



Strasbourg, 3 September 2015

CDL-REF(2015)026
Engl. Only

Opinion No. 813 / 2015

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW

**ON AMENDMENTS
TO THE LAW
ON MINORITY RIGHTS AND FREEDOMS**

AND

**LAW
ON MINORITY RIGHTS AND FREEDOMS**

OF THE REPUBLIC OF MONTENEGRO

THE LAW ON AMENDMENTS OF THE LAW ON MINORITY RIGHTS AND FREEDOMS

Article 1

In the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro, No. 31/06, 51/06 and 38/07 and Official Gazette of Montenegro, No. 2/11), in Article 7, paragraph 3, after the word „activities“ the coma shall be replaced with a dot, and the words: "as well as the better integration of Roma into the social and political life of Montenegro“ shall be deleted.

Article 2

After Article 7 shall be added a new Article which shall read as follows:

„Article 7a

Terms used in this Law for natural persons in the masculine gender include the same terms in feminine gender. "

Article 3

After Article 8 shall be added a new Article which shall read as follows:

„Article 8a

In order to promote and protect minority rights, encourage preservation, development and expression of minority nations and other national minority communities' culture in Montenegro, the Government of Montenegro shall establish a public institution, in a manner and under conditions prescribed by the law governing cultural institutions.

Supervision over the work of the institution referred to in paragraph 1 of this Article shall be performed by the organ of state administration responsible for human and minority rights."

Article 4

In Article 33 paragraph 9 shall be deleted.

In paragraph 10 the words: "The organ of state administration responsible for minority rights (hereinafter: the Ministry)" shall be replaced with the words: "the organ of state administration competent for human and minority rights".

In paragraph 11 the words: "paragraph 10" shall be replaced with the words: "paragraph 9".

Previous paragraphs 10 to 16 shall become paragraphs 9 to 15.

Article 5

After Article 35 shall be added a new chapter which shall read as follows:

„IIa THE FUND FOR PROTECTION AND EXERCISE OF MINORITY RIGHTS“.

Article 6

In Article 36 paragraphs 2 and 3 shall be amended and shall read as follows:

“The Fund shall have the status of a legal person.

The Founding act of the Fund shall in detail regulate competency and manner of decision making of the Fund organs, as well as other issues prescribed by this Law.”

Article 7

Article 36a shall be amended and shall read as follows:

„The organs of the Fund are the Management board and the Director.”

Article 8

After Article 36a shall be added 21 new Articles which shall read as follows:

„Article 36b

The Management board shall be the organ to manage the Fund.

The Management board of the Fund shall consist of:

- two representatives of the Parliament of Montenegro;
- one representative of the organ of state administration competent for human and minority rights;
- one representative of the councils of national minorities and other minority national communities; and
- one independent expert dealing with human and minority rights;
- one representative of the organ of state administration competent for the media.

Members of the Management board shall be elected for a term of four years and the same person may be elected for a member of the Management board for a maximum of two consecutive terms.

The Parliament of Montenegro shall elect and dismiss the members of the Management board of the Fund.

Article 36c

For a member of the Management board of the Fund shall be nominated a person who has five years of experience in the area of minority rights and freedoms and experience in writing, implementing and evaluating projects in the area of human rights and freedoms.

For a member of the Management board of the Fund shall not be nominated a person who is a member of:

- political party, apart from the representatives of the Parliament of Montenegro;
- council of national minorities and other minority national communities, apart from the representative of councils of national minorities and other minority national communities; and
- non-governmental organizations whose work or activity is aimed at preservation and development of human and minority rights, national or ethnic characteristics of minority nations or other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity.

Article 36č

The Members of the Management board of the Fund shall be proposed by:

- The working body of the Parliament of Montenegro in charge of human and minority rights – for the members of the Management board referred to in Article 36b paragraph 2 items 1 and 5 of this Law;

- the organ of state administration competent for human and minority rights - for the member of the Management board referred to in Article 36b paragraph 2 item 2 of this Law;

- University of Montenegro – for the member of the Management board referred to in Article 36b, paragraph 2 item 4 of this Law;

- councils of national minorities and other minority national - for the member of the Management board referred to in Article 36b paragraph 2 item 3 of this Law;

- the organ of state administration competent for the media – for the member of the Management board referred to in Article 36b para 2 item 6 of this Law.

The Member of the Management board referred to in Article 36b, paragraph 2 item 5 of this Law shall be elected on the basis of a public call conducted by the proposer referred to in paragraph 1 item 1 of this Article.

Content and manner of announcing the public call referred to in paragraph 2 of this Article, as well as the manner of implementation of the process of determining the list of candidates shall be prescribed by an act referred to in Article 36 paragraph 3 of this Law.

Article 36c

The Management board of the Fund shall:

- adopt the Statute of the Fund;
- adopt working programs and plans of the Fund;
- elect the Director of the Fund;
- adopt the report on the financial operations and the balance sheet of the Fund;
- adopt the annual work report of the Fund;
- bring the decision on announcing a public competition for the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law;
- act as the second instance organ for appeals against decisions of the Director of the Fund;
- adopt the Act on Internal Organisation and Systematization of the Fund;
- decide on other matters in accordance with the law and the Founding Act of the Fund.

Article 36d

A member of the Management board of the Fund may be dismissed before the expiry of the mandate:

- if permanently incapacitated for performing the function;
- if convicted to unconditional imprisonment or convicted for a criminal offense or other act which makes him unworthy for performing the function; and
- at his own request.

In the case when for a member of the Management board of the Fund the membership in the Management board ceases by dismissal, the proposers referred to in Article 36c, paragraph 1 of this Law, whose representative is dismissed, shall propose a new representative to be a member of the Management board in the manner prescribed by this Law.

The manner of determining the reasons for the dismissal of a member of the Management board of the Fund and informing the Parliament of Montenegro on those reasons shall be prescribed by the act referred to in Article 36 paragraph 3 of this Law.

Article 36dž

The Director of the Fund shall be elected by the Management board of the Fund based on the public competition.

The Director of the Fund shall be elected for a term of four years and the same person may be elected for a Director of the Fund for a maximum of two consecutive terms.

For the Director of the Fund shall be elected a person who has VII 1 level of higher education qualifications and has five years of working experience in the area of minority rights and freedoms and experience in the preparation, implementation or evaluation of projects in the area of human rights and freedoms.

For the director of the fund shall not be elected a person who is a member of a political party, council of minority nations or other minority national communities or non-governmental organization whose work or activity is aimed at preservation and development of human and minority rights, national or ethnic characteristics of minority nations or other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity.

Article 36đ

The Director of the Fund shall:

- represent the Fund and organize the work and operations of the Fund;
- execute decisions of the Management board of the Fund;
- propose the statute of the Fund, program and work plan of the Fund, the Act on Internal Organization and Systematization and other acts of the Fund;
- submit the report on financial operations and balance sheet to the Management board of the Fund;
- be responsible for operations and legality of work of the Fund;
- bring the decision on the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law;
- submit to the Management board of the Fund the semi-annual and annual reports on the work of the Fund, monitoring and evaluation of supported projects to support the activities referred to in Article 36 paragraph 1 of this Law;
- conduct a research of public opinion about the work results of the Fund and needed activities important for preservation and development of national or ethnic characteristics of minority nations and other minority national communities;
- perform other duties in accordance with the Statute and Founding Act of the Fund.

Article 36e

The Members of the Board and Director of the Fund shall not be engaged in implementation of projects to support the activities referred to in Article 36 paragraph 1 of this Law, funded from the funds of the Fund.

Article 36f

The Statute of the Fund shall in detail regulate the organization and manner of operation of the Fund.

The Parliament of Montenegro shall approve the Statute of the Fund.

Article 36g

The Fund shall be financed from the budget of Montenegro and other sources in accordance with the law.

In the Budget of Montenegro, for the purposes referred to in paragraph 1 of this Article, shall be allocated at least 0.15% of the total Budget means reduced by the State Funds Budget and Capital Budget.

Article 36h

The public competition for the allocation of the project funding to support the activities referred to in Article 36 paragraph 1 of this Law shall be announced by the Fund.

Public competition referred to in paragraph 1 of this Article shall be announced on the website of the Fund and in at least one printed media based in Montenegro.

Participants of the public competition may submit the projects to support the activities referred to in Article 36 paragraph 1 of this Law, directly to the Fund or through the mail.

The Fund shall deliver the projects to the Commission referred to in Article 36J of this Law, within eight days as of the expiry of the date for the submission on the public competition of the projects referred to in paragraph 1 of this Article.

Article 36i

The funds referred to in Article 36g of this Law shall be distributed as follows:

- funds for the work of the Fund; and
- funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law.

The decision on the percentage of share of the funds for the work of the Fund and the funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law shall be adopted by the Management board of the Fund, based on the working program and plans of the Fund, with the prior opinion of councils of minority nations or other minority national communities.

The means referred to in paragraph 1 item 2 of this Article shall be distributed based on the public competition referred to in Article 36h of this Law according to the following criteria:

- contribution that the project gives to intercultural cooperation and reduction of ethnic distance;
- promotion of the spirit of tolerance, intercultural dialogue and mutual respect and understanding;
- preservation and development of national, cultural, religious, linguistic and ethnic identity of each minority nation or minority national community;
- compatibility of the project with the strategic documents of the Government;
- transparency and possibility of control over the implementation of the project; and
- professional and technical capacity of the project applicant.

The right to participate in the public competition for the allocation of means referred to in paragraph 1 item 2 of this Article shall have non-governmental organizations and other legal and natural persons whose work or activities are aimed at the preservation

and development of human and minority rights, national or ethnic particularities of minority nations and other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity.

Non-governmental organization and other legal and natural persons whose two projects or one project in the amount of 5% of the total allocated funds for financing projects to support the activities referred to in Article 36 paragraph 1 of this Law, are financed during calendar year by the decision of the Fund, shall not participate at the public competition for the allocation of funds referred to in paragraph 1 item 2 of this Article.

Non-governmental organizations and other legal and natural persons referred to in paragraph 4 of this Article shall submit projects for the public competition referred to in Article 36h of this Law, on the prescribed form, as well as the necessary documentation proving the fulfilment of the criteria referred to in paragraph 3 of this Article and prescribed conditions for the participation on the competition.

Evaluation of projects according to the criteria referred to in paragraph 3 of this Article shall be made using the prescribed form.

The manner to evaluate projects according to the criteria referred to in paragraph 3 of this Article, as well as the appearance and the content of the forms and required documentation referred to in paragraphs 6 and 7 of this Article, shall be prescribed by the Ministry.

Article 36j

In order to evaluate the projects received under the public competition for the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law, based on the criteria referred to in Article 36i paragraph 3 of this Law, the The Parliament of Montenegro shall elect the Commission (hereinafter referred to as the Evaluation Commission).

The Evaluation Commission shall consist of seven members.

The members of the Evaluation Commission shall be elected based on the public call, for a term of four years and the same person may be elected for the member of the commission for a maximum of two consecutive terms.

The Fund shall perform administrative and technical tasks for the needs of the Evaluation Commission.

Article 36k

For the member of the Evaluation Commission shall be elected a person who has VIII level of higher education qualifications and at least five years of working experience in the area of minority rights and freedoms as well as experience in the preparation, implementation or evaluation of projects in the area of human rights and freedoms.

For the member of the Evaluation Commission shall not be elected a person who is a member of a political party, council of minority nations or other minority national communities or non-governmental organization whose work or activity is aimed at preservation and development of human and minority rights, national or ethnic characteristics of minority nations or other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity.

Article 36l

The call referred to in Article 36 j paragraph 3 of this Law shall be announced by the Parliament of Montenegro on its website and in at least one printed media based in Montenegro.

The call referred to in Article 36J paragraph 3 of this Law shall contain the number of representatives in the Evaluation Commission, the conditions to be met by candidates in accordance with Article 36k of this Law and the proof on fulfilment of the conditions, as well as the deadline and the manner of submission of applications.

Candidates shall submit their applications, based on the call referred to in paragraph 1 of this Article, to the Parliament of Montenegro directly or by mail, within 15 days as of the day of announcement of the call.

Proposal for the election of members of the Commission for evaluation shall be determined by the working body of the Parliament of Montenegro in charge of human and minority rights.

Article 36lj

The Evaluation Commission shall:

- evaluate fulfilment of the conditions referred to in Article 36i paragraphs 4 and 5 of this Law;
- evaluate projects in accordance with the criteria referred to in Article 36i paragraph 3 of this Law;
- establish a ranking list of evaluated projects; and
- establish the proposal for the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law.

Article 36m

The Member of the Evaluation Commission may not be engaged in the realization of supported projects to support the activities referred to in Article 36 paragraph 1 of this Law.

Article 36n

Based on the proposal referred to in Article 36lj paragraph 1 item 4 of this Law the Director of the Fund shall make a decision on allocation of the funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law.

The Director of the Fund may decide not to accept the proposal from Article 36lj paragraph 1 item 4 of this Law if he considers that conditions referred to in Article 36i paragraphs 4 and 5 of this Law are not met or the evaluation of projects was not made in accordance with the criteria referred to in Article 36i paragraph 3 of this Law.

Reasoned decision on non-acceptance of the proposal referred to in paragraph 2 of this Article, the Director of the Fund shall submit to the Evaluation Commission.

The Evaluation Commission is obliged to revise its proposal taking into account the reasons given by the Director in the decision referred to in paragraph 2 of this Article and then submit to the Director of the Fund a new proposal of the decision on the allocation of the project funding to support the activities referred to in Article 36 paragraph 1 of this Law to the Director of the Fund.

Upon receipt of the proposal of the decision referred to in paragraph 4 of this Article, the Director of the Fund shall render a decision on the project funding to support the activities referred to in Article 36 paragraph 1 of this Law.

On the decisions referred to in paragraphs 1 and 5 of this Article, the competitors may file an appeal to the Management board of the Fund, within eight days as of the day of delivering the decision.

The Management board of the Fund is obliged to issue the decision on the appeal, within 15 days as of the expiry of the deadline for filing the appeal.

Decisions referred to in paragraphs 1 and 5 of this Article, shall be published on the website of the Fund and in at least one printed media based in Montenegro, within three days as of the day of decision-making process.

Article 36nj

Professional and administrative work for the needs of the Fund shall be performed by the professional service of the Fund.

On the employees of the Fund's professional service shall apply the provisions on civil servants and employees.

Article 36o

In addition to the control of spending the budget means prescribed by the law, the Fund shall provide, through an authorized employee in the professional service, the internal control and revision of current and completed projects, regarding purposeful and lawful use of the means, in accordance with the law governing the area of finance.

Article 36p

The Fund shall submit annual report on the Fund operation to the Parliament of Montenegro no later than 31 March of the current year for the previous year.

The Parliament of Montenegro can request a special report on matters from the Fund's competence, in the case of issues of importance to the realization of minority rights and freedoms or policy implementation of minority rights in Montenegro."

Article 9

After Article 42b shall be added two new Articles which shall read as follows:

"Article 42c

Secondary legislation referred to in Article 36i paragraph 8 of this Law shall be delivered within 90 days as of the day of the entry into force of this Law.

Article 42č

The Decision on establishing the Centre for Preservation and Development of Minority Culture (Official Gazette of the Republic of Montenegro, No. 38/01, 27/07 and Official Gazette, No. 03/10) shall be harmonized with this Law within 90 days as of the day of the entry into force of this Law."

Article 10

After Article 44 shall be added five new Articles which shall read as follows:

“Article 44a

The decision on establishment of the Fund for protection and exercise of minority rights (Official Gazette of the Republic of Montenegro, No. 13/08 and 64/11) shall be harmonized with this Law within 90 days as of the day of the entry into force of this Law.

Article 44b

The election of the Management board of the Fund, in accordance with this Law, shall be performed within 90 days as of harmonization of the act referred to in Article 44a of this Law.

Article 44c

The election of the Director of the Fund shall be performed within 90 days as of the election of the Management board of the Fund.

Article 44č

The Management board and the Director of the Fund elected before the entering in force of this Law shall continue with work until the election of the Management board and the Director of the Fund in accordance with this Law

Article 44ć

The Members of the Evaluation Commission shall be elected within 90 days as of election of the Managing board of the Fund.”

Article 11

This Law shall enter into force eight days after its publication in the Official Gazette of Montenegro.

LAW ON MINORITY RIGHTS AND FREEDOMS

I. BASIC PROVISIONS

Article 1

Montenegro, in accordance with the Constitution, ratified and published international treaties and generally accepted rules of international law, shall ensure to minority nations and other national minority communities and persons belonging to them, the protection of human rights and freedoms guaranteed to all citizens, as well as protection of particular minority rights and freedoms.

Article 2

Minority nations and other national minority communities, for the purpose of the present law, shall mean any group of citizens of Montenegro numerically smaller than the rest of predominant population, having common ethnic, religious or linguistic characteristics, different from those of the rest of the population, being historically tied to Montenegro and motivated by the wish to express and maintain their national, ethnic, cultural, linguistic and religious identity.

Article 3

Persons belonging to minority nations and other national minority communities can exercise their rights and enjoy freedoms individually or in community with others.

Article 4

Persons belonging to minority nations and other national minority communities are equal to other citizens and enjoy equal legal protection.

Any violation of the rights of minority nations and other national minority communities is unlawful and punishable.

Article 5

In addition to rights provided for by the generally accepted international rules and ratified international treaties, the present Law shall ensure for minority nations and other national minority communities and persons belonging to them the full exercise of rights, which may not be reduced with respect to the level already achieved, under equal terms and with a view to provide their substantial equality with other citizens.

Article 6

Montenegro shall conclude international agreements for the protection of rights of persons belonging to minority nations and other national minority communities with other states.

When concluding international agreements referred to in paragraph 1 of this Article, Montenegro shall stand for the creation and promotion of conditions necessary for the preservation, development and protection of national, ethnic, cultural, linguistic and religious identity.

Article 7

The Government of Montenegro (hereinafter referred to as, "the Government") shall adopt the Strategy on Minority Policy.

With a view to providing conditions for an unhindered exercise and cherishing of national and ethnic specificities of minority nations and other national minority communities and persons belonging to them, state bodies shall have the duty to undertake appropriate measures, in accordance with the Strategy on Minority Policy.

The Strategy referred to in paragraph 1 of this Article shall, in particular, define measures for the implementation of the present Law and the improvement of living conditions of minority nations and other national minority communities and the improvement of measures and activities, as well as the better integration of Roma into the social and political life of Montenegro.

II. RIGHTS AND FREEDOMS OF MINORITIES AND PERSONS BELONGING TO THEM

Article 8

Minority nations and other national minority communities and persons belonging to them shall have the right to express, preserve, develop, transmit and publicly manifest their national, ethnic, cultural, religious and linguistic identity, as a part of their tradition.

Montenegro shall develop and promote the study of history, tradition, language and culture of minority nations and other national minority communities.

In accordance with the present Law and accepted international commitments, the competent bodies shall provide for the protection of the cultural heritage of minority nations and other national minority communities and persons belonging to them.

Article 9

With a view to preserve and develop national or ethnic identity, minority nations and other national minority communities and persons belonging to them shall have the right to establish institutions, societies, associations and non-governmental organizations in all fields of social life.

Montenegro shall also take part in funding organizations referred to in paragraph 1 of this Article, in accordance with its financial possibilities.

Article 10

Persons belonging to minority nations and other national minority communities shall have the right to national determination in a free and independent manner, the right on free choice and use of their personal and family names and of names of their children, as well as the right to enter those names in public registers and personal documents in their language and alphabet.

The right to a name and registration of the name in the language and alphabet of minority nations and other national minority communities can also be exercised by organizations referred to in Article 9 of the present Law.

Article 11

Minority nations and other national minority communities and persons belonging to them shall have the right to use their language and alphabet.

In the local self-government units, in which persons belonging to minority nations and other national minority communities constitute a majority or a considerable part of the population, according to the results of the last census, the language of that minority nation and other national minority community shall be in official use.

The official use of the language of minority nations and other national minority communities, for the purpose of paragraph 2 of this Article, shall particularly imply the following: use of the language in administrative and court proceedings and in conducting administrative and court proceedings, at issuance of public documents and keeping official records, on ballot papers and other electoral material as well as in the work of representative bodies.

Within the territory of the local self-government units referred to in paragraph 2 of this Article, the names of bodies performing public powers, the name of the local self-government unit, name of settlements, squares and streets, institutions, businesses and other entities and the topographical indications shall also be written in the language and alphabet of minority nations and other national minority communities.

Article 12

Minority nations and other national minority communities and persons belonging to them shall be provided with the freedom of information at the level of the standards that are set forth in international documents on human rights and freedoms.

Persons belonging to minority nations and other national minority communities shall have the right to freely establish media and their unhindered work based on: freedom of expression, research, collection, dissemination, publication and receiving information, free access to all sources of information, protection of personality and dignity and free flow of information.

Competent administrative and programmatic bodies of the media founded by Montenegro shall provide an appropriate number of hours for broadcasting news, cultural, educational, sports and entertainment programmes in the languages of minority nations and other national minority communities and persons belonging to them, as well as programme contents related to life, tradition and culture of minorities and shall provide the financial means for funding those programme contents.

The programme contents which refer to life, culture and identity of minority nations and other national minority communities shall be broadcasted at least once a month in the official language, through the public services.

Montenegro can, in accordance with its financial possibilities, provide translation (subtitling) of programmes from languages of minority nations and other national minority communities into the official language.

The Government can also undertake incentive measures to provide broadcasting of programmes referred to in paragraph 3 of this article within other radio and television programmes.

Article 13

Minority nations and other national minority communities and persons belonging to them shall have the right to education in their language and to adequate representation of their language in general and vocational education, depending on the number of pupils and financial possibilities of Montenegro.

The rights referred to in paragraph 1 of this Article shall be exercised at all levels of education.

The rights referred to in paragraph 1 of this article shall be exercised through special schools or special classes in regular schools.

Instruction shall be fully performed in the language of minority nations and other national minority communities.

When instruction is performed in the language of minority nations and other national minority communities, the official language and alphabet shall be studied compulsory.

Pupils and students who do not belong to minority nations and other national minority communities can learn the language of minority nations and other national minority communities with which they live together.

Article 14

Classes with instruction on the language and alphabet of minority nations and other national minority communities can even be established for a smaller number of pupils than prescribed for work of such an institution, and which cannot be less than 50% of the number of pupils defined by the law.

Article 15

The subject curricula for the purpose of education referred to in Article 13, paragraph 1 of the present Law shall contain topics in the fields of history, arts, literature, tradition and culture of minority nations and other national minority communities.

Before adopting the subject curricula which reflect specificities of minority nations and other national minority communities, the councils of minority nations and other national minority communities shall provide opinion to the competent body in charge of the adoption of the curricula for the subjects concerned.

In the institutions and schools in which instruction is performed in the official language, the education curricula shall contain topics from the mother tongue and literature, history, art and culture of minority nations and other national minority communities and other contents that promote mutual tolerance and cohabitation.

Within territories where the languages of minority nations and other national minority communities are also in the official use, the education curricula in the institutions delivering classes in the official language can also provide for a possibility for learning the language of minority nations and other national minority communities.

Article 16

For educational needs regarding the language of the respective minority nations and other national minority communities referred to in Article 13, paragraph 1 of the present Law, can be established departments, faculties or institutes within higher education to educate pre-school, primary school and high school teachers in the language of that minority nations and other national minority communities.

In order to have an effective participation of minority nations and other national minority communities, Montenegro can foster international educational, scientific and technical co-operation with a view to enable persons belonging to minorities to study abroad in their mother tongue and to have their diplomas recognized, in accordance with the law.

Article 17

Minority nations and other national minority communities and persons belonging to them shall have the right to establish educational institutions.

Financing of the institutions referred to in paragraph 1 of this Article shall be the obligation of the founder.

Article 18

Educational work in schools or in special classes of regular schools that provide instruction in the language of minority nations and other national minority communities shall be delivered by teachers belonging to the respective minority nations and other national minority communities who have active knowledge of the language of those minority nations and other national minority communities, or teachers not belonging to the respective minority nations and other national minority communities provided that they have active knowledge of language and alphabet of those minority nations and other national minority communities.

Director of a school founded by Montenegro or municipality that provides instruction in the language and alphabet of minority nations and other national minority communities who fulfils the conditions from paragraph 1 of this Article shall be elected in accordance with the law.

A competent body of the state administration, prior to election of the person referred to in paragraph 2 of this Article, shall be obliged to obtain the opinion from the councils of those minority nations and other national minority communities.

Article 19

For the purpose of ensuring the full exercise of minority rights, the University of Montenegro, upon the proposal of the councils of minority nations and other national minority communities, can enrol at the beginning of each academic year a certain number of students belonging to minority nations and other national minority communities, in accordance with the University statutes.

Article 20

Minority nations and other national minority communities and persons belonging to them shall have the right to use their national symbols, in accordance with the law.

Article 21

Minority nations and other national minority communities and persons belonging to them shall have the right to celebrate important dates, events and personalities from their tradition and history.

Article 22

Persons belonging to minority nations and other national minority communities shall have the right to free association, in accordance with the law and principles of international law on freedom of association.

Minority nations and other national minority communities and persons belonging to them shall have the right to free expression of their interests, effective participation in governance and public control of governance.

Minority nations and other national minority communities and persons belonging to them can, in order to exercise common interests, co-operate with governmental and non-governmental organizations in the country and abroad.

Article 22a

Authentic representation, of minority nation whose language is in official use in Montenegro and of other national minority communities, in the Parliament of Montenegro and the assemblies of the units of the local self-governments where they constitute a significant

part of the population, is provided according to the principle of affirmative action, in accordance with electoral legislation.

Article 23

(ceased to be valid)

Electoral legislation, through the application of the principle of affirmative action, shall prescribe an additional number of mandates for the representatives of persons belonging to minorities.

Minorities which, according to the last census, constitute between 1% and 5% of the total population, shall be represented with one mandate in the Assembly of the Republic of Montenegro, through a representative elected from a minority candidates list.

Minorities which, according to the last census, exceed 5% of the total population, shall have three guaranteed mandates in the Assembly of the Republic of Montenegro, through representatives elected from minority candidate lists, provided that linguistic and ethnic specificities, as well as acquired electoral rights of Albanians in the Republic are taken into account.

Article 24

(ceased to be valid)

In local self-government assemblies, minorities which constitute between 1% and 5% of the population of that local self-government unit shall elect one representative, and minorities above 5% shall elect representatives in accordance with electoral legislation.

Article 25

Minority nations and other national minority communities shall have the right to proportional representation in public services, state bodies and local self-government bodies.

Competent bodies in charge of human resources, in co-operation with the councils of minority nations and other national minority communities, shall look after the representation of persons belonging to minority nations and other national minority communities in the sense of paragraph 1 of this Article.

Article 26

Minority nations and other national minority communities and persons belonging to them shall have the right to participate in the process of adoption and proposing decisions of state bodies that are of interest for exercising the rights of minority nations and other national minority communities, in accordance with the law.

Participation referred to in paragraph 1 of this Article shall comprise consultations, opinion polls, dialogue and special procedures undertaken by those who are directly concerned by the respective decision.

Article 27

In the local self-government units referred to in Article 11, paragraph 2 of the present Law, statutes, decisions or other general legal acts adopted by the bodies of the local self-government units shall be written and published in the official language and in the language and alphabet of the minority nations and other national minority communities.

Article 28

In the local self-government units in which minority nations and other national minority communities constitute either a majority or a considerable part of the population, the local self-government shall be obliged to, within the plan and programmes for effective

participation of the local population in performing public affairs or by delivering special plan and programmes, through the council of the respective minority nations and other national minority communities, provide conditions for the participation of minority nations and other national minority communities in the adoption of development programme of municipality, spatial and urban planning, budgets and general acts stipulating rights and obligations of citizens as well as to regulate the manner and procedure for the participation of minority nations and other national minority communities in performing public affairs and to appoint the body in charge of conducting a public debate related to these or other legal acts.

Article 29

Should Members of Parliament elected in accordance with the principle of affirmative action, and according to the electoral legislation consider that a proposed act or regulation substantially interferes with interests of those minority nations and other national minority communities, the proponent and these Members of Parliament shall harmonize their stands thereon.

Harmonization, in the sense of paragraph 1 of this Article, shall relate to:

- issues pertaining to changes in the ethnic composition of the population contrary to Article 39, paragraph 1 of the present Law;
- issues pertaining to content of educational curricula adopted without the opinion of councils of minority nations and other national minority communities;
- issues pertaining to the preservation of linguistic and national identity of minority nations and other national minority communities.

Article 30

Rights from Articles 9,12,13 and 17 of the present Law shall be exercised in accordance with special regulations.

Article 31

Minority nations and other national minority communities and persons belonging to them shall have the right to establish and maintain free and peaceful relations across borders with the parent countries and with their compatriots residing in other countries, in particular those with which they share ethnic, cultural, linguistic and religious identity.

The right from paragraph 1 of this Article can not be exercised contrary to the interests of Montenegro.

Article 32

Minority nations and other national minority communities and persons belonging to them can receive material and financial assistance from domestic and international organizations, foundations and private persons.

In case of financial or other material assistance to associations, institutions, societies and non-governmental organizations of minority nations and other national minority communities received from abroad, the state can provide special tax or other favourable conditions or customs exemption, in accordance with the law.

Article 33

Minority nation and other national minority community and persons belonging to it, in order to preserve their overall national identity and improve their rights and freedoms, can establish a council of that minority nation and other national minority community.

Minority nation and other national minority community can establish only one council.

A council of minority nation and other national minority community is elected for a period of four years.

A council of minority nation and other national minority community can be composed of at least 17 members.

A council of minority nation and other national minority community shall be composed of: the members by function: Members of Parliament and members of the Government pertaining to the respective minority nation and other national minority community, presidents of municipalities, presidents of city municipalities, presidents of municipality assemblies, presidents of city municipality assemblies, presidents of parties represented in the Parliament of Montenegro, municipality assemblies, city municipality assemblies pertaining to the respective minority nation and other national minority community.

Persons referred to in paragraph 5 of this Article shall confirm their membership in the council of minority nation and other national minority community by the declaration on acceptance of membership.

Other members of the council of minority nation and other national minority community shall be elected by secret ballot during the electoral assembly of the minority nation and other national minority community concerned.

The right to participate on electoral assembly belongs to every adult citizen – member of the respective minority nation and other national minority community.

Persons referred to in paragraph 5 of this Article, and members of bodies of political parties shall not participate on the electoral assembly.

The state administration body competent for minority rights (hereinafter referred to as, "the Ministry") shall pass the rules and instructions for the election of members of a council of minority nation and other national minority community.

The rules referred to in paragraph 10 of this Article include: the number of members of a council of minority nation and other national minority community, convening and manner of operation of electoral assembly, as well as the method of electing members of a council of minority nation and other national minority community during the electoral assembly.

Members of a council of minority nation and other national minority community shall elect the president and the secretary of the council from amongst its members, by a secret ballot.

A council minority nation and other national minority community shall adopt the budget, statute and rules of procedure regulating issues of significance for its work.

The funds for financing a council of minority nation and other national minority community shall be provided in the budget of Montenegro.

Supervision over legality of the work of a council of minority nation and other national minority community shall be conducted by the Ministry and the competent working body of the Parliament of Montenegro.

Councils of minority nations and other national minority communities are obliged to, at least once a year, by 31 March of the current year for the previous year, submit to the Ministry and the competent working body of the Parliament of Montenegro the report on work and financial operations.

Article 34

The Ministry shall keep the register of councils referred to in Article 33 of the present Law.

Through registration, a council shall acquire the status of a legal person.

The Ministry shall prescribe the form (data sheet) and manner of keeping the register.

The decision on the registration of a council shall be published in the "Official Gazette of Montenegro".

Article 35

A council shall:

- represent and act on behalf of minority nations and other national minority communities;
- submit proposals to state bodies, local self-government bodies and public services in charge of the promotion and development of the rights of minority nations and other national minority communities and persons belonging to them;
- submit an initiative to the President of Montenegro to refuse to promulgate a law through which the rights of minority nations and other national minority communities and persons belonging to them are violated;
- participate in the planning and establishing of educational institutions;
- provide an opinion on subject curricula which reflect specificities of minority nations and other national minority communities;
- suggest enrolment of certain numbers of students at the University of Montenegro;
- launch an initiative for the amendment of legislation and other acts that regulate rights of persons belonging to minority nations and other national minority communities;
- perform other activities in accordance with the present Law.

On issues which relates to the rights of minority nations and other national minority communities and persons belonging to them falling within the competence of state bodies and public services, shall be established a necessary co-operation with the council in order to build mutual confidence.

State and other bodies shall, within 30 days from the day of launching an initiative or request in the sense of paragraph 1 of this Article, inform the council about the undertaken measures.

Article 36

The Parliament of Montenegro shall, for the purpose of supporting the activities important for preservation and development of national, i.e., ethnic specificities of minority nations and other national minority communities and persons belonging to them in the area of national, ethnic, cultural, linguistic and religious identity, establish the Fund for protection and realisation of minorities rights in these and other areas (hereinafter referred to as, "the Fund").

The act on establishing of the Fond shall stipulate bodies of the Fund, mandate, competencies and manner of the work and decision-making, composition and number of members of the administrative bodies, as well as other issues relevant for the work of the Fund.

Each council of minority nations and other national minority communities shall have its own representative in the administrative body of the Fund.

Article 36a

The Fund shall be financed from the budget of Montenegro and other sources.

The means from paragraph 1 of this Article shall be distributed as follows:

- means for the work of the Fund and
- means for financing the projects for support of activities referred to in Article 36, paragraph 1 of the present Law.

The means referred to in paragraph 2, item 2 of this Article shall be allocated by public competition based on the following criteria:

-
- contribution the project gives to preservation and development of national, cultural, religious, linguistic and ethnic identity;
 - compatibility of project with the strategic documents of the Government;
 - transparency and possibility for supervising the realisation of the project;
 - credibility of project applicant.

The right to participate on public competition for allocation of means referred to in paragraph 2, item 2 of this Article belongs to non-governmental organisations and other legal and natural persons whose operations, i.e. activities are directed to preservation and development of national, i.e. ethnic specificities of minority nations and other national minority communities and persons belonging to them in the area of national, ethnic, cultural, linguistic and religious identity.

III. PROTECTION OF RIGHTS

Article 37

The protection of rights of minority nations and other national minority communities shall be provided by state bodies, local self-government bodies and courts.

Article 38

The Ministry shall propose to the Government the policy for development and protection of the rights of minority nations and other national minority communities.

At least once a year, the Government shall submit to the Parliament a report on development and protection of the rights of minority nations and other national minority communities.

Article 39

It shall be prohibited to undertake measures and activities to change the structure of the population on the territories where persons belonging to minority nations and other national minority communities live, and which are aimed at restricting legal rights and freedoms.

Shall be prohibited any direct or indirect discrimination on any ground, including race, colour, sex, national belonging, social origin, birth or similar status, religion, political or other orientation, material status, culture, language, age and mental or physical disability.

IIIa SUPERVISION

Article 39a

Supervision over the implementation of this Law and regulations delivered based on this Law shall be performed by the Ministry.

IV. TRANSITIONAL AND FINAL PROVISIONS

Article 40

Laws and other regulations establishing the rights of minority nations and other national minority communities and persons belonging to them shall be harmonized with the present Law no later than six months as of the day of entry into force of the present Law.

Article 41

The statutes and other general acts of the local self-government bodies shall be harmonized with the present Law within the time period of six months as of the day of entry into force of the present Law.

Article 42

The Ministry shall adopt regulations for implementation of the present Law within the time period of six months as of the day of entry into force of the present Law.

Article 42a

Rules and instructions for the election of members of a council shall be adopted within the time period of six months as of the day of entry into force of the present Law.

Article 42b

Councils established based on the Regulations for the first elections of the council ("Official Gazette of the Republic of Montenegro", no. 46/07) shall continue their work until the establishment of the councils of minority nations and other national minority communities in accordance with the present Law.

Article 43

The Strategy on Minority Policy shall be adopted within the time period of one year as of the day of entry into force of the present Law.

Article 44

The Fund for Minorities shall be established within the time period of six months as of the day of entry into force of the present Law.

Article 45

The present Law shall enter into force on the eighth day as of the day of its publication in the "Official Gazette of Montenegro".

LIGJI

MBI TË DREJTAT DHE LIRITË E POPUJVE PAKICË

I. DISPOZITAT THEMELORE

Neni 1

Mali i Zi, në përputhje me Kushtetutën, kontratat ndërkombëtare të verifikuara dhe të publikuara dhe rregullat përgjithësisht të pranueshme të së drejtës ndërkombëtare, u siguron popujve pakicë dhe komuniteteve të tjera të pakicave nacionale, gjegjësisht, pjesëtarëve të tyre, mbrojtjen e të drejtave dhe lirive të njeriut të garantuara për të gjithë qytetarët, si dhe mbrojtjen e të drejtave dhe lirive të posaçme të pakicave.

Neni 2

Popuj pakicë dhe komunitetet e tjera të pakicave nacionale, sipas këtij ligji, është grupi i shtetasve të Malit të Zi, numerikisht më i vogël nga popullata mbizotëruese, që ka karakteristika të përbashkëta etnike, fetare dhe gjuhësore, të ndryshme nga popullata tjetër, historikisht i lidhur me Malin e Zi dhe është i motivuar me dëshirën që të shprehë dhe të ruajë identitetin nacional, etnik, kulturor, gjuhësor dhe fetar.

Neni 3

Pjesëtarët e popujve pakicë dhe të komuniteteve të tjera të pakicave nacionale mund të realizojnë të drejtat e veta dhe të gëzojnë liritë veç e veç ose në bashkësi me të tjerët.

Neni 4

Pjesëtarët e popujve pakicë dhe të komuniteteve të tjera të pakicave nacionale janë të barabartë me shtetasit e tjerë dhe gëzojnë mbrojtje ligjore të njëjtë. E kundërligjshme dhe e dënueshme është çdo shkelje e të drejtave të popujve pakicë dhe të komuniteteve të tjera nacionale.

Neni 5

Popujve pakicë dhe komuniteteve të tjera të pakicave nacionale dhe pjesëtarëve të tyre, krahas të drejtave të parapara me rregullat ndërkombëtare të pranuar në përgjithësi dhe kontratave ndërkombëtare të ratifikuara, me këtë ligj u sigurohen të drejta të plota të cilat nuk mund të jenë më pak se të arriturat, në të njëjtat kushte dhe kanë si qëllim sigurimin e barazisë së tyre reale me shtetasit e tjerë.

Neni 6

Mali i Zi me shtetet e tjera lidh marrëveshje ndërkombëtare për mbrojtjen e të drejtave të pjesëtarëve të popujve pakicë dhe komuniteteve të tjera të pakicave nacionale.

Me rastin e nënshkrimit të marrëveshjeve ndërkombëtare sipas paragrafit 1 të këtij neni, Mali i Zi do të përpiqet që së bashku me ta të krijojë dhe të avancojë kushtet e nevojshme për ruajtjen, zhvillimin dhe mbrojtjen e identitetit nacional, etnik, kulturor, gjuhësor dhe fetar.

Neni 7

Qeveria e Malit të Zi (në tekstin e mëtejshëm: Qeveria) miraton Strategjinë politike të pakicave.

