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

**DRAFT CONSTITUTION**  
**OF THE REPUBLIC OF MONTENEGRO**

**Proceeding from:**

**Historic right** of the Montenegrin people and the rights of other autochthonous peoples and citizens to a free state of Montenegro;

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

**Commitment** of the citizens of Montenegro to live in a state whose fundamental values are liberty, peace, tolerance, respect for human rights and freedoms, multiculturalism, democracy and rule of law;

**Conviction** that the state is responsible for the preservation of nature, sound environment, sustainable development, balanced development of all its areas and the establishment of social justice;

**Dedication** to equal cooperation with other nations and states and European and Euro-Atlantic integrations,

The Constitutional Parliament of Montenegro hereby adopts and promulgates

*The alternative of the Serbian List for the Preamble*

*Proceeding from the historic right of the Montenegrin and Serbian people to own state;*

*Proceeding from the commitment of the citizens of Montenegro to freedom, democracy, equality among people and friendship among nations;*

*Proceeding from the conviction that nature is the source of health, spirituality and culture of the human race, and that the state is the guardian of the sanctity and purity of nature;*

*Proceeding from the fact that Montenegro is a sovereign state,*

*The Parliament of Montenegro, aspiring to secure permanent place for Montenegro within the community of European states and preserve the traditional values of Montenegro, hereby adopts and promulgates;*

*The alternative of the SNP to paragraphs 1 and 2 of the Preamble:*

***The historic right** of citizens of Montenegro to own state;*

***The fact** that Montenegro is a sovereign state;*

*The alternative of the NS and DSS to paragraph 1 of the Preamble:*

***The statehood tradition** of Montenegrin, or Serbian people and the commitment of other autochthonous peoples to consider Montenegro as their own state;*

*The alternative of the Bosniac Party to paragraph 1 of the Preamble:*

***The historic right** of Montenegrin and the right of other autochthonous nations (Serbian, Bosniac, Albanian, Croatian...) and the citizens of Montenegro, or the enumeration to be replaced with the words: »peoples of Montenegro«;*

**CONSTITUTION OF MONTENEGRO  
PART ONE  
PRINCIPAL PROVISIONS**

**State**

**Article 1**

Montenegro is an independent and sovereign state, a republic in the form of government.

Citizens shall exercise power directly and through their freely elected representatives.

*The alternative of the Serbian List for Article 1:*

*Montenegro is the state of Montenegrin and Serbian people and all equal citizens, regardless of their national or ethnic background, language and religion.*

*Montenegro is a democratic state.*

*Montenegro is a Republic.*

*The alternative of the Bosniac Party for Article 1:*

*Montenegro is the state of Montenegrin, Serbian, Bosniac and other nations and all the citizens residing therein.*

*Montenegro is an independent and sovereign state, republic by the form of its government, based on the rule of law, social justice and civil democracy.*

*Montenegro is an ecological state.*

**Sovereignty**

**Article 2**

A citizen is a bearer of sovereignty.

A citizen shall exercise power directly and through freely elected representatives.

*Alternative of the Serbian List for Article 2:*

*The sovereignty belongs to all nations and all equal citizens.*

*The sovereignty shall be exercised directly and through freely elected representatives.*

*The decision on the change of the state status, the form of government, the state border and the language in official use shall be passed on the referendum by the majority vote of the total number of citizens of Montenegro.*

*No nation and no individual may acquire the exercise of sovereignty for oneself only.*

*Following Article 2, add a new Article 2a as follows:*

*No government may be established or recognised if it does not stem from the freely expressed will of its citizens.*

*Alternative of SNP, NS and DSS for Article 2:*

*Add a paragraph 3 to Article 2 as follows:*

*The change of the state status, the form of government and change of borders may not be decided upon without prior referendum.*

*Alternative of Bosniac Party for Article 2:*

*The power is vested in its nations and citizens.*

*The nations shall exercise power by applying the principle of proportional direct representation, and less numerous nations also by the application of the affirmative action principle.*

*Citizens shall exercise power directly and through their freely elected representatives.*

*Alternative of the Movement for Changes:*

*Following Article 2, add a new Article 3 as follows:*

*The state is obliged to ensure the rational use of natural resources in terms with the principles of sustainable development.*

## **State Territory**

### **Article 3**

The territory of Montenegro is single and unalienable.

*Alternative of the Bosniac Party for Article 3:*

*Montenegro is territorially organised into regions and municipalities.*

## **State Symbols**

### **Article 4**

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

The coat-of-arms is in the shape of a golden double-headed eagle with a lion on its chest.

The flag of Montenegro is red in colour, with the coat-of-arms in its centre and with a golden border.

The anthem of Montenegro shall be "Oj svijetla majska zoro".

*Alternative of the Serbian List for Article 4:*

*The state symbols of Montenegro are: coat-of-arms, flag and anthem.*

*The coat-of-arms of Montenegro is in the form of a silver, crowned double-headed eagle, with spread raised wings in flight, with a sceptre in its right claw and an orb in its left claw. 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 a tri-colour with red, blue and white horizontally placed stripes.*

*The anthem of Montenegro is the song "Onamo ' namo".*

*Alternative of SNP for Article 4:*

*Montenegro shall have a coat-of-arms, a flag and an anthem.*

*The coat-of-arms of Montenegro is in the form of a silver, crowned double-headed eagle, with spread raised wings in flight, with golden claws and beaks and red tongues, with a sceptre in its right claw and an orb in its left claw. 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 flags of Montenegro shall be the popular, the state and the presidential one.*

*The popular flag shall be a red-azure-white flag with equal horizontally placed stripes.*

*The state flag shall be red-azure-white with equal and horizontally placed stripes and a coat-of-arms in its centre.*

*The presidential flag shall be red in colour, with the coat-of-arms in its centre and golden borders.*

*The anthem of Montenegro shall be the folk song "Oj svijetla majska zoro".*

*Alternative of the NS and DSS is the same, except the provision on the anthem for which the People's Party proposes the following:*

*The anthem of Montenegro shall be the song "Ubavoj nam Crnoj Gori".*

*Alternative of the Movement for Changes for Article 4:*

*Montenegro shall have a coat-of-arms, a flag and an anthem.*

*The coat-of-arms of Montenegro shall be a golden crowned double-headed eagle.  
The state flag of Montenegro shall be red in colour with the coat-of arms in its centre.  
The anthem of Montenegro shall be "Oj svijetla majska zoro".*

*Alternative of the Bosniac Party for Article 4:*

*Montenegro shall have a coat-of-arms, a flag and an anthem.*

*The layout and appearance, as well as the use of the coat-of-arms, the flag and the anthem shall be regulated by law.*

*The state symbols may not contain religious features.*

## **Capital and Old Royal Capital**

### **Article 5**

The Capital of Montenegro shall be Podgorica.

The Old Royal Capital of Montenegro shall be Cetinje.

## **Human Rights and Freedoms**

### **Article 6**

Montenegro shall guarantee and protect human rights and freedoms.

The rights and freedoms shall be inviolable.

Everyone shall be obliged to respect the rights and freedoms of others.

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

## **Minority Rights**

### **Article 7**

Montenegro guarantees to the members of minority nations and other minority, national and ethnic communities the right to express, preserve and openly manifest their national and religious identity.

These rights shall be exercised in accordance with the generally accepted international conventions and rules for the protection of human and minority rights.

## **Legal Order**

### **Article 8**

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.

## **Limits of Freedoms**

### **Article 9**

In Montenegro, anything not prohibited by the Constitution and laws shall be free.

Everyone shall be obliged to adhere to the Constitution and laws.

## **Division of Powers**

### **Article 10**

The power shall be regulated following the principle of the division of powers into the legislative, executive and judicial.

The legislative power shall be exercised by the Parliament, the executive power by the Government and the judicial by courts.

The power is restricted by the Constitution and laws.

The relation among powers lies on the principle of checks and balances.

Montenegro shall be represented by the President of Montenegro.

The constitutionality and the legality shall be safeguarded by the Constitutional Court.

## Montenegrin Citizenship

### Article 11

Montenegro shall protect the rights and interests of Montenegrin citizens.

A Montenegrin citizen may not be expelled nor extradited to other state, except in terms with international obligations of Montenegro.

*Alternative of SNP,NS, DSS for Article 11:*

*After para 2, add a new paragraph to Article 10 as follows:*

*A citizen of Montenegro may not be deprived of the Montenegrin citizenship, or the right to change it.*

*Alternative of the Bosniac Party for Article 11:*

*The citizens of Montenegro may hold the citizenship of another state.*

## Language and Alphabet

### Article 12

In Montenegro Montenegrin shall be the language in official use.

Cyrillic and Latin alphabet shall be deemed to be equal.

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

*Alternative of the Serbian List for Article 12, paragraph 1:*

*In Montenegro the Serbian language of Iekavian dialect shall be in the official use.*

*The same alternative submitted also by SNP,NS and DSS:*

*Alternative of the Movement for Changes for Article 12 paragraph 1:*

*In Montenegro a single language, referred to by citizens as Serbian, Montenegrin, shall be in the official use.*

*Alternative of the Bosniac Party for Article 12 paragraph 1:*

*In Montenegro, Montenegrin, Serbian and Bosnian languages will be in the official use.*

## Separation of Religious Communities from the State

### Article 13

Religious communities shall be separated from the state.

Religious communities shall be equal and free in the exercise of religious rites and religious matters.

*Alternative of the Serbian list for Article 13:*

*Orthodox Church, Roman Catholic Church, Islamic Religious Community and other religious institutions shall be equal and separated from the state.*

*The state shall respect and not violate the status and orders of churches and religious communities.*

*Recognising their identity and a special contribution to the enhancement of the society, the state shall maintain an open and continuous dialogue with churches and religious communities.*

*Churches and religious communities shall autonomously regulate their internal organisation and shall be free in the exercise of their religious rites and matters.*

*Churches and religious communities shall have the right to establish their vocational schools, social, humanitarian, charity and educational institutions and to manage them, and in their activity they shall enjoy the protection and assistance from the state.*

*The same alternative was submitted by SNP, NS and DSS:*

*Alternative of the Croatian Civil Initiative:*

*After Article 13 add a new heading and an Article as follows:*

*Freedom of Religious Rites and Matters*

*Article 13a*

*The Montenegrin Orthodox Church, the Serbian Orthodox Church, the Roman Catholic Church, the Islamic Religious Community and other religious institutions shall be equal and free in the exercise of their religious rites and matters.*

*The state may materially assist the religious communities.*

## **Relation with Other States and International Organisations**

### **Article 14**

Montenegro shall establish cooperation and develop amicable relations with other states, regional communities and international organisations, based on the principles and rules of international law.

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.

*Alternative by SNP, NS, DSS for Article 14:*

*Delete paragraph 4 as unnecessary.*

## **Legislation**

### **Article 15**

The law, pursuant to the Constitution, shall regulate:

1) manner for the exercise of human rights and freedoms when it is necessary for their exercise and the manner for the exercise of minority rights;

2) manner of the exercise, organisation and competence of the authorities and the procedure before the authorities if so required for their operation;

3) local government system;

4) other matters of interest for Montenegro.

## **PART TWO HUMAN RIGHTS AND FREEDOMS**

### **1. COMMON PROVISIONS**

#### **Grounds and Equality**

##### **Article 16**

The rights and freedoms shall be exercised on the grounds of the Constitution. All shall be deemed equal before the law, regardless of any particularity or personal feature.

#### **Protection**

##### **Article 17**

Everyone shall have the right to equal protection of own rights and freedoms.

#### **Right to Appeal**

##### **Article 18**

Everyone shall have the right to appeal or other legal redress against the decision resolving his right or legally based interest.

#### **Legal Aid**

##### **Article 19**

Everyone shall have the right to legal aid.

#### **Environment**

##### **Article 20**

Everyone shall have the right to a sound environment and to receive timely and full information about the status of the environmental. Everyone, the state in particular, shall be bound to preserve and enhance the environment.

#### **Limitation of Human Rights and Freedoms**

##### **Article 21**

Guaranteed human rights and freedoms may be limited only by law, within the limits allowed by the Constitution.

### **TEMPORARY RESTRICTION OF RIGHTS AND FREEDOMS**

#### **ARTICLE 22**

In the state of war or emergency, the exercise of certain human rights and freedoms may be temporarily restricted, within the limits required.

The restriction must not be introduced on the grounds of sex, nationality, race, religion, language, ethnic or social origin, political or other beliefs, financial standing or any other personal feature.

There may be no restrictions imposed on the rights to: human dignity; life; inviolability of mental and physical integrity; security; fair trial; presumption of innocence; punishment solely pursuant to law; entering into marriage; freedom of thought, conscience and religion; citizenship; nor abolish prohibitions of: forced assimilation, instigating national, racial and religious hatred and inequality, forced labour, retroactive application of laws and other regulations.



Restriction measures may be in effect at the most for the duration of the state off war or emergency.

## **2. INDIVIDUAL RIGHTS AND FREEDOMS**

### **Inviolability of Life**

#### **Article 23**

Human life is inviolable.  
There is no capital punishment in Montenegro.

### **Cloning**

#### **Article 24**

Cloning of human beings shall be prohibited.  
It is prohibited to perform medical and other testing on human beings, against their will.

### **Dignity and Inviolability of Person**

#### **Article 25**

The dignity and security of person shall be guaranteed.  
The inviolability of the physical and mental integrity of a person, his privacy and individual rights shall be guaranteed.

### **Deprivation of Liberty**

#### **Article 26**

Everyone shall have the right to individual freedom.  
Any person deprived of his/her liberty shall be notified forthwith of the reasons for his/her arrest, in own language or in the language he/she understands.  
Concurrently, any person deprived of his/her liberty shall be informed that he/she is not obliged to give any statement.  
At the request of the person deprived of his/her liberty, the authority shall be obliged to notify forthwith the person of own choosing of the person deprived of his/her liberty.  
The person deprived of his/her liberty shall have the right to the defence counsel of his/her own choosing present at his interrogation.  
Unlawful deprivation of liberty shall be punishable.

### **Detention**

#### **Article 27**

Any person reasonably suspected to have committed a crime, pursuant to the decision of the competent court, may be detained and kept in confinement only if it is necessary for the pre-trial procedure.  
A detainee shall be given the decision of detention at the time of being placed in detention or at the latest 24 hours from being put in 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 be reduced to the least possible period of time.  
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.  
Detention of minors may not exceed 60 days.

**Respect of Person****Article 28**

The respect of person and human dignity in the pre-trial and any other procedure, in case of deprivation, or restriction of, liberty and during the imprisonment sentence shall be guaranteed.

Any form of violence against a person deprived of his/her liberty, whose liberty has been restricted and any extortion of confession and statement shall be prohibited and punishable.

**Fair and Public Trial****Article 29**

Everyone shall have the right to fair and public trial within reasonable time. Pronouncement of judgement shall be public.

**Principle of Legality****Article 30**

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, nor may be pronounced a punishment which was not envisaged for that act.

**More Lenient Law****Article 31**

Criminal and other punishable acts are stipulated and the punishments for them are pronounced in accordance with the law or regulation adopted pursuant to the law in force at the time when the act was committed, unless a subsequent law or regulation pursuant to the law is more favourable for the perpetrator.

**Presumption of Innocence****Article 32**

No one shall be deemed guilty of a crime until it has been established by an enforceable court decision.

The charged person shall not be obliged to prove his innocence.

Court shall be obliged to interpret any doubt regarding the guilt to the benefit of the charged person.

**Ne Bis In Idem****Article 33**

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

**Right to Defence****Article 34**

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

**Right to Indemnity for Damages Due to Unlawful Actions****Article 35**

Any person wrongfully deprived of liberty or convicted shall be entitled to indemnity for damages by the state.

## **Movement and Residence**

### **Article 36**

Freedom of movement and residence is guaranteed.

Freedom of movement and residence may be restricted only if required so for conducting the pre-trial procedure, prevention of contagious diseases spreading or for the security of Montenegro.

## **Inviolability of Home**

### **Article 37**

Home shall be inviolable.

A person in official capacity may enter the dwelling place or other premises against the will of his possessor and search them on the grounds of a court warrant.

The search of premises shall be conducted in the presence of two witnesses.

A person in official capacity may enter other people's dwelling place or other premises without the court warrant and conduct the search without the presence of witnesses if necessary for immediate apprehension of a perpetrator or to save people and property.

## **Privacy of Correspondence**

### **Article 38**

The secrecy of letters, telephone calls and other means of communication shall be inviolable.

Deviations from the principle of inviolability of secrecy of letters, telephone calls and other means of communication shall be permissible only by a court decision, if so required for the purposes of conducting criminal proceedings or for the security of Montenegro.

## **Personal Data**

### **Article 39**

The protection of personal data is guaranteed.

It is prohibited to use personal data for purposes other than those for which they were collected.

Everyone shall have the right to inspect the collected data relating to his person and the right to redress from court in case of abuse.

## **Right to Asylum**

### **Article 40**

A foreign national reasonably fearing from persecution on the grounds of his/her race, language, religion, association with a nation or a group or due to own political beliefs may request asylum in Montenegro.

A foreign national may not be expelled from Montenegro to where due to his race, religion, language or association with a nation he is threatened by death sentence, torture, inhuman degradation, persecution or serious violation of rights guaranteed by this Constitution.

A foreign national may be expelled from Montenegro solely pursuant a court decision.

## **3. POLITICAL RIGHTS AND FREEDOMS**

### **Suffrage**

#### **Article 41**

The right to vote and stand for elections shall be granted to every citizen of Montenegro of 18 years of age and above with residence in Montenegro.

The electoral right shall be exercised in elections.  
Suffrage shall be general and equal.  
Elections shall be free and direct, by secret ballot.

Alternative of the Serbian List for Article 41 paragraph 1:

*A citizen of Montenegro aged 18 and above shall have the right to vote and stand for elections.*

The same alternative supported by SNP, NS, DSS:

Alternative of the Serbian List:

*After Article 41 add a new heading and Article 41a as follows:*

*Representation*

*Article 41a*

*Members of the Montenegrin and Serbian nation and national minorities are guaranteed the right to proportional representation in public services, public state and local authorities.*

## **Equality of Sexes**

### **Article 42**

State shall guarantee the equality between women and men and shall develop the policy of equal opportunities.

## **Freedom of Thought and Belief**

### **Article 43**

The freedom of thought and public expression of thoughts and beliefs shall be guaranteed. No one may be forced to express own opinion and belief or renounce them.

## **Freedom of Conscience and Religion**

### **Article 44**

The freedom of conscience and religion is guaranteed.  
No one shall be obliged to declare own views, religion and national origin.

Alternative of the Serbian List for Article 43 and 44:

*Each citizen shall be guaranteed the right to freedom of thought, conscience and religion, as well as the right to convert from a religion or a belief and the freedom to, individually or collectively, publicly or privately, exercise religion or belief by prayer, preaches, customs or rites.*

*Non one shall be obliged to declare own religious or other beliefs.*

*Freedom to express religious beliefs may be restricted only by law if required so to protect life and public health, prevent the threat to the identity and rights of another religious community, as well as other rights guaranteed by the Constitution.*

*Parents and legal guardians shall have the right to provide to their children the religious and ethical upbringing in accordance with their own convictions.*

## **Freedom of Expression**

### **Article 45**

Everyone shall have the right to freedom of expression by speech, writing, picture or in some other manner.

The right to freedom of expression may be limited only by the right to dignity, reputation and honour of others and if it threatens public morality or the security of Montenegro.

## **Conscientious Objection**

### **Article 46**

Everyone shall have the right to conscientious objection.

No one shall be obliged, contrary to own religion or conviction, to fulfil a military or other duty involving the use of arms.

## **Freedom of Press**

### **Article 47**

Freedom of press and other forms of public information is guaranteed.

The right to establish newspapers and other public media, without approval, by the entry into the register with the competent authority, is guaranteed.

The right to a response and the right to a correction of any published untrue, incomplete or incorrectly stated information that infringes upon somebody's right or interest and the right to indemnity for damages caused by the publication of untruthful data or information are guaranteed.

## **Prohibition of Censorship**

### **Article 48**

There shall be no censorship in Montenegro.

The competent court may prevent dissemination of information and ideas via the public media if required so to prevent invitation to forcible destruction of the constitutional order; preservation of territorial integrity of Montenegro; prevention of propagating war or incitement to violence; prevention of propagating racial, national and religious hatred and discrimination.

## **Freedom of Speech**

### **Article 49**

Freedom of speech and public expression shall be guaranteed.

## **Freedom of Assembly**

### **Article 50**

The freedom of assembly, without approval, with prior notification of the competent authority shall be guaranteed.

The freedom of peaceful assembly may be temporarily restricted by the decision of the competent authority in order to prevent treat to public health, morality or security of persons and property.

## **Freedom of Association**

### **Article 51**

The freedom of political and other association and action, without approval, by the registration with the competent authority, shall be guaranteed.

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

The state supports political and other associations, when there is a public interest for doing so.

## **Prohibition of Association**

### **Article 52**

Political association shall be prohibited in public services.

A Constitutional Court judge, a judge, a state prosecutor, a state attorney, an ombudsman, member of the Central Bank's Council, a member of the State Audit Institution's Senate, a member of the military, police and other security services may not be a member of any political organisation, nor publicly express own political beliefs.

Political association and actions of foreign nationals and political organisations with the seat outside of Montenegro shall be prohibited.

### **Prohibition of Operation and Establishment**

#### **Article 53**

The operation of political and other organisations directed towards forceful destruction of the constitutional order, infringement of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or instigating national, racial, religious and other hatred and intolerance shall be prohibited.

The establishment of secret organisations and irregular armies shall be prohibited.

### **Citizens and International Organisations**

#### **Article 54**

Everyone shall have the right of recourse to international institutions to seek protection of own freedoms and rights guaranteed by the Constitution.

### **Right of Recourse**

#### **Article 55**

Everyone shall have the right of recourse to the state authority or the authority exercising public powers and receive a response.

No one may be held responsible, nor suffer other harmful consequences due to the views expressed in the recourse, unless having committed a crime in doing so.

## **4. ECONOMIC, SOCIAL AND CULTURAL FREEDOMS AND RIGHTS**

### **Right to Work**

#### **Article 56**

Everyone shall have the right to work, to free choice of occupation and employment, to fair and human working conditions and to protection during unemployment.

### **Employee Rights**

#### **Article 57**

Employees shall have the right to appropriate salary.

Employees shall have the right to limited working hours and to paid holiday.

Employees shall have the right to occupational health and safety.

The young, women and disabled persons shall enjoy special protection at work.

The social status of employees shall be harmonised through the social dialogue.

### **Strike**

#### **Article 58**

Employees shall have the right to strike.

The right to strike may be limited when it is in the public interest to do so.

Employees in public service at the national or local level shall not have the right to strike.

## **Social Insurance**

### **Article 59**

Employee insurance is obligatory.

The state shall provide for material security of persons incapable of work and without livelihood.

## **Protection of People with Disabilities**

### **Article 60**

Special protection of people with disabilities shall be guaranteed.

## **Health Protection**

### **Article 61**

Everyone shall have the right to health protection.

Children, pregnant women and elderly shall have the right to health protection from public revenues, if not exercising this right on some other grounds.

## **Protection of Consumers**

### **Article 62**

State shall protect consumers.

Any actions posing threat to public health, safety and privacy of consumers shall be prohibited.

Any actions contrary to good business usages shall be prohibited.

## **Marriage**

### **Article 63**

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

## **family**

### **Article 64**

Family shall enjoy special protection.

Parents shall be obliged to take care of their children, to bring them up and educate.

Children shall be obliged to take care of own parents who need help.

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

## **Protection of Mother and Child**

### **Article 65**

Mother and child shall enjoy special protection.

State is obliged to create conditions to stimulate childbirth.

## **Rights of a Child**

### **Article 66**

A child shall enjoy rights and freedoms appropriate to his age and maturity.

Any abuse of a child shall be prohibited.

It is prohibited to employ children and minors in jobs harmful to their health and development.

## Education

### Article 67

The right to education under same conditions shall be guaranteed.  
Elementary education shall be obligatory and free of charge.  
The autonomy of universities, higher education and scientific institutions shall be guaranteed.

## Freedom of Creation

### Article 68

The freedom of scientific, cultural and artistic creation shall be guaranteed.  
The freedom to publish works of science and arts, scientific discoveries and technical inventions shall be guaranteed, and their authors shall be guaranteed the moral and property rights.

## Science, Culture and Arts

### Article 69

The state shall encourage and support the development of education, science, culture, arts, sport, physical and technical culture.  
The state shall protect the scientific, cultural, artistic and historic values.

#### Alternative of the Serbian list :

*After Article 69, insert a new heading and an article as follows:*

#### *Educational and Cultural Autonomy*

#### *Article 69a*

*Members of Montenegrin and Serbian people and national minorities shall be guaranteed the educational and cultural autonomy.*

## Protection of Natural and Cultural heritage

### Article 70

Everyone shall be obliged to preserve natural and cultural heritage of general interest.  
The state shall protect the national and cultural heritage.

#### Alternative of the Serbian list and HGI:

*After Article 70 insert a new chapter and 9 new articles as follows:*

#### **5. MINORITY RIGHTS AND FREEDOMS**

##### *Protection of Identity*

#### *Article 70a*

*The right of members of minorities to the preservation, expression, development and public declaration of national, ethnic, cultural, linguistic and religious identity shall be guaranteed.*

*The protection of minority rights shall be exercised in accordance with the international protection of human and minority freedoms and rights.*

*Forced assimilation of members of minorities shall be prohibited.*

##### *Use of Symbols and Names*

#### *Article 70b*

*The members of minorities shall be guaranteed the right to use and display symbols and celebrate holidays of minorities.*

*The members of minorities shall be guaranteed the right for local names, street and place names as well as topographic marks to be written also in the minority language and alphabet in areas where minorities make a considerable share of the population.*



### *Use of Language*

#### *Article 70v*

*Minorities shall be guaranteed the right to use own language and alphabet. Jamči se pravo pripadnicima manjina na upotrebu svog jezika i pisma.*

*Minorities shall be guaranteed the right to use own language and alphabet in the procedures before the state authorities.*

*Minorities shall be guaranteed the right to personal name and surname written in own language and alphabet in official documents.*

### *Education and Information*

#### *Article 70g*

*Minorities shall be guaranteed the right to education and information in own language.*

*Minorities shall be guaranteed the right to establish educational, cultural and religious associations, with the material assistance from the state.*

*Curricula of educational institutions include the history and culture of minorities.*

### *Protection of Minority Cultural Heritage*

#### *Article 70d*

*The state shall protect the cultural heritage of minorities..*

### *Representation*

#### *Article 70đ*

*Minorities shall be guaranteed the right to appropriate representation in state bodies, local authorities and public services.*

*In order to provide for the presentation of minorities in representative bodies, the exercise of this right may be stipulated by law.*

#### *Alternative by HGI for Article 70đ*

*Minorities shall be guaranteed the right to authentic representation within the Parliament of Montenegro, state and local authorities and public services.*

*The exercise of this right shall be stipulated by law.*

#### *Alternative by the Albanian Alternative for Article 70đ:*

*Minorities shall be guaranteed the right to proportional representation in public services, state and local authorities.*

*Minorities shall be guaranteed the right to appropriate representation in the Parliament of the Republic of Montenegro, proceeding from the principle of direct representation.*

### *Contacts*

#### **Article 70e**

*Minorities shall have the right to establish and maintain contacts with individuals and institutions outside of Montenegro with whom they share their national and ethnic origin, cultural and historic heritage, as well as religious beliefs.*

### *Exercise of Rights*

#### *Article 70ž*

*Minority rights may not be exercised contrary to the Constitution and the principles of international law.*

*Minority Councils**Article 70z*

*Members of minorities may establish councils in order to enhance and protect freedoms and rights guaranteed by the Constitution.*

**6. LOCAL SELF-GOVERNMENT****Right to local self-government****Article 71**

The right to local self-government shall be granted.

In the local self-government the decisions shall be made directly and through the freely elected representatives.

**Form of local self-government****Article 72**

The basic form of the local self-government shall be the municipality.

It shall also be possible to establish other forms of local self-government.

**Municipality****Article 73**

The municipality shall have the status of a legal entity.

Municipality shall adopt the Statute and General Acts.

Authorities of the municipality shall be the Assembly and the President.

**Property-related powers and financing****Article 74**

The Municipality shall exercise property related powers on the state owned assets.

The Municipality shall be financed from its own resources and the assets of the state.

The Municipality shall have a budget.

**Autonomy****Article 75**

The Municipality shall be autonomous in the performance of its duties.

The Government may dismiss the municipal Assembly only if the municipal assembly is not performing its duties for a period longer than six months.

**7. PROTECTOR OF HUMAN RIGHTS AND LIBERTIES****Article 76**

The Protector of human rights and liberties of Montenegro shall be an autonomous and independent authority that takes measures for the protection of human rights and liberties guaranteed by the Constitution and the law.

The Protector of human rights and liberties shall exercise the duties on the basis of the Constitution, law and confirmed international agreements, also respecting the principles of justice and fairness.

## **PART THREE**

### **ECONOMIC SYSTEM**

#### **Principles**

##### **Article 77**

Economic system shall be based on a free and open market, freedom of entrepreneurship and competition, independence of the economic entities and their responsibility for the obligations accepted in the legal undertakings, protection and equality of all forms of property.

### **ECONOMIC AREA AND EQUALITY**

##### **Article 78**

The territory of Montenegro shall represent a unique economic area.

All the economic entities shall have an equal legal position in the market.

The freedom of capital investment and acquisition of rights on those grounds shall be granted.

It shall be prohibited to disturb and limit free competition and to stimulate unequal, monopolistic or dominant position in the market.

### **ENTREPRENEURSHIP**

##### **Article 79**

Freedom of entrepreneurship shall be granted.

Freedom of entrepreneurship may be limited only if that is necessary for the protection of the health of the people, environment, natural wealth, cultural heritage or security and defense of Montenegro.

### **PROPERTY**

##### **Article 80**

The property right shall be granted.

No person shall be deprived of the property rights unless when this is required by the public interest, with the compensation of the market value.

Natural wealth, goods in general use and assets of special historical importance shall be state owned.

### **STATE PROPERTY**

##### **Article 81**

State owned assets shall belong to Montenegro.

### **SUCCESSION RIGHT**

##### **ARTICLE 82**

The succession right shall be granted.

### **RIGHTS OF FOREIGN CITIZENS**

##### **Article 83**

A foreign person may be a holder of property rights.

## **TAX OBLIGATIONS**

### **Article 84**

Every person shall pay taxes and other duties.

The State shall be financed from taxes and other duties.

The State and the local self-government unit shall have their own budgets in which they shall present their revenues and expenditures.

## **CENTRAL BANK OF MONTENEGRO**

### **ARTICLE 85**

The Central Bank of Montenegro shall be an independent organization, responsible for monetary and financial stability and banking system operations.

The Central Bank of Montenegro shall not engage in the commercial bank activities.

The Bank Council shall govern the Central Bank of Montenegro.

The Bank Governor shall manage the Central Bank of Montenegro.

## **National Audit Institution**

### **Article 86**

The National Audit Institution of Montenegro shall be an independent and supreme authority of the national audit.

The National Audit Institution shall audit the legality of and success in the management of state assets and responsibilities, budgets and all the financial affairs whose sources of finance are public or created through the use of state property.

The Senate shall manage the National Audit Institution.

## **PART FOUR**

### **SYSTEM OF POWERS**

#### **1. PARLIAMENT OF MONTENEGRO**

##### **Responsibility**

### **Article 87**

The Parliament shall:

- 1) Adopt the Constitution;
- 2) Adopt laws, other regulations and general acts;
- 3) Proclaim the state of war and the state of emergency;
- 4) Adopt the budget and the final statement;
- 5) Adopt the National security strategy and Defense strategy;
- 6) Adopt the Development plan and Spatial plan of Montenegro;
- 7) Decide on the use of units of the Army of Montenegro in the international forces;
- 8) Regulate the state administration system;
- 9) Perform supervision of the army and security services;
- 10) Give authentic interpretation of the acts adopted by it;
- 11) Call for the national referendum;
- 12) Call for the public loans and decide on borrowing of Montenegro;
- 13) Elect and dismiss: the Prime Ministers and members of the Government, the President and judges of the Constitutional Court; appoint and dismiss: the Protector of human rights and liberties; the State Prosecutor; the State Attorney; the Governor of the Central Bank; the President and members of the Senate;
- 14) Decide on immunity rights;
- 15) Grant amnesty;

- 16) Confirm international agreements;
- 17) Decide on the disposal of the state property exceeding the value stipulated by the law;
- 18) Perform other tasks stipulated by the Constitution.

## **COMPOSITION OF THE PARLIAMENT**

### **ARTICLE 88**

The Parliament shall consist of the Members of the Parliament (hereinafter: MP's) elected directly on the basis of the general and equal electoral right and by secret ballot. The Parliament shall have 81 Members.

## **Mandate of the Parliament**

### **Article 89**

The Mandate of the Parliament shall last for four years. If the mandate of the Parliament expires during the state of war or the state of emergency, the mandate shall be extended for the period of up to 90 days upon termination of the circumstances that have caused such state. At the proposal of the President of Montenegro, the Government or minimum 25 MP's, the Parliament may shorten the duration of its mandate.

## **IMMUNITY**

### **Article 90**

Member of the Parliament shall enjoy immunity. Member of the Parliament shall not be called to criminal or other account or detained because of the expressed opinion or vote in the performance of his/her duty as a Member of the Parliament. No penal action shall be taken against and no detention shall be assigned to a Member of the Parliament, without the consent of the Parliament, unless the Member has been caught performing a criminal offense for which there is a prescribed sentence of over five years imprisonment. The President of Montenegro, the Prime Minister and members of the Government, the judges, the judges of the Constitutional Court, the State Prosecutor and the Protector of human rights and liberties shall enjoy the same immunity as the Member of the Parliament.

## **RIGHTS AND RESPONSIBILITIES OF MP'S**

### **Article 91**

Member of the Parliament shall decide and vote according to his/her own conviction. Member of the Parliament shall have the right to professionally perform the duty of an MP.

## **CESSATION OF MANDATE OF MP'S**

### **Article 92**

Mandate of an MP shall cease prior to the expiry of the period for which he/she was elected:

- 1) By resignation;
- 2) if he/she was convicted by an effective decision of the court to an imprisonment sentence of minimum six months;
- 3) if he/she was deprived of the ability to work by an effective decision;

## **Constitution of the Parliament**

### **Article 93**

The first session of the newly elected composition of the Parliament shall be called for by the Speaker of the previous composition of the Parliament and it shall be held within 15 days from the date of publication of the final results of elections.

## **SPEAKER AND DEPUTY SPEAKER OF THE PARLIAMENT**

### **Article 94**

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

Speaker of the Parliament shall represent the Parliament, call for the sessions of the Parliament and chair them, take care of the enforcement of the Rules of Procedure of the Parliament, call for elections for the President of Montenegro and perform other affairs stipulated by the Constitution and the Rules of Procedure of the Parliament.

The Deputy Speaker shall substitute the Speaker of the Parliament in the performance of affairs when the Speaker is prevented to do so or when the Speaker entrusts the Deputy Speaker the duty to substitute him.

## **Sessions of the Parliament**

### **Article 95**

The Parliament shall work in regular and extraordinary sessions.

Regular sessions shall be held twice a year.

The first regular session shall start on the first working day in March and shall last until the end of July, and the second one shall start on the first working day in October and shall last until the end of December.

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.

## **DECISION-MAKING**

### **Article 96**

The Parliament shall decide by majority vote of the present MP's in the session attended by over one half of the total number of MP's, unless otherwise regulated by the Constitution.

With the majority vote of the total number of MP's the Parliament shall adopt the laws that regulate: manner of achievement of liberties and rights of the citizens, Montenegrin citizenship, electoral system, referendum, material responsibilities of the citizens, state symbols and use of state symbols, defense and security, the army, establishment, merger and abolition of municipalities; proclaim state of war and state of emergency; adopt the spatial plan and Rules of Procedure of the Parliament; decide on calling for the referendum and borrowing of Montenegro; decide on the use of units of the Army of Montenegro in the international forces; decide on shortening the mandate; decide on the removal of the President of the Republic from office; elect and dismiss the Prime Minister and members of the Government and decide on the trust in the Government.

#### ***Alternative by the Serbian list:***

*The Parliament shall decide with two thirds of votes of the total number of MP's on the laws that regulate: manner of achievement of liberties and rights, electoral system, state symbols, use of language and alphabet, education, teaching in schools, universities and scientific institutions founded by the state, establishment of private educational and scientific institutions, culture and public information.*

#### ***Alternative by the Movement for changes:***

*The Parliament shall decide with two thirds of votes of the total number of MP's on the proclamation of the state of war and use of units of the Army of Montenegro in the international forces.*

## **DISSOLUTION OF PARLIAMENT**

### **Article 97**

The Parliament shall be dissolved if it fails to elect the Government within 90 days from the date when the President of Montenegro proposed for the first time the candidate for the position of the Prime Minister.

Upon hearing the opinion of the Speaker of the Parliament and the presidents of the caucuses in the Parliament, the Government may dissolve the Parliament.

The Parliament shall be dissolved by the Ordinance of the President of Montenegro.

The Parliament shall not be dissolved during the state of war or state of emergency, if the ballot of no confidence in the Government procedure has been initiated, and in the first three months from the constitution and the three months prior to the expiry of its mandate.

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

The dissolved Parliament shall continue with its work until the constitution of the newly elected Parliament.

## **Proposal of laws and other acts**

### **Article 98**

The right to propose laws and other acts shall be granted to the Government and the Member of the Parliament.

The right to propose laws shall also be granted to six thousand voters, through the MP they authorize.

The proposal to call for the national referendum shall be granted to: 25 MP's, the President of Montenegro, the Government and 10% of the citizens with the right to vote.

## **PROCLAMATION OF LAWS**

### **Article 99**

The President of Montenegro shall proclaim the law within 15 days from the day of adoption of the law, that is, within seven days if the law has been adopted under a speedy procedure or send the law back to the Parliament for new decision-making process.

The President of Montenegro shall proclaim the re-adopted law.

## **2. PRESIDENT OF MONTENEGRO**

### **RESPONSIBILITY**

#### **Article 100**

The President of Montenegro:

- 1) Represents Montenegro in the country and abroad and signs international agreements within his/her scope of responsibility;
- 2) Commands over the Army on the basis of the decisions of the Defense and Security Council;
- 3) Proclaims laws by Ordinance;
- 4) Calls for the elections for the Parliament
- 5) Proposes to the Parliament: candidate for the Prime Minister, after consultations with the representatives of the political parties represented in the Parliament; President and judges of the Constitutional Court; Protector of human rights and liberties;

- 6) Appoints and revokes ambassadors and heads of other diplomatic missions of Montenegro abroad, at the proposal of the Government and with the opinion of the Parliamentary Committee responsible for international relations;
- 7) Accepts letters of accreditation and revocation of the foreign diplomats;
- 8) Awards medals and honors of Montenegro;
- 9) Grants amnesty;
- 10) Performs other tasks stipulated by the Constitution.

## **ELECTION**

### **Article 101**

The President of Montenegro shall be elected on the basis of a general and equal electoral right, through direct and secret ballot.

A Montenegrin citizen residing in Montenegro for minimum 10 years in the past 15 years may be elected for the President of Montenegro.

The Speaker of the Parliament shall call for the elections for the President of Montenegro.

## **MANDATE**

### **Article 102**

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

The same person may be elected the President of Montenegro for maximum two times.

Prior to the acceptance of duty the President of Montenegro shall take an oath before the MP's.

If the mandate of the President expires during the state of war or the state of emergency, the mandate shall be extended for maximum 90 days after the end of circumstances that have caused that state.

The President of Montenegro shall not perform any other public duty or be a member of a political party.

## **CESSATION OF MANDATE**

### **Article 103**

The mandate of the President of Montenegro shall end with the expiry of time for which he/she was elected, by resignation, if he/she is permanently unable to perform the duty of the President and by impeachment.

The President shall be held responsible for the violation of the Constitution.

The procedure to determine whether the President of Montenegro has violated the Constitution shall be initiated by the Parliament, at the proposal of 25 MP's.

The Parliament shall submit the proposal to initiate the procedure to the President of Montenegro for plead.

The Constitutional Court shall decide on existence or non-existence of violation of the Constitution and shall publish the decision and submit it to the Parliament and the President of Montenegro without delay.

The Parliament may impeach the President of Montenegro when the Constitutional Court finds that he/she has violated the Constitution.

## **Discharge of duties in case of impediment or cessation of mandate**

### **Article 104**

In case of cessation of mandate of the President of Montenegro, until the election of the new President, as well as in the case of temporary impediment of the President to discharge his/her duties, the Speaker of the Parliament shall discharge this duty.



### **3. GOVERNMENT OF MONTENEGRO**

#### **RESPONSIBILITY**

##### **Article 105**

The Government shall:

- 1) Manage internal and foreign policy of Montenegro;
- 2) Enforce laws, other regulations and general acts;
- 3) Adopt decrees, decisions and other acts for the enforcement of laws;
  - 4) Sign international agreements;
- 5) Propose the Development plan and Spatial plan of Montenegro;
- 6) Propose the Budget and the Final Statement of the Budget;
- 7) Propose the National Security Strategy and Defense Strategy;
- 8) Decide on the recognition of states and governments and establishment of diplomatic and consular relations with other states;
- 9) Decide on the opening of diplomatic and consular missions of Montenegro abroad;
  - 10) Nominate ambassadors and heads of diplomatic missions of Montenegro abroad;
  - 11) Perform other tasks stipulated by the Constitution.

#### **Decrees with legal power**

##### **Article 106**

During the state of war or the state of emergency, the Government may adopt decrees with legal power, if the Parliament is not able to meet.

The Government shall submit the decrees with legal power to the Parliament for confirmation as soon as the Parliament is able to meet.

#### **Composition of the Government**

##### **Article 107**

The Government shall consist of the Prime Minister, one or more Deputy Prime Ministers and the ministers.

The Prime Minister represents the Government and manages its work.

#### **ELECTION**

##### **Article 108**

The candidate for the position of the Prime Minister presents to the Parliament his/her program and proposes composition of the Government.

The Parliament shall decide simultaneously on the program of the mandator and the proposal for the composition of the Government.

If the Parliament fails to adopt the program, the President of Montenegro shall propose a new mandator within 10 days.

#### **Incompatibility of duties**

##### **Article 109**

The Prime Minister and the member of the Government shall not discharge duties of a Member of the Parliament or other public duties or professionally perform some other activity.

## RESIGNATION AND IMPEACHMENT

### Article 110

The Government and the member of the Government may resign from duty. If the Prime Minister also resigns it shall be considered that the Government has resigned. The Prime Minister may propose to the Parliament to impeach a member of the Government.

### Issue of confidence

### Article 111

The Government may raise the issue of confidence in it before the Parliament.

### Issue of no confidence

### Article 112

The Parliament may vote no confidence in the Government. The proposal for no confidence ballot regarding the Government may be submitted by 15 MP's. If the Government gained confidence, the signatories of the proposal shall not submit a new proposal for no confidence ballot prior to the expiry of the 90 days deadline.

Alternative by SNP:

*After Article 112 add a new article stating as follows:*

*Article 112a*

*The Parliament shall decide on the issue of confidence, i.e. no confidence in the Government within 30 days.*

### Interpellation

### Article 113

The interpellation to examine certain issues regarding the work of the Government may be submitted by 15 MP's.

The interpellation shall be submitted in written form and shall be justified.

The Government shall submit an answer within seven days from the date of receipt of interpellation.

### Parliamentary investigation

### Article 114

The Parliament may, at the proposal of 15 MP's, establish a Fact-finding Commission in order to collect information and facts about the events related to the work of the state authorities.

## CESSATION OF MANDATE

### Article 115

The Government mandate shall cease: with the expiry of the Parliament mandate, by dissolution or shortening of mandate of the Parliament, by resignation, when it loses confidence and if it fails to propose or the Parliament fails to adopt the Budget by March 31 of the budgetary year.

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

The Government whose mandate has ceased shall not dissolve the Parliament.

## **Civil service**

### **Article 116**

The duties of the civil service shall be discharged by the ministries and administrative authorities.

## **Delegation and entrusting of duties**

### **Article 117**

Individual duties of the civil service may be delegated to the local self-government by the law.

Individual duties of the civil service may be entrusted to the local self-government, institutions and legal entities by the regulation of the Government.

## **4. ARMY OF MONTENEGRO**

### **Principles**

#### **Article 118**

The Army shall defend independence, sovereignty and state territory of Montenegro.

The Army shall be subject to democratic and civil control.

The Army units may be part of the international forces.

## **5. DEFENSE AND SECURITY COUNCIL**

### **Responsibility**

#### **ARTICLE 119**

The Defense and Security Council shall:

- 1) Command over the Army;
- 2) Analyze and assess the security situation in Montenegro and decide to take adequate measures;
- 3) Appoint, promote and discharge from duty the Army officers;
- 4) Propose to the Parliament proclamation of the state of war and state of emergency;
- 5) Propose the use of Army units in international forces;
- 6) Perform other duties stipulated by the Constitution and the law.

### **Composition**

#### **Article 120**

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 also act as the President of the Defense and Security Council.

### **Proclamation of the state of war**

#### **Article 121**

The state of war shall be proclaimed when there is direct danger of war for Montenegro or when Montenegro is attacked or war was declared against it.

If the Parliament is not able to meet, the decision to proclaim the state of war shall be adopted by the Defense and Security Council and submit it to the Parliament for confirmation as soon as the Parliament is able to meet.

## **Proclamation of the state of emergency**

### **Article 122**

The state of emergency may be proclaimed in the territory or part of the territory of Montenegro in case of the following:

- 1) Big natural disasters;
- 2) Technical-technological and environmental disasters and epidemics;
- 3) Greater disruption of public peace and order;
- 4) Violation or attempt to abolish the constitutional order.

If the Parliament is not able to meet, the decision to proclaim the state of emergency shall be adopted by the Defense and Security Council and submit it to the Parliament for confirmation as soon as it is able to meet.

The state of emergency shall last until the circumstances that have caused it have ceased to exist.

## **7. COURT**

### **Principles of judiciary**

#### **Article 123**

The court is autonomous and independent.

The court shall rule on the basis of the Constitution, laws and confirmed and published international agreements.

Court marshal and extraordinary courts shall not be established.

#### **Panel of judges**

#### **Article 124**

The court shall rule in panel, except when the law stipulates that an individual judge shall rule.

Lay-judges shall also participate in the trial in cases stipulated by the law.

#### **Publicity of trial**

#### **Article 125**

The hearing before the court shall be public.

Exceptionally, the court may exclude the public from the hearing or one part of the hearing.

#### **Standing duty**

#### **Article 126**

The judicial duty shall be permanent.

The duty of a judge shall cease at his/her own request, when the requirements are fulfilled for age pension and if the judge has been sentenced to an unconditional imprisonment sentence.

The judge shall be released from duty if he/she performs the judicial duty in an unprofessional or negligent manner or loses permanently the ability to perform the judicial duty.

The judge shall not be transferred or sent to another court against his/her will.

#### **Incompatibility of duties**

#### **Article 127**

The judge shall not discharge duties of a Member of the Parliament or other public duties or professionally perform some other activity.

## **Supreme Court of Montenegro**

### **Article 128**

The Supreme Court shall be the highest court in Montenegro.  
The Supreme Court shall secure unified enforcement of laws by the courts.

## **ELECTION OF JUDGES**

### **Article 129**

Judges and presidents of courts shall be elected and released from duty by the Parliament, at the proposal of the Judicial Council.  
Presidents of courts shall be elected for the period of four years.

## **Judicial Council**

### **Article 130**

Judicial Council shall be an independent and autonomous authority that secures independence of the courts and judges.

Members of the Judicial Council shall be elected and released from duty by the Parliament.  
Minimum one half of the members of the Judicial Council shall come from among the judges.

President of the Judicial Council shall be the President of the Supreme Court.

## **Alternative of the Constitutional committee for Articles 129 and 130:**

### **Article 129**

Judges and presidents of courts shall be elected and released from duty by the Judicial Council.

President of the Supreme Court shall be elected and released from duty by the Parliament.  
Presidents of courts shall be elected for the period of four years.

### **Article 130**

Judicial Council shall be autonomous and independent authority that secures independence of courts and judges.

President of the Judicial Council shall be the President of the Supreme Court.  
Members of the Judicial Council shall be elected and released from duty by the Parliament.  
Half of the members of the Judicial Council shall come from among the judges.

## **Funds for work**

### **Article 131**

Funds for the work of courts shall be secured in the Budget of Montenegro.  
The proposal to secure the funds for the work of courts shall be submitted to the Government by the Judicial Council.

## **7. STATE PROSECUTOR**

### **Article 132**

State Prosecutor shall be an independent state authority.  
State Prosecutor shall perform the affairs of prosecution of the perpetrators of criminal offenses who are prosecuted in line of duty and perpetrators of other actionable offenses when stipulated by the law, and shall perform other duties stipulated by the law.  
State Prosecutor shall discharge the duty on the basis of the Constitution, laws and confirmed international agreements.

**PART FIVE****CONSTITUTIONALITY AND LEGALITY****CONFORMITY OF LEGAL REGULATIONS****Article 133**

The law shall be in conformity with the Constitution and confirmed international agreements, and other regulations shall be in conformity with the Constitution and the law.

**PUBLICATION AND COMING INTO EFFECT OF THE REGULATIONS****ARTICLE 134**

The law and other regulation shall be published prior to coming into effect, and shall come into effect no sooner than the eighth day from the day when they were published. Exceptionally, when the reasons for such action exist and have been established in the adoption procedure, law and other regulation may come into effect no sooner than the date of publication.

**PROHIBITION OF EX POSTO FACTO EFFECT (RETROACTIVE EFFECT)****Article 135**

Law and other regulation shall not have retroactive effect. Exceptionally, if required so by the public interest established in the process of law adoption, individual provisions of the law may have retroactive effect. Provision of the Criminal code may have retroactive effect only if it is more lenient for the perpetrator of a criminal offense.

**LEGALITY OF INDIVIDUAL ACTS****Article 136**

Individual administrative act shall be in conformity with the law. The legality of the final administrative act shall be decided by the court in an administrative dispute, if there is no other court protection prescribed for a specific matter.

**PART SIX****CONSTITUTIONAL COURT OF MONTENEGRO****RESPONSIBILITY****Article 137**

The Constitutional Court shall decide on the following:

- 1) Conformity of laws with the Constitution and confirmed and published international agreements;
- 2) Conformity of other regulations and general acts with the Constitution and the law;
- 3) Constitutional appeal because of the violation of human rights and liberties granted by the Constitution, unless other court protection is prescribed;
- 4) Whether the President of Montenegro has violated the Constitution,
- 5) The conflict of responsibilities between courts and other state authorities, between state authorities and local self-government authorities, and between local self-government units;
- 6) Prohibition of work of a political party and association of citizens;
- 7) Electoral disputes and disputes related to the referendum, which are not the responsibility of other courts;

8) Conformity with the Constitution of the measures and actions of state authorities taken during the state of war or state of emergency;

9) Monitors exercise of constitutionality and legality;

10) Performs other tasks stipulated by the Constitution.

The Constitutional Court may decide on the constitutionality and legality of the regulation that has ceased to be valid, if up to one year has passed from the cessation of validity until the initiation of the procedure.

If the regulation ceased to be valid during the procedure, and the consequences of its enforcement have not been recovered, the Constitutional Court establishes with its decision whether it was in conformity with the Constitution, that is, with the law during its period of validity.

## **INITIATING THE PROCEDURE TO ASSESS CONSTITUTIONALITY AND LEGALITY**

### **Article 138**

Any person may file an initiative to start the procedure for assessment of constitutionality and legality.

The procedure before the Constitutional Court for the assessment of constitutionality and legality may be initiated by the court, other state authority, local self-government authority and five MP's.

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

During the procedure, the Constitutional Court may order to stop the enforcement of an individual act or action that have been taken on the basis of the law, other regulation or general act, whose constitutionality, i.e. legality is being assessed, if the enforcement thereof could cause irreparable damage.

## **Decisions of the Constitutional Court**

### **Article 139**

The Constitutional Court shall decide by a majority vote of all judges.

Decisions of the Constitutional Court shall be published.

Decisions of the Constitutional Court shall be generally binding and enforceable.

Enforcement of the decision of the Constitutional Court shall be secured by the Government, when necessary.

## **CESSATION OF VALIDITY OF A REGULATION**

### **Article 140**

When the Constitutional Court establishes that the law is not in conformity with the Constitution and confirmed and published international agreements, that is, that the second regulation is not in conformity with the Constitution and the law, that law and other regulation shall cease to be valid on the date of publication of the decision of the Constitutional Court.

The law or second regulation, i.e. their individual provisions that were found inconsistent with the Constitution or the law by the decision of the Constitutional Court, shall not be applied to the relations that have occurred prior to the publication of the Constitutional Court decision, if they have not been solved by an absolute ruling by that date.

## **COMPOSITION AND ELECTION**

### **Article 141**

The Constitutional Court shall have seven judges.

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

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

The person enjoying reputation of a renowned legal expert, with minimum 15 years of experience in this profession may be elected to the position of the Constitutional Court judge. The President and the judge of the Constitutional Court shall not discharge duties of a Member of the Parliament or other public duties or professionally perform some other activity.

### **Cessation of duty**

#### **Article 142**

The duty of the President and judge of the Constitutional Court shall cease prior to the expiry of the period for which he/she was elected, at his/her own request, when he/she fulfills the requirements for age pension or if he/she was sentenced to an unconditional imprisonment.

The President and the judge of the Constitutional Court shall be released from duty if he/she has been found guilty of an offense that makes him/her unworthy of the duty, if he/she permanently loses the ability to perform the duty, if he/she expresses publicly the opinion regarding the issue that is the matter or may become the matter for decision making in the Constitutional Court or if he/she expresses publicly his/her political convictions.

The Constitutional Court shall establish the emergence of reasons for cessation of duty or release from duty, in its session and shall inform the Parliament of that case.

The Constitutional Court may decide that the President, i.e. the judge of the Constitutional Court that penal action has been initiated against, shall not perform the duty for the period of duration of that action.

### **PART SEVEN**

#### **CHANGE OF CONSTITUTION**

##### **PROPOSAL TO CHANGE THE CONSTITUTION**

#### **Article 143**

The proposal to change the Constitution may be submitted by the President of Montenegro, the Government or 25 MP's.

The Proposal to change the Constitution may propose to change or amend individual provisions of the Constitution or to adopt the new Constitution.

The Proposal to change individual provisions of the Constitution shall contain the indication of the provisions for which change is demanded and the justification.

The Act on the change of the Constitution shall be adopted in the Parliament if two thirds of the total number of MP's vote in favor of it.

If the proposal to change the Constitution has not been adopted, the same proposal shall not be repeated prior to the expiry of one year from the day when the proposal was rejected.

### **Act on the change of the Constitution**

#### **Article 144**

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 adopted in the Parliament if two thirds of the total number of MP's vote in favor of it.

The Parliament shall submit the adopted Draft act on the change of the Constitution for public hearing, which shall not last less than one month.

After the end of the public hearing, the responsible working body of the Parliament shall define the Proposal of the act on the change of the Constitution.



The act on the change of the Constitution shall be adopted in the Parliament if two thirds of the total number of MP's vote in favor of it.

Change of the Constitution shall not take place during the state of war and the state of emergency.

### **Confirmation in the referendum**

#### **Article 145**

Change of the basic provisions of the Constitution, provisions on the electoral right and provisions on the change of Constitution, shall be final if minimum two thirds of the voters support the change in the national referendum.

#### *Alternative by SNP for Article 145:*

*Change of the basic provisions of the Constitution, provisions on electoral right and provisions on the change of Constitution, shall be final if it is confirmed in the national referendum.*

## **PART EIGHT**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **CONSTITUTIONAL LAW FOR THE ENFORCEMENT OF THE CONSTITUTION**

#### **Article 146**

The Constitutional Law shall be adopted for the enforcement of the Constitution.

The Constitutional Law for the enforcement of the Constitution shall be adopted by the Parliament with a majority vote of the total number of MP's.

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