pursue their aspirations and meet their needs.

A law on local governments shall be enacted.

#### **Article 87**

*(Local Government)*

Local government is put in place in a municipality and a local community.

Constitutional provisions on municipality also refer to the capital city and the Old Royal Capital.

A local government shall exercise the duties within own responsibility through its bodies, local communities and public services it establishes for the discharge of certain duties.

Local governments shall be independent in the exercise of duties within their competence. State bodies shall perform supervision only to the extent of assuring compliance with the Constitution and laws.

**Article 88**  
*(Devolution of Responsibilities)*

By law, the exercise of certain duties of the state administration may be devolved to municipalities. By law, apart from the duties devolved to municipalities, some other duties of public administration may be devolved to the capital city.

The state shall provide appropriate means for the exercise of devolved duties.

Competent body of the state administration shall exercise supervision also over the appropriateness of the devolved responsibilities.

**Article 89**  
*(Criteria for Establishment of Municipalities)*

A municipality shall be established for an area which makes a natural, a spatial, an urban and an economic unit, in which there are economic and other conditions for the exercise of municipal functions, meeting certain common needs and interests of the local population and the exercise of local government.

Municipalities shall be established, merged and abolished and their territories determined by law.

A part of a territory of a municipality may be merged with the territory of another municipality if the majority of citizens of that area of the municipality vote in favour of the proposal and if the municipality to which it is merged agrees.

**Article 90**  
*(Legal Status of a Municipality)*

A municipality shall have the capacity of a legal person.

A municipality shall have a statute. Statute shall be the highest general legal act of the municipality which, pursuant to the Constitution and law, regulates the organisation of a municipality, the scope of competences of its bodies and other matters.

The Statute of a municipality shall be adopted by its Council.

In the exercise of its competences, municipal bodies shall pass their regulations and other general enactments.

**Article 91**  
*(Municipal Bodies)*

Municipal bodies are: the Local Council, President of the Municipality and local administration.

The Capital City shall have its Mayor.

The Local Council shall consist of councillors elected by citizens in direct elections, pursuant to general and equal suffrage, by secret ballot, in the manner envisaged by law.

The manner for the election of councillors, the President of Municipality and authority to call the elections shall be regulated by law.

A municipality may establish other bodies and services of municipal importance.

**Article 92**  
*(Finances and Property of Municipalities)*

A municipality shall have the right to revenues from own sources and other revenues envisaged by law.

To meet the needs of its citizens, in municipalities funds may be collected on the basis of direct vote of citizens, as envisaged by law.

Law may stipulate criteria and standards on the basis of which the state may provide additional funds to the municipality which is unable to finance fully from own sources the exercise of duties from its scope of competences as stipulated by Constitution and law.

The property of a municipality is made of movable and immovable property, financial resources, securities and other property rights, to be disposed of pursuant to law.

## **PART FOUR**

### **ECONOMIC ORDER**

#### **Article 93**

*(Basis of Economic Order)*

The territory of Montenegro shall constitute a single economic area and a single customs area.

The economic order in Montenegro shall be based on: security of private and other forms of property, their equal and efficient protection; social function of the property; sustainable development; market economy based on free entrepreneurship, competition, liberal foreign trade regime and policy, equal position in market relations of all legal and physical persons, responsibility of all for the preservation of nature and healthy environment; free movement of goods, services, capital, labour and employment; management and acquisition on the grounds of property and labour; rights of employees to social security; independence and responsibility of each economic entity for successful business operation and for own obligations in the legal system.

All economic entities are guaranteed equal general systemic conditions for doing business and equal legal protection.

Rights acquired through investment of capital may not be revoked.

Any action or deed creating or encouraging monopolistic position on the market shall be contrary to the Constitution.

#### **Article 94**

*(Conditions for Economic Activity)*

The law shall stipulate conditions for performing economic and other activities.

A foreign national shall be guaranteed the right to perform economic and other activity and rights pursuant to investment and business operation under the conditions envisaged by law for our nationals.

Business activity and entrepreneurship may be limited in order to protect health, nature, environment and security.

#### **Article 95**

*(Balancing Development)*

By development, economic and social policy measures, the state shall promote economic and social development, balancing the development of its regions and raising the living standards of its citizens.

#### **Article 96**

*(Titleholders)*

Titleholders shall be physical and legal persons.

The state shall be the titleholder over state property.

Local government shall have the right to use state property, as envisaged by law.

#### **Article 97**

*(Expropriation)*

Privately-owned immovable property may be expropriated in the procedure envisaged by law if required so by general interest stipulated by law or pursuant to law, paying market price or price agreed by the parties.

Taking possession of expropriated immovable property shall be allowed after having paid the compensation, and prior to that only upon the agreement of the parties. The use of immovable property may, with payment of compensation, be limited if required so by general interest determined pursuant to law.

#### **Article 98**

##### *(Ownership over Goods of General Interest)*

Natural resources and resources in general use are of general interest shall be owned by the state.

Town construction land, agricultural land, forests and woodland may be state or privately owned.

Resources of general interest, under the conditions stipulated by law, may be granted for utilisation. Agreements for the utilisation of these resources must be public.

Resources of general interest owned by the state shall not be subject to such operations.

When required so by general interest envisaged by law, the exercise of right to property of special cultural, scientific, artistic or historic importance may be limited, with compensation.

Management of resources of general interest, their utilisation, enhancement and protection shall be exercised under the conditions and in the manner envisaged by law.

By law, special conditions for the utilisation may be stipulated and special protection of woodland and agricultural land may be envisaged.

#### **Article 99**

##### *(Environmental Protection)*

Everyone utilising land, forests, waters, watercourses, the sea and seashore, ores and other natural resources shall be obliged to do so in line with their purpose, pursuant to regulations for their utilisation and in the manner to provide for healthy environment.

Law may stipulate the conditions and the manner for establishing compensation for damages caused to the environment.

### **PART FIVE**

#### **PUBLIC FINANCES**

#### **Article 100**

##### *(Taxes, Other Duties, Public Debts)*

Taxes, charges and other duties shall be established by law.

Local governments may impose taxes, charges and other duties when authorised by law to do so and within the limits set by law.

The duty to pay taxes and other charges is general and shall be based on economic capacity of taxpayers.

Funds collected as taxes, charges and other duties shall be used by the state and local governments to finance the performance of own duties.

All revenues and expenditures of the state and local governments for financing public expenditures must be expressed in their budgets. The budget and the final account shall be adopted for each year. The state budget shall be established by law. The budget may not impose revenues from taxes and duties not having previously been set by law.

The supervision over the legality of collection and the legality and appropriateness of spending the funds from the state budget and local budgets shall be exercised by State Financial Audit.

Montenegro and local governments shall be entitled to take loans.

The conditions and procedure for borrowing shall be set by law.  
The guarantees of the state for credits of others shall be allowed only as envisaged by law.  
The state of Montenegro and local governments shall present the value of their property in property balances.

## **PART SIX**

### **ORGANIZATION OF STATE POWER**

#### **Article 101**

*(Principles of organization and execution of power)*

The power in Montenegro shall be regulated and executed on the basis of the principle of division of power on the legislative, executive and judicial power.

The power is limited by the Constitution and can be abolished. No one shall stand above the Constitution and the law.

The persons performing the tasks of the legislative, executive and judicial power shall be responsible to perform the entrusted work within the limits of the Constitution and the law, in a conscientious, honorable and responsible manner.

Members of the Parliament, elected, nominated or appointed persons, prior to acceptance of duty, shall take an oath by which they publicly accept the responsibility to respect the Constitution and the law in their work, and to perform their duties in a conscientious and responsible manner, to the benefit of the people and in the interest of Montenegro as an independent, democratic and civil state. The Law can prescribe that other persons who are entrusted the execution of state affairs shall also take an oath prior to accepting their duties.

The text of the oath shall be prescribed by the Law or the Rules of Procedure.

It is not possible to perform at the same time the state affairs and other affairs that cause the conflict of interest with the state affairs.

## **PARLIAMENT**

#### **Article 102**

*(Definition of functions and responsibility)*

The Parliament of Montenegro is a representative body of the citizens that performs the constituent and legislative power.

The Parliament shall:

- 1) adopt the Constitution and changes of the Constitution;
- 2) adopt laws, other regulations and general acts;
- 3) adopt the development plan and spatial plan of Montenegro;
- 4) define and regulate the system of state administration;
- 5) adopt the budget and the final account;
- 6) proclaims the state of emergency;
- 7) calls for the state referendum;
- 8) accepts public loans and decides on the borrowing of the state of Montenegro;
- 10) elects and dismisses the Prime Minister, the president and the judges of the Constitutional Court; the Ombudsman and his/her deputies, president and members of the State financial control, presidents of the courts and judges and other officials defined in the Constitution and the law; appoints and dismisses the Supreme State Prosecutor, State Prosecutors and their deputies;
- 11) decides on the trust in the Government and individual members of the Government;
- 12) decides on the immunity of the Members of the Parliament (hereinafter: MP's);
- 13) grants amnesty for criminal offenses;

14) discusses the reports that are submitted to it and adopts conclusions with regard to them;

15) confirms international agreements;

16) decides on the use of state property exceeding the value prescribed by the law;

17) performs other affairs in accordance with the Constitution.

The Parliament shall hold the right to request from the Government or individual ministries a report on the enforcement of the laws, the measures undertaken to enforce them and their assessment of the needs for changes or amendments of those laws..

In the performance of duties within its scope of responsibility, the Parliament shall adopt the decisions, resolutions, declarations, recommendations and conclusions.

### **Article 103**

#### *(Composition and mandate of the Parliament)*

The Parliament shall be unicameral.

The Parliament shall consist of the MP's elected by the citizens directly, on the basis of the general and equal right to vote and by secret ballot.

The Parliament shall have 81 Members.

ALTERNATIVE for paragraph 3: The number of the Members of the Parliament elected in the Parliament shall be determined at the time of each elections according to the criterion – one MP per six thousand voters. The Rules of Procedure of the Parliament shall regulate its organization, manner of work and decision making procedure.

The Parliament shall be elected for the period of four years.

If the mandate of the Parliament expires during the state of emergency, the mandate shall be extended for maximum 90 days after the circumstances that caused the state of emergency have ceased to exist.

At the proposal of the President of Montenegro, the Government or minimum 25 Members of the Parliament, the Parliament may reduce the period of duration of its mandate.

The decision to extend or reduce the mandate of the Parliament shall be adopted by the majority of votes of the total number of MP's.

### **Article 104**

#### *(Elections)*

Elections for the Members of the Parliament shall be held no later than 30 days prior to the end of mandate of the MP's whose mandate is expiring. The procedure of election of MP's shall be regulated by the Law.

The President of Montenegro calls for the elections for the Parliament.

Change of the electoral law shall not take place after the elections have been called for.

If the MP's are elected on the basis of the electoral lists, the mandates belong to the candidates according to the sequence in the electoral list. Change of sequence when mandates are distributed shall only be possible in case of resignation or death of the MP. ALTERNATIVE for this provision: delete this provision, which means that this issue shall be regulated by the law.

The MP shall dispose of his/her mandate.

The MP shall not be revoked.

Prior to acceptance of duty, the MP shall take an oath.

### **Article 105**

#### *(Immunity of MP's)*

The MP shall enjoy immunity.

The MP shall not be held responsible or be detained due to the speech, expressed opinion or vote given in the sessions of the Parliament or its working bodies.

The MP who uses the immunity, shall not be arrested or detained, and cannot be subject to a criminal proceedings against him without the consent of the Parliament, unless the MP has been caught in the criminal act for which there is an imprisonment sentence of minimum five years prescribed.



The Parliament may decide to apply the immunity of the MP even when the MP did not use it, if this is necessary for the performance of duty of the MP.

**Article 106**

*(Rights and responsibilities of MP's)*

The MP shall represent the citizens and their interests and shall participate regularly in all forms of work of the Parliament.

In the Parliament the MP shall decide and vote according to his/her own personal conviction and conscience.

By rule, the MP shall perform the duty of an MP professionally.

Rights of the MP's on the basis of performance of MP duties shall be prescribed by the law.

**Article 107**

*(Cessation of mandate of the MP)*

The mandate of an MP shall cease prior to the expiry of the period for which he/she was elected in the following cases:

- 1) submission of resignation;
- 2) if the effective ruling of the court condemns the MP to an unconditional imprisonment sentence for minimum six months or the court condemns the MP to an imprisonment sentence for a criminal act that makes him/her unworthy of performing the duty of an MP;
- 3) if the effective decision deprives him/her of the capacity to work;
- 4) if there is a case of incongruity of the duty of an MP and some other duty;
- 5) in case of death.

**Article 108**

*(Constitution of the Parliament)*

The first session of the newly elected convocation of the Parliament shall take place within 15 days from the day of announcement of the final results of the elections. The Speaker of the Parliament from the previous convocation calls for the session.

If the first session of the newly elected convocation of the Parliament is not called for within the prescribed deadline, the elected MP's are obliged by the Constitution to meet on the 21<sup>st</sup> day from the day of announcement of the final results of the elections.

Mandate of the MP's is confirmed/ verified by the newly elected Parliament at its first session.

At the first session the MP's take an oath before the citizens, through the mandatory TV broadcast.

The MP's who have not taken the oath shall not have the right to participate in the adoption of parliamentary decisions.

**Article 109**

*(Speaker and Deputy Speaker of the Parliament)*

The Parliament shall have a Speaker and one or more Deputy Speakers elected from the convocation for the period of four years.

Speaker of the Parliament shall represent the Parliament, take care of the implementation of the Rules of Procedure of the Parliament, call for the elections for the President of Montenegro and shall perform other duties defined by the Constitution, the law and the Rules of Procedure of the Parliament.

Deputy Speaker shall replace the Speaker of the Parliament in the performance of duties when the Speaker is unable to do so and when the Speaker entrusts the Deputy to replace him/her.

**Article 110**  
(Working bodies of the Parliament)

The Parliament shall have permanent and periodical working bodies.

The Parliament may establish a survey commission in charge of finding the facts important for the performance of duties of the Parliament.

**Article 111**  
(Sessions of the Parliament)

The Parliament shall operate through regular and extraordinary sessions.

Regular session shall be held two times per year, in accordance with the Rules of Procedure of the Parliament.

The first regular session shall start on the first working day in the month of March, and the session on the first working day in the month of October. Duration of the sessions shall be established in the Rules of Procedure of the Parliament. The session shall take place in meetings that are held successively and in accordance with the Rules of Procedure of the Parliament.

The extraordinary session shall be called for at the request of the President of Montenegro, the Government and minimum one third of the total number of MP's, with the agenda defined in advance.

The Parliament shall meet, without an invitation, on the day following the proclamation of the state of emergency and shall have a continuous session for the period of duration of the state of emergency.

**Article 112**  
(Decision-making procedure)

The Parliament shall adopt effective decisions if the session is attended by more than one half of the total number of MP's. The decisions shall be adopted by majority vote of the attending MP's, unless regulated otherwise by the Constitution.

With the majority vote of the total number of MP's the Parliament shall adopt the laws regulating the following issues: Montenegrin citizenship; electoral system; referendum; financial duties of the citizens; purpose and use of state symbols; Defense and Security Council; army; establishment, merger and abolishment of municipalities and other laws specified in the Constitution; it shall also adopt the Rules of Procedure of the Parliament; elect and release from duty the Prime Minister and grants trust and votes lack of trust in the Government and members of the Government; elects and releases from duty the president and judges of the Constitutional court; Ombudsman and his/her deputy; president and members of the State financial control; Central Bank Governor and his/her deputies; president and judges of the courts; appoints and releases from duty the Supreme State Prosecutor, State Prosecutors and their deputies.

**Article 113**  
(Dismissal of the Parliament)

The Parliament shall be dismissed if the Government fails to be elected within 90 days from the day when the President of Montenegro proposed for the first time the candidate for the position of the Prime Minister.

If the Parliament fails to reach a quorum in sessions for a period exceeding three months or for some other reasons fails to perform the duties within its scope of responsibility defined in the Constitution, after hearing the opinion of the Speaker of the Parliament and presidents of party caucuses, the Government may dismiss the Parliament.

The decision of the Government to dismiss the Parliament shall be proclaimed in the Decree of the President of Montenegro.

The Government shall not dismiss the Parliament if the proposal has been filed with the Parliament to vote on the trust in the Government or if the Government itself raised the issue of trust in the Government.

The Parliament shall not be dismissed during the state of emergency or in the first three months from its constitution or the last three months prior to the end of its mandate.

The President of Montenegro shall call for the elections on the first day after the day of dismissal of the Parliament.

#### **Article 114**

*(Proposals and procedure of adoption of the laws)*

The right to propose a law shall be granted to the following: the Government, the MP and minimum six thousand voters.

Central bank shall hold the right to propose the laws that regulate the relations in the field of activity for which it had been established.

Any person may give an initiative to adopt the law to the persons authorized to propose laws.

#### **Article 115**

*(Budget and final statement)*

At the end of the budgetary year the Parliament shall define the state budget for the following year.

Proposal of the state budget and final statement shall be submitted by the Government within the deadlines specified in the law.

If the budget fails to be adopted by the end of the current year, the validity of the previous budget is extended until the adoption of the new budget, and each month it can be implemented up to one twelfth of its total value. If the Government fails to propose or the Parliament fails to adopt the budget by the end of the month of March of the following year, the Government mandate shall cease.

#### **Article 116**

*(Proclamation of laws)*

The laws shall be proclaimed by the Decree of the President of Montenegro.

The President of Montenegro shall adopt the Decree on the proclamation of a law within 15 days from the day of adoption of the law in the Parliament, i.e. within seven days if the law was adopted according to the speedy procedure, or return the law, accompanied by the written explanatory note/ justification, to the Parliament for a new round of discussion and decision making.

The President of Montenegro shall proclaim the law that was adopted again in the Parliament.

If the President fails to adopt the Decree on the proclamation of the law or to return it to the Parliament for a new round of discussion within the specified deadline, the Speaker of the Parliament shall adopt the Decree on the proclamation of the law.

#### **Article 117**

*(Referendum)*

With regard to the issues within its scope of responsibility the Parliament may call for the referendum.

The proposal to call for the referendum may be submitted by the following: minimum one third of the total number of MP's, President of Montenegro or 20,000 citizens with the right to vote.

Subject of the referendum shall not be the following: state budget, taxes and other duties, duties of the state from the confirmed and published international agreements, dismissal of the Parliament, extension and reduction of its mandate, proclamation of the state of emergency, amnesty and end of mandate of the Government.

The decision made in the referendum shall be binding for the Parliament.

### **Article 118**

*(Publicity of work of the Parliament)*

Sessions of the Parliament and its working bodies shall be public.

The Parliament or its working bodies may decide with a majority of votes of the total number of MP's, to close the session or its part for public.

## **PRESIDENT OF MONTENEGRO**

### **Article 119**

*(Responsibility)*

The President of Montenegro shall perform certain affairs of the executive power as determined by the Constitution.

The President of Montenegro:

- 1) represents the state of Montenegro in the country and abroad;
- 2) proposes to the Parliament the candidates for: the Prime Minister, the President and judges of the Constitutional court, the Ombudsman, President and members of the Supreme State Control and the Governor of the Central Bank;
- 3) at the proposal of the Government, appoints and revokes the ambassadors and heads of other diplomatic missions of Montenegro abroad;
- 4) accepts accreditation and revocation letters from the foreign diplomatic representatives;
- 5) has the right to request the session of the Parliament to be held and at the session to propose his/her views regarding the problems in the operations of individual branches of power or of the individual state authorities and to propose to take the measures under the responsibility of the Parliament;
- 6) commands over the army on the basis of the decisions of the Defense and Security Council;
- 7) calls for the elections for the Parliament;
- 8) proposes to the Parliament to call for the referendum;
- 9) proclaims laws through a Decree;
- 10) adopts the Decree on the proclamation of the decision of the Government to dismiss the Parliament;
- 11) awards medals and acknowledgments of the State of Montenegro;
- 12) decides on pardon (amnesty);
- 13) gives opinion to the Parliament regarding the issues from his/her scope of responsibility if requested;
- 14) performs other duties defined by the Constitution.

### **Article 120**

*(Election)*

The Parliament elects the President of Montenegro through secret ballot.

Alternative: The president is elected by the citizens, on the basis of the general and equal electoral right, through the direct and secret ballot.

A Montenegrin citizen, who is minimum 35 years old on the day of elections, with domicile and residence in Montenegro for minimum 10 years in the past 15 years until the day of elections.

The Speaker of the Parliament calls for the elections for the President of Montenegro 90 days prior to the expiration of mandate of the President whose mandate is coming to an end.

The elections shall be held no later than 30 days prior to the day of expiration of mandate of the President whose mandate is coming to an end.

If the mandate of the President of Montenegro has ended prior to the expiration of the period for which he/she was elected, the Speaker of the Parliament shall call for the elections

within 15 days from the day when the mandate ended, and the elections shall take place within 60 days from the day when the elections have been called for.

The Law shall prescribe the procedure of nomination of candidates for the President of Montenegro. ALTERNATIVE to this paragraph: if the provision is adopted according to which the President is elected by the citizens, than after the word "nomination of candidates" the words – *and manner of election* should be added.

**Article 121**  
*(Mandate)*

The President of Montenegro shall be elected for the period of five years.

The same person may be elected the President of Montenegro maximum two times in a row.

Prior to taking over the duties, the President shall take an oath at the session of the Parliament. ALTERNATIVE: at the special session of the Constitutional Court, if the solution is adopted according to which the President is elected by the citizens.

The mandate of the President shall start running from the date of taking the oath.

If the mandate of the President expires during the state of emergency, the mandate shall be prolonged for maximum 90 days the circumstances that have caused the state of emergency have ceased to exist.

The President of Montenegro shall not perform any other political or public duty or professional activity.

**Article 121**  
*(Cessation of mandate)*

The mandate of the President of Montenegro shall cease when the period of time for which he/she was elected expires, by resignation or if the President is permanently prevented from performing the duty of the President.

The President shall be held responsible for the violation of the Constitution. The proposal to question his/her responsibility for the violation of the Constitution may be filed to the Parliament by minimum one third of the total number of MP's. The Parliament submits the proposal to determine the responsibility to the President for a plea and opens the discussion on the proposal and the plea. The proposal shall be accepted if majority of the total number of MP's vote in favor.

The Speaker of the Parliament submits the accepted proposal to the Constitutional Court without delay. The Constitutional Court shall adopt the decision on existence or non-existence of the violation of the Constitution and shall publish it and submit it to the Parliament without delay.

If the Constitutional Court determines that the President has violated the Constitution, his/her mandate shall cease by force of the Constitution on the day of announcement of the Constitutional Court decision.

**Article 123**  
*(Performance of duty in case of prevention or cessation of mandate)*

When the President of Montenegro is temporarily prevented from performing the presidential duty or his/her mandate ends prior to the expiration of the period for which he/she was elected, the duty of the President of Montenegro shall be performed by the Speaker of the Parliament until the election of the new President.

**Article 124**  
*(Immunity of the President of Montenegro)*

The President of Montenegro shall enjoy the same immunity as a Member of the Parliament.

The Parliament shall decide on the immunity of the President of Montenegro. ALTERNATIVE for this paragraph: The Constitutional Court shall decide..., if the President is elected by the citizens.

The President of Montenegro shall not be held responsible for the acts and actions undertaken in the performance of duties even after the end of mandate.

## **THE GOVERNMENT**

### **Article 125**

*(Duties and composition)*

The executive power shall be performed by the Government. The Government shall consist of the Prime Minister, one or more Deputies and Ministers who manage the ministries. The Prime Minister shall manage the work of the Government, represent it, make sure that the Government performs its duties in a successful and timely manner and harmonizes the work of the members of the Government.

### **Article 126**

*(Responsibility of the Government)*

The Government shall: 1) define and lead the internal and foreign policy of the State of Montenegro;

- 2) propose the adoption and change of the Constitution;
- 3) propose laws, other regulations and general acts that are adopted by the Parliament;
- 4) enforce and take care of the enforcement of the laws and other regulations of the Parliament;
- 5) propose the development plan and spatial plan of Montenegro;
- 6) propose the state budget and the final statement;
- 7) adopt decrees, decisions and other regulations for the enforcement of laws;
- 8) establish and abolish ministries and other bodies of the state administration by a decree, and prescribe the principles of their internal organization and work;
- 9) supervise the work of the ministries and other administrative authorities;
- 10) annul or abolish regulations and other general acts of the ministries and other bodies of the state administration when it assesses that they are incompatible with the regulations adopted by the Government;
- 11) give opinions on the proposals of the laws and other regulations and acts that are submitted to the Parliament by other authorized law-proposing entities;
- 12) adopt decisions on the recognition of other states and governments and on the establishment of diplomatic and consular relations with other states;
- 13) adopt decisions on the opening of diplomatic and consular missions of Montenegro abroad;
- 14) propose the ambassadors and heads of other diplomatic missions of Montenegro abroad;
- 15) nominate, appoint and release from duty managerial staff in the Government and Government services, state administration bodies and other institutions;
- 16) adopt the Rules of Procedure by which it regulates its own organization, manner of work and decision making procedure;
- 17) form expert and other services for the performance of tasks within the scope of responsibility of the Government;
- 18) perform other tasks defined by the Constitution and the law.

The Government or the Minister shall submit to the Parliament a report on the enforcement of specific laws whenever requested to do so.

### **Article 127**

*(Election and incongruity of duties)*

The Government shall be established after each election for the Parliament.

The President of Montenegro proposes the candidate for the Prime Minister, by rule, from the political party or coalition that holds a majority in the Parliament, within 10 days from the day of constitution of the Parliament.

The candidate for the Prime Minister shall present the program of the Government and its composition before the Parliament within 15 days from the day when the mandate was entrusted to him/her.

The Parliament votes simultaneously on the adoption of the Government program and the election of the Prime Minister.

With the adoption of the program and the election of the Prime Minister it shall be considered that the Government was elected and given the trust, in the composition that the candidate for the Prime Minister presented, and after that the Prime Minister and the members of the Government take an oath before the Parliament.

If the Parliament fails to elect the Prime Minister within 30 days from the date when the President of Montenegro nominated a candidate for the Prime Minister, the President of Montenegro shall propose a new candidate for the Prime Minister within 15 days.

If the Parliament fails to adopt the new proposal of the candidate for the Prime Minister within 45 days from the date of receipt of the proposal, the Parliament shall be dismissed by force of the Constitution, and the President of Montenegro shall establish that in a Decree and call for the elections for the new Parliament.

The Prime Minister and the member of the Government shall not perform the duty of a Member of the Parliament or some other public duty or professional activity, service or job that causes the conflict of interest with the duty of the Prime Minister.

#### **Article 128** *(Immunity)*

The Prime Minister and the members of the Government shall enjoy the same immunity as the Members of the Parliament.

The Prime Minister and the members of the Government shall not be held responsible for the opinions expressed in the session of the Government or the Parliament or for the vote given in the performance of duties under the responsibility of the Government.

The Government shall decide on the immunity of the Prime Minister and the members of the Government.

#### **Article 129** *(Resignation)*

The Government and the member of the Government may submit a resignation.

The resignation or permanent inability to prevent the duties of the Prime Minister shall cause the resignation of the Government as a whole.

#### **Article 130** *(Release from duty and appointment of the Government members during the mandate)*

The Prime Minister may release from duty a member of the Government during the mandate and appoint a new member in that position; the Prime Minister shall inform the Parliament of that event without delay and the newly appointed member of the Government shall take an oath before the Parliament.

#### **Article 131** *(Deciding on the trust in the Government)*

Minimum one fourth of MP's may submit a proposal to vote on the trust in the Government or an individual member of the Government.

The Government itself may raise the issue of trust in it in the Parliament.

The Parliament shall put on the agenda the discussion about the trust in the Government in minimum three and maximum five days from the day of submission of the proposal. The proposal shall be subject to the discussion in the session of the Parliament and

shall be decided upon with the majority vote of the total number of MP's, through secret ballot, no later than within seven days from the day of opening of the discussion.

If the Parliament votes the lack of trust in the Government, the President of Montenegro shall propose a candidate for the Prime Minister within 15 days.

The Parliament shall decide on the election of the Prime Minister and the members of the Government within 30 days, in the same manner as in the case of election of the previous Government that the Parliament voted no trust in.

If the Parliament fails to elect the new composition of the Government, the President of Montenegro may propose, within 60 days, one or several times the candidate for the Prime Minister. If the Parliament fails to elect the new Government by that deadline, the Parliament shall be dismissed by force of the Constitution, and the President of Montenegro shall note that in a Decree and call for the elections for the new convocation of the Parliament.

If the Government received the trust, the proposal to vote on the trust in the Government for the same reasons shall not be submitted prior to the expiration of the period of six months from the date of voting, unless the issue of trust in the Government is raised by the majority of the total number of MP's.

### **Article 132**

#### *(Questions of MP's and interpretation)*

MP shall have the right to ask the Government or an individual member of the Government a question regarding their work, request and receive an answer to the question asked.

The Government or a member of the Government shall respond to the asked question of the MP at the same or the following session of the Parliament.

The interpellation on the work of the Government may be filed by minimum one fourth of the total number of MP's. The interpellation shall be filed in written form and shall be accompanied by an explanatory note/ justification.

The Government shall deliver an answer within seven days from the day of receipt of interpellation.

The interpellation and the answer of the Government shall be discussed by the Parliament in the first upcoming session upon the receipt of the answer or the expiration of the deadline for the receipt of the answer. If the Parliament rejects the answer of the Government or the persons who submitted the interpellation fail to give up on their initiative, the Parliament shall vote on the trust in the Government.

The issue that was subject to interpellation shall not be subject of a new interpellation or the subject of discussion in the Parliament in minimum 90 days.

### **Article 133**

#### *(Commencement and cessation of mandate)*

Mandate of the Government shall run from the date of taking the oath.

The Government mandate shall end as follows: with the cessation of mandate of the Parliament, dismissal of the Parliament or reduction of its mandate, submission of resignation and when the Parliament votes lack of trust in it.

The Government whose mandate has ceased on any grounds shall continue with its work until the election of the new Government.

The Government whose mandate has ceased shall not dismiss the Parliament or submit a proposal to change the Constitution.

When the Government mandate ceases due to submission of resignation or loss of trust in it, the procedure for the election of the new Government shall commence immediately.

Mandate of the individual members of the Government ceases by resignation, release from duty, loss of trust and in case of incongruity of duties.



## **STATE ADMINISTRATION**

### **Article 134**

*(Principles of state administration)*

State administration shall perform administrative affairs within the scope of rights and responsibilities of the state of Montenegro.

The law shall define the affairs of state administration, relations between the citizens and the administration, and regulate other issues significant for its legal and efficient work. The law shall be adopted by the majority of votes of the total number of MP's.

The affairs of state administration shall be performed by the ministries and other legally established administrative bodies and administrative organizations.

State administration shall be rationally organized, professional, independent in the enforcement of laws and shall perform its duties on the basis of the Constitution and the law, in a timely and efficient manner. It shall be responsible to the Government for its work.

Control of work of the state administration bodies shall be executed through the performance of administrative and other oversight, judicial control of acts adopted by the administration and other forms of control, while the control of legality of its budgetary revenues and expenditures and use of property shall be performed by the State financial control, in accordance with the law.

### **Article 134**

*(Regulatory institutions)*

Independent regulatory non-profit agencies for the performance of public duties in individual areas and similar institutions shall be established only by the law.

Their entire work shall be public. Supervision over their work shall be performed by the Government or by the ministry defined by the law. Their regulations shall not come into effect prior to their publication and shall be subject to the constitutional-judicial control, and all the individual administrative acts shall be subject to the control by the Constitutional Court.

### **Article 136**

*(Publicity of work of state administration)*

The work of the state administration bodies is public.

The data, documents, reports and information of the state administration bodies shall be accessible to the citizens, except in the cases defined by the law.

### **Article 137**

*(Employment in administrative bodies)*

Employment in the state administration bodies and local self-government units, institutions and organizations that perform public duties, shall be executed on the basis of a competition, except in the cases defined by the law.

The persons who worked in the army in the past five years shall not be elected, nominated or appointed as managers in the state administration bodies in the field of defense and policy.

### **Article 138**

*(Prohibition of political organizing and action)*

Political organizing and action in the state administration bodies and local self-government units shall be prohibited and the employees of those bodies shall not express and advocate their political views in the performance of administrative duties.

## **DEFENSE AND SECURITY COUNCIL**

### **Article 139**

*(Composition and responsibility)*

The Defense and Security Council of Montenegro shall consist of the President of Montenegro, the Speaker of the Parliament and the Prime Minister.

The President of Montenegro shall act as the President of the Defense and Security Council.

The Defense and Security Council shall:

1) analyze and assess the security situation in Montenegro and in its individual parts and if it finds that there is an organized action directed towards: disturbing the public order of a larger scope, violent destruction of the constitutional order, violation of liberty, sovereignty or territorial unity of the state of Montenegro, it shall adopt the decisions to take adequate measures, including the proposal to the Parliament to proclaim the state of emergency;

2) discuss the scope, character and consequences of big natural or other disasters, accidents or epidemics, initiate and order the undertaking of adequate measures,

3) perform other tasks defined by the Constitution or the law.

The law on Defense and Security Council shall be adopted.

## **STATE OF EMERGENCY**

### **Article 140**

*(Grounds for the proclamation of the state of emergency)*

The state of emergency shall be proclaimed in the territory of Montenegro or one of its parts if there is a preparation or execution of the organized actions aimed at disturbing the public peace and order; if the unrests, upheavals or other forms of actions are aimed at preparing or executing violent destruction of the constitutional order; or if there are preparations or execution of the activities aimed at violating the sovereignty and territorial unity of Montenegro; or if natural or other disasters, accidents or epidemics take place in the territory of Montenegro or one of its parts, which are of such a scope and with such consequences that they endanger the lives and normal living conditions of the population.

The Parliament shall proclaim the state of emergency at the proposal of the Defense and Security Council or the Government. If the Parliament is unable to convene, the decision to proclaim the state of emergency shall be adopted by the Government, upon receipt of the opinion of the Defense and Security Council, and shall submit it for confirmation purposes to the Parliament as soon as it is in the position to convene a session.

The army may also be engaged in removing the actions and events that caused the proclamation of the state of emergency or their consequences.

### **Article 141**

*(Temporary limitation of the guaranteed rights and liberties)*

For the period of duration of the state of emergency it shall be permitted to limit the exercise of individual human rights and liberties guaranteed by the Constitution to the necessary extent. The limitation shall not take place on the basis of race, color of skin, sex, language, religion, nationality or social background.

The measures of limitation of the guaranteed human rights and liberties shall not take away or limit the rights to: human dignity, life; inviolability of the psychological and physical integrity; security, fair trial; supposition of innocence; punishment only on the basis of the law; entry into marriage; freedom of thought, conscience and confession; citizenship; not shall it abolish the following prohibitions of: violent assimilation, causing national, racial and religious hate and inequality, slavery and status similar to slavery, forced labor, retroactive implementation of laws and other regulations.

The limiting measures shall be prescribed by the law. If the Parliament is unable to convene, these measures shall be prescribed by decrees with the power of the law, adopted by the Government and submitted to the Parliament for confirmation when it convenes.

The limiting measures shall last for maximum 90 days, and after the expiration of this deadline, they may be renewed under the same conditions.

The limiting measures shall cease to exist with the cessation of validity of the decision on the proclamation of the state of emergency.

## **JUDICIAL POWER**

### **Article 142**

*(Principles of exercising judicial power)*

Judicial power shall be exercised by courts.

Courts shall protect human rights and freedoms, rights and legal interests of business and other entities, resolve disputes within their jurisdictions between certain physical and legal entities providing in such a way constitutionality and legality and legal certainty.

Judges and courts shall be independent in judging. Judges may not receive from anybody any instructions or suggestions for making judicial decisions. Nobody may exercise influence on decision making of a judge.

Judges may not be obliged to inform anybody outside of judicial bodies about the substance of the cases they handle and they shall be obliged to provide data about terms of acting in the case to the authorized efficiency controllers.

Judicial decisions shall be passed on the basis of the Constitution, laws, generally accepted rules of international law and verified and publicized international treaties.

Law shall provide for when a court rules in a panel and when an individual judge can rule alone.

The lay judges shall participate in the trial in cases defined by the law.

Judges shall be entitled to professional development and association.

Judges and courts shall pass their decisions in reasonable time.

Establishment of extraordinary courts and courts martial<sup>3</sup> shall be prohibited.

Political organization and activities in judiciary shall be prohibited.

Efficiency of work of judiciary shall be subject to the control of the Ministry in charge of judiciary affairs and to the control of Protector of human rights and freedoms<sup>4</sup> who shall inform the Parliament about their findings.

### **Article 143**

*(Establishment, canceling and determining jurisdiction of courts)*

Courts shall be established and canceled by the law.

Number of judges in every court shall be determined by the Parliament at the proposal of Judicial Council.

Law shall regulate the types and organization of courts, their subject matter and territorial jurisdiction and other issues of importance for their operation.

Procedures at courts shall be regulated by laws.

### **Article 144**

*(Supreme Court)*

The highest court in the state shall be the Supreme Court of Montenegro.

Supreme Court shall ensure uniform application of legislation by the courts.

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<sup>3</sup> It is not said whether this court should deal with military officers or civilians or with major or minor offences and therefore it is not possible for the translator to determine which of the following English expressions to use as an equivalent: *court martial, military commission, provost court*

<sup>4</sup> Ombudsman (translator's comment)

Supreme Courts, in its general session<sup>5</sup>, shall decide upon constitutional complaints for protection of human rights and freedoms and other issues determined by the law.

**Article 145**  
(Administrative Court)

Administrative Court of Montenegro shall rule in administrative disputes regarding legality of final administrative enactments, election disputes and other disputes determined by the Constitution and the law.

A law can exceptionally exclude an administrative dispute in certain administrative matters.

Decisions of Administrative Court in election disputes shall be final.

**Article 146**  
(Election of judges)

Number of judges in every court shall be determined by the Parliament at the proposal of Judicial Council.

Judges and presidents of all courts shall be elected by the Parliament at the proposal of Judicial Council.

Judicial Council shall consist of: five judges from amongst the judges elected for unlimited term of office, elected by judges in the manner provided for by the law; three Members of Parliament elected by the Parliament; one member of the Council of Prosecutors delegated by the Council of Prosecutors; and the minister in charge of the field of judiciary by the virtue of his office. He shall be the president of the Judicial Council, participate equally in establishing and clarifying of the facts relevant for decision making but shall not vote in the process of decision making. He shall sign proposals for election of judges and other enactments of the Judicial Council.

Proposals of the Judicial Council shall be obligatorily considered by the working body of the Parliament competent for the field of judiciary. This body shall give the Parliament their opinion about the proposals.

If the Parliament fails to elect the proposed candidate for a judge or a court president it shall inform the Judicial Council of it in a written form. If the Council proposes the same candidate again, the Parliament may refuse to adopt the repeated proposal only by a two-third majority of votes of the total number of Members of Parliament.

Members of Judicial Council may not be held responsible for the opinion they express and for the votes they give at a session of the Council.

Court Presidents shall be elected from amongst judges.

President of the Supreme Court shall be elected for the period of six years and presidents of other courts for the period of five years and they can be elected up to two times in a row

A judge shall be elected for the first time for the period of five years and after the expiry of the five-year period or the judges or prosecutor's training period he shall be elected for an unlimited term of office.

Before taking the office, presidents of courts, judges and lay judges shall take an oath. President of the Supreme Court shall take the oath before the Parliament and presidents of other courts, judges and jurors shall take the oath before the Speaker of the Parliament.

Discharge of judicial office shall be incompatible with membership in any political party and with performing other activities performing of which can affect independence and objectivity of trial.

A judge, lay judge or President of the court cannot be held responsible for the opinion given and a decision passed in discharging of judicial office and they shall have the immunity like Members of the Parliament. Parliament shall decide on immunity of judges and Presidents of courts.

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<sup>5</sup> Session or panel consisting of all the judges of the Supreme Court (translator's comment)

### **Article 147**

#### *(Cessation of judicial office and dismissal)*

The office of a judge and a president of court shall cease if he himself requires so, when he reaches the age limit or insurance period<sup>6</sup> required by the law for retirement or if he is convicted to an effective prison sentence.

A judge shall be dismissed if in a legally prescribed procedure the Judicial Council establishes that such a judge is incompetent or that he works unconscientiously or that he is not worthy of discharging the duty of a judge or if there is a permanent loss of the ability to discharge a duty of a judge and proposes a dismissal. The decision about such a dismissal shall be made by the Parliament.

If the Parliament does not make the decision about the proposal for dismissal, within 30 days the judge shall be considered dismissed, which shall be stated by the Judicial Council.

The judge can appeal to the Constitutional court against the decision on his dismissal.

### **Article 148**

#### *(Funds for the operation of courts)*

Funds and conditions for operation of courts shall be provided in the state budget.

Remuneration and the manner of solving housing issues of judges shall be regulated by a separate law.

Court budget shall be independent within the state budget. In the court budget the funds shall be allocated for each court separately.

On the basis of the requests of courts for the funds from the state budget, the draft of the court budget shall be made by the presidents of the Supreme Court, Administrative Court, Court of Appeal and High Courts. Such a Draft budget shall be submitted to the Parliament. Working body of the Parliament competent for budget shall establish the proposal of the budget obtaining beforehand the opinions of the Government, Parliamentary working body competent for judiciary and the Judicial Council. Such a proposal shall be submitted to the Government without changes and it shall insert it in the proposal of the state budget.

Presidents of courts shall give orders for execution of the budget and shall be responsible for legal spending of the funds.

## **STATE PROSECUTOR'S OFFICE**

### **Article 149**

#### *(Definition and duty)*

State Prosecutor's Office is a unique and autonomous state authority.

State Prosecutor's Office shall perform the affairs of prosecution of the perpetrators of criminal offenses that are prosecuted in line of duty and other punishable acts when determined by the law.

In the performance of their duties, State Prosecutors shall be autonomous and independent and shall perform their duty on the basis of the Constitution, law, generally accepted rules of international law, confirmed and published international agreements. State Prosecutors shall not accept any instructions or suggestions from any person regarding the adoption of decisions in the performance of duties under their responsibility, except from the State Prosecutor of a higher rank. No person, outside the State Prosecutor's Office, shall influence the decision-making of any State Prosecutor.

Affairs of the State Prosecutor's Office shall be performed by the Supreme State Prosecutor, State Prosecutors of a lower rank and State Prosecutor for organized crime.

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<sup>6</sup> To the best knowledge of the translator this refers to the period in which insurance (health, pension and unemployment insurance) were being paid.

Each State Prosecutor shall have one or more deputies. Number of deputies in each state prosecutor's office shall be determined by the Parliament, at the proposal of the Council of Prosecutors.

Prior to taking office, state prosecutors and their deputies shall take an oath. Supreme State Prosecutor takes an oath before the Parliament, and other state prosecutors and deputies of all state prosecutors shall take an oath before the Speaker of the Parliament.

Higher State Prosecutor shall be superior to the lower rank state prosecutors.

Provisions of the Constitution regarding the immunity of judges, incongruity of judicial duty, prohibition of membership in political parties and expression of political views in the performance of the prosecutor's duty, cessation of judicial duty, release of judge from duty, right of judges to professional development and association, shall apply to the state prosecutors and their deputies accordingly.

Supreme State Prosecutor shall submit a report on its work, trends of crime and efficiency of work of all bodies that have duties in the field of prosecution of the perpetrators of criminal acts to the Parliament once a year. Supreme State Prosecutor may submit a report to the Parliament or the Government when it finds necessary and always at the request of the Parliament or the Government.

### **Article 150**

#### *(Establishment and abolishment)*

State Prosecutor's Offices shall be appointed by the law, their subject matter and territorial jurisdiction, relations between the state prosecutors of a higher and a lower rank, responsibility of the deputies of the state prosecutors and other issues important for the performance of duties of the State Prosecutor's Office.

### **Article 151**

#### *(Appointment of state prosecutors and their deputies)*

Supreme State Prosecutor, State Prosecutors and their deputies, shall be appointed by the Parliament at the proposal of the Council of Prosecutors. Council of Prosecutors shall consist of the following: five state prosecutors from amongst the state prosecutors elected without limitation of the term of office, which are elected by the state prosecutors in the manner proscribed by the law; three MP's elected by the Parliament, one member of the Judicial Council delegated by it, and, by nature of his duty, the minister in charge of the judicial affairs, who shall act as the president of the Council of Prosecutors, participate equally in the definition and shedding light on the facts relevant for the adoption of decisions of the Council of Prosecutors, but shall not vote in the decision-making process. The president of the Council shall also sign the proposals for the appointment of the state prosecutors and their deputies and other acts of the Council of Prosecutors.

The Parliament shall decide on the proposals to appoint state prosecutors and their deputies in the same manner as in the case of proposals for the election of judges.

Supreme State Prosecutor shall be appointed for the period of six years and may be re-elected.

Deputies of the Supreme State Prosecutor, other state prosecutors and their deputies shall be appointed the first time for the period of five years, and after five years of work experience as prosecutors or judges, they shall be appointed for an unlimited term of office.

Supreme State Prosecutor shall appoint and release from duty the state prosecutor for organized crime and his deputies from amongst the state prosecutors appointed for an unlimited term of office. State prosecutor for organized crime and his deputies shall apply in the performance of their duty the same regulations that are applied by the other state prosecutors. After release from duty, state prosecutors for organized crime and his deputies shall have the right to be reassigned the duty of the state prosecutor which they were previously assigned to.

Members of the Council of Prosecutors shall not be held responsible for the opinion and vote expressed in the performance of duty of the Council.

**Article 152**  
*(Funds for work)*

Funds for work of the State Prosecutor's Office shall be provided for in the state budget. Salaries and manner of solving housing issues of the state prosecutors and their deputies shall be regulated by the law.

Budget of the State Prosecutor's Office shall be autonomous within the budget of the Republic. Draft budget of the State Prosecutor's Office shall be defined by the Supreme State Prosecutor, and proposal of the budget of the State Prosecutor's Office shall be defined by the working body of the Parliament responsible for budget, upon receipt of the opinion of the Government, the parliamentary working body in charge of judicial issues and the Council of Prosecutors, and shall submit it to the Government, which shall incorporate it into the proposal of the state budget without changes.

**PROTECTOR OF HUMAN RIGHTS AND LIBERTIES**

**Article 153**  
*(Definition and duty)*

Protector of human rights and liberties of Montenegro shall be an independent and autonomous authority, which is in accordance with the law and shall undertake measures to protect human rights and liberties guaranteed by the Constitution and the law.

Protector of human rights and liberties shall perform his duty on the basis of the Constitution, the law, generally accepted rules of international law and confirmed and published international agreements, respecting the principles of justice and fairness.

Protector of human rights and liberties shall have one or more deputies. At his proposal, the Parliament shall determine the number of deputies.

The deputy shall perform duties under the responsibility of the protector of human rights and liberties.

A law shall be adopted on the protector of human rights and liberties.

The law may establish the protector of human rights and liberties for individual fields.

Decision of the local assembly may establish the protector of human rights and liberties for the territory of the municipality, in accordance with the law.

**Article 154**  
*(Election, incongruity and immunity)*

Protector of human rights and liberties shall be elected by the Parliament, at the proposal of the President of Montenegro, and his deputies at his proposal.

Protector of human rights and liberties and his deputies shall be elected for the period of six years and may be re-elected for one more term of office.

Protector of human rights and liberties and his deputies shall not be held responsible for the opinion or recommendation given in the performance of their duty.

Protector of human rights and liberties and his deputies shall enjoy the same immunity as the Members of the Parliament.

Protector of human rights and liberties and his deputies shall not perform the duty of an MP or some other public or political duty, or perform professionally some other duty. This prohibition shall not apply to the scientific, educational and artistic activity, or the performance of activities protected by copyright.

Protector of human rights and liberties and his deputies shall not be members of political party or express publicly their political views.

**Article 155**  
*(Cessation of duty)*

The office of a Protector of human rights and liberties and his deputy shall cease prior to the expiration of the term of office if he himself requires so, when he reaches the age limit or insurance period<sup>7</sup> required by the law for retirement or if he is convicted to an effective prison sentence.

Cessation of office and release from duty shall be determined by the Parliament within maximum 30 days from the day of delivery of the notification about fulfillment of requirements for the cessation of office.

Protector of human rights and liberties and his deputy shall be released from duty if he is convicted of a crime that makes him unworthy of performing this duty, if he is performing his duty in an unprofessional and unconscientious manner and if he suffers from a permanent loss of capacity to perform the duty.

Occurrence of reasons for release from duty shall be determined by the Parliament.

**Article 156**  
*(Funds for work)*

Funds for work of the Protector of human rights and liberties shall be provided for in the state budget.

Salaries of the Protector of human rights and liberties and his deputies shall be regulated by the law.

Budget of the Protector of human rights and liberties shall be autonomous within the state budget. Draft budget shall be submitted by the Protector of human rights and liberties to the Parliament, and its working body responsible for budget, upon receipt of the opinion of the Government, shall prepare a proposal and submit it to the Government, which shall incorporate it into the proposal of the state budget without changes.

**STATE FINANCIAL CONTROL**

**Article 157**  
*(Definition and duty)*

State financial control of Montenegro shall be an independent and autonomous collegial state authority, which controls the legality and consistency of use of the state budget and budget of the local self-government units, assets of the funds, organizations that perform public duties, other legal entities in which the state participates in ownership, administrative expenses of the Central Bank, legality and consistency of management over the property of the state and all entities subject to control, and shall perform other duties defined by the law.

All entities subject to control shall provide to the State financial control for insight all documents and information necessary for the performance of control.

State financial control, as a collegial state authority, shall consist of the president and legally defined number of members, who collectively adopt decisions within their responsibility.

Members of the State financial control shall not accept or request instructions for work from the Government and from any other authority or body. No person shall influence the work and decision-making process of the State financial control.

Conditions for the election, duration of mandate of the president and members of the State financial control, management of the body, manner of work and decision-making procedure, shall be prescribed by the law.

President and members of the State financial control shall be elected by the Parliament, at the proposal of the President of Montenegro.

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<sup>7</sup> To the best knowledge of the translator this refers to the period in which insurance (health, pension and unemployment insurance) were being paid.



Constitutional provisions regarding taking an oath, immunity, incongruity of duty, cessation of duty, release from duty of the president and judges of the Constitutional Court of Montenegro, shall apply accordingly to the president and members of the State financial control.

ALTERNATIVE: From the existing *Law on National audit institution* incorporate into the text the provision that would say as follows: "*State financial control shall be managed by the Senate, consisting of the president and five members* " and other provisions related to the Senate.

#### **Article 158**

*(Reporting to the Parliament)*

State Financial Control shall submit a report on the performed controls and their results to the Parliament at least once a year.

#### **Article 159**

*(Funds for work)*

Funds for work of the State Financial Control shall be provided in the State Budget.

Budget of the State Financial Control shall be autonomous within the State Budget. State Financial Control shall define draft budget and submit it to the Parliament. Upon obtaining the opinion of the Government, the working body of the Parliament for budget shall define the proposal of the budget of the State Financial Control and shall deliver it to the Government to incorporate it, without changes, into the proposal of the State Budget.

### **PART SEVEN**

#### **CONSTITUTIONALITY AND LEGALITY**

#### **Article 160**

*(Compatibility of legal regulations)*

Laws shall be compatible with the Constitution, generally accepted rules of international law and confirmed and published international agreements, while other regulations shall be compatible with the Constitution and the law.

#### **Article 161**

*(Publishing and coming into effect of the regulations)*

Laws and other regulations shall be published prior to their coming into effect, and they shall come into effect no earlier than on the eighth day from the day of their publishing.

Exceptionally, due to especially justified reasons, determined by a special conclusion of the Parliament, the law shall come into effect no earlier than on the day of its publishing.

#### **Article 162**

*(Prohibition of retroactivity)*

Laws and other regulations shall not have retroactive character.

Exceptionally, the law may determine individual provisions that may have retroactive effect, if requested so by the public interest defined in the procedure of adoption of the law.

A provision of a Criminal Code may have a retroactive effect only if it is gentler for the perpetrator of a criminal offence.

**Article 163**

*(Legality of individual enactments)*

Individual enactments of the authorities and institutions of the state and the local self-government units, institutions and other organizations that perform public authorities or duties of general social interest must be based on law or other regulations pursuant to law.

**Article 164**

*(Suspension of the procedure before the court for the purpose of prior assessment of constitutionality of the law)*

If the court, during the decision-making process on a specific case, concludes that the law or one of its provisions to be applied is not compatible with the Constitution, shall suspend the procedure and initiate before the Constitutional Court the procedure to assess the constitutionality of the law, i.e. its specific provision. The court shall continue with the procedure after the adoption of the Constitutional Court decision.

**Article 165**

*(Two instance procedure)*

The second instance authority determined by the law shall decide on the appeal of a physical or legal entity against the individual enactments adopted in the first instance procedure.

**Article 166**

*(Activities and affairs of a public interest)*

A law or a decision of the assembly of the local self-government unit/ local council adopted on the basis of the law may define that certain activities and affairs are of a public interest and may prescribe the manner of exercise of the public interest in the performance of those activities, i.e. affairs.

**PART EIGHT****CONSTITUTIONAL COURT****Article 167**

*(Protection of constitutionality and legality)*

The Constitutional Court shall protect the constitutionality and legality.

The Constitutional Court shall be an independent and autonomous state authority.

The Constitutional Court shall decide on the basis of the Constitution, generally accepted rules of international law, confirmed and published international agreements and laws.

A Law shall be adopted on the Constitutional Court. It shall also regulate the procedure before the Constitutional Court.

**Article 168**

*(Responsibility)*

The Constitutional Court shall decide on the following:

- 1) compatibility of the laws with the Constitution, generally accepted rules of the international law, confirmed and published international agreements;
- 2) compatibility of the bylaws with the Constitution and the law;
- 3) compatibility of the procedures for the adoption of spatial and urban plans with the law;

- 4) violation of the Constitution by the President of Montenegro;
- 5) constitutional appeals regarding the violation of human rights and liberties guaranteed by the Constitution;
- 6) conflict of authority between the courts and other state bodies; between the state authorities and bodies of the local self-government units; and between the bodies of the local self-government units;
- 7) appeals regarding the decisions on the dismissal from duty of the Protector of human rights and liberties (Ombudsman) and his/ her deputies, judges and presidents of courts, state prosecutors and their deputies;
- 8) prohibition of work of a political party and association of citizens;
- 9) compatibility with the Constitution of measures and actions of the state authorities undertaken during the state of emergency;
- 10) perform other tasks defined by the Constitution.

The Constitutional Court shall decide on the constitutionality and legality of the regulation that ceased to be valid, if less than one year has elapsed from the date when its validity ceased until the initiation of the procedure.

If the regulation ceased to be valid during the procedure, and the consequences of its implementation have not been removed, the Constitutional Court decided, on the basis of its own decision, whether the regulation was compatible with the Constitution, i.e. with the law, during the period of its validity.

#### **Article 169**

*(Special responsibility of the Constitutional Court)*

The Constitutional Court may, at its own initiative, deliver to the Parliament an opinion that, for the purpose of more complete enforcement of the Constitution, it is necessary to adopt a law, change or amend the existing law, or undertake other measures that are under its responsibility.

When certain provisions of the Constitution are interpreted differently in their implementation, at the proposal of the Parliament, the Government, the Supreme Court, the State Prosecutor or the Protector of Human Rights and Liberties, for the purpose of a more consistent implementation of the Constitution, the Constitutional Court, through its own decision, defines the meaning of the said provisions of the Constitution.

If the authorized proposer to initiate the procedure suggests determining whether the law or its individual provisions are compatible with the Constitution and if the Constitutional Court determines that this is necessary in order to achieve constitutionality, the Court decides through its own decision whether they are compatible with the Constitution.

ALTERNATIVE: Erase paragraphs two and three.

#### **Article 170**

*(Initiation of the procedure)*

Any person may give an initiative to initiate the procedure to assess the constitutionality and legality.

The procedure before the Constitutional Court may be initiated by the following: the court, the Parliament, the Government, the Supreme State Prosecutor, the Protector of human rights and liberties, ministries and other state authorities, local self-government assembly/ council, as well as legal entities if their right is violated with the regulation the constitutionality and legality of which is being disputed.

The Constitutional Court may initiate itself the procedure for the assessment of constitutionality and legality.

With the consent of the person whose right is violated or denied, the constitutional appeal may be filed by the Protector of human rights and liberties, as well as the association of citizens or some other legal entity which, by its rules, has the task to protect the rights and liberties of its members.

The procedure to decide on the prohibition of work of a political party and association of citizens shall be initiated by the Supreme State Prosecutor and the Protector of human rights and liberties.

Any person who feels that a certain measure or action undertaken during the state of emergency is incompatible with the Constitution, shall have the right to initiate the procedure to assess its constitutionality.

During the decision-making procedure, the Constitutional Court may order to stop the enforcement of an individual enactment or action that have been undertaken on the basis of the law, other regulation or a general act the constitutionality, i.e. legality of which is being assessed, if their enforcement could result in irreparable negative consequences.

#### **Article 171**

##### *(Decisions of the Constitutional Court)*

The Constitutional Court shall adopt its decisions and rulings with the majority of votes of all judges.

The Constitutional Court shall decide, on the basis of a public hearing, at the session closed for the public.

The Constitutional Court judge shall have the right to give a dissenting opinion and to justify it in writing. If requested by the judge, the dissenting opinion shall be published together with the decision.

Work of the Constitutional Court shall be public.

Decisions of the Constitutional Court shall be published.

#### **Article 172**

##### *(Binding character of the Constitutional Court decisions)*

Decisions of the Constitutional Court shall be binding and effective.

A law or other regulation, i.e. their individual provisions for which the Constitutional Court decision finds that they are incompatible with the Constitution or the law, shall not be applied to the relations (disputes) that have been created (initiated) prior to the publishing of the Constitutional Court decision if they have not been resolved effectively up to that date.

Execution/ enforcement of the final or effective individual acts adopted on the basis of the regulations that can no longer be applied, shall not be permitted or undertaken, and if the enforcement has started, it shall be stopped.

The Constitutional Court may request, due to the failure to enforce the decision of the Constitutional Court, to initiate the disciplinary procedure against the responsible person, i.e. the procedure to dismiss from duty the responsible person.

#### **Article 173**

##### *(Cessation of validity of a regulation)*

When the Constitutional Court determines that the law is not compatible with the Constitution, generally accepted rules of international law and confirmed and published international agreements, i.e. that the second regulation is not compatible with the law, the said law and secondary regulation shall cease to be valid on the date of publishing of the Constitutional Court decision.

#### **Article 174**

##### *(Right to change an individual enactment and correction of consequences)*

Any person whose right has been violated by a final or effective individual enactment adopted on the basis of the law or other regulation, for which the Constitutional Court decision finds that it is incompatible with the Constitution or the law, shall have the right to request from the responsible authority, within three months from the day of publishing of the Constitutional Court decision to change that enactment in a renewed/ repeated procedure.

If it is determined that the change of the individual enactment shall not result in the correction of consequences that occurred due to the implementation of the regulation for which the Constitutional Court decision finds that it is incompatible with the Constitution or the law, the Constitutional Court may decide that these consequences shall be removed through the compensation of damage or in some other way.

**Article 175**  
*(Composition, election and immunity)*

The Constitutional Court shall have seven judges.

Judges and president of the Constitutional Court shall be elected by the Parliament, at the proposal of the President of Montenegro.

The Constitutional Court judge shall be elected for the period of ten years and may be re-elected.

A person who enjoys the renome of a well-known legal expert, with minimum 20 years of work in this field, may be elected for the position of the Constitutional Court judge.

The Constitutional Court President shall be elected amongst the Constitutional Court judges for the period of six years and may be re-elected.

President and judge of the Constitutional court shall take the duty on the day when they take the oath. They shall take the oath before the Parliament.

President and judge of the Constitutional Court shall not perform other public or political duty or professional activity. This prohibition shall not apply to the scientific, educational and artistic activity, or the performance of affairs protected by copyright.

President and judge of the Constitutional Court shall not be members of a political party and shall not express publicly their political views.

Outside the procedure before the Constitutional Court and prior to the adoption of the Constitutional Court decision, the President and judge of the Constitutional Court shall not express their opinion about the issue that is or may become the subject matter of the dispute before the Constitutional Court.

President and judge of the Constitutional Court shall not be held responsible for the opinion expressed in a decision or during the adoption of the Constitutional Court decision.

President and judge of the Constitutional Court shall enjoy the same immunity as Members of the Parliament.

**Article 176**  
*(Cessation of office)*

The office of a judge and a president of the Constitutional Court shall cease if he himself requires so, when he reaches the age limit or insurance period<sup>8</sup> required by the law for retirement or if he is convicted to an effective prison sentence.

A judge and a president of the Constitutional Court shall be released from duty if convicted of an offense that makes him unworthy of discharging the duty in the Constitutional Court, if there is a permanent loss of the ability to discharge a duty, if he expresses publicly his opinion regarding the issue that is or may become a subject matter of a Constitutional Court decision or if he expresses publicly his political views.

The Constitutional Court shall determine in a session that the reasons for cessation of office have occurred and shall inform the Parliament of such a decision, with the proposal to the Parliament to decide, within 30 days from the date of receipt of the notification, that the office has ceased, i.e. to decide that the Constitutional Court president or judge is released from duty.

The Constitutional Court may decide to suspend from duty the president, i.e. judge of the Constitutional Court against whom the criminal procedure has been initiated, for the period of duration of the proceedings.

**Article 177**  
*(Funds for work)*

Funds for work of the Constitutional Court shall be provided in the state budget..

Salaries of the president and judges of the Constitutional Court shall be defined by the law.

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<sup>8</sup> To the best knowledge of the translator this refers to the period in which insurance (health, pension and unemployment insurance) were being paid.

The Constitutional Court budget shall be autonomous within the state budget. Draft Constitutional Court budget shall be determined by the Constitutional Court and submitted to the Parliament. Proposal of the Constitutional Court budget, upon obtaining the opinion of the Government, shall be defined by the working body of the Parliament responsible for the budget and shall submit it to the Government, without changes, in order to incorporate it into the proposal of the State Budget.

## **PART NINE**

### **CENTRAL BANK**

#### **Article 178**

*(Definition and responsibility)*

The Central Bank of Montenegro shall be an independent and autonomous organization that executes monetary power; it shall be responsible for the financial stability and general liquidity of the payment operations within the country and towards other countries, for maintaining a healthy banking system and an efficient system of payment operations.

The Central Bank shall not perform the activities of the commercial banks.

A Law on Central Bank shall be adopted.

#### **Article 179**

*(Authority to adopt regulations for the enforcement of laws)*

The Central Bank shall:

- 1) adopt regulations for the enforcement of laws in the fields under its responsibility and when these laws prescribe their adoption, and shall take care of their enforcement;
- 2) give an opinion on the proposals of laws in the fields under its responsibility, if such laws are adopted by some other authorized law-proposing persons;
- 3) undertake measures to enforce the laws, achieve the goals and tasks of the monetary, credit and foreign exchange policy;
- 4) perform other tasks defined by the law.

#### **Article 180**

*(Control of commercial banks and other financial organizations)*

The Central Bank shall perform control over the work of the commercial banks and other financial organizations.

Commercial banks and other financial organizations shall respect the decision adopted by the Central Bank in order to secure financial stability, general liquidity, stability of the banking system and payment operations, implementation of the monetary, credit and foreign exchange policy.

#### **Article 181**

*(Governor)*

The Central Bank has a Governor that manages the Central Bank and two assistant Governors.

The Parliament shall elect the Central Bank Governor, at the proposal of the President of Montenegro, for the period of six years, and the Governor may be re-elected. Assistant Governors shall be elected by the Parliament, at the proposal of the Governor, for the period defined in the law.

#### **Article 182**

*(Central Bank Council)*

The Central Bank Council shall manage the Central Bank.

The Central Bank Council shall have a President and six members.

The Central Bank Governor shall be the President of the Council, and the Assistant Governors shall be the members of the Council, on the basis of their official position.

At the proposal of the Government, four members of the Central Bank Council shall be elected by the Parliament, for the period of six years, with the possibility of re-election. They shall be elected among the renowned experts with professional knowledge in the monetary, financial, banking and legal sector, with several years of experience.

Member of the Council shall not be an official in the state authorities, an employee in the bank that operates in Montenegro, or a person who used to perform those functions until minimum two years have elapsed from the end of performance of such duties, that is, end of such an employment.

The President and members of the Central Bank Council shall not be held responsible or punished for the opinion expressed in the meeting of the Council and for the vote they gave, and shall have the immunity as the MP's. The Parliament shall decide on their immunity.

The Governor shall take an oath before the Parliament, and the other members of the Central Bank Council shall take an oath before the Speaker of the Parliament.

## **PART TEN**

### **INTERNATIONAL RELATIONS**

#### **Article 183**

*(Manner of establishing cooperation in international relations)*

Montenegro shall exercise political, economic, cultural, sports and other relations with other countries and organizations and cooperation with them through its representatives, bodies, organizations and other entities.

The President of Montenegro or the Government shall sign international agreements on behalf of Montenegro.

International agreements that require adoption of a new or change of an existing law, international agreements of a military or political nature and international agreements that create material/ financial obligations of the state of Montenegro, shall become effective after their confirmation in the Parliament.

## **PART ELEVEN**

### **ARMY**

#### **Article 184**

*(Basic principles about the army)*

Montenegro has an army.

The army is subject to the democratic and civil control.

The army shall consist of the Montenegrin citizens who perform military duties professionally.

The Defense and Security Council shall manage the army and decide on its use.

The Parliament shall decide on the use of army units and its staff outside the territory of Montenegro, at the proposal of the Defense and Security Council.

On the basis of the decisions of the Defense and Security Council, the executive command shall be issued by the President of Montenegro.

A Law on the army of Montenegro shall be adopted and define in detail its role and tasks, and all the other issues significant for the organization of army and its use<sup>9</sup>.

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<sup>9</sup> Provisions on the army contain only the principles that are based on the very nature of the basic principles of the system. Detailed provisions about the army requires first to clearly define the goals and principles at the level of various state authorities, and only after that these issues can be legally formulated. As the Council for constitutional issues is not informed whether these issues have been defined and if they have what is their

The property used by the army is the property of the state.

## **PART TWELVE**

### **CHANGE OF THE CONSTITUTION**

#### **Article 185**

*(Proposal to change the Constitution)*

The proposal to change the Constitution may be submitted by the President of Montenegro, the Government, one fourth of the total number of Members of the Parliament or 10.000 citizens who have the right to vote.

In the proposal to change the Constitution it can be proposed to change or amend the individual provisions of the Constitution or to adopt a new Constitution.

The proposal to change the individual provisions of the Constitution shall contain the meaning of the provisions which are proposed for change and the explanatory note/justification.

The Act on the change of the Constitution shall be considered adopted in the Parliament if two thirds of the total number of the Members of the Parliament have voted in favor.

If the proposal for the change of the Constitution is not adopted, the same proposal cannot be repeated in less than one year from the date when the proposal was rejected.

#### **Article 186**

*(Act on the change of the Constitution)*

Change of the individual provisions of the Constitution shall be made through amendments.

Draft Act on the change of the Constitution shall be prepared by the responsible working body of the Parliament.

Draft Act on the change of the Constitution shall be considered adopted in the Parliament if two thirds of the total number of the Members of the Parliament have voted in favor.

The Parliament subjects the adopted Draft Act on the change of the Constitution to public hearing, which shall not last less than one month.

When the public hearing is over, the responsible working body of the Parliament defines the Proposal of the Act on the change of the Constitution.

The Act on the change of the Constitution shall be considered adopted in the Parliament if two thirds of the total number of the Members of the Parliament have voted in favor.

Change of the Constitution shall not take place during the state of emergency (Marshall law).

#### **Article 187**

*(Confirmation of change in a referendum)*

Change of the basic provisions of the Constitution, provisions regarding the electoral right and provisions on the changes of the Constitution shall be considered final if minimum two thirds of the Montenegrin citizens with the right to vote support the change in the state referendum.



**PART THIRTEEN**

**TRANSITORY AND FINAL PROVISION**

**Article 188**

*(Constitutional Law for the enforcement of the Constitution)*

A Constitutional Law shall be adopted for the purpose of enforcement of the Constitution.

The Constitutional Law shall be adopted by the Parliament with a majority of votes of the total number of Members of the Parliament.

The Constitutional Law shall be proclaimed and come into effect at the same time as the Constitution.