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

**MONTENEGRO**

**DRAFT LAW ON THE GOVERNMENT**

**DRAFT****28.08.2023****LAW ON THE GOVERNMENT OF MONTENEGRO****I. BASIC PROVISIONS****Article 1**

This Law governs matters pertaining to the composition of the Government of Montenegro (hereinafter: the Government), its term of office, organization, method of operation, decision-making, interaction with other public authorities and other matters relevant to the operation of the Government.

**Article 2**

The Government exercises executive power in accordance with the Constitution, ratified and published international treaties and the law.

The Government of Montenegro submits legislative proposals to the Parliament (hereinafter referred to as the Parliament).

**Article 3**

The Government acts independently within its sphere of authority.

**Article 4**

The seat of the Government is the capital Podgorica.

**Article 5**

The Government is accountable to the Parliament of Montenegro for conducting the internal and external policy of Montenegro, for the implementation of laws and other regulations, the operation of public administration bodies, and the completion of other activities within its purview.

**Article 6**

The Government disposes of state property, unless otherwise prescribed by law.

**Article 7**

The work of the Government is public, as a rule.

**Article 8**

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

**II. THE COMPOSITION OF THE GOVERNMENT****Article 9**

The Government includes the Prime Minister, one or more Deputy Prime Ministers, and Ministers, who all act in the capacity of members of the Government.

Provided there is more than one Deputy Prime Minister in the Government, one of them shall be a member of the underrepresented sex.

The Government may have a maximum of four Deputy Prime Ministers.

The Government may have a maximum of two ministers without portfolio.

No person may hold dual citizenship while serving as a member of the Government referred to in paragraph 1 of this Article; they must all be citizens of Montenegro.

#### **Article 10**

The Prime Minister is responsible for representing the Government, maintaining political harmony within the Government, calling and presiding over Government sessions, signing acts passed by the Government, coordinating the activities of Government members, and carrying out other responsibilities as set forth in the Constitution and the law.

When the Prime Minister is prevented from carrying out his duties or is absent, he delegates those responsibilities to the Deputy Prime Minister, whom he selects.

The Prime Minister is accountable for his work to the Parliament.

#### **Article 11**

According to the Government's program and policy, that is, the conclusions of the Government and the Parliament and the undertaken international obligations of Montenegro, the Prime Minister may issue mandatory instructions and special responsibilities and authorizations to members of the Government.

#### **Article 12**

The Deputy Prime Minister is responsible for overseeing the implementation of government policies, as well as directing and coordinating the work of the relevant ministries in his area of responsibility.

The Deputy Prime Minister is accountable for his actions to the Prime Minister and the Parliament.

As a rule, the Deputy Prime Minister is a minister.

#### **Article 13**

The Minister is the head of the Ministry.

The Minister represents the Ministry, oversees and administers all aspects of the Ministry's operations.

The Minister is accountable to the Prime Minister and the Parliament for his actions, those of his ministry, and the state of affairs in the administrative area that the Ministry was established for.

#### **Article 14**

The Minister is responsible for carrying out the Government's program and policy in the administrative field for which the Ministry was created, that is, to carry out the Government's program and policy for which he is responsible, in line with the law.

The Minister is politically accountable for the decisions and actions he has made, taken, or failed to make or take in the administrative area for which the Ministry was established, as well as for carrying out the mandatory instructions and using the duties and authority the Prime Minister has delegated to him.

In accordance with his authority, the Minister is obliged to inform the Government of any matters that are crucial to the formulation and execution of Government policy.

#### **Article 15**

A member of the Government has the authority to make recommendations to the Government for the regulation of matters that fall under its purview and to request that the Government adopt a position on the matter consistent with his authority.

#### **Article 16**

A Minister without a portfolio executes the tasks entrusted to him by the Prime Minister that are associated with particular areas of the work and policy of the Government.

#### **Article 17**

A Government member receives an official identification card in the approved form.

The official identification card has information on the member of the Government's identity and immunity privileges.

The Prime Minister shall sign the official identification card.

The Ministry in charge of public administration affairs prescribes the form of the official identification card.

### **Article 18**

The Code of Ethics for Government members shall be adopted by the Government.

All members of the Government should abide by the ethical standards and rules of behaviour outlined in the Code of Ethics referred to in paragraph 1 of this Article when carrying out their tasks.

## **III. THE GOVERNMENT'S MANDATE**

### **Article 19**

The Prime minister - designate must submit to the Parliament the program and proposal for the composition of the Government within 30 days of the day the President of Montenegro initially suggested the Prime minister - designate.

The Prime minister - designate must consider gender equality as well as the representation of minorities and other minority national communities when deciding on the proposed makeup of the Government.

In the event that the Prime minister - designate failed to propose a program and a proposal for the composition of the Government within the deadline referred to in paragraph 1 of this Article, it shall be deemed that the mandate has been returned to the President of Montenegro.

### **Article 20**

The President and the member of the Government, immediately after the election in the Parliament, take the oath.

"I solemnly vow that I will faithfully, honourably, and conscientiously carry out my responsibilities in a manner consistent with the Constitution and the law," the oath's language states.

### **Article 21**

Unless otherwise stated in the Constitution of Montenegro, the Government's mandate ends with the death of the Prime Minister.

### **Article 22**

The Government whose mandate has expired but which remains in office until a new government is elected is responsible for carrying out the regular financial and other obligations established by law so long as they do not incur any new financial obligations without the approval of Parliament.

Unless done so in line with the ordinary procedure and initiated procedures, the Government whose mandate has ended cannot make nominations, or appointments, or give approval to appointments.

The government whose mandate has ended can appoint acting officials.

### **Article 23**

The outgoing Government must, as a rule, transfer power to the incoming one when its mandate ends.

### **Article 24**

When the mandate of the Government ends, so does the mandate of the member of the Government, as well as with the termination of his office.

A member of the Government's term of office ends when one of the following occurs:

- 1) a new Government is elected;
- 2) the member resigns;
- 3) the member is dismissed;

- 4) the member is sentenced to a term of imprisonment of at least six months by a final court decision;
- 5) the member is deprived of legal capacity by a final decision;
- 6) the member loses his or her Montenegrin citizenship, or acquires citizenship of another country;
- 7) by death.

When a Government member resigns, he notifies the Prime Minister, who then notifies the Parliament.

The Prime Minister, or another member of the Government designated by him, takes charge of the Ministry's operations in the case that a Minister's mandate expires or he becomes unable to carry out his responsibilities.

#### **Article 25**

Within 30 days after the expiration of a Government member's term, the Prime Minister must submit a nomination for a replacement to the Parliament.

If the suggested candidate is not elected by the Parliament, the Prime Minister must offer a replacement within 30 days of the day the proposed candidate was not elected by the Parliament as a member of the Government.

If the second proposed candidate is not elected as a member of the Government, the Government shall submit a proposal for a vote of no confidence to the Parliament within 30 days of the day the second candidate was not elected by the Parliament as a member of the Government.

### **IV. ORGANIZATION**

#### **Article 26**

There can be no more than 15 Ministries under the Government.

Within its organization, the Government shall mandatorily have ministries responsible for the following administrative areas:

- 1) justice;
- 2) defence;
- 3) internal affairs;
- 4) finance;
- 5) foreign affairs;
- 6) health;
- 7) public administration;

Ministries responsible for administrative areas referred to in paragraph 1 of this Article shall not merge with other administrative areas.

In addition to the Ministries referred to in paragraph 1 of this Article, the Government may have ministries for other administrative areas within its organization.

Ministries referred to in paragraph 3 of this Article, as well as the scope of work of Ministries referred to in paragraphs 1 and 3 of this Article shall be determined by a Government regulation.

### **V. METHOD OF WORK AND DECISION-MAKING**

#### **Article 27**

The first session of the Government is convened by the Prime Minister within three days from the day of the election of the Government.

#### **Article 28**

The Government works and decides at sessions.

The Government session is convened by the Prime Minister.

The Government's permanent working body, or at least five members of the Government, may propose holding a Government session.

Prime Minister, Deputy Prime Ministers, Ministers, and invited guests participate in Government sessions.

#### **Article 29**

The Government adopts the Rules of Procedure of the Government.

The Rules of Procedure referred to in paragraph 1 of this Article regulate the organization and method of work of the Government in more detail.

#### **Article 30**

The Government has an Inner Cabinet.

The Inner Cabinet's responsibilities include overseeing the execution of the Government's policies and work plan, deliberating on matters that fall under its purview, organizing the Government's sessions, and coordinating the work of its members of the Government.

#### **Article 31**

The Prime Minister and the Deputy Prime Ministers make up the Government's Inner Cabinet.

Ministers may also take part in the Inner Cabinet session's proceedings if they are invited to do so by the Prime Minister.

The Prime Minister calls and presides over Inner Cabinet meetings.

The Inner Cabinet meetings are attended by the Secretary General.

Government regulation provides more specific guidance on the Inner Cabinet's mandate, organization of work, and other crucial matters.

#### **Article 32**

More than half of the Government members must be present at a Government session, for business to be conducted and decisions to be made.

The Government makes decisions by majority vote of all members of the Government.

Decisions are made by the Government during times of declared war or emergency when more than half of the members are present at a session and a majority vote is achieved.

#### **Article 33**

A Minister may be substituted by the state secretary designated by him, without the ability to vote, in the event that he is unable to attend a session of the Government or a permanent working body of the Government.

If the state secretary is not appointed in the Ministry or is prevented from doing so for the case mentioned in paragraph 1 of this Article, the Minister is replaced, without the ability to vote, by a person designated by him from among the senior management staff.

#### **Article 34**

In times of emergency, the Prime Minister may propose that the Government make decisions on certain matters via conference call meeting, with the approval of a simple majority of Government members.

No decisions may be made on any of the following during the session referred to in paragraph 1 of this Article:

- 1) a proposal to reduce the length of the Parliament's mandate;
- 2) a proposal to call a state referendum;
- 3) the introduction of motions of no confidence in the Government;
- 4) a motion to dissolve the Parliament;
- 5) the resignation of the Government;
- 6) the submission of a proposal to amend the Constitution;
- 7) the determination of the draft law on the budget and the final budget account;
- 8) the bill for which a two-thirds majority of the votes of all deputies are required to be adopted by the Parliament;
- 9) decisions on nomination, appointment and removal.

Notwithstanding paragraph 2 of this Article, the Government may make the decisions referred to in paragraph 2 of this Article via conference call meeting in the event of war, state of emergency, or objective impossibility of holding a session.

At the first subsequent session of the Government, the decisions referred to in paragraphs 1 and 3 of this Article shall be confirmed.

A Government regulation specifies the rules for conducting conference call meetings of the Government in further detail.

## **VI. PUBLICITY OF GOVERNMENT WORK**

### **Article 35**

The Government has its own website, on which it posts information and data pertaining to its operations.

In compliance with the law protecting the right to free access to information, the Government must give the public a window into its operations.

### **Article 36**

Sessions of the Government may be open to the public unless they involve deliberation on matters accorded the degree of confidentiality required by law.

On the official Government website, the following is posted:

- 1) the complete agenda of the Government sessions, including the names (labels) of materials marked with the degree of confidentiality;
- 2) material that is suggested for each item on the session's agenda, with the exception of items with the appropriate degree of confidentiality markings;
- 3) materials and decisions made by the Government at conference call meeting;
- 4) minutes from Government sessions.

## **VII. GOVERNMENT ACTS**

### **Article 37**

The Government adopts decrees with legal force, decrees, resolutions, strategies, programs, declarations, decisions, conclusions and other acts.

### **Article 38**

The Government may enact binding regulations only in those circumstances and in the way set forth in the Constitution.

In accordance with the law, the regulation specifies the nature of the relationships governed by the law, regulates the interactions necessary for carrying out the Government's constitutional and legal duties, establishes administrative bodies, and sets forth the organization and mode of operation by which the public administration will function.

Decisions are made by the Government on measures and matters of broad interest, specific matters and measures within the Government's purview, and matters for which the Government is required by law or regulation to make decisions on.

A strategy is a public policy document that lays out strategic objectives for enhancing a given domain, as well as actionable objectives for achieving them.

The program is a public policy document that lays out the actionable objectives and activities needed to address an issue not addressed by the strategy.

The government's official stance on a certain matter is stated in the declaration.

Nominations, appointments, and removals, together with other matters under the purview of the Government, are all settled by a decision.

The conclusion establishes positions on certain issues of importance for the implementation of the policy even in cases where the Government does not pass other acts.

**Article 39**

All acts decided by the Government, including regulations, resolutions, rules of procedure, nomination, appointment, and removal decisions, are published in the "Official Gazette of Montenegro" and on the Government's website.

**VIII. WORK PROGRAM OF THE GOVERNMENT****Article 40**

The Government's work program is a document that details the priorities and timelines for accomplishing those priorities within the Government.

**Article 41**

The Government adopts a medium-term and annual work program.

The medium-term work program of the Government is adopted for a period of up to four years.

The Prime Minister's program, as approved by the Parliament, economic policy measures for the medium-term period, and obligations arising from laws, strategic documents, and the process of Montenegro's accession to the European Union serve as the basis for the Government's medium-term work program.

**Article 42**

The annual work program of the Government is adopted by the end of the current year for the following year.

Notwithstanding paragraph 1 of this Article, within 30 days of taking office, the newly elected Government may modify the existing annual work program, medium-term work program, or establish a new one.

Government's medium-term work program and economic policy measures for the present year serve as starting points for the preparation of Government's annual work program.

The Government's basic responsibilities, as well as the people responsible for them and the deadlines by which they must be completed, are all laid out in the annual work program.

There is both a thematic and normative component to the Government's annual work program.

**Article 43**

The Secretariat General of the Government of Montenegro (hereinafter: the Secretariat General) is responsible for monitoring the implementation of the Government's medium-term and annual work programs and submitting reports to the Government on its findings.

Parliament is provided with the report referred to in paragraph 1 of this Article for information.

**IX. SECRETARIAT GENERAL****Article 44**

The Government has a Secretariat General, which performs professional and other tasks for the needs of the Government.

The Secretariat General is managed by the Secretary General of the Government (hereinafter: Secretary General).

The Government regulation specifies the scope of work, job organization, and other topics critical to the functioning of the Secretariat General.

**Article 45**

The Secretary General is appointed and dismissed by the Government, upon the proposal of the Prime Minister.

A citizen of Montenegro is eligible for the position of Secretary General.



The Secretary General shall be accountable to the Prime Minister and the Government.

The Secretary General's mandate ends with the termination of the Government's mandate, or termination of his office.

The Secretary General of the Government's term of office ends in the event of any of the following:

- 1) the election of a new Government;
- 2) the submission of a resignation;
- 3) dismissal;
- 4) the imposition of an unconditional prison sentence of at least six months by a final court decision;
- 5) if deprived of legal capacity by a final decision;
- 6) the revocation of Montenegrin citizenship;
- 7) the death of the Secretary General.

## **X. WORKING BODIES OF THE GOVERNMENT**

### **Article 46**

Permanent working bodies (commissions) are established by the Government to review matters within the purview of the Government and provide advice and recommendations on those matters, to oversee the implementation of Government acts, and to coordinate the perspectives of public administration bodies in the preparation of acts for the Government sessions.

For the purpose of reviewing matters under its purview and making opinions and recommendations, the Government may convene a temporary working body.

An act of the Government creates a permanent working body, while a resolution of the Government creates a temporary working body.

The Deputy Prime Minister as a rule assumes the role of a chair for the permanent working bodies.

The working bodies referred to in paragraphs 1 and 2 of this Article may be chaired by the minister.

### **Article 47**

The Cabinet of the Prime Minister is assembled to carry out advisory, analytical, professional and other tasks for the needs of the Prime Minister.

The scope of work, organization of work and other issues important for the work of the Cabinet of the Prime Minister shall be regulated in more detail by a Government regulation.

## **XI. INTERACTION WITH PUBLIC ADMINISTRATION BODIES**

### **Article 48**

The Government shall annul any ministerial regulations that infringe the freedoms and rights of both natural and legal persons, as well as in other situations specified by law.

The Ministry's regulation that conflicts with the Government regulation shall be repealed by the Government.

A proposal for annulment or repeal of regulations may be made by the Prime Minister or a member of the Government.

Before making a decision about the proposal referred to in paragraph 3 of this Article, the Government shall consult with the Ministry whose regulation is being suggested for annulment or repeal.

## **XII. INTERACTION WITH THE PRESIDENT OF MONTENEGRO**

### **Article 49**

The cooperation that underpins the relationship between the Government and the President of Montenegro is carried out in accordance with the rights and responsibilities that are established by the Constitution, the legislation, and other general acts.

At the President of Montenegro's request, the Government must respond in writing to him or her within 15 days of taking a stance on a matter falling under its purview.

## **XIII. INTERACTION WITH THE PARLIAMENT OF MONTENEGRO**

### **Article 50**

The Government proposes laws and other acts to the Parliament.

In the way and within the time limit established by law and other acts, the Government expresses its view on proposed laws and other acts proposed to the Parliament from another authorized proposer.

### **Article 51**

The Government appoints representatives to participate in the work of Parliament and its working bodies whenever it is the proposer of a bill or other act.

Government representatives referred to in paragraph 1 of this Article shall participate in the work of the Parliament and its working bodies.

Whenever the Parliament and its working bodies are deliberating a proposed law or other act that has been submitted to it by an authorized proposer, representatives of the Government may, upon invitation, engage in the deliberations of the Parliament and its working bodies.

### **Article 52**

The Prime Minister or a member of the Government shall be present at the session of Parliament at which the Prime Minister or a member of the Government is asked a parliamentary question.

The question referred to in paragraph 1 of this Article shall be answered by the Prime Minister or a member of the Government in the manner and within the time limit provided by law and other acts.

### **Article 53**

Government representatives participating in the work of the Parliament and its working bodies shall represent the Government's position.

A delay in consideration or passage of a law or other act may be requested by Government representatives in order to take the official position of the Government.

### **Article 54**

The Prime Minister and a member of the Government shall respond to the invitation of the working body of the Parliament, and attend the session dedicated to the control hearing on a specific topic.

The Prime Minister and a member of the Government must respond to the Parliament's call to participate and attend a session of the inquiry committee constituted to gather information and facts about occurrences linked to the operation of public authorities (a parliamentary investigation).

### **Article 55**

In order for the Parliament to undertake a parliamentary investigation or control hearing in line with the legislation, the Government or a competent Ministry must provide official papers, documents, data, and information to the Parliament.

The government or the competent ministry, shall, at the request of a member of parliament, make official papers, documents and data available to the Parliament, that is, to

submit notifications and explanations that are necessary for the performance of parliamentary functions, in accordance with the law.

#### **XIV. INTERACTION WITH OTHER INSTITUTIONS**

##### **Article 56**

Within the specified time frame, the Government shall provide the State Audit Institution with a report detailing its progress in implementing the Audit Report's recommendations.

##### **Article 57**

Within the specified time frame, the Government shall report to the Protector of Human Rights and Freedoms on the steps taken to implement the provided recommendations.

#### **XV. TRANSITIONAL AND FINAL PROVISIONS**

##### **Article 58**

The Law on Public Administration shall be harmonized with this Law within three months from the date of application of this Law.

##### **Article 59**

By-laws for the implementation of this Law shall be adopted within three months from the date of entry into force of this Law.

Until the adoption of by-laws referred to in paragraph 1 of this Article, valid by-laws shall be applied provide they are not in contravention of this Law.

##### **Article 60**

This Law shall enter into force on the eighth day following the day of its publication in the Official Gazette of Montenegro and shall be applied from the day of the announcement of the final results of the first subsequent Parliamentary elections.