

Family Law

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The Family Law, which was adopted by the Constituent Parliament of the Republic of Montenegro, at the sixth session of the second regular session in 2006, on December 27, 2006, shall be hereby promulgated.

THE FAMILY LAW¹

PART ONE

BASIC PROVISIONS

Article 1

This law shall regulate: marriage and marital relations, parent-child relations, adoption, family accommodation (foster care), guardianship, supporting, property relations in the family and procedures of competent authorities regarding marital and family relations.

Article 2

A family shall be a living community of parents, children and other relatives who, in terms of this law, have mutual rights and obligations, as well as another basic community of life in which children are nurtured and raised.

Article 3

A marriage shall be based on the free decision of a man and a woman to marry, on their equality, mutual respect and mutual assistance.

Article 4

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 1)

¹ Official Gazette Republic of Montenegro, No. 001/07 of 09.01.2007, Official Gazette of Montenegro, No. 053/16 of 11.08.2016 and No. 076/20 of 28.07.2020.

Family members shall be obliged to respect, help and support each other in accordance with this law.

Parents shall have equal rights and duties towards their children and shall be responsible for raising, educating and training children for an independent life, protecting their interests and well-being.

Article 5

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 2)

A child shall be any person up to the age of 18.

The rights of the child shall be indivisible, mutually related and fully exercised.

The state shall be obliged to respect and promote the rights of the child and take the necessary measures to protect the child from neglect, abuse, exploitation and discrimination.

Everyone shall be obliged to inform the Centre for Social Work (hereinafter referred to as "The guardianship authority") about any violation of the child's rights that they become aware of.

Measures that interfere with family life shall be permitted only if protection of family members cannot be ensured in a less restrictive way, by providing social and child protection services.

Competent authorities, institutions, public services and individuals shall be obliged to mutually cooperate with each other in exercising, promoting and protecting the rights of the child.

Article 5a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 3)

Direct and indirect discrimination against a child or a group of children, their parents, adoptive parents, guardians, foster parents, members of the child's family and persons close to the child, based on race, skin colour, national affiliation, social or ethnic origin, connection with a minority nation, or a minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, state of health, disability, age, property status, marital or family status, group membership or assumption of group membership, political party or other organization, as well as on other real or assumed personal characteristics of the child, their parents, guardians, family members and persons close to the child shall be prohibited.

Special measures introduced in order to achieve full equality, protection and progress of children, i.e. groups of children who are in an unequal position, shall not be regarded as discrimination.

Article 5b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 3)

Everyone shall be obliged to be guided by the best interest of the child in all activities that directly or indirectly concern the child.

The best interest of the child shall have priority and shall be established based on:

- rights of the child;

- opinions and wishes of the child;
- age, developmental abilities and other personal characteristics of the child;
- needs to protect the life and health of the child;
- the needs of ensuring the child's safety;
- the needs of the child's physical, emotional, educational, social and other development;
- previous experiences and circumstances in which the child lives;
- the need to preserve the stability and continuity of relations with parents, family and the environment from which the child originates or resides and the impact of environmental changes;
- the quality of the relationship that the child has established with parents, family members or other persons and the immediate and long-term consequences of maintaining those relationships;
- the need to preserve family relationships, especially relationships with siblings;
- the impact of separation from parents, other family members, and especially from siblings;
- the need to preserve personal and family identity;
- cultural, national, ethnic, religious and linguistic affiliation, that is, the origin of the child; and
- other circumstances and conditions that can affect the well-being of the child.

Article 6

The rights and duties of parents and other relatives towards children, as well as the rights and duties of children towards parents and relatives, shall be equal, regardless of whether the children were born in marriage or out of wedlock.

Article 7

Every person shall have the right to freely decide on birth of their children, and as parents to create opportunities and provide conditions for their healthy psychophysical development in the family and society.

The state shall provide the conditions for free and responsible parenting through measures of social, health and legal protection, education and information system, employment policy, housing and tax policy, as well as the development of all other activities for the benefit of the family and its members.

Article 8

Adoption between the adopter and the adoptee shall establish the relationships that exist between parents and children, with the aim of providing the adopted child with the same living conditions as the children living in the family.

Article 9

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 4)

The state shall provide guardianship protection to children who are not under parental care and adults who are not capable or who are not able to take care of their personality, rights and interests by themselves.

Guardianship shall be performed by the guardianship authority.

Article 9a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 5)

A child shall not be subjected to corporal punishment or any other cruel, inhuman, or degrading treatment or punishment.

The prohibition referred to in para 1 above shall pertain to parents, guardians and all other persons taking care of or coming into contact with the child.

The persons referred to in para 2 above shall be obliged to protect the child from any treatment referred to in para 1 above.

Article 10

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 6)

The obligation of support between parents and children and other relatives, as well as between spouses and common-law spouses, shall be an expression of family solidarity and it is in the interest of the society.

Article 11

Property relationships in the family shall be based on the principles of equality, reciprocity, and solidarity, as well as on the protection of the best interests of children.

Article 12

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 7)

The domestic union of a man and a woman lasting for not less than three years (hereinafter referred to as "the common-law marriage") shall be equal to marriage regarding the rights to mutual maintenance and other property law relations.

If a joint child was born in the common-law union or continued by marriage, that common-law union shall be equal to the married one in terms of the rights from para 1 of this Article even before the expiration of the three-year period.

Common-law marriage shall not produce effect referred to in para 1 above if the obstacles to entering into a valid marriage existed at the time when it commenced.

Article 13

Legal age shall be acquired at the age of 18.

Legal capacity shall be acquired upon reaching the legal age or by marrying before reaching the legal age with the permission of the court.

Article 14

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 1)

The guardianship body, the court and the mediator shall be responsible for providing professional assistance and protecting the rights and interests of the child and other

family members, for resolving disputes between family members, as well as in all cases of disturbed family relations.

Article 14a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 8)

The expressions used in this law for natural persons in the masculine gender shall imply the same expressions in the feminine gender.

PART TWO

MARRIAGE

Article 15

Marriage shall be a domestic union of a man and a woman regulated by the law.

I ENTERING INTO MARRIAGE

1. Conditions for Full Validity of a Marriage

Article 16

A marriage shall be entered into by a wilful consent of a woman and a man expressed before a competent body, in the manner established by this law.

Article 17

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage shall be entered in order to achieve the community of life of married spouses.

Article 18

A marriage cannot be entered into by a person without given wilful consent.

Article 19

No person can enter into a new marriage until the termination of a previous marriage.

Article 20

A marriage cannot be entered into by a person who, due to a mental illness or for other reasons, is incapable of reasoning.

Article 21

A marriage cannot be entered into between persons in a direct ascending line of descent, nor by full siblings, paternal or maternal half-siblings, between an uncle and a

niece, an aunt and a nephew, nor between the children of full siblings or paternal or maternal half-siblings.

Article 22

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 10)

A relationship based on adoption shall represent a hindrance for entering into marriage in the same manner as consanguinity.

Article 23

A marriage cannot be entered into by in-laws as follows: a father in law and a daughter in law, a son in law and a mother in law, a stepfather and a stepdaughter, a stepmother and a stepson, regardless whether the marriage due to which they came into such relationships is terminated.

By way of exception to para 1 above, a competent court may, for justified reasons, allow a marriage to be entered into, having previously obtained an opinion of the guardianship authority.

Article 24

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 11)

A person under 18 years of age may not enter into a marriage.

By way of exception to para 1 above, a court may allow a marriage to a child over the age of 16, under the terms of a separate law.

2. Procedure of Entering into Marriage

Article 25

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 12)

Persons intending to enter into marriage shall submit an application for entering into marriage to the body competent for keeping the register of marriages (hereinafter referred to as „the Registrar“). Along with the application, birth certificate shall be submitted for each person, and, when necessary, other documents as well.

Article 26

Based on the statements of persons desiring to enter into marriage, the documents enclosed and, when necessary in some other manner, registrar shall establish whether all the conditions have been met for the validity of marriage.

When registrar establishes that not all conditions established by this law for marriage validity have been met, the registrar shall verbally inform the applicants that they cannot enter into marriage and shall make an official record thereon.

Article 27

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 13)

In the case referred to in Article 26 para 2 of this Law, registrar shall adopt the decision rejecting the application for marriage within three days from providing verbal information that the conditions for entering into marriage were not met.

A complaint against the decision set out in para 1 of this Article may be lodged by the applicants to the competent municipal administration body within eight days from receiving the decision. This body is under an obligation to make a decision upon the complaint within five days from receiving the complaint.

Article 28

The day and time when marriage is to be performed shall be set by registrar in agreement with the persons wishing to enter into marriage.

Article 29

Registrar shall make a recommendation to persons wishing to enter into marriage to inform each other on the state of their health, to visit marriage counselling centre and become acquainted with the expert opinion on the conditions for developing harmonious marital and family relationships, visit healthcare institution to learn about the possibilities and advantages of family planning, and agree on their future surname before entering into marriage.

Article 30

If one or both persons submitting an application for entering into marriage do not appear at the agreed time, and do not justify their absence, the application shall be deemed withdrawn.

Article 31

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Marriage shall officially be solemnised before competent municipal body, in official premises appropriately arranged to the purpose.

By way of exception, registrar may allow marriage to be solemnised at some other appropriate location, if future spouses so require and provide justified reasons thereof.

Article 32

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Both future spouses, a councillor designated by municipal council, two witnesses, and registrar shall be present at marriage solemnisation.

Article 33

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In particularly justified cases, competent municipal body may allow marriage to be solemnised in the presence of one of the future spouses and an authorized proxy of the other spouse.

The power of attorney, which has to be certified and issued only for the purpose of entering into marriage, must stipulate personal data of a proxy and of the person with whom the marriage is to be entered into, through the proxy, and the date of issuance.

The power of attorney referred in para 2 of this Article shall be valid for 90 days from the day of certification.

The decision rejecting the request for entering into marriage through a proxy may be challenged before the ministry competent for internal affairs and public administration.

Article 34

Any person with legal capacity may be a witness of marriage solemnisation.

Article 35

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Marriage solemnisation shall start with establishing the identity of future spouses and by a statement given by registrar stating that applicants are present and that the conditions established by the law for the validity of their marriage have been met.

If marriage is solemnised through a proxy, the enclosed power of attorney shall be read.

Article 36

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

After designated councillor has established there are no objections to registrar's citations, they shall acquaint future spouses, in an appropriate manner, with the provisions of this law on their rights and duties and point out the importance of marriage, and in particular the fact that a harmonious marriage is of utmost significance for family life.

Designated councillor shall ask future spouses individually whether they agree to enter into marriage.

Once consent for entering into marriage is given, councillor shall proclaim marriage as solemnised.

Article 37

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 14)

Registrar shall register solemnized marriage in the Register of Marriages, to be signed by spouses, designated councillor, witnesses, and registrar.

Article 38

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 15)

Once marriage is solemnized, spouses shall be issued a marriage certificate.

II. RIGHTS AND DUTIES OF SPOUSES

Article 39

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall be equal in marriage.

Article 40

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall be under an obligation to lead a joint life, be faithful to each other, to assist and respect each other and develop and maintain harmonious marital and family relationships.

Article 41

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

When entering into marriage, spouses may agree:

- 1) to keep their respective surnames,
- 2) to take one surname as their joint surname,
- 3) to take both their surnames as their joint surname,
- 4) one of them to add spouse's surname to their own.

In case of choosing the option referred to in indent 3) of this Article, spouses shall decide which surname will be used in the first place.

Article 42

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall decide on the place of residence by mutual consent.

Article 43

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall be independent in their choice of work and occupation.

Article 44

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall decide by mutual consent on how to raise their joint children and regulate the relationships and perform the tasks regarding their marital or family union.

III. TERMINATION OF MARRIAGE

Article 45

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage shall be terminated by death of a spouse, by proclaiming a missing spouse dead, by annulment and by dissolution of marriage.

If a spouse has been proclaimed dead, marriage shall be terminated on the day established as the day of their death by a final court judgement.

A marriage shall be terminated by annulment and dissolution when the court ruling of annulment or dissolution becomes final.

1. Annulment of Marriage

Article 46

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage shall be null and void if the spouses have not given their wilful consent or if the marriage has not been concluded before a competent body.

Article 47

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage shall be null and void if it was concluded during the period of an earlier marriage of one of the spouses.

If, during the marriage annulment procedure, spouses state that the earlier marriage is not legally valid, prior decision shall be made on the legal validity of the earlier marriage and if that marriage is annulled, their marriage shall not be annulled.

A new marriage entered into during an earlier marriage of one of the spouses shall not be annulled if the earlier marriage was terminated.

If due to the death of the spouse who entered into a new marriage during the period of an earlier marriage, both marriages are terminated at the same time, the new marriage shall be annulled, except in the case when the earlier marriage is annulled, or if the new marriage lasted for a longer time period, and the spouse from the earlier marriage did not take any measures with a view to establishing a marital union.

Article 48

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 16)

A marriage shall be null and void if it is entered into by a person who, due to a mental illness or for other reasons, is incapable of reasoning.

A marriage shall be null and void if it has been entered into between relatives by blood, by adoption or by affinity between which marriage is not allowed by law.

If marriage has been concluded between relatives by affinity, between whom marriage is possible only according to a court permission as provided under Article 23 para 2 of this Law, the court to which the petition for annulment of marriage has been filed may subsequently grant this permission.

Article 49

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage may be annulled if a spouse has consented to marriage for fear caused by force or serious threat.

Article 50

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage may be annulled if it was entered into by a person misled about the personality of the spouse when they thought they were entering into marriage with one person and entered into marriage with another, or when marriage was entered into with a certain person but who is not the one they claimed to be.

A marriage may be annulled if entered into by a person misled about significant characteristics of a spouse, which would discourage them from entering into marriage had they known about them and which have led to serious and permanent disturbance of relationships in marriage.

Article 51

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A marriage shall be null and void if spouses did not intend to establish a domestic union, but tried by entering into marriage to conceal some other legal dealings or pursue some other agenda (inheritance, family pension, avoid criminal prosecution, misuse right to housing, etc.).

Such a marriage shall not be annulled if a domestic union has subsequently been established.

Article 52

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

The right to lodge a petition for annulment of marriage for reasons stated in Articles 46 to 48 and Article 51 of this Law belongs to spouses and other persons who have direct legal interest for the marriage to be annulled, as well as to the state prosecutor.

After cessation of reasons referred to in Article 48 of this Law, the right to a petition for annulment of a marriage shall belong only to a spouse who was seriously mentally ill or who, for some other reasons, was incapable of reasoning. Such a petition may be filed within one year from termination of the stated reasons, and if a spouse was completely deprived of legal capacity, within one year after the decision on restoring legal capacity has come into effect.

Article 53

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Annulment of marriage entered into under coercion or through deception may be sought only by the spouse who was coerced or deceived into entering the marriage.

Annulment of marriage may not be sought if one year elapsed from the day when coercion ceased or when deception was noticed, and the spouses lived together during that time.

Article 54

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 17)

Upon a petition of a parent or a guardian, a court may, examining all circumstances annul a marriage concluded by a child without the consent of a competent court until that person comes of age.

The right to file a petition shall belong also to a person who was a minor at the time of marriage solemnisation, within one year from their coming of age.

In the event referred to in para 1 of this Article, the court receiving the petition may subsequently issue the marriage licence.

Article 55

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 18)

The right to take an action for annulment of a marriage shall not be transferred to successors, but the successors of the plaintiff may continue a procedure already underway with a view to proving the merits of the claim.

2. Marriage Dissolution

Article 56

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A spouse may ask for the dissolution of a marriage if marital relationships have seriously and permanently been disturbed or if the purpose of marriage cannot be realized for some other reasons.

Article 57

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses may require their marriage to be dissolved based on their agreement.

Along with a proposal for marriage dissolution by consent, spouses are under an obligation to submit a written agreement on performance of parental rights and on the division of joint property.

Article 58

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 19)

A spouse cannot require marriage to be dissolved during pregnancy of their wife, or until their child reaches one year of age, except in cases when the wife consents to divorce.

PART THREE

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 20)

RIGHTS OF THE CHILD AND RELATIONS BETWEEN PARENTS AND CHILDREN

I. PARENTAL RIGHTS

Article 59

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

Parental rights shall include the rights and duties of parents to take care of the personality, rights, and best interests of their children.

Article 60

Parental rights shall belong to the mother and the father together.

If one of the parents dies or is not known or has been deprived of parental rights, parental rights shall belong to the other parent.

A parent cannot renounce parental rights.

Abuse of parental rights shall be forbidden.

1. Rights of the Child;

Article 61

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 22)

A child has the right to know who their parents are.

The right of a child to know who their parents are may be limited only by this law.

A child who is capable of reasoning may have an insight into birth register and other documents pertinent to their descent.

A child shall have the right to receive information on all significant circumstances related to their parents, family members and other close persons, unless it is contrary to their best interests.

Article 61a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 23)

A child shall have the right to live and thrive in a healthy and safe living and social environment.

Child's dignity is unalienable and everyone is obliged to respect and safeguard the dignity of the child.

Everyone is obliged to treat the child with respect for their personality and individuality.

Article 62

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 24)

A child has the right to live with their parents and the right to have their parents take care of them before anyone else.

The right of the child to live with their parents may be limited only by a court decision, when it is in the best interests of the child.

A court may make a decision to separate the child from their parents if there are reasons for restricting or depriving of the parental rights or in case of domestic violence.

A child who has turned 15 and who is capable of reasoning may decide with which parent they want to live with.

In case of any disputes regarding the exercise of parental rights over the child referred to in para 4 of this Article, a court shall make a ruling in line with the child's wishes, unless it is not in their best interests.

Article 63

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 25)

A child has the right to maintain personal relationship with the parent they do not live with.

The right of the child to maintain personal relationship with the parent they do not live with may be restricted only by a court decision when this is found to be in the best interests of the child.

Court may make a decision to restrict the right of the child to maintain a personal relationship with the parent they do not live with if there are reasons for restriction or deprivation of parental rights or in case of domestic violence.

Article 63a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 26)

A child who has turned 15 and who is capable of reasoning may decide to maintain personal relationship with parent they don't live with.

In case of any dispute as regards the maintenance of personal relationship of the child referred to in para 1 of this Article with parent they don't live with, the court is obliged to define the manner of maintaining personal contacts in accordance with the child's wishes, unless it is found to be against the best interests of the child.

When conducting proceedings, the court shall take due care that the passage of time does not lead to damaging consequences for the relations between the child and the parent they don't live with.

Article 63b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 26)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 2)

A child shall have the right to maintain personal relationship with relatives and other persons they are particularly close with if it is in their best interests.

Relatives and other persons referred to in para 1 of this Article shall include siblings, grandparents, former fosterers, former or current spouse or common-law spouse of their parent and other persons the child is particularly close with.

The persons referred to in para 2 of this Article shall have the right to maintain personal relationship with the child.

The manner of maintaining such personal relationship shall be agreed among the parents, the child, if able to comprehend the relevance of such an agreement, and the persons referred to in para 2 of this Article.

In case of failure to reach an agreement with the child's parents and the child, if able to comprehend the relevance of such an agreement, the persons referred to in para 2 of this Article may resort to mediation with a view to reaching an agreement.

If the persons referred to in para 2 of this Article fail to reach an agreement even through mediation, the court shall define the manner of maintaining personal relationship.

The petition for defining maintenance of personal relations may be submitted by the child, the parents and the persons referred to in para 2 of this Article.

Before passing its ruling, the court shall be obliged to request the opinion of the guardianship authority on whether maintaining personal relationship is in the best interests of the child.

Should the petitioner referred to in para 7 of this Article be someone else than the child himself, the court shall make it possible for the child to express their views freely and shall take such views into account in accordance with this law.

When regulating the manner of maintaining personal relationship with a child of 15 years of age and more who is capable of reasoning, the court shall pass the ruling in accordance with the wishes of the child, unless it is against their best interests.

Article 64

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 27)

A child shall have the right to the best possible living circumstances favouring their proper and full physical, mental and emotional development, in accordance with the child's developmental needs.

In exercising health care procedure, a child capable of reasoning shall have the right to confidential counselling with a medical doctor and other professionals.

A child shall have the right to be informed of their health status if it is in their best interests.

Article 65

A child shall have the right to education in accordance with their abilities, desires and inclinations.

A child who has turned 15 and who is capable of reasoning may decide which secondary school they will attend.

Article 66

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 28)

A child may undertake legal dealings with prior or subsequent approval of their parents, or the approval of the guardianship authority for the legal dealings referred to in Article 308 para 2 of this law.

A child who is 15 years of age or more may undertake legal dealings of managing and disposing of own wage or assets gained through own work.

A child may undertake other legal dealings when stipulated by law.

Article 67

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 29)

A child shall have the right to express own opinion on all matters affecting them.

Parents, the persons taking care of the child, and all other persons who decide on matters affecting the child shall be obliged to make it possible for the child to express their opinion.

The persons referred to in para 2 of this Article shall be obliged to provide to the child the information needed, in a timely and comprehensible manner, so that the child may make informed opinions and make it possible for the child to express their opinion freely, if they wish to do so.

When deciding on matters affecting the child, the persons referred to in para 2 of this Article shall give due consideration to the opinions of the child, appropriate to their age and maturity.

Child's maturity shall be assessed given the level of their physical, emotional, cognitive, and social development.

Article 68

A child shall be under an obligation to assist their parents in accordance with their age and maturity.

A child making an income or having revenues from property shall be under an obligation to provide partly for their own subsistence or of their parents and minor siblings, under the conditions determined by this law.

2. Parental Care

Article 69

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 30)

Parental care shall imply responsibilities, duties and rights of parents with a view to protecting and enhancing personal and property-related rights of the child and their wellbeing, and shall include care for, raising, upbringing, education, representation, and supporting the child, as well as management and disposal of the child's assets.

Parents shall be obliged to exercise parental care in the best interests of the child, in a manner consistent with their development needs and capacities.

Parents shall have the right to obtain all information on the child from the educational and healthcare institutions.

Article 70

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 31)

Parents shall have the right and the duty to watch over and raise the child by taking care personally of their life, development and health.

Parents must not leave a child of pre-school age unattended.

Parents may temporarily entrust the child with another person only if such a person meets the conditions for a guardian.

Article 71

Parents shall have the right and the duty to develop with the child a relationship based on affection, trust, and mutual respect, and to direct the child to adopt those universal values.

Article 72

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 32)

Parents have a duty to provide primary education to a child, and they are obliged to take care of future education of the child according to their means, taking care of the child's capacities and wishes.

Article 73

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 33)

Parents shall have the right and the duty to represent the child in all legal dealings outside the scope of the child's legal capacity.

Parents shall have the right and the duty to represent the child in all other judicial and other proceedings for which the child does not hold the procedural capacity.

Parents shall have the right to undertake legal affairs by means of which they manage and dispose of the revenues that a child younger than 15 has acquired.

Article 74

Parents shall have the right and the duty to support their child under the conditions stipulated by this law.

Article 75

Parents shall have the right and the duty to manage and dispose of the property of the child under the conditions stipulated by this law.

3. Exercising Parental Rights

Article 76

Parents shall exercise parental rights jointly and by mutual agreement when living together.

Parents shall exercise parental rights jointly and by mutual agreement even when not living together if they conclude an agreement on joint exercising of parental rights and if court estimates that such an agreement is to the best interests of the child.

Article 77

An agreement on joint exercising of parental rights shall include an agreement of parents to exercise jointly and by mutual agreement, all the rights and duties contained in parental rights.

An agreement on what shall be considered permanent residence of the child shall make an integral part of the agreement on joint exercise of parental rights.

Article 78

One parent shall exercise parental rights alone when the other parent is unknown, or deceased, or has been fully deprived of parental rights or legal capacity.

One parent shall exercise parental rights alone when living with the child, and when court has not yet made the decision on exercising parental rights.

One parent shall exercise parental rights alone based on a court decision when parents do not live together, and have not concluded an agreement on exercising parental rights.

One parent shall exercise parental rights alone based on a court decision when parents do not live together, and have concluded an agreement on exercising parental rights jointly or independently, but court deems the agreement not to be in the best interests of the child.

One parent shall exercise parental rights alone based on a court decision when parents do not live together, and have concluded an agreement on independent exercising of parental rights and if court deems the agreement to be in the best interests of the child.

Article 79

An agreement on independent exercise of parental rights implies an agreement of parents on entrusting their child to one parent, an agreement on the amount of contribution for maintenance of the child to be provided by the other parent and an agreement on the manner of maintaining personal relationships between the child and the other parent.

Through an agreement on independent exercise of parental rights, the exercise of parental rights is transferred to that parent who the child has been entrusted with.

A parent who does not exercise parental rights shall have the right and the duty to support the child, to maintain personal relationship with the child and to make the decisions on the matters affecting significantly the life of the child together and in agreement with the parent exercising parental rights.

The matters that significantly affect the life of the child, in terms of this law, are in particular: education of the child, undertaking of major medical interventions on the child, change of permanent residence of the child and disposing of the child's property of considerable value.

Article 79a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 34)

The parent exercising their parental rights autonomously shall be obliged to enable and encourage maintenance of personal relationship between the child and the other parent, relatives and the persons the child is particularly close to, unless such relations are restricted by court order.

The parent who maintains personal relationship with the child shall be prohibited from interfering with the autonomous exercise of parental rights of the other parent.

4. Measures for Protection of Child's Rights and Well-being

Article 80

Guardianship authority shall provide appropriate assistance and support to parents and undertake necessary measures to protect the rights and the best interests of a child, based on immediate knowledge or notification.

Judicial authorities, other bodies, medical, educational, and other institution, non-governmental organisations, and citizens shall notify the guardianship authority as soon as they have learned that a parent is unable to exercise parental rights.

Guardianship authority shall examine the case immediately after the receipt of the notification and undertake measures in order to protect the rights of the child.

Registrar shall report the birth of a child whose one or both parents are unknown to the guardianship authority, in order to undertake measures for their protection.

Article 81

If required so by justified interests of the child, the guardianship authority shall warn the parents about errors and failures in education and upbringing of the child and assist them to bring up the child properly, and may direct them to address, alone or with the child, a particular counselling centre, healthcare, social, educational or some other adequate institution.

Article 82

When parents need longer-term support and direction in exercising their parental rights and duties or when an explicit follow up of the situation and conditions in which a child lives is necessary, guardianship authority shall order supervision over the exercise of parental rights regarding children or a specific individual child.

A decision on supervision made by the guardianship authority shall establish the supervision programme and appoint a person to follow up child's development, monitor acts of parents, submit periodical reports to the guardianship authority and undertake other measures in the interest of a child.

Article 83

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 35)

Article 84

In justified cases, guardianship authority may hold the parents to account on manner of managing the child's property.

Guardianship authority may require from the court, in a non-contentious proceeding, to allow using parents' property as a security with a view of protecting the property rights of the child.

With a view to protecting the property interests of the child, guardianship authority may require from the court to make a decision according to which parents shall have the position of a guardian with regard to the management of child's property.

5. Limitation of Parental Rights

Article 85

By a ruling in a non-contentious proceeding, court may limit parental rights to the parent who is negligent in the exercise of the rights or duties towards the child.

By means of limiting parental rights, parent may be deprived of exercising one or several rights and duties towards the child, except the duty to provide child's maintenance.

The court shall deprive a parent of the right to live with a child if they neglect to a larger extent the upbringing and education of the child or if due to the family circumstances, there are threats for proper upbringing of the child.

A parent is considered to neglect to a larger extent the upbringing and education of a child in particular if they do not pay sufficient attention to nutrition, hygiene, clothing, medical assistance, regular attendance of school, do not prevent the child from keeping bad company, vagrancy, begging or theft.

Article 86

The procedure for limiting parental rights shall be initiated by court ex officio at the proposal of the guardianship authority, the other parent, or the child.

Limitation of parental rights shall be imposed for a period up to one year.

An appeal against the decision referred to in Article 85 of this Law does not stay execution.

Prior to expiry of the timeframe referred to in para 2 of this Article, court shall investigate all the circumstances of the case and in the new ruling, in the best interests of the child, restore limited rights to parents, prolong the duration of the pronounced measure or pronounce another measure for the protection of the child's best interests.

6. Deprivation of Parental Rights

Article 87

A parent, who abuses parental rights or neglects seriously the performance of parental duties, shall be deprived of parental rights.

The abuse of the right is present in particular if a parent: abuses the child in a physical, sexual or emotional manner, exploits the child by forcing the child to excessive work or labour that threatens child's morality, health and education, or the work which is forbidden by Law; incites the child to perpetrate crimes; develop bad habits and tendencies and the like.

Serious neglect of the duty is present in particular if a parent: abandons the child or does not take care at all of the basic needs of the child they live with; avoids to support the child or to maintain personal relationships with the child they do not live with, or prevents the maintenance of personal relationship between child and the non-live-in parent; if deliberately and in an unjustified manner they avoid to create conditions for joint life with the child who is on residential care.

Article 88

A parent may be deprived of parental rights with regard to all the children, and if so required by special circumstances only with regard to one child.

The decision on deprivation of parental rights shall be made by the competent court in a non-contentious proceeding.

Article 89

The procedure for deprivation of parental rights may be initiated by the other parent, the guardianship authority or the state prosecutor.

Guardianship authority shall be under an obligation to initiate the procedure for deprivation of parental rights when in any manner whatsoever it learns that there are reasons for this established in this Law.

If guardianship authority learns that there is a danger of abuse of parental rights or a danger of serious neglect of parental duties, it shall be under an obligation to take urgent measures to protect the personality, rights and interests of the child.

Article 90

In marital disputes and disputes pertinent to relationships between parents and children, the trial court may, acting ex officio, issue a ruling on deprivation of parental rights if it determines that there are reasons for this stipulated by this Law.

Article 91

Parental rights may be restored by a court ruling when reasons for which the parent was deprived of parental rights cease to exist.

The petition for restoring parental rights may be filed by the parents and guardianship authority.

In marital disputes and disputes pertinent to relationships between parents and children, the trial court may, acting ex officio, issue a ruling restoring parental rights if it determines the conditions have been met.

7. Extension of Parental Rights

Article 92

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 36)

Parental rights may extend beyond child's coming of age if due to developmental impairments and difficulties, disability or other reasons the child is incapable of taking care of their person, their rights, and interests.

Article 93

The decision to extend parental rights shall be passed by court in a non-contentious proceeding upon a proposal of a parent or guardianship authority.

The petition for extending parental rights shall be submitted before the child comes of age, but the court may extend parental rights even in cases when the petition was not

submitted timely, if at the time when the child came of age there were reasons for extending parental rights.

In the ruling extending parental rights, the court shall determine whether the person to whom the extended parental rights refer is equalled with a child.

Article 94

When reasons due to which parental rights were extended cease to exist, the court shall pass a decision on termination of extended parental right over a person of age, upon the proposal of that person, a parent or guardianship authority.

8. Termination of Parental Rights

Article 95

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Parental rights shall terminate when the child acquires full legal capacity, when it is adopted or when the child or the parent dies.

If a child is adopted by a stepfather or a stepmother, parental rights shall not cease for the parent who is the spouse of the adopter.

Article 96

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

The final court ruling on limitation, deprivation, restitution, extension and termination of extended parental right shall be entered into the Register of Births, and if such a person owns immovable property into the property register as well.

II. FAMILY STATUS OF THE CHILD

1. Determining of Paternity and Maternity

Article 97

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 19)

The spouse of the child's mother shall be considered the father of the child born during marriage, or within 300 days from termination of marriage.

If a child was born in a later marriage of the mother, the husband of the mother from that marriage shall be considered the father of the child, provided that 300 days did not elapse from termination of the previous marriage of the mother until the birth of the child.

If the spouse of the mother from a later marriage denies their paternity, the husband of the mother from the previous marriage shall be considered as the father of the child.

Article 98

A child born out of wedlock shall be considered born within marriage if their parents enter into a marriage with each other.

If parents of the child born out of wedlock had an intention to enter into a marriage, and were prevented from doing so for reasons of death of one or both of them or by some marriage obstacle that arose after the child was conceived, in a non-contentious proceeding and upon the petition of one of the parents or the child, the court shall proclaim the child to be born within marriage.

If parents are deceased or if a living parent is deprived of legal capacity or of parental rights, the court proceeding for proclaiming the child was born within marriage shall be initiated by guardianship authority until the child comes of age.

Article 99

The man who recognizes a child as their own or whose paternity has been determined by a court ruling shall be considered the father of the child who was not born in marriage or within 300 days after the termination of marriage.

Article 100

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

As soon as they learn about the birth of a child born out of wedlock, and prior to registration into the civil register of births, registrar is obliged to invite the mother of the child to give a statement on who she considers the father of her child. Mother can give this statement also without an invitation.

When they receive the statement of the mother on whom she considers the father of her child, registrar shall invite the identified person to give a statement on their paternity within 30 days directly before registrar or through a certified document. The invitation must be delivered in person and in such a manner so as to ensure secrecy.

If the invited person states that they are not the father of the child or if within 30 days they do not give a statement on paternity of the child, registrar shall inform the mother of the child thereof.

If the invited person gives a statement verbally on the record in front of registrar or by means of a certified document that they are considered the father of the child, registrar shall enter them as the father of the child into the register of births and inform the mother of the child thereof.

Article 101

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

Paternity may be acknowledged before registrar, guardianship authority, court or some other state body authorized to draw up official documents. These bodies shall be under an obligation to submit the certified minutes without delay to registrar authorized to enter the child into the birth register.

Paternity may also be acknowledged in a will.

Article 102

A statement whereby paternity is acknowledged may also be given before the child is born. This statement shall have a legal effect on condition the child is born alive.

Article 103

After the death of the child, paternity may be determined only by a decision of the court upon a request of the persons who have legal interest in it.

Article 104

Paternity may be acknowledged by a man capable of reasoning, aged 16 and more.

Article 105

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

Acknowledgment of paternity produces legal effect and is entered into register of births only if the mother of the child consents to the acknowledgment.

The mother can give the statement referred to in para 1 of this Article in the manner set forth in Article 101 herein for acknowledgment of paternity.

The registrar shall be under an obligation to invite the mother of the child to give a statement on acknowledgment of paternity within 90 days, unless she had earlier identified the same person as the father of the child.

Article 106

If the child is older than 16, their consent is also needed along with the acknowledgment of paternity. This consent shall be given in the manner laid down in Article 100 of this Law.

If a child is younger than 16 or older than 16 but incapable of reasoning, and the mother is no longer living, or her place of residence is not known, or has been proclaimed dead, or has permanently been deprived of her legal capacity, the statement of consent to the acknowledgment of paternity shall be given by the guardian of the child with the permission of guardianship authority.

Article 107

If a mother of the child or the child older than 16 or the guardian of the child when their consent is needed do not consent to the acknowledgment of paternity, or do not give a statement to that effect within 30 days from receiving the notice on acknowledgment, the person who acknowledged the child as their own may file a petition to the court for determining that he is the father of the child.

A petition may be filed within three years from the receipt of the notice on lack of consent of the mother or the child. If paternity of another person was determined in the meantime the petition cannot be filed after expiry of the deadline for contesting the paternity of that person.

Article 108

The statement of acknowledgment of paternity as well as statements of the mother and the child on consent to the acknowledgment of paternity cannot be revoked.

The person who gave a statement of acknowledgment of paternity, or a statement on consent to acknowledgment of paternity, may require annulment of the statement if it was given under coercion or if the person was deceived.

The procedure for annulment of the statement may be initiated within six months from the day when coercion ceased or deception was noted.

Article 109

A petition for establishing paternity of a child born out of a wedlock, apart from the person considering himself the father of the child, may be filed by the child and the child's mother.

A child born out of a wedlock may file a petition for determining paternity until it turns 23 years of age. If the child is a minor or does not have legal capacity, the complaint may be filed by the mother on their behalf. If the mother is deceased, or has been deprived of legal capacity, or parental rights, or when mother's place of residence is unknown, the petition may be filed by a guardian with the approval of the guardianship authority.

The petition for determining paternity may be filed by the mother in her own name while exercising parental rights.

Article 110

If a mother has identified a particular person as the father of her child and within one year from the birth of the child does not initiate a procedure for determining paternity, the guardianship authority may, acting ex officio, initiate that procedure on behalf of the child. In that case, the child shall be given a special guardian for conducting the procedure.

The guardianship authority shall not initiate ex officio the procedure for determining paternity if the mother opposes this for justified reasons.

Article 111

The provisions of this Law pertinent to determining paternity shall apply mutatis mutandi also to determining maternity, unless something else results due to the nature of the relationship.

Article 112

Determining paternity for the child conceived by means of artificial insemination of a mother shall not be allowed.

2. Contesting Paternity and Maternity

Article 113

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 19)

A spouse may deny paternity of the child who was born in the marriage or before expiry of 300 days from termination of marriage if they consider they are not the child's father.

The person referred to in para 1 of this Article shall file the petition for denying paternity within six months from the day when they have learned the fact that they are not the father, but at latest until the child completes five years of life.

Article 114

Mother may contest the fact that the father of her child is the person who according to this Law is considered to be the child's father.

The petition for contesting paternity shall be filed within six months from the birth of the child.

Article 115

A child may contest the fact that their father is the person considered to be their father according to this Law.

The petition for contesting paternity may be filed until the child completes 23 years of life

Article 116

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

The person who considers himself the father of the child born out of wedlock, may contest paternity of another person who acknowledged the child as their own, provided the same petition is accompanied by the request for their paternity to be determined.

Petition may be filed within one year from registration of contested paternity into register of births.

Article 117

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 38)

The person who considers himself to be the father of a child born in wedlock may dispute paternity to the person regarded as the father of the child pursuant to this Law, provided the same petition is accompanied by the request to determine for their paternity.

Petition for contesting paternity in the case referred to in para 1 of this Article may be filed within one year from the birth of the child.

Article 118

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 19)

A spouse may contest paternity of the child born by their wife during marriage or until the expiry of 300 days from the day when marriage was terminated, if the child was conceived without their consent by means of artificial insemination of the mother by the fertilizing cells of another man.

The person referred to in para 1 of this Article may file a petition for contesting paternity within six months from the moment when they learns that the child was conceived through artificial insemination by means of fertilizing cells of another man, and at latest until the child completes five years of age.

Article 119

After the death of the child contesting paternity shall not be allowed.

Article 120

The provisions of this Law pertinent to contesting paternity shall apply mutatis mutandi to contesting maternity, unless something else results due to the nature of the relationship.

PART FOUR

ADOPTION

I. THE NOTION OF ADOPTION

Article 121

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 39)

Adoption is a special form of family Law protection of children without parents or without adequate parental care, by which parental relationship or kinship is created.

Article 122

A child has the right to know that they have been adopted.

Adopters shall be obliged to acquaint the child with the fact that they have been adopted at the latest before their seventh year of life or immediately after adoption if an older child has been adopted and notify the guardianship authority thereof.

II. CONDITIONS FOR ENTERING INTO ADOPTION

1) Common Provisions

Article 123

Adoption may be entered into only if it is done to the best interests of the adoptee.

A relative by consanguinity in the direct ascending line, or a sibling cannot be adopted.

A guardian may not adopt their protégée until guardianship authority has acquitted them of guardian's duty.

Article 124

A child may not be adopted before reaching the age of three months.

A child born to minor parents cannot be adopted either. By way of exception, such child may be adopted after reaching one year of age, if there are no prospects of the child being raised in the family of parents or other close relatives.

A child whose parents are unknown may be adopted only after three months expire from their abandonment.

Article 125

Adoption between a foreign citizen as an adopter and a domestic citizen as an adoptee cannot be established.

By way of exception, a foreign citizen may adopt a child if no adopter can be found among domestic citizens.

For adoption referred to in para 2 of this Article, the approval from the ministry responsible for social welfare affairs shall be required.

The approval for adoption referred to in para 3 of this Article shall be given on the basis of the opinion of an expert commission.

The expert commission referred to in para 4 of this Article shall be established by the minister responsible for social welfare.

The commission shall be composed of 5 members with professional experience in working with children.

Article 126

An adopter can only be a person who is between 30 and 50 years of age and who is at least 18 years older than the adoptee.

Adopters, who adopt the same child jointly, shall be also eligible if only one of them meets the conditions referred to in para 1 of this Article.

In case of particularly justified reasons, a person older than 50 may also be an adopter, but the age difference between the adopter and the adoptee must not exceed 50 years.

When adopting full siblings or maternal or paternal half-siblings, adoption shall be allowed even if only one of them meets the conditions referred to in para 1 of this Article in relation to one child only.

Article 127

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 40)

The person shall not be eligible as an adopter if:

- 1) is deprived of parental rights or with limited parental rights;
- 2) is deprived of legal capacity,
- 3) is suffering from an illness which may have harmful effect on the adoptee;
- 4) does not provide sufficient guarantee that they will perform parental care in a proper manner;
- 5) is convicted of any of the crimes falling under the group of crimes against life and body, against sexual freedoms or against marriage and family.

A person whose spouse in marriage or common-law marriage is characterized by one of the circumstances referred to in para 1 of this Article cannot be an adopter.

Article 128

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 41)

Consent of both parents or of one of child's parents is needed for adoption, unless otherwise stipulated by this Law.

Article 129

Consent to adoption is not needed of adoptees' parent:

- 1) who has been deprived of parental rights;
- 2) who does not live with the child, and has for three months already neglected the care of the child;

- 3) who has been deprived of legal capacity:
- 4) whose permanent residence has been unknown for at least six months, and who has not cared for the child during that period.

Article 130

For adoption of a child under guardianship, the consent of the guardian is needed, except if the consent is given by a minor parent.

If the guardian is employed in the guardianship authority, the consent for adoption is given by the case worker.

2) Special Conditions for Adoption

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 42)

Article 131

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 43)

A child may be adopted until 18 years of age.

Twins and siblings who are emotionally connected shall be adopted together, and exceptionally may be adopted separately should there be no possibility for joint adoption and if in their best interests.

Article 132

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 44)

A child may be adopted by spouses together, as well as the stepmother or the stepfather of the child being adopted.

A child may also be adopted by common-law spouses as well as the common-law spouse of the parent of the child being adopted if living in common-law marriage with the child's parent.

By way of exception, the minister responsible for social welfare may allow adoption to a single person if there are particularly justified reasons for doing so and if in the best interests of the child, in terms with the present Law.

Article 133

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 45)

Article 134

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 45)

III. ADOPTION PROCEDURE

Article 135

Adoption shall be effectuated by a decision of the guardianship authority.

Article 136

Competence for conducting the adoption procedure lies with the guardianship authority of the child's place of permanent residence, or their temporary residence, if the place of permanent residence cannot be determined.

A person who wishes to adopt a child shall submit an application to the guardianship authority through the ministry responsible for social welfare. Detailed conditions for submitting applications and keeping records shall be set forth by the ministry responsible for social welfare.

The public shall be excluded from the adoption procedure.

Article 137

Based on the enclosed or the evidence obtained ex officio, guardianship authority shall determine whether conditions have been met for effectuating adoption as set forth by this Law.

Acting ex officio, the guardianship authority shall obtain an opinion on suitability of the person wishing to adopt a child from the guardianship authority from their place of residence, the family counselling centre, other adequate institutions, as well as a reasoned opinion of professionals of relevant background (a social worker, psychologist, physician, pedagogue and other).

Article 138

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In the adoption procedure, the parent of the child, the spouse of prospective adopter and the child shall give their consent to adoption before the guardianship authority conducting the procedure or before the guardianship authority of their place of permanent residence, or of temporary residence if permanent residence cannot be determined.

If consent was given before the authority that is not conducting the adoption procedure, this authority shall immediately submit certified minutes to the authority conducting the procedure.

The child shall give consent to adoption without the presence of parents and prospective adopters.

Article 139

A parent may give their consent to adoption even before initiating the adoption procedure, but only when the child is at least three months old.

The guardianship authority shall acquaint the parent with the consequences of their consent to adoption prior to their giving the consent.

The consent is given verbally to the records, and a certified transcript thereof is handed to the parent.

A parent may withhold the consent to adoption within 30 days from signing the record referred to in para 3 of this Article.

A parent whose consent to adoption is not needed, as well as the parent who gave consent to the child being adopted by adopters not known to them, shall not be a party to the procedure.

Article 140

In the adoption procedure, guardianship authority shall warn the adopters of the obligation as of Article 122 para 2 of this Law.

In the adoption procedure, guardianship authority shall acquaint the parents of the child, the adopters and the child older than 10 years of age with legal consequences of adoption.

Article 141

Prior to making a decision on effectuating adoption, the guardianship authority may decide to place the child into the family of future adopters for a period of six months without compensation, except when the adopter is a foreign citizen.

During the placement referred to in para 1 of this Article, the child shall be under special supervision of guardianship authority in order to determine whether the adoption is to their best interests.

Article 142

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

In the operational part of the decision effectuating adoption, the guardianship authority shall state: the name, date and place of birth and nationality of adoptee, the name of one parent, personal identification number and the nationality of adopter, type of adoption and the new personal name of the adoptee.

The decision effectuating adoption may be challenged within 8 days from receiving the decision.

Adoption is effectuated once the adoption decision becomes final.

The guardianship authority is under an obligation to submit the final adoption decision to the competent registrar for the purpose of entering the data in the register of births.

Registrar shall enter the data referred to in para 1 of this Article into the register of births.

Article 143

The guardianship authority shall keep records and documents in reference to adoption. The data on adoption constitute an official secret.

A major adoptee, the adopter and the child's parent who gave consent to adoption by the stepfather or stepmother shall have insight into the case file.

The guardianship authority shall allow insight into the case file to a minor adoptee if it determines that this is in their best interests.

Detailed conditions for keeping records and retaining documents, or the case file, shall be set forth by the ministry responsible for social welfare.

IV. RIGHTS AND DUTIES STEMMING FROM ADOPTION

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 46)

Article 144

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 47)

Through adoption an inseparable relationship of kinship equal to blood relationship is established between the adopters and their relatives on one side, and the adoptee and their descendants on the other.

Adopters are registered as parents of the adoptee into the register of births.

Article 145

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 48)

Through adoption mutual rights and duties of the adoptee and their blood relatives cease to exist, except if the child is adopted by a stepmother or a stepfather.

Article 146

Adopters shall by consent determine the name of the adoptee.

The adoptee shall obtain a joint surname of the adopters. If adopters do not have a joint surname, the surname of the adoptee shall be determined by agreement.

If the agreement referred to in paras 1 and 2 of this Article is not reached, the guardianship authority shall make a decision on the name and surname of the adoptee.

Article 147

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 49)

Contesting and determining maternity and paternity shall not be allowed after entering into adoption.

V. Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

Article 148

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

Article 149

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

VI. Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 51)

Article 150

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

Article 151

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

Article 152

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

Article 153

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 50)

VII. TERMINATION OF ADOPTION

Article 154

Adoption shall be terminated by annulment.

Adoption shall be null and void if when entering the adoption the conditions for its legal validity established in this Law were not met.

Adoption to which consent was given under coercion or by a person who was deceived shall be null and void.

Article 155

Adopters, the adoptee, the parent or the guardian of the adoptee and other persons having legal interest in adoption being annulled, as well as state prosecutor shall have the right to instigate the procedure for adoption annulment.

The person who gave a statement of consent to adoption under coercion or deception may file a petition for annulment of adoption within one year from the day when coercion ceased to exist or after the deception was noticed.

Article 156

The court shall deliver the decision on annulment of adoption to the guardianship authority before which the adoption was established.

Based on the decision referred to in para 1 of this Article, the guardianship authority shall make a decision on annulment of the decision on new birth registration of the adoptee.

Based on the decision referred to in para 2 of this Article, the initial registration of adoptee's birth shall become legally valid.

PART FIVE

FAMILY PLACEMENT - FOSTER CARE

I. NOTION OF FAMILY ACCOMMODATION

Article 157

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 52)

A child without parental care and a child whose development was disturbed by circumstances in their own family may be placed with another family to be raised, cared for and reared, in the manner and under the conditions established by this Law.

A child neglected in terms of their personal and educational development, as well as a child with developmental impairments and difficulties may be placed in another family.

Article 158

The guardianship authority shall make a decision on placement into another family, if this is in the best interests of the child.

II. CONDITIONS AND PROCEDURE

Article 159

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A child may be placed into a family that consents to receiving them and which provides sufficient guarantees that the child will be well cared for, raised, and reared.

The family receiving a minor foster child must have adequate housing and material conditions.

If a child is placed into a family, which has both spouses, their consent is needed for fostering.

Article 160

When placing a child in another family, the guardianship authority has an obligation to pay special attention to the ethnic, religious, and cultural background of the child, their age, health and social status, as well as the distance from the place of their previous residence, or the residence of its parents and the school they are attending.

Article 161

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 53)

A child with developmental impairments and difficulties, or a child neglected in terms of their personal and educational development may be placed in another family only if it has been determined that members of that family, according to their personal characteristics, are able to care for, raise and rear such a child.

Article 162

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 54)

Any person of full age and with legal capacity who, considering their personal characteristics and harmonious family relations, is in a position to provide for a child's balanced development and assistance to return to their family of origin, may become spouses receiving a child for family placement or a person receiving a child for family placement (hereinafter referred to as "the fosterer").

The guardianship authority shall be under an obligation to provide adequate preparation for raising and rearing a child on a family placement and for a child with developmental impairments and difficulties, such preparation is to follow a special programme with regard to the needs of the child.

The preparatory programme referred to in para 2 of this Article shall be set forth by the state administration authority responsible for social welfare.

Article 163

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 55)

As a rule, siblings shall be placed in the same family.

Article 164

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 56)

Family placement of a child who has both or one parent shall be determined with the prior consent of the parent.

If a child is under the guardianship, their guardian shall give the consent.

Prior to determining placement, the guardianship authority is obliged to offer to the child full information related to family placement needed for an informed opinion, to enable the child to freely express their opinion regarding the family placement and to give due care to the child's opinion in a manner consistent with their age and maturity.

Article 165

If a child without parental care is on family placement, the guardianship authority shall appoint the fosterer as the guardian.

Article 166

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A child shall not be placed into a family:

- 1) in which some of its members have been deprived of parental rights or convicted for a crime against marriage and family,
- 2) in which one of the spouses does not meet the conditions for a guardian,
- 3) in which due to an illness of one of the household members their health would be threatened,
- 4) which is dysfunctional, and
- 5) which is hostile to the child or their parents.

Article 167

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 57)

A maximum of three children may be placed with one family or two children with developmental impairments and difficulties, while the total number of children fostered by the same family shall not exceed four.

By way of exception, when this is in the best interests of children, more children can be placed in the same foster family, when under kinship care or when involving fostering of siblings.

Article 168

The family fostering a minor child is under an obligation to provide information on all the circumstances important for the child's development, particularly about their health, personal development, and schooling.

Article 169

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

Foster family shall have the right to compensation.

The costs of foster care shall be set forth by social protection regulations.

The amount and manner of payment of compensation shall be determined by an agreement.

Article 170

The decision on family placement of a child shall be made by the guardianship authority of the child's place of permanent or temporary residence.

Based on the decision referred to in para 1 of this Article, the guardianship authority shall conclude a written agreement with the fosterer, which should include:

- 1) fosterer's name and address;
- 2) start and, if needed, the duration of placement;
- 3) obligations of the fosterer and the foster family with regard to their personal development, education and preparation for assuming self-reliance, as well as with regard to nourishment and accommodation;
- 4) the amount of compensation and method of payment;
- 5) time and method of providing information on foster care process;
- 6) notice of dismissal.

Article 171

Parents of the child in foster care shall have the right and the duty to represent the child, to manage and dispose of the child's property, to support the child, to maintain personal relationships with the child and to make decisions on issues influencing significantly the child's life jointly and in agreement with the fosterer, except when they have been deprived of parental rights or of legal capacity or if parents do not take care of the child or they do so in inadequate manner.

Article 172

If a child is placed in a family which does not live in the territory of the municipality whose the guardianship authority has concluded the foster care agreement, one copy of such agreement shall be submitted to the guardianship authority in the territory where the family in which the child is placed resides.

Article 173

The guardianship authority shall monitor the development of children in foster care and shall determine whether they are cared for, raised, reared, and educated in accordance with the provisions of this Law and the foster care agreement.

The guardianship authority shall point out to the foster family to the shortcomings regarding how the minors are cared for, raised and reared, propose corrective actions, give advice on all matters or take actions for which it is authorized under the Law.

Article 174

The guardianship authority that concluded a foster care agreement shall keep records of children in foster care. These records shall include all the important details on the foster child.

Article 175

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 58)

III. TERMINATION OF FAMILY PLACEMENT

Article 176

Placement of a child in another family shall cease:

- 1) by agreement of contracting parties;
- 2) by expiry of the contract;
- 3) by revocation of a contract;
- 4) by termination of a contract;
- 5) by coming of age;
- 6) adoption of a child.

Revocation of a contract shall be given in writing.

The guardianship authority may extend the agreement on placement of a child in another family if the child is on regular education, but no longer than for five years after child's coming of age.

Article 177

The guardianship authority shall terminate the agreement on placement of a child in another family should any of the cases stipulated in Article 166 of this Law arise.

PART SIX

THE GUARDIANSHIP

Article 178

A child without parental care or an adult who has no capacity to take care for themselves, their rights, interests and obligations shall be put under the guardianship.

A person provided with guardian protection in terms of this Law shall be considered as a protégé.

Article 179

The purpose of the guardianship over a child shall be to provide, through taking care for, raising and rearing, for the child's full development and to prepare the child for self-reliant life and work.

The purpose of the guardianship over other person, who has no ability or capacity to take care for their rights and interests, shall be to protect their rights and interests.

The purpose of the guardianship shall also be to secure property rights and other rights and interests of protégées and other persons who are provided with protection according to the provisions of this Law.

Article 180

The decision on granting the guardianship shall be made by the guardianship authority.

The decision on granting the guardianship shall contain an individual development plan.

In the decision on granting the guardianship, the guardianship authority shall appoint a guardian and decide on the placement of the protégée.

If the protégée has any property, standing commission of the guardianship authority shall make the inventory and assess the value of the protégée's property.

I. THE GUARDIANSHIP AUTHORITY

Article 181

The guardianship shall be performed by the guardianship authority through an appointed guardian or directly through an expert professional.

Article 182

The guardianship authority shall undertake necessary measures to achieve the purpose of the guardianship in the best possible manner.

In preparation, adoption and enforcement of decisions and other specific measures, the guardianship authority shall use all the forms of social protection, methods of social and other professional work, as well as the services of social, healthcare, educational and other organizations and institutions.

Article 183

The guardianship authority may establish an advisory expert authority composed of experts of relevant profiles (physicians, pedagogues, lawyers, psychologists, social workers etc.) with the task to consider expert issues and to give proposals for undertaking specific the guardianship measures.

Article 184

When placing under the guardianship and appointing a guardian, the guardianship authority shall be obliged to timely undertake all the measures aimed at proper performance of the guardianship tasks regarding protégée's personality and property.

Article 185

The guardianship authority shall continually monitor and examine the conditions of life of protégées, particularly minors and it shall control their accommodation, upbringing, health status, the process of assuming self-reliance, social environment in which they live, social relationships that they have and how their property is managed, as well as how their rights and interests are protected.

Article 186

The guardianship authority which has passed the decision on placing under the guardianship a person whose property is at the territory of another municipality may entrust the guardianship authority of the municipality where such property is located in to guard the property of that person.

The guardianship authority entrusted with the guardianship of property of the person under the guardianship referred to in para 1 of this Article, shall appoint a special guardian for that property. The guardianship authority which has passed the decision on placing under the guardianship shall continue to make decisions regarding the property.

II. THE GUARDIAN

Article 187

The guardianship authority shall appoint a guardian for a protégée, if the interests of the protégée and the circumstances of the case do not require that the guardianship authority performs the duties of the guardian directly.

A guardian shall be a person who has personal characteristics and abilities necessary for performing the duties of a guardian, and who agrees in advance to be a guardian.

If it is in the interest of the protégée and if the guardian agrees, the same person may be appointed as a guardian of several protégées.

Article 188

When appointing a guardian, the guardianship authority shall carefully assess the circumstances of the persons who are placed under the guardianship and it shall appoint a person who, having these circumstances in mind shall be in a position to perform the duty of a guardian in the best possible manner.

Article 189

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

When appointing a guardian, the guardianship authority shall also take into consideration the wishes of the protégée, if the protégée is able to express them, as well as the wishes of their close relatives.

The first choice for a guardian shall be a spouse or a relative of the protégée, if that is in the interest of the protégée.

Article 190

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 59)

For a protégée who is placed in a correctional, healthcare, social, or other institution, the guardianship authority shall appoint a guardian for performing the guardianship duties, which are performed by the institution within its field of activities, if parents are negligent in exercising their parental duty.

Article 191

The guardianship authority may, by a decision, limit the powers of a guardian and decide to perform certain activities of a guardian directly.

If the guardianship authority performs directly the duties of a guardian or certain activities of a guardian, the guardianship authority may entrust other expert persons with certain activities to be performed on behalf of the guardianship authority and under its supervision.

Article 192

In the decision appointing a guardian, the guardianship authority shall determine their duties and the scope of their powers.

Before passing the decision referred to in para 1 of this Article, the guardianship authority shall inform the guardian regarding significance of the guardianship, about their rights and duties and about all other important data necessary for performing the duty of a guardian.

Article 193

If a protégée owns immovable property, the guardianship authority shall inform the authority competent for keeping property registers about the guardianship, or about the cessation of the guardianship.

Article 194

Guardian shall be obliged to care for the protégée's personality, rights, duties and interests, as well as to manage protégée's property in a mindful manner.

Article 195

Guardian shall be obliged to undertake, with the support of the guardianship authority, all necessary measures to secure funds for enforcing the measures pronounced by the guardianship authority in the interest of the protégée.

Article 196

The expenditures for implementing certain measures which are undertaken in the interest of the protégée shall be covered by:

- 1) protégée's income;
- 2) funds obtained from the persons who are obliged to provide maintenance for the protégée;
- 3) property of the protégée;
- 4) funds obtained for the protégée on the basis of social protection;
- 5) other sources.

Article 197

A person:

- 1) deprived of parental rights;
- 2) who lost legal capacity;
- 3) whose interests are in conflict with the interests of the protégée;
- 4) who cannot be expected to perform the duties of a guardian in a proper manner, due to their earlier or current behaviour and personal characteristics and relations with the protégée and their parents and other relatives shall not be eligible for a guardian.

Article 198

If a protégée has property, the guardianship authority shall pass the decision to make an inventory of the property, to assess the property value and to give the property to be managed by the guardian.

A commission appointed by the guardianship authority shall make the inventory of and assess the value of protégée's property.

During the inventory and assessment of the property value, the guardian and the protégée, if they are able to comprehend the situation, and persons who hold the property being inventoried, shall be present.

Article 199

The protégée's property shall be determined and inventoried at the moment of their placement under the guardianship.

The property must be exactly labelled in the inventory and evaluated according to market prices.

The inventory of the property with the assessed value shall be made in two copies, one of which shall be submitted to the guardianship authority and another to the guardian.

Article 200

The guardianship authority, which initiated the procedure for placing a person under the guardianship, may make an inventory and assessment of property value and undertake the necessary measures to protect the property before the decision on placement under the guardianship is made.

Article 201

A guardian may do the following only with the approval of the guardianship authority:

- 1) terminate education of the protégée or change the type of school attended;
- 2) decide on choice and type of occupation for the protégée;
- 3) undertake other important measures regarding the personality of the protégée;
- 4) alienate or encumber protégée's property;
- 5) alienate movable items of large or special personal value from the property of the protégée or manage high value assets;
- 6) make a statement of relinquishment of inheritance or legacy or refusal of a gift;
- 7) take other measures determined by the Law.

In the procedure of giving approval to the guardian related to disposal and management of the property or entitlements of the protégée, the guardianship authority shall determine the purpose of the funds obtained and supervise their use.

Article 202

Without the approval of the guardianship authority, guardian may alienate fruit, small stock, small value items intended for sale, perishable items and other items, if that is done within the regular operations and management of protégée's property.

Funds obtained through sale of items referred to in para 1 of this Article may be used for the protégée's needs only.

Article 203

Without prior approval of the guardianship authority, guardian may not undertake any activity or task which would go beyond regular operations and management of protégée's property.

Guardian may not give gifts or dispose of protégée's property in any other manner without compensation and may not impose the obligation of a guarantor on the protégée.

Article 204

The guardianship authority shall be obliged to provide support to guardian in performing the activities that guardian cannot perform himself, in particular in drawing up briefs for representation before judicial or other bodies etc.

Article 205

The guardian shall represent the protégée.

The guardianship authority shall represent the protégée when performing the duty of a guardian directly or if the powers of the guardian are limited or if the guardianship authority decides to represent the protégée itself.

Article 206

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In legal matters in which the other party is a spouse or close relatives of the guardian, protégée shall be represented by the guardianship authority or other guardian appointed by it.

Article 207

Guardian may conclude a legal deal with their protégée only if the guardianship authority finds that it is required by the interests of the protégée and gives a prior approval for it.

Article 208

Guardian shall independently and in the name and on behalf of the protégée perform the activities that fall within the scope of regular operation and management of the protégée's property.

When undertaking activities referred to in para 1 of this Article, the guardian shall, whenever possible, consult the protégée, if they are able to comprehend the circumstances.

Article 209

Guardian is obliged to submit to the guardianship authority the annual report on their work, as well as a special report upon request of the guardianship authority.

In case of direct the guardianship, the employee of the guardianship authority or another person who, in the name of the guardianship authority performs the guardianship activities, shall be obliged to submit the report.

The report shall be submitted in a written form or verbally on the record, and it should contain information about the protégée, their health, maintenance and ability for self-reliance, data about managing and disposing of protégée's property, final status of their property, as well as information relevant for protégée's personality.

In addition to the data referred to in para 3 of this Article, the report for a minor protégée should also contain information about their personal and educational development.

Article 210

A guardian of several protégées who have a joint property may submit a joint report. A guardian may give the report to the guardianship authority verbally on the record.

Article 211

The guardianship authority is obliged to consider the guardian's report, and, if needed, to undertake appropriate measures for protection of protégée's interests.

Apart from the control of work of a guardian through considering their reports, the guardianship authority shall, from time to time, make direct control of guardian's work.

Article 212

A guardian shall be entitled to reimbursement of all justifiable costs incurred in performing their duties.

The guardianship authority may determine an award for the guardian if they has made specific efforts in performing their duties.

The award shall be established by the guardianship authority.

The award and reimbursement of costs shall be approved by the guardianship authority and they shall be taken from protégée's income, and should this jeopardise the protégée's subsistence, these costs shall be borne by the social and child protection system.

Article 213

A guardian shall be obliged to compensate their protégée for the damage made by negligent performance of their duties.

The guardianship authority shall determine the amount of the damage and shall invite the guardian to make amends within a certain deadline. If the guardian does not compensate for the damage within the determined deadline, the guardianship authority shall directly compensate to the protégée for the damage.

The guardianship authority may request before the court that the guardian compensates for the amount paid under para 2 of this Article.

In order to secure the protégée's rights infringed by negligent actions of the guardian, the guardianship authority shall be obliged to undertake against the guardian other measures provided for in the Law.

Article 214

If a guardian dies or stops performing the duties of a guardian or if such circumstances arise which prevent the guardian from performing their duties, the guardianship authority shall be obliged without any delay to undertake measures for protection of protégée's interests until a new guardian is appointed.

Article 215

The guardianship authority shall remove a guardian from their duty if the guardianship authority finds that in performing their duties the guardian is negligent, that they abuse their powers, and that by their activities they jeopardize protégée's interests, or if it considers that it would be more useful for the protégée to be appointed another guardian.

The guardianship authority shall remove a guardian from their duties upon the guardian's request, and at latest within three months from the day of submitting such a request and undertake all necessary measures for protection of protégée's interests.

The guardian whose duty has ended shall submit a report on their work to the guardianship authority within the deadline set by the guardianship authority.

Article 216

In case of cessation of the need for the guardianship, the guardianship authority shall invite the guardian to submit, within a determined deadline, a report about their work and the state of protégée's property, and to hand over all the property to be managed by the protégée, or their parent or adopter.

Handing over the property shall be done in the presence of the guardian, protégée or their parent or adopter and a representative of the guardianship authority.

Article 217

In case of protégée's death, the guardian shall officially hand over the duty of a guardian in the presence of an official of the guardianship authority in the manner and following the procedure determined by the guardianship authority.

Article 218

The guardianship authority shall be obliged to undertake necessary measures towards a guardian for protection of protégée's rights and interests which arise from improper work of the guardian, as well as measures for protection of the rights and interests of other persons which arise from the guardianship relations.

III. JURISDICTION AND PROCEDURE

Article 219

Territorial jurisdiction of a the guardianship authority shall be determined according to the place of permanent residence and, if this is not possible, according to temporary residence of the person who is placed under the guardianship.

Permanent or temporary residence shall be determined at the time when conditions have been met for placing the person under the guardianship.

Article 220

If permanent residence of a protégée changes, the guardianship authority shall be changed as well, which shall decide whether to change the measures imposed by previous the guardianship authority.

In case of conflict of jurisdictions related to the change of protégée's permanent residence, the guardianship authority responsible for the protégée before the procedure related to the conflict of jurisdictions was initiated shall be obliged to perform all the activities of caring for the protégée until the final decision is made in the aforementioned procedure.

Article 221

The jurisdiction of the guardianship authority shall not change during the time in which the protégée is temporarily out of the territory of that authority for the purposes of education, acquiring professional qualifications, rehabilitation, social and health protection or due to similar justified reasons.

Article 222

The procedure for placement under the guardianship and for cessation of the guardianship shall be initiated and conducted ex officio by the guardianship authority.

Article 223

The following persons shall be obliged to inform the guardianship authority about the need to place a person under the guardianship, or to apply a form of protection provided by the guardianship authority, or of the need to cease the guardianship:

- 1) registrar, state authorities, local administration bodies, non-governmental organisations, health, social, educational and other institutions, when becoming cognisant of such a case in performing their duties,
- 2) relatives, household members and other persons who have an insight into the circumstances of such a person.

Article 224

The procedure for placement under the guardianship shall be urgent.

When the guardianship authority finds out that a person should be placed under the guardianship or that a form of protection provided by the guardianship authority should be applied in relation to that person, the guardianship authority shall be obliged to pass a temporary decision, within 24 hours, on placement of a protégée, and immediately undertake measures necessary for protection of personality, property, rights and interests of such a person and it shall initiate a procedure to place such a person under the guardianship or to apply a form of protection in relation to such a person.

The guardianship authority shall be obliged to pass the guardianship decision immediately, and no later than 30 days as of the day when it was informed about the need for the guardianship over a child, or as of the day when the court decision on deprivation of legal capability of an adult was received by the guardianship authority.

Article 225

When deciding on which form of protection to apply in relation to a protégée, the guardianship authority shall primarily be governed by protégée's interests, modern professional practices of social work and options available.

Article 226

The guardianship authority may change the decision passed, in the manner regulated by Law, when it is required by protégée's interests and if by doing so the rights and interests of third persons are not infringed upon.

Article 227

An objection related to the work of a guardian and the guardianship authority may be raised by the protégée who is capable of doing so, by judicial and other bodies, institutions, nongovernmental organisations and citizens.

The guardianship authority shall consider the objections submitted, and if it finds that they are grounded it shall determine the measures to be undertaken.

If the objection referred to in para 1 of this Article is filed to second instance authority, and this authority finds that the objection is grounded, it shall give the instructions to the guardianship authority how to proceed. After receiving the instructions, the guardianship authority shall decide what measures to undertake and it shall inform the second-instance authority thereof.

Article 228

The decision on placement or ceasing the guardianship shall be delivered to registrar within 15 days from coming into effect.

Article 229

The guardianship authority shall be obliged to keep records and documentation about the persons placed under the guardianship, about the measures undertaken and about the property of the protégées.

The instructions on keeping the records and documentation referred to in para 1 of this Article shall be set forth by the ministry responsible for social welfare.

IV. THE GUARDIANSHIP OVER A MINOR

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 60)

Article 230

A child whose parents:

- 1) died, disappeared, are unknown or whose place of residence has been unknown for at least a month,
- 2) are deprived of parental rights,
- 3) are deprived of legal capacity,
- 4) abused or seriously neglected the exercise of parental rights,
- 5) are absent and are not in a position to care for the minor regularly, and have not entrusted the guardianship over the minor to a person whom the guardianship authority has determined to be fit for a guardian shall be placed under the guardianship.

Article 231

Guardian of a minor shall be obliged to take care of the minor's development, as a parent, and in particular of their health, rearing, education, and assuming self-reliance.

Article 232

A minor ward who has reached the age of 14 can conclude legal affairs on their own, but the legality of those affairs shall require the approval of their guardian, and for those affairs that, in terms of this Law, the guardian cannot conclude alone, the approval of the guardianship authority shall be also required.

Article 233

A minor protégée who is employed may manage their earnings by themselves, provided that they are obliged to contribute to their subsistence, upbringing and education.

Article 234

The guardianship over a minor protégée shall cease when the minor comes of age, enters into a marriage, is adopted or in case of their death.

V. THE GUARDIANSHIP OVER PERSONS DEPRIVED OF LEGAL CAPACITY

Article 235

A person of full age who, due to mental illness, mental retardation or due to any other cause, is not capable of taking care of their rights and interest shall be fully deprived of legal capacity.

A person of full age who by their actions jeopardizes their rights and interests or the rights and interests of other persons due to mental illness, mental retardation, alcohol or drug abuse, senility or due to other similar reasons shall be partly deprived of legal capacity.

The decision on deprivation of legal capacity shall be passed by competent the court in a non-contentious procedure.

Article 236

Persons who have been partially or fully deprived of their legal capacities by a court decision shall be placed under the guardianship by the guardianship authority.

The court shall be obliged to deliver immediately to the guardianship authority the final decision on deprivation of or on limiting legal capacity and within 30 days from receiving the decision, the guardianship authority shall place the given person deprived of legal capacity under the guardianship.

Article 237

Guardian of a person fully deprived of legal capacity or with a limited legal capacity shall be obliged to take care particularly of their personality, accommodation, health, and causes due to which the person was deprived of legal capacity and place efforts to eliminate these causes.

Article 238

If guardian determines circumstances have occurred to restore legal capacity, or that the earlier decision should be changed, guardian is obliged to promptly inform the guardianship authority thereof.

Article 239

Guardian of a person completely deprived of legal capacity shall have the duties and rights of a guardian of a minor who has reached the age of 14.

Guardian of a person partly deprived of legal capacity shall have the duties and rights of a guardian of a minor who has reached the age of 14, but the guardianship authority may, when necessary, determine the activities which the person partly deprived of legal capacity can undertake by himself without the approval of the guardian.

Article 240

The court handling the procedure for depriving a person of legal capacity shall be obliged to inform competent the guardianship authority thereof immediately, and the guardianship authority shall, if necessary, appoint a temporary guardian for that person.

Article 241

A temporary guardian shall have the same rights and duties as the guardian of a minor who has reached the age of 14.

The guardianship authority may, if necessary, extend the rights and duties of a temporary guardian to the duties and rights of the guardian of a minor who is under the age of 14.

The duties of a temporary guardian shall cease when permanent guardian is appointed or when the court ruling stating that there are no grounds for deprivation of legal capacity has become final.

Article 242

The guardianship over persons deprived of legal capacity shall cease when by the decision of the court their legal capacity is restored or in case of death of such a person.

Article 243

The provisions of this Law that apply to the guardianship of minors shall apply to the guardianship of persons deprived of legal capacity and to the guardianship of persons with a temporary guardian appointed, in relation to whom the procedure for deprivation of legal capacity is initiated, if a special law does not regulate otherwise or if it does not arise from the nature of the guardianship over these persons.

VI. GUARDIANSHIP IN SPECIAL CASES

Article 244

The guardianship authority shall appoint a guardian for certain activities or a certain kind of activities for an absent person whose temporary or permanent residence is not known and who does not have a representative, for an unknown owner of property when it is necessary that some authority is managing the property, as well as in other cases when it is necessary for the protection of rights and interests of a person.

Article 245

A the court or another authority conducting the procedure may, under the conditions determined by Law, appoint a guardian for the persons referred to in Article 244 of this Law, who shall be obliged without any delay to inform the guardianship authority thereof.

In relation to the guardian appointed in compliance with para 1 of this Article, the guardianship authority shall have all the powers it has in relation to the guardian appointed by the guardianship authority.

Article 246

For a minor whose parents exercise their parental rights in relation to them a special guardian shall be appointed for the purpose of a dispute conducted between them and their parents, for the purpose of making certain legal arrangements between them, as well as in other cases when their interests are conflicting.

Article 247

A person under the guardianship shall be appointed a special guardian for conducting a dispute between them and their regular guardian, for making legal arrangements between them, as well as in other cases when their interests are conflicting.

Article 248

When a dispute is to be conducted or a legal arrangement made between children in relation to whom the same person exercises parental rights, or between persons with the same guardian, and where the interests of children or protégées are conflicting, each of them shall be appointed a special guardian for the purpose of the dispute or making the legal arrangements.

Article 249

When parents, adopters, guardians, judicial and other state bodies learn in performing their duties about the cases referred to in Articles 246, 247 and 248 thereof, they shall be obliged to report such cases to the guardianship authority.

Article 250

If international agreements do not specify otherwise, in cases provided for by this Law, the guardianship authority shall undertake necessary measures for protection of personality, rights and interests of a foreign citizen, until the guardianship authority of the country of their nationality has made the necessary decision and undertaken certain measures related to them.

Article 251

At the request of a person with legal capacity, the guardianship authority may appoint a guardian for that person for performing certain activities if the person is not capable of taking care of their rights and interests themselves due to health or other justified reasons.

Article 252

When appointing guardians for special cases, the guardianship authority shall define duties and rights of guardians, having in mind the circumstances of every individual case.

Provisions of this Law shall apply to the guardianship in special cases if this Law does not determine otherwise.

PART SEVEN

MAINTENANCE

Article 253

Mutual maintenance of family members and other relatives shall be their obligation and right.

In cases in which mutual maintenance of family members or other relatives cannot be exercised fully or partly, the state shall provide, under the conditions determined by Law, the means of subsistence for family members otherwise not provided for.

Waiving of the right to maintenance shall not have legal effect.

I. MAINTENANCE OF CHILDREN, PARENTS, AND OTHER RELATIVES

Article 254

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

Parents shall be obliged to maintain their children.

If a child has not completed education before coming of age, parents are obliged to maintain them, within their means, until the expiry of the period required for taking a degree in the given school, or faculty, and if the schooling period is extended due to justified reasons, not later than up to the age of 26.

Article 255

If a child who is of age is not, due to an illness, physical or mental disability, able to work, has no means of subsistence or cannot provide for their subsistence from the existing property, parents shall be obliged to maintain the child for as long as such state continues.

Article 256

A parent deprived of parental rights shall not be released from the duty to maintain their children.

Article 257

Children shall be obliged to maintain their parents who are unfit for work, and who do not have sufficient means of subsistence or who cannot provide for their subsistence from the existing property.

By way of exception, the court may reject a request for maintenance when the requestor is a person who was deprived of parental rights and who did not maintain the child, despite having the means to do so, or if the court, considering all the circumstances of the case, finds that it would be an obvious injustice towards the child.

Article 258

Stepfather and stepmother shall be obliged to maintain their minor stepchildren, if the children do not have relatives who, according to this Law, are obliged to maintain them, or if the relatives do not have the means to do so.

The obligation of stepfather and stepmother to maintain their minor stepchildren shall survive the death of the children's parent that the stepfather or stepmother was married

to, if up to the moment of death of the parent, there was a family union between the stepfather, or stepmother and the stepchildren.

If the marriage between the child's parent and stepfather or stepmother was annulled or dissolved, the obligation of the stepfather or stepmother to maintain stepchildren shall cease.

Article 259

Stepchildren shall be obliged to maintain their stepfather and stepmother if the stepfather or stepmother maintained them and cared for them for a longer period of time. If the stepfather or stepmother have children of their own, the obligation shall be shared with those children.

Article 260

Siblings shall be obliged to maintain their minor siblings who do not have means of subsistence, and their parents are deceased or have no means to maintain them.

Article 261

The obligation of maintenance shall exist also among other relatives by consanguinity in the direct line of ascent.

Relatives by consanguinity shall exercise the right to maintenance in the order of inheritance according to the Law.

If several persons share the obligation to provide maintenance, this obligation shall be shared depending on their means.

II. SPOUSAL MAINTENANCE

Article 262

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A spouse who does not have sufficient means of subsistence, who is not fit for work or cannot get a job shall be entitled to maintenance provided by the spouse, proportionate to their means.

Taking into consideration all the circumstances of the case, the court may reject a request for maintenance if such maintenance is requested by a spouse who, without a serious cause given by the other spouse, behaved rudely or shamefully in marriage or if they deserted the spouse without a justified cause, or if the request would be an obvious injustice towards the other spouse.

Article 263

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Under the conditions referred to in Article 262 of this Law, the spouse without means of subsistence shall be entitled to request in the judgment by which the marriage is dissolved to be awarded maintenance by the other spouse, proportionate to their means.

By way of exception, the spouse who in the divorce proceedings did not request maintenance to be provided by the other spouse, may, due to justified reasons, lodge such request in a separate civil case, within a year after the marriage has been dissolved, but only if the prerequisites for maintenance have occurred before the dissolution of the marriage and lasted continuously until the closure of the main hearing in the proceedings for maintenance, or if during this period incapacity for work occurred as a consequence of a bodily injury or damaged health from the time before the dissolution of the marriage.

If in the case of dissolution of marriage spouses have agreed about the maintenance, or if one spouse without any explicit agreement participated in the maintenance of the other spouse by paying certain amounts of money, by leaving their property to be used by the other spouse or in some other manner, the deadline referred to in para 2 of this Article for lodging a request for maintenance shall start running from the day on which the last maintenance payment was made, or from the day on which the spouse was given their property back.

Article 264

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

If the domestic union of spouses ceased to exist permanently and if the spouses for a large number of years were committed to provide means of subsistence completely independently, and if such circumstances existed up to the dissolution of marriage, the court may, considering all circumstances of the case, reject the request to award maintenance to the benefit of such a spouse.

Article 265

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 61)

The court may decide that the obligation to provide maintenance shall last for a limited period of time if the requestor for maintenance is able to provide means of subsistence otherwise.

In case marriage lasted for a short time, the court may, considering all circumstances, decide that the obligation of maintenance shall last for a limited period of time, or reject the request for maintenance, regardless of the possibilities of the requestor to provide other means of subsistence in foreseeable future, if the requestor is not raising their joint child. The court shall particularly take into consideration whether financial circumstances of the spouse changed upon entering into marriage.

In justified cases, the court may extend the obligation of providing maintenance.

The action for extension of the obligation to provide maintenance may be instigated only before the expiry of the period for which the maintenance was awarded.

Article 266

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

The right of a divorced spouse to maintenance shall cease when the conditions referred to in Article 262 para 1 of this Law cease to exist, when the period for which maintenance was awarded expires, when a divorced spouse exercising the right to

maintenance enters into a new marriage or common-law marriage, or if the court, assessing all circumstances, finds that a divorced spouse has become unworthy of exercising the right.

The spouse whose right to maintenance ceased once may not exercise the right to maintenance from the same spouse again.

Article 267

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In case of marriage annulment, the spouse, who at the time of entering into marriage was unaware of the cause for marriage nullity, may request maintenance from the other spouse, under the conditions under which the divorced spouse may exercise the right to maintenance.

III. MAINTENANCE OF A COMMON-LAW SPOUSE

Article 268

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 62)

If a common-law marriage of a woman and a man ceases to exist, each of them, under the conditions referred to in Article 262 para 1 of this Law, shall be entitled to be provided maintenance by the other spouse.

The action for maintenance may be instigated not later than within a year from the moment of common-law marriage cessation, but only provided the prerequisites for maintenance occurred before the cessation of common-law marriage and lasted continuously up to the closure of the main hearing in the civil case related to maintenance.

The court may reject a request for maintenance, if it is requested by the common-law spouse who, without a serious cause given by the other spouse, behaved rudely or shamefully in common-law marriage or if they deserted their spouse without a justified cause, or if the request would be an obvious injustice towards the other spouse.

Article 269

The court may decide that the obligation to provide maintenance shall last for a limited period of time, particularly if the requestor is able to provide other means of subsistence in foreseeable future.

In justified cases, the court may extend the obligation of providing maintenance.

The action for extension of the obligation to provide maintenance may be instigated only before the expiry of the period for which the maintenance was awarded.

Article 270

The right of a common-law spouse to maintenance shall cease when the conditions referred to in Article 262 para 1 of this Law cease to exist, when the period for which maintenance was awarded expires, when the spouse exercising the right to maintenance enters into a marriage, into a new common-law marriage, or if the court, assessing all circumstances, finds that the partner has become unworthy of exercising the right.

IV. MAINTENANCE FOR MOTHER OF THE CHILD

Article 271

Regardless whether the parents of a child born out of wedlock were in common-law marriage or not, the father, under the conditions referred to in Article 262 para 1 of this Law, proportionate to their means, shall be obliged to participate in providing maintenance for the mother of the child for a period of three months before the childbirth and a year after childbirth.

The provision of para 1 of this Article shall also apply in the case of a stillborn child or if the child dies after birth, during the period of incapacity for work caused by the childbirth, but not longer than a year from the day of childbirth.

The court may reject the request of the mother for maintenance if accepting her request would constitute an obvious injustice towards the father.

V. DETERMINING MAINTENANCE

Article 272

The liabilities of family members obliged to provide maintenance shall be determined in proportion to their means, and within the needs of the requestor for maintenance.

The total amount referred to in para 1 of this Article may not be lower than the allowance stipulated in the social protection system for persons with no income in the municipality which is the place of residence of the dependant.

Article 273

When assessing the needs of the dependant, the court shall take into account their financial standing, level of capacity for work, possibility to find employment, health status and other circumstances relevant for the decision on determining the amount of maintenance.

When maintenance is requested for a child, the court shall take into account the age of the child, as well as the educational needs.

When assessing the means of the person obliged to provide maintenance, the court shall take into account all their income and real possibilities to make an earning, as well as their own needs and legal obligations of providing maintenance.

Article 274

In the dispute of parents about the maintenance of their child, the court shall particularly take into account, in case of the parent having custody over the child, the labour and care invested daily in caring for and raising the child as their contribution to the maintenance of the child.

Article 275

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 63)

The guardianship authority shall, on behalf of a child, initiate and conduct the dispute regarding maintenance or the increase of the amount of maintenance, if the parent who has custody over the child unjustifiably fails to exercise that right.

If a parent does not request the enforcement of the decision awarding maintenance, the guardianship authority shall, on behalf of the child, submit to the court the petition for enforcement of the decision, in compliance with the provisions of the Law governing enforcement and security of claims.

Article 276

The court shall be obliged to deliver every decision awarding maintenance to the competent the guardianship authority.

Article 277

The guardianship authority shall be obliged to keep records of dependent children and parents, persons obliged to provide maintenance and undertake measures for parents to reach an agreement about maintenance of the child out of the court, and that the amount awarded as maintenance is adjusted to the changed needs of the child and the changed means of the parents.

Article 278

The guardianship authority may, on behalf of an elderly and self-supporting person, at their proposal or at its own initiative, initiate and conduct a procedure for exercising their right to be maintained by their relatives, who are obliged to provide maintenance for such a person under this Law. If such a person opposes that, the guardianship authority shall not be authorized to initiate the procedure on their behalf.

Article 279

Maintenance, as a rule, shall be awarded in cash amounts.

Maintenance may also be determined in a different manner if the person providing maintenance and the dependant agree about it.

Article 280

At the request of a dependant, or a person obliged to provide maintenance, the court may increase, reduce or revoke maintenance awarded by an earlier the court decision, if the circumstances on the basis of which the decision was made subsequently changed.

Article 281

The court shall order the person obliged to provide maintenance to pay future amounts in fixed determined monthly allowances.

If the person obliged to provide maintenance has regular monthly income, the court shall, at the request of the dependent, determine the future amounts of maintenance allowance as a percentage of salary, pension or any other regular income.

If the maintenance allowance is determined as a percentage of regular monthly money income of the person obliged to provide maintenance (salary, compensation for the

salary, pension, royalty, etc.), it, as a rule, may not be lower than 15% or higher than 50% of the regular monthly income of the person obliged to provide maintenance.

If the dependent is a child, maintenance allowance should provide at least such a standard of living for the child, which is enjoyed by the parent of the person who provides maintenance.

Article 282

If the parent, who is obliged by a the court decision to pay certain maintenance allowance for the child, does not fulfil their obligations regularly, the guardianship authority shall, at the proposal of other parent or ex officio, undertake measures to provide temporary maintenance for the child according to the regulations on social and children protection until the parent starts fulfilling their obligation.

Article 283

A natural person or a legal entity which bore the costs of maintenance for a person may lodge a claim in civil proceedings for the compensation of costs from the person who is, under this Law, obliged to provide maintenance, if the costs incurred were necessary.

If several persons are jointly liable to provide maintenance, they shall jointly be responsible to the third person for the incurred costs of maintenance, within their financial means.

In case of death of the person who enjoyed standing allowances according to the regulations on social protection, pertinent costs are recoverable from their estate, regardless whether their inheritors are the persons who were legally obliged to provide such maintenance.

Article 284

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 64)

The right to maintenance by a spouse or a common-law spouse shall have priority over the right to maintenance provided by relatives.

If there are several persons in need of maintenance at the same time, the right of a child to maintenance shall take priority.

PART EIGHT

PROPERTY RELATIONS

1. Property of Spouses

Article 285

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses may have separate and joint property.

Article 286

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Separate property shall consist of the property that a spouse obtained before entering into marriage, as well as the property that the spouse obtained during the marriage by inheritance, gift, or other forms of obtaining property free of charge.

Each spouse shall independently manage and dispose of their separate property, if the spouses do not agree otherwise.

Article 287

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

If during marital union there was a slight increase in the value of the separate property of one spouse, the other spouse shall have the right to claim in money the amount proportional to their contribution.

If during marital union there was a substantial increase in the value of the separate property of one spouse, the other spouse shall have the right to a share of the property proportional to their contribution.

Article 288

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 65)

Joint property shall consist of the property that spouses acquired through labour and stemming from labour during the marriage, as well as the income from that property.

Joint marital property shall include income from separate property gained through the work of spouses, property gained through intellectual property rights, property gained through insurance, and through games of chance for the duration of marriage.

Article 289

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Rights of spouses regarding joint property, in terms of Article 288 of this Law, shall be registered in the real estate register and other appropriate registers under the names of both spouses as their joint property without determining the ownership over the parts thereof.

If only one spouse is registered in real estate register and other appropriate registers as the owner of joint property, it shall be considered that the entry was made on behalf of both spouses, if the entry was not made on the basis of a written agreement made between spouses.

If both spouses are entered in real estate register and other appropriate registers as co-owners on the precisely defined parts of the property, it shall be considered that they have divided the joint property accordingly.

Article 290

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A spouse may not manage their share in the undivided joint property and cannot place legal encumbrances on the property inter vivos.

2. Managing Joint Property

Article 291

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Joint property, during the marriage, shall be managed and disposed of jointly and by mutual consent of both spouses.

Article 292

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses may conclude a contract regulating that one of them shall perform the activities of managing and disposing of the whole joint property or parts thereof. The contract can be limited only to management or only to disposal. When not agreed otherwise, management shall include disposal within regular business operation.

Contract may refer to all the activities of management and disposal or only to the activities of regular management or to certain individual activities.

Each spouse may terminate the contract on management or disposal of joint property at any time, except at the time when it is obvious that termination of the contract would inflict damage to the other spouse.

3. Division of Joint Marital Property

Article 293

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses may amicably divide joint property by determining the parts in the whole property or a part of the property or of an individual item, as well as by determining that each spouse obtains certain items or rights from the property or that one spouse pays the other spouse the monetary value of their part.

The agreement referred to in para 1 of this Article must be made in writing.

Article 294

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

If an agreement is not reached, marital property shall be divided to equal parts.

At the request of the spouse who proves that their contribution in gaining joint property is obviously and significantly higher than the contribution of the other spouse, the court shall divide joint property according to the contributions of each spouse.

When determining the share of each spouse, the court shall take into account not only the incomes and earnings of each spouse, but also the support that one spouse provides for another, the work, household and family, care for raising and rearing children and

every other form of cooperation in management, maintenance and increase of joint property.

Article 295

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Division of joint marital property may be requested during marriage and after termination of marriage.

The right to request the division of joint property belongs to spouses, inheritors of a deceased spouse or a spouse who was pronounced dead, as well as a claimant of one of the spouses if they cannot cover their claims from the separate property of the spouse.

Article 296

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In the process of division of joint property, at the request of a spouse, their part of the property shall primarily contain the items from joint property that are used for performing the activities of their profession.

Apart from their part, the things gained by work during marital union, which are exclusively for personal use of the spouse, shall be taken from the joint property and given to the spouse.

If the value of the items referred to in paras 1 and 2 of this Article is disproportionately large in comparison to the value of the whole joint property, those items shall be divided as well, unless the spouse who is to obtain these items compensates the other spouse by appropriate value or gives to the other spouse some other items, with the consent of the other spouse.

Article 297

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

The spouse who has custody over joint children, shall, apart from their part of the property, obtain also the items that are used by the children only or that are intended only for being directly used by the children.

In the process of dividing property, the spouse who has custody over joint children shall be given the items for which it is obvious that it is best to be in the possession and ownership of the spouse who has custody over the children.

Article 298

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

When in enforcement procedure final judgment is made to sell the part of the joint property awarded to one spouse, the other spouse shall have the pre-emptive right for that part of the property.

4. Liability of Spouses for Debts to Third Persons

Article 299

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Each spouse shall be liable for their own liabilities taken on before or after entering into the marriage, through their separate property and their share in the joint property.

Article 300

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

As for the liabilities to third parties that one spouse takes on for the purpose of satisfying current needs of the marital union, and the liabilities which, according to general regulations, are at a cost of both spouses, spouses shall jointly be liable for by both their joint property and their separate properties.

The spouse, who out of their separate property, covers joint liabilities, shall be entitled to request the other spouse to compensate for their part of the liabilities.

5. Nuptial Agreement

Article 301

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

During the marriage or before entering into marriage, spouses may regulate all their property relations related to the existing or future property by an agreement (nuptial agreement).

Nuptial agreement shall be concluded in a written form and notarised, with the notary being obliged, before certifying the agreement, to read it to the spouses and to warn them that the agreement shall exclude the legal regime for the joint property.

Nuptial agreement which refers to real estate shall be registered in the real estate register.

Article 302

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Guardian of the spouse deprived of legal capacity may conclude nuptial agreement on behalf of such a spouse and with the approval of the guardianship authority.

Article 303

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses may not agree to apply the Law of another state to their property relations.

6. Returning Gifts of Spouses

Article 304

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

If a marriage ceases to exist through dissolution or annulment, the gifts that the spouses gave to one another before entering into marriage or during the marriage shall not be returned.

The gifts from separate property of the spouse that are of disproportionately large value in comparison to their whole property at the time of submitting the request for returning the gifts to the donor shall be returned in case of marriage dissolution or annulment. The spouse shall not be obliged to return such a gift if it would constitute obvious injustice towards them, or if it would bring them into difficult financial situation.

Article 305

Instead of gifts that have been alienated, the monetary value or the things that have been received in exchange for the gifts shall be returned.

Value in money shall be determined in the amount for which the gift was alienated or in the value that the gift had at the time of alienation, at the choice of the donor.

If the gifted item is alienated or destroyed with malicious intent, the recipient shall be obliged to compensate the donor for the value of the item at the market price at the time the item was to be returned.

Provisions of Article 304 of this Law and paras 1 to 3 of this Article shall apply also in the case of establishing that there was a basis for marriage annulment or dissolution.

7. Property Relations of Common-law Spouses

Article 306

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 66)

The property obtained through work of common-law spouses shall be considered their joint property.

The provisions of this Law on property relations of spouses shall apply mutatis mutandi to property relations of common-law spouses.

8. Property Relations of Parents and Children

Article 307

The property of a child which was not earned through their work shall, by the time the child comes of age, be managed and disposed of by their parents to the benefit of the child.

The child shall by himself manage and dispose of the property that they have earned through their work.

Article 308

Income from the property of the child may be used by the parents primarily for the child's maintenance, covering their medical treatments, raising and education, as well as for maintenance of immediate family members, if they lack sufficient means on their own.

It is only with the approval of the competent the guardianship authority that parents may alienate or encumber the property, more valuable movable property and the property rights of the child for the purposes of the child's maintenance, medical treatments, raising and education, or if other important interest of the child requires so.

Article 309

Child and parent who exercises parental rights shall have the right of occupancy in the dwelling owned by the other parent of the child if the child and parent who exercises parental rights do not have the right of ownership over a habitable dwelling.

The right of occupancy shall last until the child comes of age.

The child and the parent shall not have the right of occupancy if granting their request for the right of occupancy would constitute obvious injustice towards the other parent.

9. Property Relations of Members of a Domestic Union

Article 310

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 67)

When children and other relatives live in a domestic union with spouses or common-law spouses and work on a farm or perform other activities jointly, or make earning together in another manner, the property obtained within the duration of such a domestic union shall be joint property of all members of such a domestic union who participated in acquiring such property.

Article 311

Members of a domestic union shall jointly and by agreement manage and dispose of joint property.

Minor members of a domestic union who reach the age of 15 shall participate independently in obtaining and disposing of joint property.

A number of members of domestic union may, by consent of all members to the domestic union, be entrusted with the management of joint property, and in such a case, the decision on exercising the rights of management shall be passed by majority of votes.

Any member of domestic union may request that the decision on entrusting some members with management of joint property is revoked, and if other members of the domestic union disagree, the decision shall be made by the court in a non-contentious procedure.

Article 312

The rights of members of a domestic union related to the property which is their joint property in terms of Article 311 of this Law shall be registered into the property register and other appropriate registers under the names of all members of the domestic union who participated by their work in acquiring the unallocated parts thereof.

If one or several members of domestic union are registered as owners in the real estate register and other appropriate registers, the person who is registered shall be considered to be the owner until, at the proposal of other members of the domestic union, the annotation of the right of joint ownership is entered in real estate register and other appropriate registers.

Members of a domestic union may challenge the contract by which one member of the domestic union as the registered owner alienated or encumbered property acquired within the domestic union, only if at the time of concluding the contract the annotation of the joint ownership right was entered in the property register or if at the time of concluding the

contract they distinctly informed the third party the contract was concluded with that the property concerned is joint property.

Unauthorized alienation of a movable item of joint property may be challenged only if the transferee was non bona fide purchaser.

If a member of a domestic union alienates in an unauthorized manner the item which was jointly acquired within the domestic union, other members of the domestic union shall have the right to request that they are awarded the appropriate part of other items and claims or that the member of the domestic union who performed the alienation pays monetary compensation according to the size of their shares.

Article 313

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Unless otherwise stipulated by the Law, the provisions of this Law regarding property relations of spouses shall apply mutatis mutandi to property relations of members of a domestic union referred to in Article 310 of this Law.

Article 314

Members of a domestic union may regulate their mutual property relations by a contract or in other manner.

Contract referred to in para 1 of this Article shall be valid only if it is made in a written form, if it includes all the members of the domestic union who participate in acquiring the property by their work and if the contract is notarised.

When certifying the contract, notary shall read the contract and warn the parties of its effects.

If minor members of a domestic union participate in concluding the contract, the court shall, before certifying the contract, ask for the opinion of the guardianship authority.

Article 315

General rules of property Law shall apply to property relations of family members, which are not regulated by this Law.

PART NINE

SPECIAL COURT PROCEEDINGS

1. Common Provisions

Article 316

Family Law proceedings shall be in the first instance heard by a sole judge, and in the appellate procedure by a panel of three judges.

A sole judge and a chair of the panel referred to in para 1 of this Article shall be obliged to acquire specific knowledge in the field of the rights of the child.

Article 316a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 68)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 3)

In the Family Law proceedings, the court shall endeavour for parties to come to an agreement.

The court may refer parents to family counselling or other professional institution or expert of relevant specialisation dealing with family matters, if so deemed to be in the best interests of the child.

Apart from mandatory mediation referred to in Article 326 of this Law, the court may refer parents to mediation and other family Law proceedings if so deemed to be in the best interests of the child.

Article 316b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 68)

The court and all parties to the proceedings are obliged to treat the child participating to the proceedings with due care taking into account the situation the child is in, their needs, and wellbeing, with full respect for their dignity, personality and individuality.

A child shall be provided with information and advice in a timely fashion and in a manner understandable to the child, adapted to their age and maturity.

Article 317

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 69)

A Family Law proceeding shall be urgent if it refers to a child or a parent who exercises parental rights.

In the Family Law proceeding referred to in para 1 of this Article, the petition shall not be serviced to the defendant for response.

The proceeding referred to in para 1 of this Article shall be handled by the court, as a rule, in not more than two hearings.

The first hearing shall take place within 15 days from the day on which the complaint or the petition was received by the court.

The court at second instance is obliged to pass the decision within 30 days from the day on which the appeal was delivered to the court.

The ruling upon the motion for imposing an interim measure shall be made within three days.

Article 317a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

In the Family Law proceedings, the court may, acting ex officio, impose one or several interim measures to protect the child, if so deemed to be necessary for the timely safeguarding of the rights and interests of the child.

As regards the conditions and procedures for imposing interim measures, the provision of the Law governing enforcement and security of claims shall apply mutatis mutandi

Article 317b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

While passing a ruling affecting a child, the court shall take due care, taking into account all circumstances, and justified interests of all participants, for the ruling about to be made to contribute to the greatest extent possible to the achievement of the best interests of the child.

In its ruling, the court shall be obliged to state all facts and circumstances relevant for assessing the best interests of the child, the way their mutual relations are assessed, as well as the assessed possible positive and negative effect of the ruling on the child.

Should the ruling differ from the child's opinion, the justification shall contain the reasons why the child's opinion was not followed, as well as the reasons why the court believes the best interests of the child prevailed.

Article 317v

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

In family Law proceedings, the court may, if of the opinion that the intensity of the conflict between the child and their parents or between parents requires so, appoint a support person to a child under 14 years of age without their consent, and with the consent of the child older than 14 years of age.

The support person shall be chosen from the roster of support persons established by the administrative authority responsible for judiciary (hereinafter referred to as the "Ministry").

Article 317g

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The person who:

- holds a specialisation degree and VII1 level of qualifications in social work, psychology, pedagogy, sociology, special education or special pedagogy;
- has no fewer than five years of relevant professional experience;
- has practical experience in the area of family relations;
- has successfully completed the training for support persons;
- has not been convicted for a crime that would make such a person unworthy of performing the tasks of a support person;
- there are no pending criminal proceedings prosecuted ex officio against that person;
- and
- no security measure or ban on performing the vocation, the activity or the office has been imposed on that person may act as a support person.

By way of exception, the Ministry may issue a licence to a person of other professional background who holds a specialisation degree and VII1 level of qualifications and who meets the requirements set forth in para 1, indents 2 to 7 of this Article if it is determined that such a person, through their knowledge and experience, may successfully perform the tasks of a support person.

The training referred to in para 1, indent 4 of this Article shall be conducted by the Ministry.

The assessment of the knowledge and skills acquired during the training referred to in para 1, indent 4 of this Article shall be conducted by a commission set up by the Ministry.

The certificate of successful completion of the training referred to in para 1 indent 4 of this Article shall be issued by the Ministry.

The programme for the training referred to in para 1 indent 4 of this Article, the training methodology, the form for the certificate of successful completion, the composition and methodology of work for the commission referred to in para 4 of this Article, as well as the assessment of the knowledge and skills of the support persons shall be set forth by the Ministry.

Article 317d

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The person meeting the requirements referred to in Article 317g para 1 of this Law shall be issued a licence for operation (hereinafter referred to as the "Licence").

The licence shall be issued by the Ministry with the validity period of five years with the possibility of renewal for additional five years in terms with this Law.

The licence form shall be set forth by the Ministry.

Article 317đ

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The licence application with the supporting documents proving fulfilment of the requirements set in Article 317g of this Law shall be lodged with the Ministry.

Ministry shall determine whether the applicant referred to in para 1 of this Article meets the requirements for being issued the licence.

The Ministry shall decide on the application referred to in para 1 of this Article within 15 days from receiving the application.

Article 317e

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

A support person shall lodge the application for licence renewal with Ministry not later than three months before the expiry of the licence validity.

The Ministry shall decide on the application referred to in para 1 of this Article within 15 days from receiving the application.

When deciding on the licence renewal, the following shall will be taken particularly into account:

- the opinion of the court before which the applicant acted as the support person;
- the number of proceedings in which the applicant took part as the support person;
- attendance of training on topics relevant for working with children;
- the number of proceedings in which the applicant refused to act as a support person and the reasons for refusal.

Article 317ž

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

In case the applicant does not meet the requirements stipulated under Article 317g para 1 of this Law, Ministry shall pass the decision to reject the application.

The Ministry may reject the application for licence renewal if:

- it establishes that the support person stopped meeting the requirements stipulated under Article 317g para 1 of this Law;
- the court gives a negative opinion on the work of the applicant in the cases where they appeared as the support person;
- the applicant failed to attend the training concerning work with children through no justified reason; or
- the applicant refused repeatedly to act as a support person through no justified reason.

Article 317z

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The licence shall cease to be valid:

- with the expiry of its validity;
- upon request of the support person;
- if it is established that at the time of issuance the support person failed to meet the requirements stipulated under Article 317g para 1 of this Law;
- if it is established that the support person has stopped meeting the requirements stipulated under Article 317g para 1 of this Law;
- if it is established that the support person fails to perform their duties as stipulated by this Law.

In cases referred to in para 1 indents 2, 3, 4 and 5 of this Article, the decision shall be passed by the Ministry.

Article 317i

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The application referred to in Article 317z para 1 indent 2 of this Law shall be filed with Ministry by the support person.

In cases referred to in Article 317z para 1 indents 3, 4 and 5 of this Law, the motion to terminate the licence validity may be given by a state prosecutor, a judge, a party to the proceedings or other interested party.

A justified motion referred to in para 2 of this Article shall be filed with Ministry.

Article 317j

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The decision rejecting the application for licence issuance or renewal and the decision terminating the licence shall be final and an action before the Administrative court may be instigated to challenge it.

Article 317k

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

A licenced support person shall be entered into the roster of support persons immediately upon licence issuance.

The support persons whose licence ceased to be valid under Article 317z of this Law shall be removed from the roster of support persons immediately after the licence has ceased to be valid.

The roster of support persons shall be posted on the Ministry's webpages and regularly updated.

Article 317l

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The Ministry shall deliver the roster of support persons to the courts.

The roster of support persons referred to in para 1 of this Article shall contain the name, address, telephone number and e-mail of support persons.

Support persons shall be obliged to notify Ministry of any change of data referred to in para 2 of this Article.

Article 317lj

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

A support person shall be obliged to care for the rights, obligations and personality of the child with due attention and thoroughness, to build a relation of trust with the child, to inform the child of their rights, to offer information of the case, the stages and possible outcome of the proceedings, and offer explanations regarding possible consequences of the child expressing their opinion.

A support person shall be obliged, with the child's consent, to convey to the court the child's opinion, to attend the hearing when the child is being heard or expressing their opinion directly, and to explain to the child the contents of the ruling and its consequences.

A support person shall have the right to inspect the case file, to receive all pleadings, and the authorisation to attend all hearings.

The rights and obligations of a support person shall cease with the adoption of the final the court ruling.

Article 317m

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

The court shall dismiss a support person if establishing their negligent discharge of duty, misuse of authorities, going against the interests of the child or if believing it would be more beneficial for the child to have another support person appointed.

Article 317n

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

A support person shall enjoy the right to remuneration of actual costs borne and of the fee for their work, which shall make part of the costs of the proceedings.

The fee rate for the work of support persons shall be established by the Ministry of Justice, with prior approval by the Government of Montenegro.

Article 317nj

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 70)

In the family Law proceedings, the court shall be obliged to enable the child to present their opinion, if the child wishes to do so.

The court shall not establish the child's opinion only when particularly justified reasons for not doing so exist, which shall be stated clearly in the ruling.

At the request of the court, the support person referred to in Article 317v of this Law or the guardianship authority shall determine and convey the child's opinion, provided that no proceeding for determining the child's opinion has been instigated, if the court deems that such a manner of expressing the opinion is in the best interests of the child, given their maturity, capability of reasoning, health status, possible influence on the child and other circumstances.

A child of this Article 10 years of age may express their views directly before the court, in the presence of support persons, or the person of the child's choosing, if no support person has been appointed.

The court shall be obliged to give due attention to the child's opinion, in the manner consistent with their age and maturity.

Article 318

In the family Law proceedings, the court may establish the facts even in the absence of any dispute between the parties and the court may autonomously examine the facts that none of the parties presented.

Article 319

The Family Law proceedings shall be closed for the public.

Data from the court records shall constitute official secret and all participants to proceedings who have access to the data are obliged to keep them confidential.

Article 320

The court shall decide about the compensation of the costs of the family Law proceedings at its discretion, taking into account the reasons of fairness.

Article 321

Revision shall always be allowed in the family Law proceedings, unless this Law stipulates otherwise.

Article 321a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 71)

The provisions of Articles 317a to 317nj shall apply mutatis mutandi to the administrative procedure deciding on the rights of the child.

2. Proceedings in Matrimonial Disputes

Article 322

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

The proceeding in matrimonial dispute shall be initiated by an action.

The proceedings for divorce by mutual consent shall be initiated by a joint proposal of spouses (proposal for divorce by mutual consent).

If one spouse brings an action for divorce of the marriage, and the other spouse at the latest before the closure of the main hearing explicitly states that they does not dispute the merits of the statement of claim, it shall be considered that the spouses have submitted a proposal for divorce by mutual consent.

Article 323

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

Spouses shall have the right to institute proceedings for divorce. This right shall not be transferred to inheritors, but the inheritors of the plaintiff may continue with the initiated proceedings with the aim of proving the merits of the action.

If the merits of the action are proved, the surviving spouse shall loose the right to be an inheritor to their deceased spouse's estate and the right to benefits from the will or other benefits in other kind of disposal in case of death.

Article 324

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

A guardian of a mentally disordered spouse, or a guardian of a person incapable of reasoning, may bring an action for divorce of marriage only after the approval of the guardianship authority.

Article 325

If the action for annulment or divorce of marriage is brought by an attorney of a party, the power of attorney must explicitly state the reason for bringing the action.

The power of attorney referred to in para 1 of this Article must be certified.

Article 326

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 72)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The court shall direct the parties to the first meeting with the mediator in order to reconcile or reach an agreement between the spouses on the exercise of parental rights after the divorce and an agreement on the division of joint property.

By way of exception to para 1 of this Article, the court shall not direct the parties to the first meeting with a mediator in cases where, due to suspicion of domestic violence, mediation would not be expedient.

Article 327

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11

August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

When the court issues a decision on referring the parties to the first meeting with a mediator, it shall be obliged to submit that decision to the Centre for Alternative Dispute Resolution (hereinafter referred as the "Centre").

Along with the decision referred to in para 1 of this Article, the Centre shall be provided with the lawsuit, data on the personal names and addresses of the spouses, their proxies and common children, if they have any, as well as other data relevant to mediation.

Article 328

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11

August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The mediation procedure for trying to reconcile the spouses shall be completed within one month from the date of delivery of the decision from Article 327 para 1 of this Law to the Centre, and the mediation procedure for reaching a settlement on the consequences of the divorce within 60 days from the day the reconciliation procedure is completed.

The Centre, without delay, shall inform the court about the start of the mediation procedure referred to in Article 326 of this Law.

Article 329

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11

August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The mediation procedure for trying to reconcile the spouses is carried out without the presence of a proxy.

Article 330

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11

August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The mediator shall be obliged to inform the Centre about the success of the mediation and to provide it with a settlement record containing the agreement of the spouses on the exercise of parental rights and the division of joint property, i.e. a notification that the agreement was not reached or that the parties reconciled during the mediation process.

The Centre shall, without delay, deliver the minutes and notifications referred to in para 1 of this Article to the court.

Article 331

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

If the spouses reconcile during the mediation, it shall be considered that the lawsuit has been withdrawn.

Article 332

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The agreement between spouses about the division of joint property shall be entered into the operative part of the ruling on dissolution of marriage.

The agreement between spouses about exercising parental rights shall be entered into the operative part of the ruling on dissolution of marriage if the court estimates that the agreement is in the best interests of the child.

Article 333

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

If one or both spouses, despite having been duly invited, do not respond to the invitation of the Centre for Reconciliation, and do not justify their absence, it shall be considered that the reconciliation has not succeeded and the mediation procedure will continue in order to reach a settlement between the spouses on the exercise of parental rights after divorce and settlement on the division of common property.

If one or both spouses, even though they have been duly invited, do not respond to the call of the Centre for reaching a settlement on the exercise of parental rights and the division of joint property, and do not justify their absence, it shall be considered that the mediation has failed and the divorce action will continue.

Article 334

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

(Law Amending the Family Law, Official Gazette of Montenegro No. 07620 of 28 July 2020, Article 4)

The mediation procedure for reaching a settlement on the exercise of parental rights and the division of joint property after the annulment of the marriage shall be completed within 60 days from the day the mediation procedure began.

Article 335

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 076/20 of 28 July 2020, Article 5)

Article 336

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 73)

During the whole proceedings for dissolution of marriage, the court shall be obliged to cooperate with the guardianship authorities and other professional services, which deal with the issues of marriage and family, especially when spouses have joint children.

Article 337

Shall be deleted.

(Law Amending the Family Law, Official Gazette of Montenegro No. 076/20 of 28 July 2020, Article 5)

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 74)

Article 338

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

During the procedure in matrimonial disputes, upon the proposal of a spouse, the court may pass a ruling imposing temporary measures for the purpose of providing maintenance and accommodation to the spouse.

The appeal against the decision referred to in para 1 of this Article shall not stay the enforcement of the ruling.

Article 339

Judgment in default of appearance or judgment based on confession or waiver may not be pronounced in matrimonial disputes.

Parties to matrimonial disputes may not conclude court settlements.

Article 340

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 75)

When the procedure is initiated by the petition of spouses for marriage dissolution by mutual consent the facts on which the proposal is based shall not be examined, but the court may decide to conduct the evidence procedure, as in the case of an action for marriage dissolution, if the court estimates that justified interests of joint children require for the marriage to survive.

If petitioners have joint children, the court may examine the facts and conduct the evidence procedure, related to the part of the petition of the spouses which refers to exercising parental rights, if the court is of the opinion that the agreement of the parents about these issues cannot provide sufficient guarantees that the interests of children, particularly children with developmental impairments and difficulties shall be sufficiently protected by such an agreement.

Article 341

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 9)

In matrimonial disputes the plaintiff may, without the consent of the defendant, withdraw the action until the closure of the main hearing, and with such consent, until the completion of the proceedings.

The joint petition for dissolution of marriage by mutual consent may be withdrawn by spouses until the marriage dissolution ruling comes into effect.

The petition shall also be considered withdrawn if one spouse abandons it.

In cases referred to in paras 1 and 2 of this Article, if withdrawal of the action or joint petition for marriage dissolution by mutual consent occurred after the judgment was passed at the first instance, the court of the first instance shall by a ruling state that the judgment is without legal effect and that the procedure is suspended. The court shall proceed in the same manner also when only one of the spouses abandons the petition for marriage dissolution by mutual consent.

The court shall also proceed in the manner referred to in para 3 of this Article in case of death of a spouse, which does not affect the rights of inheritors to continue the procedure in terms of Article 325 of this Law.

In matrimonial disputes, the waiver of the claim shall have the same legal effect as the withdrawal of the claim.

Article 342

In a ruling on a matrimonial dispute, the court shall be obliged to decide on exercising parental rights.

In a ruling on a matrimonial dispute, the court may decide on limitation or deprivation of parental rights.

Article 343

The judgment by which marriage is dissolved upon the petition of spouses for dissolution of marriage by mutual consent may be challenged in the part referring to marriage dissolution, only due to significant violation of provisions of civil procedure or due to the fact that the proposal was given in delusion, or under the influence of force or fraud.

Article 344

If a marriage is dissolved or annulled by a final judgment, the decision on marriage termination may not be reversed by resorting to extraordinary remedy procedures, regardless of whether any of the parties has entered into a new marriage.

3. Procedure in Paternity and Maternity Disputes

Article 345

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

In the disputes for determination or denial of paternity or maternity, a child may bring an action either at the court of general territorial jurisdiction or at the court at the territory of whose jurisdiction the child has the place of permanent or temporary residence.

A child may bring an action to the court of territorial jurisdiction in the place of their permanent or temporary residence, even after they come of age, but only if the defendant does not reside, temporarily or permanently, in the territory of Montenegro.

Para 1 of this Article shall apply also in case that the child brings the action together with another person.

Article 346

Parties in the dispute for determination of paternity shall be the persons whose paternity is being determined, the child and the mother of the child.

Parties in the procedure to challenge paternity of the person who is legally considered to be the father of the child shall be that person, the child and the mother of the child.

When the person who considers himself father of a child challenges the paternity of the person who has acknowledged the child, the parties in the procedure shall be the person who challenges the acknowledged paternity, the person whose paternity is challenged, the child and the mother of the child.

Article 347

If the action for determining, or challenging paternity does not include all the persons referred to in Article 346 of this Law, the court shall ask the plaintiff to extend the action in order to include all of them. These persons may not oppose the extension of the action.

If in the procedure for challenging paternity in the period determined by the court a plaintiff does not extend the action to the persons not included in the action, or if those persons do not join the action as new plaintiffs in that period, the action shall be rejected.

If in the procedure for determining paternity in the period determined by the court a plaintiff does not extend the action to the persons not included in the action, or if those persons do not join the action as new action may be extended to persons who are not included in the action. If within that time the action is not extended, the court shall reject the action.

Article 348

Parties who bring the action for determining or challenging paternity jointly, or the parties who are sued by the same action, shall be considered one party in litigation, so that in case that one of the jointly interested parties fails to perform any of the activities in the litigation, the effect of the activities performed by other jointly interested parties shall be extended to the ones who did not perform those actions.

Article 349

If the child and the parent who legally represents the child together bring the action for determining or challenging paternity, or if they are sued by the same action, that parent shall represent the child in the litigation, but the guardianship authority may determine a special guardian to the child if between the parent and the child there are conflicting interests in that litigation procedure.

If the child and the parent, who legally represents the child, appear in the litigation in conflicting roles of the plaintiff and the defendant, the guardianship authority shall appoint a special guardian for the child.

Article 350

If the action in the procedure regarding paternity and maternity is brought by an attorney of a party, the power of attorney must be certified and issued only for the purposes of representation in this procedure.

The power of attorney should contain the particulars in terms of the kind of action or grounds for instituting the procedure.

Article 351

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 37)

Judgment in default of appearance or the judgment on the basis of confession or waiver may not be pronounced in procedures regarding paternity and maternity, neither may a court settlement be concluded.

If in the procedure for determining paternity the defendant acknowledges paternity the procedure shall be suspended, and the court shall immediately deliver certified transcript of the minutes with the statement on acknowledgment of paternity to the registrar competent for entering the child into the register of births.

Article 352

In paternity and maternity proceedings, the court shall be obliged to include in the judgment the decision on exercising parental rights, and may also decide on limitation and deprivation of parental rights.

4. Procedure in Disputes to Protect the Rights of the Child and for the Exercise of Parental Rights

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 76)

Article 353

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 77)

A child may bring an action in the dispute for protection of their rights or in a dispute for exercising parental rights before the court of territorial jurisdiction or the court at the territory of whose jurisdiction the child has the place of permanent or temporary residence.

In the dispute to protect the rights of the child and in the dispute for the exercise of parental rights, the advance payment for the costs of producing evidence proposed by the child shall be borne by the court.

The costs referred to in para 2 of this Article shall make part of the costs of the proceedings.

Article 354

Actions for protection of child's rights may be brought by: the child, parents of the child, state prosecutor and the guardianship authority.

Actions for protection of child's rights may be brought in relation to all the rights that children have according to this Law and which are not protected by some other procedure.

All the children, health and educational institutions or institutions for social protection, judicial and other state bodies, associations and citizens have the right and duty to inform the state prosecutor or the guardianship authority on the reasons for protection of a child's right.

Article 355

An action for exercising parental rights may be brought by: the child, parents of the child and the guardianship authority.

Article 356

If there are conflicting interests between the child and their legal representative, the child shall be represented by a collision guardian.

The child who has reached the age of 10 and who is capable of reasoning may by himself or through another person or institution request from the guardianship authority to appoint a collision guardian.

The child who has reached the age of 10 and who is capable of reasoning may by themselves or through another person or institution request from the court to appoint a temporary representative for them due to the fact that there are conflicting interests between them and their legal representative.

Article 357

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 78)

In the dispute related to protection of child's rights and in the dispute related to exercising parental rights, the court shall always be obliged to be governed by the best interests of the child.

If the court estimates that in the dispute related to protection of child's rights and in the dispute related to exercising parental rights the child as a party is not represented in an appropriate manner, the court shall be obliged to appoint a temporary representative for the child.

Temporary representative shall be appointed from among the lawyers from the roster who have undergone training to represent children in family Law proceedings delivered by Ministry.

The roster referred to in para 3 of this Article shall be compiled by Ministry and provided to the courts.

The certificate of training completion shall be issued by Ministry.

The programme of the training referred to in para 3 of this Article, the training methodology and the form of the certificate of completion shall be set forth by Ministry.

The costs of providing legal representation for the child by the temporary representative shall make part of the costs of the proceedings.

If the court establishes that in the dispute related to protection of child's rights and in the dispute related to exercising parental rights the party is a child capable of reasoning, the court shall be obliged:

- 1) to ensure the child receives in a timely manner all the information they might need;

- 2) to allow the child to express their opinion directly and to pay due attention to the opinion of the child, in line with the age and maturity of the child;
- 3) to take the statement of the opinion of the child in the manner and at the place which is in line with the child's age and maturity, unless that would manifestly be conflicting the best interests of the child.

Article 358

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 79)

If the collision guardian or temporary representative establishes that in the dispute related to protection of child's rights and in the dispute related to exercising or deprivation of parental rights, they are representing a child who is capable of reasoning, and the child has not been appointed a support person, they shall be obliged:

- 1) to ensure the child receives in a timely manner all the information they might need;
- 2) to provide explanation to the child related to possible consequences of the actions they are undertaking;
- 3) to convey to the court the opinion of the child, if the child did not directly express the opinion before the court, unless that would manifestly be conflicting the best interests of the child.

Article 359

The provisions of Articles 356-358 of this Law shall apply in other the court proceedings related to family relations if these proceedings also refer to the rights of a child.

The provisions of Articles obliged to apply provisions of Articles 356-358 of this Law if these proceedings also refer to the rights of a child.

Article 360

Procedure for protection of child's rights shall be urgent.

The first hearing shall be held within eight days from the day when the court received the appeal.

The court at second instance shall be obliged to pass the decision within 15 days from the day on which the appeal was delivered to the court.

Article 361

Before passing the judgment on protection of child's rights or on exercising parental rights, the court shall be obliged to request findings and expert opinion of the guardianship authority, family counselling centre or other specialized institution.

Article 362

In a dispute for the protection of the child's rights and in a dispute for the exercise of parental rights, a judgment cannot be passed due to omission or a judgment based on recognition or renunciation.

In a dispute related to protection of child's rights and in a dispute related to exercising of parental rights parties may not conclude a court settlement.

Article 363

Agreement between parents on joint or individual exercise of parental rights shall be entered in the operational part of the judgment on exercising parental rights if the court estimates that such an agreement is in the best interests of the child.

If parents have not made an agreement on exercising parental rights or if the court estimates that their agreement is not in the best interests of the child, the court shall pass the decision on giving custody of the joint child to one parent, the amount of contribution for maintenance which is to be given by the other parent and on the manner of keeping personal relations between the child and the other parent.

When the court passes a ruling on joint or individual exercise of parental rights at the time when the child is not with the parent who is to exercise the parental rights, the court shall order that the child is immediately transferred to the parent who is to exercise parental rights.

When deciding on the exercise of parental rights and the manner of maintaining personal relations with the other parent, the court shall take due care that the exercise of parental rights and maintenance of personal relations of the child with the other parent does not threaten the child's or the victim's safety.

Article 364

The court may decide by the judgment in the action for the protection of the rights of the child also on the exercise or deprivation of parental right.

The court may decide by the judgment in the action for the exercise of parental right also on limitation or deprivation of parental right.

5. Proceedings in the Disputes Related to Maintenance

Article 365

In matrimonial disputes related to caring for and raising children, court shall ex officio decide on maintenance for minor children and children of age for whom parental rights have been extended.

The agreement between parents on maintenance for their child shall be accepted by court only if it is in accordance with the provisions of this Law on awarding maintenance.

Court shall ex officio decide on maintenance for a child, when in a procedure for determining paternity court establishes that the defendant is the father of the child or when in the procedure of establishing maternity court establishes that the defendant is the mother of the child.

Article 366

The proceeding in the disputes regarding maintenance shall be urgent.

The first hearing shall be scheduled within eight days from the day on which court received the action.

The court at second instance shall be obliged to pass the decision within 15 days from the day on which the appeal was delivered to the court.

Article 367

Court shall not be bound by the statement of claims for maintenance.

Article 368

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

When court establishes that parents, neither individually nor jointly, are in the position to satisfy the needs of child's maintenance in the amount provided for by this Law, the court shall inform guardianship authority thereof, and, if needed, suspend the proceedings until the expiry of the deadline determined for guardianship authority to express its opinion.

Guardianship authority may in such a case, on behalf of the child, extend the action for support to other persons who are legally obliged to provide maintenance. These persons may not oppose extension of the action.

Legal representative of a child shall also have the right to extend the action under the conditions referred to in para 2 of this Article.

If in further procedure it is established that other relatives are neither in a position to satisfy the needs of maintenance of the child, guardianship authority shall undertake all necessary measures in order to secure the means for maintenance of the child according to the regulations on social protection.

Article 369

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

In disputes regarding maintenance for children and children for whom parental rights have been extended, as well as in other disputes in which the decision on maintenance of these children is passed ex officio, court shall ex officio pronounce temporary measures for the purpose of providing maintenance, if both parents do not participate in maintenance of the child with the appropriate contributions.

In the disputes for legally awarded maintenance for capable adults, court may pronounce temporary measures for maintenance of these persons only at the request of the maintenance requestor.

Temporary measures referred to in paras 1 and 2 of this Article shall be pronounced by the court if the facts that the right to maintenance depends on are likely to be true, and in procedures for determining paternity or maternity such measures shall also be pronounced if it appears to be likely that the defendant is the father of the child, or that the defendant is the mother of the child.

Article 370

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 21)

Guardianship authority shall be obliged at the request of court to collect all the data relevant for passing the ruling on maintenance.

In the procedures deciding on legally awarded maintenance for children and children for whom the exercise of parental rights has been extended, the procedure shall be conducted according to the provisions of Article 366 of this Law.

Article 371

When a person obliged to provide maintenance in relation to whom final court ruling on maintenance is enforced, had their employment terminated, the authority, organization, institution or employer where the enforcement order has been issued for enforced collection of maintenance allowance shall be obliged to deliver the data on the enforcement document and approval of enforcement, as well as the name and the address of the person the payment is made to, to the authority, organization or institution, or employer that employed the person obliged to provide maintenance.

The authority, organization or institution, or employer that employed the person obliged to provide maintenance shall be obliged to immediately inform the person who, according to court ruling, receives the maintenance allowance.

6. Application of the Civil Procedure Code

Article 372

Unless stipulated otherwise by this Law, the provisions of the Civil Procedure Code shall apply to the proceedings of the court related to family relations.

7. Application of the Law on Non-contentious Procedure

Article 373

The provisions of the Law on Non-contentious Procedure shall apply in legal matters for which this Law stipulates that they shall be solved in a non-contentious procedure.

8. Enforcement Proceedings

Article 374

The court which has general territorial jurisdiction for the party requesting enforcement, as well as the court within whose territorial jurisdiction the child happens to be shall hold jurisdiction for deciding on petition for enforcement of court ruling ordering the transferral of the child to their parent or some other person or institution entrusted with the care for and raising of the child.

The court in whose territory the child happens to be shall have the territorial jurisdiction for implementing the enforcement.

Article 375

When implementing enforcement, court shall take due consideration of the urgency of the procedure and the need that the personality of the child is protected to the largest extent possible.

After considering all circumstances of the case, court shall decide whether to implement the enforcement by pronouncing fines against the person the child is with or by taking the child away from that person.

If the purpose of enforcement may not be achieved by pronouncing and enforcing decisions involving fines, enforcement shall be implemented by taking the child away from the person the child is with and by handing the child over to the parent or other person or institution entrusted with the care for and raising of the child.

In the enforcement procedure, court shall ask for the assistance of guardianship authority.

Article 376

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 81)

Unless otherwise stipulated by this or some other Law, the provisions of the Law governing enforcement and security of claims shall be applied in the procedure of enforcement of the decision on protection of the rights established by this Law.

PART TEN

TRANSITIONAL AND FINAL PROVISIONS

Article 377

Marriage solemnised before this Law came into effect shall be valid if it was solemnised according to the regulations, which were in force at the time of marriage solemnisation.

Article 378

Provisions of this Law shall also apply to family relations, which were created before the day of the beginning of application of this Law, unless this law provides otherwise.

Article 379

Provisions of this Law shall apply to procedures before a court, or guardianship authority in the matters in which up to the day of the beginning of application of this law no first-instance decision was made.

Article 380

If before the day of the beginning of application of this Law the first-instance decision was made by which the procedure is completed at the first-instance court, guardianship authority or other authority, further procedure shall continue according to the regulations, which were in force up to the day when this Law came into effect.

If after the beginning of application of this law a first instance decision referred to in para 1 of this Article is quashed, further procedure shall be conducted according to the provisions of this Law.

Article 380a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 82)

If by the time the present Law starts to be applied the first instance decision was made thus completing the proceedings before the first instance court, guardianship authority or other authority, further proceedings shall be conducted under the rules in force until the day the present Law starts to be applied.

Article 380b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 82)

If before the day of the beginning of application of this Law the first-instance decision was made by which the procedure is completed at the first-instance court, guardianship authority or other authority, further procedure shall continue according to the regulations, which were in force up to the day when this Law came into effect.

If after the beginning of application of this law a first instance decision referred to in para 1 of this Article is quashed, further procedure shall be conducted according to the provisions of this Law.

Article 381

Regulations for the implementation of this law shall be harmonized within six months from the entering into force of this Law.

Article 381a

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 83)

Regulations for the implementation of this law shall be harmonized within nine months from the entering into force of this Law.

Article 381b

(Law Amending the Family Law, Official Gazette of Montenegro No. 053/16 of 11 August 2016, Article 83)

The roster of persons referred to in Article 317v para 2 of this Law and the roster of Lawyers trained for representing children in family Law proceedings referred to in Article 357 para 4 of this Law shall be defined by the Ministry and provided to courts not later than within three months from this Law starting to be applied.

Article 382

The Family Law (Official Gazette of the Socialist Republic of Montenegro No 7/89) shall cease to be in effect as of the day this Law starts to be applied.

Article 383

This Law shall enter into force on the eighth day upon its publication in the Official Gazette of Montenegro and shall be applied nine months after it entered into force.