

## THE CONSTITUTION OF MONTENEGRO

### DISCLAIMER

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The Constitution of Montenegro, adopted by the Constitutional Parliament of the Republic of Montenegro, at its third sitting of the second regular session in 2007, on 19 October 2007 is hereby proclaimed.

## THE CONSTITUTION OF MONTENEGRO<sup>1</sup>

### PART I

#### BASIC PROVISIONS

##### The State Article 1

Montenegro is an independent and sovereign state, with the republican form of government.

Montenegro is a civil, democratic, ecological and the state of social justice, based on the rule of law.

##### Sovereignty Article 2

Bearer of sovereignty is the citizen with Montenegrin citizenship.

The citizen shall exercise power directly and through the freely elected representatives.

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<sup>1</sup> Official Gazette of Montenegro, no 001/07 of 25 October 2007, 038/13 of 2 August 2013.

The power not stemming from the freely expressed will of the citizens in democratic election in accordance with the law, can neither be established nor recognised.

**State territory  
Article 3**

The territory of Montenegro is unified and inalienable.

**State symbols  
Article 4**

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

The coat of arms of Montenegro shall be the golden double-headed eagle with lion on its chest.

The flag of Montenegro shall be red in colour, with the coat of arms in the centre and the golden brim.

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

**Capital and Old Royal Capital  
Article 5**

The capital of Montenegro shall be Podgorica,

The Old Royal Capital of Montenegro shall be Cetinje.

**Human rights and liberties  
Article 6**

Montenegro shall guarantee and protect rights and liberties. The rights and liberties shall be inviolable.

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

**Prohibition of infliction of hatred  
Article 7**

Infliction or encouragement of hatred or intolerance on any grounds shall be prohibited.

**Prohibition of discrimination  
Article 8**

Direct or indirect discrimination on any grounds shall be prohibited.

Regulations and introduction of special measures aimed at creating the conditions for the exercise of national, gender and overall equality and protection of persons who are in an unequal position on any grounds shall not be considered discrimination.

Special measures may only be applied until the achievement of the aims for which they were undertaken.

### **Legal order Article 9**

The ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation.

### **Limits of liberties Article 10**

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

Everybody is obliged to abide by the Constitution and the law.

### **Division of powers Article 11**

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

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

The power is limited by the Constitution and the law.

The relationship between powers shall be based on balance and mutual control. Montenegro shall be represented by the President of Montenegro.

Constitutionality and legality shall be protected by the Constitutional Court. Army and security services shall be under democratic and civil control.

### **Montenegrin citizenship Article 12**

In Montenegro there shall be a Montenegrin citizenship.

Montenegro shall protect the rights and interests of the Montenegrin citizens.

Montenegrin citizen shall not be expelled or extradited to other state, except in accordance with the international obligations of Montenegro.

**Language and alphabet**  
**Article 13**

The official language in Montenegro shall be Montenegrin. Cyrillic and Latin alphabet shall be equal.

Serbian, Bosnian, Albanian and Croatian shall also be in the official use.

**Separation of the religious communities from the State**  
**Article 14**

Religious communities shall be separated from the state.

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

**Relations with other states and international organizations**  
**Article 15**

Montenegro shall cooperate and develop friendly relations with other states, regional and international organizations, based on the principles and rules of international law.

Montenegro may accede to international organizations.

The Parliament shall decide on the manner of accession to the European Union. Montenegro shall not enter into a union with another state by which it loses its independence and full international personality.

**Legislation**  
**Article 16**

The law, in accordance with the Constitution, shall regulate:

- 1) the manner of exercise of human rights and liberties, when this is necessary for their exercise;
- 2) the manner of exercise of the special minority rights;
- 3) the manner of establishment, organization and competences of the authorities and the procedure before those authorities, if so required for their operation;
- 4) the system of local self-government;
- 5) other matters of interest for Montenegro.

**PART 2.**  
**HUMAN RIGHTS AND LIBERTIES**

## **1. COMMON PROVISIONS**

### **Grounds and equality Article 17**

Rights and liberties shall be exercised on the basis of the Constitution and the confirmed international agreements.

All shall be deemed equal before the law, regardless of any particularity or personal feature.

### **Gender equality Article 18**

The state shall guarantee the equality of women and men and shall develop the policy of equal opportunities.

### **Protection Article 19**

Everyone shall have the right to equal protection of the rights and liberties thereof.

### **Legal remedy Article 20**

Everyone shall have the right to legal remedy against the decision ruling on the right or legally based interest thereof.

### **Legal aid Article 21**

Everyone shall have the right to legal aid.

Legal aid shall be provided by the bar, as an independent and autonomous profession, and by other services.

Legal aid may be provided free of charge, in accordance with the law.

### **Right to local self-government Article 22**

The right to local self-government shall be guaranteed.

### **Environment Article 23**

Everyone shall have the right to a sound environment.

Everyone shall have the right to receive timely and full information about the status of the environment, to influence the decision-making regarding the issues of importance for the environment, and to legal protection of these rights.

Everyone, the state in particular, shall be bound to preserve and improve the environment.

The Election Commission shall be elected at least three months before the expiry of the four-year term of office of the Prosecutorial Council.

### **Limitation of human rights and liberties** **Article 24**

Guaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution and to such an extent which is necessary to meet the purpose for which the limitation is allowed, in an open and democratic society.

Limitations shall not be introduced for other purposes except for those for which they have been provided for.

### **Temporary limitation of rights and liberties** **Article 25**

During the proclaimed state of war or emergency, the exercise of certain human rights and freedoms may be limited, to the necessary extent.

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

There shall be no limitations imposed on the rights to: life, legal remedy and legal aid; dignity and respect of a person; fair and public trial and the principle of legality; presumption of innocence; defence; compensation of damage for illegal or ungrounded deprivation of liberty and ungrounded conviction; freedom of thought, conscience and religion; entry into marriage.

There shall be no abolishment of the prohibition of: inflicting or encouraging hatred or intolerance; discrimination; trial and conviction twice for one and the same criminal offence (ne bis in idem); forced assimilation.

Measures of limitation may be in effect at the most for the duration of the state of war or emergency.

## **2. PERSONAL RIGHTS AND LIBERTIES**

### **Prohibition of death penalty**

#### **Article 26**

The death penalty shall be prohibited in Montenegro.

### **Bio-medicine**

#### **Article 27**

The right of a person and dignity of a human being with regard to the application of biology and medicine shall be guaranteed.

Any intervention aimed at creating a human being that is genetically identical to another human being, living or dead shall be prohibited.

It is prohibited to perform medical and other experiments on human beings, without their permission.

### **Dignity and inviolability of persona**

#### **Article 28**

The dignity and security of a man shall be guaranteed.

The inviolability of the physical and mental integrity of a man, and privacy and individual rights thereof shall be guaranteed.

No one can be subjected to torture or inhuman or degrading treatment. No one can be kept in slavery or servile position.

### **Deprivation of liberty**

#### **Article 29**

Everyone shall have the right to personal liberty.

Deprivation of liberty is allowed only for reasons and in the procedure provided for by law.

Person deprived of liberty shall be notified immediately of the reasons for the arrest thereof, in own language or in the language he/she understands.

Concurrently, person deprived of liberty shall be informed that he/she is not obliged to give any statement.

At the request of the person deprived of his/her liberty, the authority shall immediately inform about the deprivation of liberty the person of own choosing of the person deprived of his/her liberty.

The person deprived of his/her liberty shall have the right to the defence counsel of his/her own choosing present at his interrogation.

Unlawful deprivation of liberty shall be punishable.

### **Detention Article 30**

Person suspected with reasonable doubt to have committed a crime may, on the basis of the decision of the competent court, be detained and kept in confinement only if this is necessary for the pre-trial procedure.

Detainee shall be given the explained decision of detention at the time of being placed in detention or at the latest 24 hours from being put in detention.

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

The duration of detention shall be reduced to the shortest possible period of time.

Detention by the decision of first-instance court may last up to three months from the day of detention, and by the decision of a higher court, the detention may be extended for additional three months.

If no indictment is raised by that time, the detainee shall be released. Detention of minors may not exceed 60 days.

### **Respect for person Article 31**

The respect of human personality and dignity in the criminal or other procedure, in case of deprivation or limitation of liberty and during the execution of imprisonment sentence shall be guaranteed.

Any form of violence, inhuman or degrading behaviour against a person deprived of liberty or whose liberty has been limited, and any extortion of confession and statement shall be prohibited and punishable.

### **Fair and public trial Article 32**

Everyone shall have the right to fair and public trial within reasonable time before an independent and impartial court established by the law.

### **Principle of legality Article 33**

*(Amendment I, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

No one may be punished for an act which, prior to being committed, was not stipulated by law or a regulation based on the law as a punishable act, or pronounced a punishment that was not stipulated for such act.

Criminal acts and criminal sanctions may be prescribed solely by a law.

#### **More lenient regulation**

##### **Article 34**

*(Amendment II, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

Criminal and other punishable acts shall be established and relevant penalties imposed in accordance with the law or regulation valid at the time when the act is committed, unless the new law or regulation is more lenient for the perpetrator.

#### **Presumption of innocence**

##### **Article 35**

Every one shall be deemed innocent until the guilt thereof has been established by an enforceable court decision.

The accused shall not be obliged to prove the innocence thereof.

The court shall interpret the doubt regarding the guilt to the benefit of the accused.

#### **Ne bis in idem**

##### **Article 36**

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

#### **Right to defence**

##### **Article 37**

Every one shall be guaranteed the right to defence, and especially: to be informed in the language he/she understands about the charges against thereof; to have sufficient time to prepare defence and to be defended personally or through a defence attorney of his/her own choosing.

#### **Compensation of damage for illegal action**

##### **Article 38**

Person deprived of liberty in an illegal or ungrounded manner or convicted without grounds shall have the right to the compensation of damage from the state.

#### **Movement and residence**

### **Article 39**

The right to freedom of movement and residence shall be guaranteed, as well as the right to leave Montenegro.

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

Movement and residence of foreigner citizens shall be regulated by the law.

### **Right to privacy Article 40**

Everybody shall have the right to respect for his/her private and family life.

### **Inviolability of home Article 41**

Home shall be inviolable.

No one shall enter the dwelling place or other premises against the will of the possessor thereof and search them without a court warrant.

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

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

### **Confidentiality of correspondence Article 42**

Confidentiality of letters, telephone conversations and other means of communication shall be inviolable.

The principle of inviolability of confidentiality of letters, telephone calls and other means of communication shall be deviated from only on the basis of a court decision, if so required for the purposes of conducting criminal proceedings or for the security of Montenegro.

### **Personal data Article 43**

The protection of personal data shall be guaranteed.

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

Everyone shall have the right to be informed about the personal data collected about him or her and the right to court protection in case of abuse.

### **Right to asylum Article 44**

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

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

A foreign national may be expelled from Montenegro solely on the basis of a court decision and in a procedure provided for by the law.

## **3. POLITICAL RIGHTS AND LIBERTIES**

### **Electoral right Article 45**

The right to elect and stand for elections shall be granted to every citizen of Montenegro of 18 years of age and above with at least a two-year residence in Montenegro.

The electoral right shall be exercised in elections. The electoral right shall be general and equal.

Elections shall be free and direct, by secret ballot.

### **Freedom of thought, conscience and religion Article 46**

Everyone shall be guaranteed the right to freedom of thought, conscience and religion, as well as the right to change the religion or belief and the freedom to, individually or collectively with others, publicly or privately, express the religion or belief by prayer, preaches, customs or rites.

No one shall be obliged to declare own religious and other beliefs.

Freedom to express religious beliefs may be restricted only if so required in order to protect life and health of the people, public peace and order, as well as other rights guaranteed by the Constitution.

**Freedom of expression  
Article 47**

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

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

**Objection of conscience  
Article 48**

Everyone shall have the right to objection of conscience.

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

**Freedom of press  
Article 49**

Freedom of press and other forms of public information shall be guaranteed.

The right to establish newspapers and other public information media, without approval, by registration with the competent authority, shall be guaranteed.

The right to a response and the right to a correction of any untrue, incomplete or incorrectly conveyed information that violates a person's right or interest and the right to compensation of damage caused by the publication of untruthful data or information shall be guaranteed.

**Prohibition of censorship  
Article 50**

There shall be no censorship in Montenegro.

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

**Access to information  
Article 51**

Everyone shall have the right to access information held by the state authorities and organizations exercising public authority.

The right to access to information may be limited if this is in the interest of: the protection of life; public health; morality and privacy; carrying of criminal proceedings; security and defence of Montenegro; foreign, monetary and economic policy.

**Freedom of assembly  
Article 52**

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

The freedom of assembly may be temporarily restricted by the decision of the competent authority in order to prevent disorder or execution of a criminal offence, threat to health, morality or security of people and property, in accordance with the law.

**Freedom of association  
Article 53**

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

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

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

**Prohibition of organizing  
Article 54**

Political organizing in public bodies shall be prohibited.

A judge of the Constitutional Court, a judge, a state prosecutor and his deputy, an Ombudsman, a member of the Council of the Central Bank, a member of the Senate of the State Audit Institution, a professional member of the Army, Police and other security services shall not be a member of any political organization.

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

**Prohibition of operation and establishment**

#### **Article 55**

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

The establishment of secret subversive organizations and irregular armies shall be prohibited.

#### **Right to address international organisation**

#### **Article 56**

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

#### **Right of recourse**

#### **Article 57**

Everyone shall have the right of recourse, individually or collectively with others, to the state authority or the organisation exercising public powers and receive a response.

No one shall be held responsible, or suffer other harmful consequences due to the views expressed in the recourse, unless having committed a crime in doing so.

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

#### **Property**

#### **Article 58**

Property rights shall be guaranteed.

No one shall be deprived of or restricted in property rights, unless when so required by the public interest, with rightful compensation.

Natural wealth and goods in general use shall be owned by the state.

#### **Entrepreneurship**

#### **Article 59**

Freedom of entrepreneurship shall be guaranteed.

Freedom of entrepreneurship may be limited only if so necessary in order to protect the health of the people, environment, natural resources, cultural heritage or security and defence of Montenegro.

**Right to succession**  
**Article 60**

The right to succession shall be guaranteed.

**Rights of foreign nationals**  
**Article 61**

A foreign national may be the holder of property rights in accordance with the law.

**Right to work**  
**Article 62**

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

**Prohibition of forced labour**  
**Article 63**

Forced labour shall be prohibited.

The following shall not be considered forced labour: labour customary during the serving of sentence, deprivation of liberty; performance of duties of military nature or duties required instead of military service; work demanded in case of crisis or accident that threatens human lives or property.

**Rights of the employed**  
**Article 64**

The employed shall have the right to adequate salary.

The employed shall have the right to limited working hours and paid vacation. The employed shall have the right to protection at work.

Youth, women and the disabled shall enjoy special protection at work.

**Social council**  
**Article 65**

Social position of the employed shall be adjusted in the Social Council.

Social Council shall consist of the representatives of the trade union, the employers and the Government.

**Strike**  
**Article 66**

The employed shall have the right to strike.

The right to strike may be limited to the employed in the Army, police, state bodies and public service with the aim to protect public interest, in accordance with the law.

**Social insurance  
Article 67**

Social insurance of the employed shall be mandatory.

The state shall provide material security to the person that is unable to work and has no funds for life.

**Protection of the persons with disability  
Article 68**

Special protection of the persons with disability shall be guaranteed.

**Health protection  
Article 69**

Everyone shall have the right to health protection.

A child, a pregnant woman, an elderly person and a person with disability shall have the right to health protection from public revenues, if they do not exercise this right on some other grounds.

**Consumer protection  
Article 70**

The state shall protect the consumer.

Actions that harm the health, security and privacy of consumers shall be prohibited.

**Marriage  
Article 71**

Marriage may be entered into only on the basis of a free consent of a woman and a man. Marriage shall be based on equality of spouses.

**Family  
Article 72**

Family shall enjoy special protection.

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

Children shall take care of their own parents in need of assistance.

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

### **Protection of mother and child Article 73**

Mother and child shall enjoy special protection.

The state shall create the conditions that encourage childbirth.

### **Rights of a child Article 74**

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

A child shall be guaranteed special protection from psychological, physical, economic and any other exploitation or abuse.

### **Education Article 75**

The right to education under same conditions shall be guaranteed. Elementary education shall be obligatory and free of charge.

The autonomy of universities, higher education and scientific institutions shall be guaranteed.

### **Freedom of creation Article 76**

The freedom of scientific, cultural and artistic creation shall be guaranteed.

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

### **Science, culture and arts Article 77**

The state shall encourage and support the development of education, science, culture, arts, sport, physical and technical culture.

The state shall protect the scientific, cultural, artistic and historic values.

### **Protection of natural and cultural heritage**

#### **Article 78**

Everyone shall be obliged to preserve natural and cultural heritage of general interest.

The state shall protect the national and cultural heritage.

## **5. SPECIAL - MINORITY RIGHTS**

### **Protection of identity**

#### **Article 79**

Persons belonging to minority nations and other minority national communities shall be guaranteed the rights and liberties, which they can exercise individually or collectively with others, as follows:

- 1) the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities;
- 2) the right to choose, use and publicly post national symbols and to celebrate national holidays;
- 3) the right to use their own language and alphabet in private, public and official use;
- 4) the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities;
- 5) the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings in the language of minority nations and other minority national communities;
- 6) the right to establish educational, cultural and religious associations, with the material support of the state;
- 7) the right to write and use their own name and surname also in their own language and alphabet in the official documents;
- 8) the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written in the language of minority nations and other minority national communities;
- 9) the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action;
- 10) the right to proportionate representation in public services, state authorities and local self-government bodies;
- 11) the right to information in their own language;
- 12) the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic

- background, cultural and historic heritage, as well as religious beliefs;
- 13) the right to establish councils for the protection and improvement of special rights.

### **Prohibition of assimilation**

#### **Article 80**

Forceful assimilation of the persons belonging to minority nations and other minority national communities shall be prohibited.

The state shall protect the persons belonging to minority nations and other minority national communities from all forms of forceful assimilation.

## **6. PROTECTOR OF HUMAN RIGHTS AND LIBERTIES**

### **Article 81**

The protector of human rights and liberties of Montenegro shall be independent and autonomous authority that takes measures to protect human rights and liberties.

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

The protector of human rights and liberties shall be appointed for the period of six years and can be dismissed in cases envisaged by the law.

## **PART 3. ORGANIZATION OF POWERS**

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

#### **Responsibility**

#### **Article 82**

*(Amendment III, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Parliament shall:

- 1) Adopt the Constitution;
- 2) Adopt laws;
- 3) Adopt other regulations and general acts (decisions, conclusions, resolutions, declarations and recommendations);
- 4) Proclaim the state of war and the state of emergency;
- 5) Adopt the budget and the final statement of the budget;
- 6) Adopt the National Security Strategy and Defense Strategy;
- 7) Adopt the Development Plan and Spatial Plan of Montenegro;
- 8) Decide on the use of units of the Army of Montenegro in the international forces;

- 9) Regulate the state administration system;
- 10) Perform supervision of the army and security services;
- 11) Call for the national referendum;
- 12) Elect and dismiss from duty the Prime Minister and members of the Government;
- 13) Elect and release from duty the judges of the Constitutional Court, Supreme State Prosecutor and four members of the Judicial Council out of reputable lawyers;
- 14) Appoint and release from duty: the Protector of Human Rights and Liberties; the Governor of the Central Bank and members of the Council of the Central Bank of Montenegro; president and members of the Senate of the State Audit Institution and other officials as determined by the law;
- 15) Decide on immunity rights;
- 16) Grant amnesty;
- 17) Confirm international agreements;
- 18) Call for public loans and decide on credits of Montenegro;
- 19) Decide on the use of state property above the value stipulated by the law;
- 20) Perform other duties stipulated by the Constitution or the law.

### **Composition of the Parliament Article 83**

The Parliament shall consist of the Members of the Parliament elected directly on the basis of the general and equal electoral right and by secret ballot.

The Parliament shall have 81 Members.

### **Mandate of the Parliament Article 84**

The mandate of the Parliament shall last for four years.

The mandate of the parliament may cease prior to the expiry of the period for which it was elected by dissolving it or reducing the mandate of the Parliament.

If the mandate of the Parliament expires during the state of war or the state of emergency, the mandate shall be extended for the period of up to 90 days upon termination of the circumstances that have caused such state.

At the proposal of the President of Montenegro, the Government or minimum 25 MP's, the Parliament may reduce the duration of its mandate.

### **Rights and responsibilities of the Members of the Parliament Article 85**

Member of the Parliament shall decide and vote according to his/her own conviction.

Member of the Parliament shall have the right to perform the duty of an MP as an occupation.

### **Immunity Article 86**

Member of the Parliament shall enjoy immunity.

Member of the Parliament shall not be called to criminal or other account or detained because of the expressed opinion or vote in the performance of his/her duty as a Member of the Parliament.

No penal action shall be taken against and no detention shall be assigned to a Member of the Parliament, without the consent of the Parliament, unless the Member has been caught performing a criminal offense for which there is a prescribed sentence of over five years of imprisonment.

The President of Montenegro, the Prime Minister and members of the Government, the President of the Supreme Court, the President and the judges of the Constitutional Court, and the Supreme State Prosecutor shall enjoy the same immunity as the Member of the Parliament.

### **Cessation of mandate of the Member of the Parliament Article 87**

Mandate of a Member of the Parliament shall cease prior to the expiry of the period for which he/she was elected:

- 1) By resignation;
- 2) If he/she was convicted by an enforceable decision of the court to an imprisonment sentence of minimum six months;
- 3) If he/she was deprived of the ability to work by an enforceable decision;
- 4) Due to cessation of Montenegrin citizenship;

### **Constitution of the Parliament Article 88**

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

### **Speaker and Deputy Speaker of the Parliament Article 89**

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

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

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

### **Sessions of the Parliament** **Article 90**

The Parliament shall work in regular and extraordinary sessions. Regular sessions shall be held twice a year.

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

Extraordinary session shall be called for at the request of the President of Montenegro, the Government or minimum one third of the total number of Members of the Parliament.

### **Decision-making** **Article 91**

*(Amendment IV, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

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

With the majority vote of the total number of Members the Parliament shall adopt the laws that regulate: manner of exercise of liberties and rights of the citizens, Montenegrin citizenship, electoral system, referendum, material responsibilities of the citizens, state symbols and use of state symbols, defence and security, the army, establishment, merger and abolition of municipalities; proclaim the state of war and state of emergency; adopt the spatial plan; adopt the Rules of Procedure of the Parliament; decide on calling for the state referendum; decide on the reduction of the mandate; decide on the removal of the President of the Montenegro from office; elect and dismiss the Prime Minister and members of the Government and decide on the trust in the Government; appoint and dismiss the Protector of human rights and liberties. The Parliament shall elect and release from duty the judges of the Constitutional Court, the Supreme State Prosecutor and four members of the Judicial Council from among reputable lawyers by two-third majority vote in the first round of voting and by three-fifth majority in the second round of voting of all the Members of the Parliament no sooner than a month.

In the first round of voting, the Parliament shall elect the Supreme State Prosecutor at proposal of the Prosecution Council. Provided that the proposed candidate does not receive votes of the required majority, the Parliament shall elect the Supreme State Prosecutor among all of the candidates that meet the legal requirements in the second round of voting.

The Parliament shall decide by a two-third majority of the total number of the Members of Parliament on the laws regulating the electoral system and property rights of foreign nationals.

The Parliament shall decide by a two-third majority of the total number of the Members of Parliament in the first round of voting and by majority of the total number of the Members of Parliament in the second round of voting on the laws regulating the manner of exercising obtained minority rights and the use of Army units in the international forces.

The Parliament shall elect and release from duty the judges of the Constitutional Court, the Supreme State Prosecutor and four members of the Judicial Council from among reputable lawyers by two-third majority vote in the first voting and by three-fifth majority in the second voting of all the Members of the Parliament no sooner than a month.

In the first voting the Parliament shall elect the Supreme State Prosecutor at proposal of the Prosecution Council. If the proposed candidate is not supported by the required majority, in the second voting the Parliament shall elect the Supreme State Prosecutor from among all the candidates that meet the legal requirements.

### **Dissolution of Parliament Article 92**

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

If the Parliament does not perform its duties established by the law for a longer period of time, the Government may dissolve the Parliament upon hearing the opinion of the Speaker of the Parliament and the presidents of the caucuses in the Parliament.

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

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

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

## **Proposing laws and other acts**

### **Article 93**

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

The right to propose laws shall also be granted to six thousand voters, through the Member of the Parliament they authorized.

The proposal to call for the national referendum may be submitted by: at least 25 Members of the Parliament, the President of Montenegro, the Government or at least 10% of the citizens with the right to vote.

## **Proclamation of laws**

### **Article 94**

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

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

## **2. PRESIDENT OF MONTENEGRO**

### **Responsibility**

#### **Article 95**

*(Amendment V, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The President of Montenegro:

- 1) Represents Montenegro in the country and abroad;
- 2) Commands over the Army on the basis of the decisions of the Defence and Security Council;
- 3) Proclaims laws by Ordinance;
- 4) Calls for the elections for the Parliament;
- 5) Propose to the Parliament: the Prime Minister-Designate for composition of the Government after the completion of the discussions with the representatives of political parties represented in the Parliament; two judges of the Constitutional Court and the Protector of Human rights and Liberties;
- 6) Appoints and revokes ambassadors and heads of other diplomatic missions of Montenegro abroad, at the proposal of the Government and after obtaining the opinion of the Parliamentary Committee responsible for international relations;
- 7) Accepts letters of accreditation and revocation of the foreign diplomats;
- 8) Awards medals and honours of Montenegro;
- 9) Grants amnesty;

10) Performs other tasks stipulated by the Constitution or the law.

**Election  
Article 96**

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

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

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

**Mandate  
Article 97**

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

The same person may be elected the President of Montenegro maximum two times. The President of Montenegro shall assume the duty on the date of taking an oath before the Members of the Parliament.

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

The President of Montenegro shall not perform any other public duty.

**Cessation of mandate  
Article 98**

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

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

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

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

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

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

### **Discharge of duties in case of impediment or cessation of mandate Article 99**

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

## **3. GOVERNMENT OF MONTENEGRO**

### **Responsibility Article 100**

The Government shall:

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

### **Decrees with legal power Article 101**

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

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

### **Composition of the Government Article 102**

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

The Prime Minister represents the Government and manages its work.

### **Election Article 103**

The President of Montenegro proposes the mandator within 30 days from the day of constitution of the Parliament.

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

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

### **Incompatibility of duties Article 104**

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

### **Resignation and impeachment Article 105**

The Government and the member of the Government may resign from duty.

Resignation of the Prime Minister shall be considered the resignation of the Government.

The Prime Minister may propose to the Parliament to impeach a member of the Government.

### **Issue of confidence Article 106**

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

### **Issue of no confidence Article 107**

The Parliament may vote no confidence in the Government.

The proposal for no confidence ballot regarding the Government may be submitted by minimum 27 Members of the Parliament.

If the Government gained confidence, the signatories of the proposal shall not submit a new proposal for no confidence ballot prior to the expiry of the 90 days deadline.

### **Interpellation Article 108**

The interpellation to examine certain issues regarding the work of the Government may be submitted by minimum 27 Members of the Parliament.

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

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

### **Parliamentary investigation Article 109**

The Parliament may, at the proposal of minimum 27 Members of the Parliament, establish a Fact-Finding Commission in order to collect information and facts about the events related to the work of the state authorities.

### **Cessation of mandate Article 110**

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

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

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

### **Civil service Article 111**

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

### **Delegation and entrusting of duties Article 112**

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

Individual duties of the civil service may be entrusted to the local self-government or some other legal entity by the regulation of the Government.

#### **4. LOCAL SELF-GOVERNMENT**

##### **Manner of decision-making Article 113**

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

The right to local self-government shall include the right of citizens and local self-government bodies to regulate and manage certain public and other affairs, in their own responsibility and in the interest of the local population.

##### **Form of local self-government Article 114**

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

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

##### **Municipality Article 115**

The municipality shall have the status of a legal entity.

Municipality shall adopt the Statute and General Acts.

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

##### **Property-related powers and financing Article 116**

The Municipality shall exercise certain property related powers over the state owned assets in accordance with the law.

The Municipality shall have property.

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

The Municipality shall have a budget.

**Autonomy  
Article 117**

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

The Government may dismiss the municipal Assembly, that is, discharge the President of the municipality from duty, only if the municipal assembly, that is, the President of the municipality, fails to perform the duties thereof for a period longer than six months.

**5. JUDICIARY**

*(Amendment VI, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

**Principles of the judiciary  
Article 118**

The court is autonomous and independent.

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

Establishment of court marshal and extraordinary courts shall be prohibited.

**Panel of judges  
Article 119**

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

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

**Publicity of trial  
Article 120**

The hearing before the court shall be public and judgments shall be pronounced publicly.

Exceptionally, the court may exclude the public from the hearing or one part of the hearing for the reasons necessary in a democratic society, only to the extent necessary: in the interest of morality; public order; when minors are on trial; in order to protect private life of the parties; in marital disputes; in the proceedings related to guardianship and adoption; in order to protect military, business or official secret; and for the protection of security and defence of Montenegro.

**Standing duty  
Article 121**

The judicial duty shall be permanent.

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

The judge shall be released from duty if he/she has been convicted for an act that makes him unworthy for the position of a judge; performs the judicial duty in an unprofessional or negligent manner or loses permanently the ability to perform the judicial duty.

The judge shall not be transferred or sent to another court against his/her will, except by the decision of the Judicial Council in case of reorganization of courts.

### **Functional immunity Article 122**

The judge and the lay judge shall enjoy functional immunity.

The judge and the lay judge shall not be held responsible for the expressed opinion or vote at the time of adoption of the decision of the court, unless this represents a criminal offense.

In the proceedings initiated because of the criminal offense made in the performance of judicial duty, the judge shall not be detained without the approval of the Judicial Council.

### **Incompatibility of duties Article 123**

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

### **Supreme Court Article 124**

*(Amendment VII, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Supreme Court shall be the highest court in Montenegro.

Supreme Court shall ensure uniform application of laws by courts and perform other activities prescribed by law.

The President of the Supreme Court shall be elected and released from duty by two-third majority of the Judicial Council, at proposal of the Supreme Court General Bench.

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

The same person may be elected the president of the Supreme Court no more than two times.

### **Election of judges Article 125**

A Judge and a president of the court shall be elected and dismissed from duty by the Judicial Council.

The President of the court shall be elected for the period of five years. The President of the court shall not be a member of the Judicial Council.

### **Judicial Council Article 126**

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

### **Composition of the Judicial Council Article 127**

*(Amendment VIII, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Judicial Council shall have a president and nine members. The members of the Judicial Council shall be:

- 1) president of the Supreme Court;
- 2) four judges to be elected and released from duty by the Conference of Judges, taking into account equal representation of courts and judges;
- 3) four reputable lawyers that are elected and released from duty by the Parliament at proposal of the competent working body of the Parliament upon announced public invitation;
- 4) Minister in charge of judicial affairs.

The President of the Judicial Council shall be elected by the Judicial Council from among its members who do not perform judicial functions, by two-third majority vote of the members of the Judicial Council.

The Minister in charge of judicial affairs may not be elected the president of the Judicial Council.

The vote of the President of the Judicial Council shall be decisive in case of equal number of votes.

The composition of the Judicial Council shall be proclaimed by the President of Montenegro.

The term of office of the Judicial Council shall be four years.

## **Responsibility of the Judicial Council**

### **Article 128**

*(Amendment IX, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Judicial Council shall:

- 1) elect and release from duty the president of the Supreme Court;
- 2) elect and release from duty the president of the Judicial Council;
- 3) submit the Report on the Performance of the Judicial Council and the Overall Judicial Situation to the Parliament;
- 4) elect and release from duty the judge, the president of the court and the lay judge;
- 5) deliberate on the report on the court activities, applications and complaints regarding the work of the court and take a standpoint with regard to them;
- 6) establish the cessation of the judicial duty;
- 7) establish the number of judges and lay judges;
- 8) propose to the Government the amount of funds required for the work of courts;
- 9) perform other duties as stipulated by the law.

The Judicial Council shall make decisions by majority vote of all its members except in the cases prescribed by the Constitution.

The Minister in charge of judicial affairs shall not vote in the disciplinary proceedings related to accountability of judges.

## **6. ARMY OF MONTENEGRO**

### **Principles**

#### **Article 129**

The Army shall defend independence, sovereignty and state territory of Montenegro, in accordance with the principles of international law regarding the use of force.

The Army shall be subject to democratic and civil control.

The members of the Army may be part of the international forces.

## **7. DEFENSE AND SECURITY COUNCIL**

### **Responsibility**

#### **Article 130**

The Defence and Security Council shall:

- 1) Make decisions on commanding over the Army;
- 2) Analyze and assess the security situation in Montenegro and decide to take adequate measures;

- 3) Appoint, promote and discharge from duty the Army officers;
- 4) Propose to the Parliament proclamation of the state of war and state of emergency;
- 5) Propose the use of Army in international forces;
- 6) Perform other duties stipulated by the Constitution and the law.

### **Composition Article 131**

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

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

### **Proclamation of the state of war Article 132**

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

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

### **Proclamation of the state of emergency Article 133**

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

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

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

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

## **8. STATE PROSECUTION**

### **Status and responsibility**

## **Article 134**

The State Prosecution shall be a unique and independent state authority that performs the affairs of prosecution of the perpetrators of criminal offenses and other punishable acts who are prosecuted ex officio.

### **Appointment and mandate**

#### **Article 135**

*(Amendment IX, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The affairs of the State Prosecution shall be carried out by the heads of the state prosecution offices and state prosecutors.

The Supreme State Prosecutor shall be elected and released from duty by the Parliament of Montenegro after the hearing with the competent working body of the Parliament, at proposal of the Prosecution Council, upon the announced public invitation.

The Supreme State Prosecutor and the heads of state prosecution offices shall be elected for the period of five years.

The function of the state prosecutor is permanent. Exceptionally, the person that is elected the state prosecutor for the first time shall be elected for the period of four years.

The term of office of the head of the state prosecution office and the state prosecutor shall cease or the same shall be released from duty in the cases and according to the procedure as defined by the law.

The head of the state prosecution office and the state prosecutor shall be released from duty if they are convicted to effective prison term by the final and binding judgment.

### **Prosecutorial Council**

#### **Article 136**

*(Amendment XI, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Prosecution Council shall ensure the autonomy of the state prosecution.

The Supreme State Prosecutor shall chair the Prosecution Council except in a disciplinary proceeding.

The composition, election, mandate, organisation and manner of work of the Prosecution Council shall be regulated by law.

The Prosecution Council shall:

- 1) establish the proposal for the election of the Supreme State Prosecutor;

- 2) elect and release from the duty the heads of the state prosecution offices and state prosecutors;
- 3) establish the termination of the function of the heads of state prosecution offices and state prosecutors;
- 4) propose to the Government the amount of funds for the work of the state prosecution;
- 5) submit the Report on Performance of the State Prosecution to the Parliament;
- 6) perform other activities as defined by the law.

The Prosecution Council shall make decisions by majority vote of all its members.

### **Functional immunity**

#### **Article 137**

*(Amendment XII, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The head of the state prosecution office and the state prosecutor shall enjoy functional immunity and may not be invited to account for an opinion given or a decision made in performing their duties, except in the case of a criminal act.

### **Incompatibility of duties**

#### **Article 138**

*(Amendment XIII, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The head of the state prosecution office and the state prosecutor may not perform the duty of a Member of the Parliament or other public duty or professionally be engaged in any other activity.

## **PART 4. ECONOMIC SYSTEM**

### **Principles**

#### **Article 139**

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

### **Economic area and equality**

#### **Article 140**

The territory of Montenegro shall represent a unique (unified) economic area.

The State shall encourage even economic development of all its areas.

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

**State property**  
**Article 141**

Assets in state property shall belong to the state of Montenegro.

**Tax obligation**  
**Article 142**

The state shall be financed from taxes, duties and other revenues.

Everyone shall pay taxes and other duties.

Taxes and other duties can be introduced only by law.

**Central Bank of Montenegro**  
**Article 143**

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

The Central Bank Council shall govern the Central Bank of Montenegro.

The Central Bank Governor shall manage the Central Bank of Montenegro.

**National Audit Institution**  
**Article 144**

*(Amendment XIV, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

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

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

The National Audit Institution shall submit an annual report to the Parliament.

The Senate shall manage the National Audit Institution.

The President and members of the Senate of the State Audit Institution shall enjoy functional immunity and may not be invited to account for an opinion given or a decision made in performing their duties, except in the case of a criminal act.

## **PART 5. CONSTITUTIONALITY AND LEGALITY**

### **Conformity of legal regulations**

#### **Article 145**

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

### **Publication and coming into effect of the regulations**

#### **Article 146**

The law and other regulation shall be published prior to coming into effect, and shall come into effect no sooner than the eighth day from the day of publication thereof.

Exceptionally, when the reasons for such action exist and have been established in the adoption procedure, law and other regulation may come into effect no sooner than the date of publication thereof.

### **Prohibition of ex post facto effect (retroactive effect)**

#### **Article 147**

Law and other regulation shall not have retroactive effect.

Exceptionally, if required so by the public interest established in the process of law adoption, individual provisions of the law may have retroactive effect.

Provision of the Criminal code may have retroactive effect only if it is more lenient for the perpetrator of a criminal offense.

### **Legality of individual acts**

#### **Article 148**

Individual legal act shall be in conformity with the law.

Final individual legal acts shall enjoy court protection.

## **PART 6. CONSTITUTIONAL COURT OF MONTENEGRO**

### **Responsibility**

#### **Article 149**

The Constitutional Court shall decide on the following:

- 1) Conformity of laws with the Constitution and confirmed and published international agreements;
- 2) Conformity of other regulations and general acts with the Constitution and the law;
- 3) Constitutional appeal due to the violation of human rights and liberties granted by the Constitution, after all other efficient legal remedies have been exhausted;
- 4) Whether the President of Montenegro has violated the Constitution,
- 5) The conflict of responsibilities between courts and other state authorities, between state authorities and local self-government authorities, and between the authorities of the local self-government units;
- 6) Prohibition of work of a political party or a non-governmental organization;
- 7) Electoral disputes and disputes related to the referendum, which are not the responsibility of other courts;
- 8) Conformity with the Constitution of the measures and actions of state authorities taken during the state of war or the state of emergency;
- 9) Performs other tasks stipulated by the Constitution.

If the regulation ceased to be valid during the procedure for the assessment of constitutionality and legality, and the consequences of its enforcement have not been recovered, the Constitutional Court shall establish whether that regulation was in conformity with the Constitution, that is, with the law during its period of validity.

The Constitutional Court shall monitor the enforcement of constitutionality and legality and shall inform the Parliament about the noted cases of unconstitutionality and illegality.

### **Initiation of the procedure to assess constitutionality and legality** **Article 150**

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

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

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

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

### **Decision of the Constitutional Court** **Article 151**

*(Amendment XV, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Constitutional Court shall decide by majority vote of all judges. The decision of the Constitutional Court shall be published.

The decision of the Constitutional Court shall be generally binding and enforceable. When necessary, the Government shall secure the enforcement of the decision of the Constitutional Court.

The Constitutional Court shall decide in respect of a constitutional appeal by a council consisting of three judges. The Council may make only unanimous decisions by all its members. If the Council may not achieve a unanimous decision, the constitutional appeal shall be decided upon by the Constitutional Court in accordance with paragraph 1 of this Article.

### **Cessation of validity of a regulation Article 152**

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

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

### **Composition and election Article 153**

*(Amendment XVI, Official Gazette of Montenegro, no. 038/13 of 2 August 2013)*

The Constitutional Court shall have seven judges.

The Judge of the Constitutional Court shall be elected for the period of 12 years.

The judges of the Constitutional Court shall be elected and released from duty by the Parliament, as follows: two judges at proposal of the President of Montenegro and five judges at proposal of the competent working body of the Parliament upon the announced public invitation carried out by the proposing parties.

The judge of the Constitutional Court shall be elected from among reputable lawyers who have turned at least 40 years of age and have 15 years of service in the legal profession.

Judges of the Constitutional Court shall elect from among their composition the president of the Constitutional Court for the period of three years.

The same person may be elected the president or judge of the Constitutional Court only once.

The president and judge of the Constitutional Court may not perform the duty of a Member of the Parliament or other public duty or professionally be engaged in any other activity.

### **Cessation of duty Article 154**

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

The President and the judge of the Constitutional Court shall be released from duty if he/she has been found guilty of an offense that makes him/her unworthy of the duty, if he/she permanently loses the ability to perform the duty or if he/she expresses publicly his/her political convictions.

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

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

## **PART 7 CHANGE OF THE CONSTITUTION**

### **Proposal for the change of the constitution Article 155**

The proposal to change the Constitution may be submitted by the President of Montenegro, the Government or minimum 25 Members of the Parliament.

With the Proposal to change the Constitution it may be proposed to change or amend individual provisions of the Constitution or to adopt the new Constitution.

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

The Proposal to change the Constitution shall be adopted in the Parliament if two-thirds of the total number of Members of the Parliament vote in favour of it.

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

### **Act on the change of the Constitution Article 156**

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

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

Draft act on the change of the Constitution shall be adopted in the Parliament if two-thirds of all the Members of the Parliaments vote in favour of it.

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

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

The act on the change of the Constitution shall be adopted in the Parliament if two-thirds of all the Members of the Parliament vote in favour of it.

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

### **Confirmation in the referendum Article 157**

Change of Articles 1, 2, 3, 4, 12, 13, 15, 45 and 157 shall be final if minimum three-fifths of all the voters support the change in the national referendum.

## **PART 8 TRANSITIONAL AND FINAL PROVISION**

### **Constitutional law for the enforcement of the Constitution Article 158**

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

The Constitutional Law for the Enforcement of the Constitution shall be adopted by the Parliament with a majority vote of all the Members of the Parliament.

The Constitutional Law shall be proclaimed and come into effect concurrently with the Constitution.