

LAW ON ADVOCACY

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LAW ON ADVOCACY¹

I GENERAL PROVISIONS

Article 1

This Law shall stipulate the conditions for practising advocacy, manner and forms of work of attorneys-at-law, the rights, duties and liabilities of attorneys-at-law and attorney trainees, competences of the Bar Association of Montenegro (hereinafter referred to as: the Bar Association) and other matters of importance for the practice of advocacy.

Article 2

Advocacy shall be an independent and autonomous service providing legal assistance to natural and legal persons.

Advocacy may be practised by attorneys-at-law, independently, within a joint law office or a law partnership, entered into the Register of the Bar Association, pursuant to this this Law.

Article 3

Legal assistance shall include:

- 1) providing legal advice and legal opinions;
- 2) drafting claims, appeals, petitions, submissions and other filings;
- 3) drafting contracts, wills, statements, general and individual acts and other instruments;
- 4) representing and defending natural and legal persons before courts and other state authorities, companies and other legal entities;
- 5) representing natural and legal persons in their legal transactions;

¹Official Gazette of Montenegro 079/06 of 26 December 2006, Official Gazette of Montenegro 073/10 as of 10 December 2010, 022/17 as of 03 April 2017)

6) performing other legal assistance activities in the name and on behalf of natural or legal persons, on the basis of which such persons exercise a right.

Article 3a

All terms used in this Law for natural persons in the masculine gender shall mean the same terms for the feminine gender.

II CONDITIONS FOR PRACTISING ADVOCACY

Article 4

An attorney-at-law shall acquire the right to practise advocacy by entry in the Register of Attorneys and by taking the oath.

Article 5

The right to be entered into the Register of Attorneys shall be granted to a person who meets the following requirements:

- 1) that he is a citizen of Montenegro;
- 2) that he has completed a four-year programme at a faculty of law – education qualification level VII1;
- 3) that he has passed the bar exam and the attorney exam;
- 4) that he is not employed elsewhere;
- 5) that he does not perform another registered activity;
- 6) that he is worthy of practising advocacy pursuant to the Code of Professional Ethics of Attorneys (hereinafter referred to as: the Code);
- 6a) that he has not been dismissed from office as a judge, state prosecutor, notary or public bailiff;
- 7) that has not been convicted of a criminal offence making him unworthy of practising advocacy.

The right to be entered in the Register of Attorneys shall also be granted to a person who is a citizen of a Member State of the European Union and who meets the requirements referred to in paragraph 1 items 2 to 7 of this Article.

Article 5a

The right to be entered in the Register of Foreign Attorneys shall be granted to an attorney from a Member State of the European Union if he meets the requirements referred to in Article 5 paragraph 1 items 4, 5, 6 and 7 of this Law and if he passes the bar exam according to the programme prescribed by the law governing the bar exam and the attorney exam pursuant to this Law, in Montenegrin language.

The attorney referred to in paragraph 1 of this Article shall be entered in the Register of Foreign Attorneys and perform advocacy in Montenegro under the title “attorney”.

Together with the application for entry in the Register of Foreign Attorneys, the attorney referred to in paragraph 1 of this Article shall submit proof of citizenship of a Member State of the European Union, proof that he is entitled to practise advocacy in a Member State of the European Union (hereinafter referred to as: the home State) as well as other proof of meeting the requirements referred to in paragraph 1 of this Article.

Documents proving the facts referred to in paragraph 3 of this Article shall be taken into consideration provided that more than three months have not passed from the date of their issuance and shall be submitted in a certified translation into the Montenegrin language.

the attorney referred to in paragraph 1 of this Article who is entered in the Register of Foreign Attorneys shall have the right and duty to perform legal assistance activities referred to in Article 3 of this Law, with all the rights and duties in performing advocacy.

Article 5b

Upon entry in the Register of Foreign Attorneys, the Bar Association shall notify the competent authority in the home State of the attorney referred to in Article 5a paragraph 1 of this Law.

The attorney referred to in Article 5a paragraph 1 of this Law shall, upon the adoption of the decision on entry in the Register of Foreign Attorneys, pay the prescribed entry costs and conclude a professional liability insurance contract, pursuant to Article 6 of this Law.

The attorney referred to in Article 5a paragraph 1 of this Law shall be fully or partially exempt from the obligation to conclude a professional liability insurance contract should he be fully or partially insured against professional liability in the home State.

Article 5v

The right to be entered in the Register of Foreign Attorneys, for the purpose of practising advocacy in Montenegro under the professional title under which he is entered in the home State in the official language or in one of the official languages of the home State, shall be granted to an attorney from a Member State of the European Union who is entered in the Register for practising advocacy in the home State, who is a citizen of a Member State of the European Union and who is insured against professional liability.

Along with the application for entry in the Register of Foreign Attorneys, the attorney referred to in paragraph 1 of this Article shall submit proof that he is entered in the Register for practising advocacy in the home State, proof that he is a citizen of a Member State of the European Union and proof that he is insured against professional liability.

Documents proving the facts referred to in paragraph 1 of this Article shall be taken into consideration provided that more than three months have not passed from the date of their issuance and shall be submitted in a certified translation into the Montenegrin language.

Attorney entered in the Register of Foreign Attorneys in accordance with paragraph 1 of this Article shall practise advocacy under the professional title under which he is entered in the home State, with an indication of the competent authority that he is registered with in the home State.

Attorney entered in the Register of Foreign Attorneys pursuant to paragraph 1 of this Article may practise advocacy as a law firm or joint law office under the name from the home State and may use the name of the law firm or joint law office of which he is a member in the home State and submit to the Bar Association proof thereof from the home State.

Attorney entered in the Register of Foreign Attorneys pursuant to paragraph 1 of this Article may provide advice on the law of the home State, European Union law and international law.

Attorney entered in the Register of Foreign Attorneys pursuant to paragraph 1 of this Article shall perform representation before courts and other state authorities, bodies of state administration and bodies of local self-government jointly with an attorney who in Montenegro has the right and duty to practise advocacy under the title "attorney" in the Montenegrin.

Attorney entered in the Register of Foreign Attorneys pursuant to paragraph 1 of this Article may not be elected to the bodies of the Bar Association, nor employ an attorney trainee.

Article 5g

Attorney entered in the Register of Foreign Attorneys pursuant to Article 5v paragraph 1 of this Law who has practised advocacy under the professional title under which he is entered in the home State for at least three years in Montenegro may be entered in the Register of Foreign Attorneys as an attorney practising under the title “attorney”..

Along with the application for entry in the Register of Foreign Attorneys, the attorney referred to in paragraph 1 of this Article shall submit proof of representing cases in Montenegro pursuant to Article 5v paragraphs 6 and 7 of this Law, for a period of at least three years.

Article 5d

The content and manner of keeping the Register of Foreign Attorneys shall be regulated by the Bar Association.

Bar Association shall submit the list of attorneys entered in the Register of Foreign Attorneys to courts and other authorities.

Article 5đ

Activities referred to in Article 5v paragraphs 6 and 7 of this Law may be performed by an attorney from a Member State of the European Union who is not entered in the Register of Foreign Attorneys.

Prior to performing the activities referred to in paragraph 1 of this Article, the attorney from a Member State of the European Union shall submit written notification to the Bar Association and attach proof of entry in the Register for practising advocacy in the home State and proof of professional liability insurance in the home State.

Along with the notification referred to in paragraph 2 of this Article, the attorney from a Member State of the European Union shall submit to the Bar Association information on his or her address or on the authorised representative appointed for receipt of documents in Montenegro.

On the basis of the notification, proof and information referred to in paragraphs 2 and 3 of this Article, the Bar Association shall issue a certificate to the attorney from a Member State of the European Union authorising him or her to perform activities in accordance with paragraph 1 of this Article.

Article 6

Attorney shall, upon adoption of the decision on entry, pay the prescribed entry costs (entry fee) and conclude a professional liability insurance contract.

The amount of the entry costs shall be determined by the Bar Association, up to a maximum of five average salaries in Montenegro achieved in the month preceding the submission of the application for entry, according to the official data of the authority competent for statistical affairs.

Article 7

Attorney shall possess an attorney identification card.

The authority before which proceedings are conducted may request any person presenting himself or herself as an attorney to produce the attorney identification card.

Article 8

Attorney entered in the Register of attorneys of another State shall have the right to act before judicial and other state authorities in Montenegro, subject to reciprocity.

certificate confirming the existence of reciprocity shall be issued by the ministry competent for judicial affairs, upon previously obtained opinion of the Bar Association.

III RIGHTS AND DUTIES OF ATTORNEYS

Article 9

Attorney shall have the right to practise advocacy throughout the entire territory of Montenegro.

Article 10

Attorney shall practise advocacy genuinely and continuously.

Attorney may professionally perform only advocacy.

Attorney shall provide legal assistance to a client conscientiously, pursuant to the law, the Statute of the Bar Association (hereinafter referred to as: the Statute) and the Code.

Attorney shall, pursuant to the law, keep confidential all information obtained in the provision of legal assistance.

The obligation referred to in paragraph 4 of this Article shall also apply to employees who work or have worked for the attorney.

Article 11

Attorney shall be free to decide whether to accept providing legal assistance to a client who has approached him or her, except in cases provided for by this Law.

Article 12

Attorney shall refuse to provide legal assistance if:

- 1) in the same legal matter, he has represented or defended the opposing party;
- 2) he was an attorney trainee with an attorney, in a joint law office or law partnership that represents or defends or has represented or defended the opposing party;
- 3) he is or was a member of a joint law office or law partnership in which, in the same legal matter, the opposing party is represented or defended or has been represented or defended;
- 4) in the same legal matter, he acted as a judge, state prosecutor or official in a state authority, a body of local self-government or local administration;
- 5) within two years from the termination of judicial office, legal assistance is requested by a party in whose other legal matter he acted as a judicial office holder;
- 6) the interests of the client seeking legal assistance are contrary to his own interests or to the interests of his closest relatives or other clients;
- 7) in other cases determined by law, the Statute and the Code.

Article 13

Attorney shall have the right to withdraw a power of attorney, pursuant to the law.

Upon withdrawal of the power of attorney, the attorney shall immediately notify the competent authority conducting the proceedings.

At the request of the client whose power of attorney has been withdrawn, the attorney shall continue providing legal assistance after the withdrawal, but for no longer than seven

days from the date of notification to the competent authority conducting the proceedings of the withdrawal of the power of attorney.

Article 14

Attorney shall deliver to the client, at the client's request, all files and documents belonging to the client.

Attorney shall retain case files and documents entrusted to him by the client for a period of five years following the termination of representation, unless otherwise determined by the agreement with the client.

Article 15

Attorney shall be entitled to remuneration for his work pursuant to the Attorneys' Tariff.

Attorneys' Tariff shall be adopted by the Bar Association, with the prior consent of the Government of Montenegro.

The amount of remuneration for the work of a court-appointed attorney shall be determined by the Bar Association by a separate act, with the prior consent of the Government of Montenegro.

Acts referred to in paragraphs 2 and 3 of this Article shall be published in the "Official Gazette of Montenegro".

Article 16

State authorities, institutions, companies, entrepreneurs and other forms of organization shall provide the attorney, for the purpose of providing effective legal assistance to the party, upon his request and in accordance with the law, all information, documents and evidence they possess, within a reasonable time frame.

Article 17

Attorney shall have a law office which shall display a sign bearing the designation "attorney" and the first and last name of the attorney.

As a rule, an attorney shall provide legal assistance in his law office, except in matters of representation.

Attorney shall notify the Bar Association of any change of the seat of his law office within 15 days from the date of the change of seat.

Article 18

Attorney shall have a seal containing the designation "attorney", the first and last name of the attorney and the address of the law office.

Attorney shall affix his seal to every instrument and submission he drafts.

Article 19

Attorney shall, at the client's request, issue a receipt specifying the amount received on account of remuneration for work, advance payment and reimbursement of expenses.

Article 20

In matters of representation, an attorney may be substituted, without a substitute power of attorney, by his attorney trainee, pursuant to the law, subject to the prior consent of the party (client) whom he represents.

Attorney trainee shall act in accordance with the instructions of the attorney whom he substitutes.

Material liability shall be borne by the attorney with whom the attorney trainee is employed, for omissions committed in the work of the attorney trainee.

Article 21

Attorney shall pay membership fees to the Bar Association.

Article 21a

Advertising of an attorney, a joint law office and a law partnership through mass media, billboards or in any other manner, as well as in the course of presentation, shall be prohibited.

Manner of presentation of an attorney, a joint law office and a law partnership shall be regulated in more detail by the Statute and the Code.

Article 22

Attorney shall obtain professional liability insurance with an organisation registered for this type of insurance.

Bar Association may conclude a collective insurance contract with an insurance company, in which case attorneys shall pay to the Bar Association a fee for professional liability insurance.

The minimum amount of insurance shall be determined in the amount of ten average annual salaries in Montenegro, on the basis of data of the state administration authority competent for statistical affairs.

The insurance contract referred to in paragraph 1 of this Article shall be concluded for a period of one year, unless otherwise provided by insurance regulations.

Article 23

Attorney may be deprived of liberty for criminal offences committed in connection with the performance of advocacy only pursuant to a decision of a panel of the competent court.

Appeal against the decision referred to in paragraph 1 of this Article shall be permitted to the panel of the immediately superior court.

Bar Association shall be notified without delay of the detention and ordering of custody of an attorney.

Search of a law office may be ordered only on the basis of a court decision.

The search shall be conducted in the presence of a representative of the Bar Association designated by its president.

Items, files or documents, as well as information obtained during the search of an attorney or a law office may not be used for the purpose of conducting proceedings against any client of that law office.

FORMS OF PRACTISING ADVOCACY

Article 24

Attorney shall practise advocacy independently, in a joint law office or in a law partnership.

Article 25

Two or more attorneys may have a joint law office.

Joint law office shall be established by a contract regulating the mutual business and property relations of the attorneys.

Joint law office shall be entered in the Register of Joint Law Offices.

Article 26

Attorneys in a joint law office may have only one law office.

Joint law office shall display a sign bearing the designation "joint law office" and the first and last names of the attorneys.

Joint law office shall have a seal containing the designation "joint law office", the first and last names of the attorneys and the address of the law office.

Within a joint law office, an attorney may also have his own separate seal.

Article 27

Client may authorise one or more attorneys from a joint law office to represent him.

All authorised attorneys shall be jointly and severally liable for obligations of a joint law office arising from legal relations with clients and third parties, where the client has authorised more than one attorney,

Article 28

Joint law office shall cease to exist by agreement or where only one attorney remains therein.

Article 29

Two or more attorneys may establish a law partnership (hereinafter referred to as: the partnership).

The partnership shall have the status of a legal entity.

The partnership shall be established by contract.

In addition to the conditions prescribed by law, the contract establishing the partnership shall also contain the following:

- 1) that the sole activity of the partnership is advocacy;
- 2) that the members of the partnership are attorneys entered in the Register of the Bar Association;
- 3) that legal assistance on behalf of the partnership may be provided by attorneys who are members of that partnership and attorneys engaged by the partnership;
- 4) that attorneys working in the law partnership need not be members of the partnership;
- 5) that attorney members of the partnership may not practise advocacy outside the partnership.

Consent to the contract establishing the partnership, in terms of meeting the requirements provided for in paragraph 4 of this Article, shall be given by the competent body of the Bar Association.

Partnership that meets the requirements for establishment stipulated by law and on the basis of the consent referred to in paragraph 5 of this Article shall be entered in the Central Register of the Commercial Court (hereinafter referred to as the: the Central Register).

Article 30

Member of the partnership authorised by the founding agreement to represent the partnership shall, within 15 days from the date of entry of the partnership in the Central Register, submit to the Bar Association an application for entry of the partnership in the Register of Law Partnerships.

The partnership shall be entered in the Register of Law Partnerships if:

1. the partnership is entered in the Central Register;
2. the partnership pays the entry costs stipulated by law;
3. the partnership has concluded a professional liability insurance contract, the minimum insured amount of which may not be lower than the sum of the minimum insured amounts stipulated by this Law for the attorneys who are members of that partnership.

The right to practise advocacy shall be acquired by the partnership upon entry in the Register of Law Partnerships.

Article 31

Partnership may be joined on the basis of an accession agreement or left on the basis of a withdrawal agreement.

Member of the partnership authorised by the founding agreement to represent the partnership shall, in the case referred to in paragraph 1 of this Article, submit to the Central Register an application for change of registration.

Changes referred to in paragraph 1 of this Article shall, at the request of the member of the partnership referred to in paragraph 2 of this Article, be entered in the Register of Law Partnerships by the competent authority of the Bar Association on the basis of the decision of the Central Register on the change of registration and proof that the costs for entry of the change in the Register of Law Partnerships have been paid to the Bar Association.

Article 32

Partnership may have only one law office and may not have branch offices. The office shall have:

- 1) a business name containing the designation: "law partnership" and the first and last names or only the last names of the founders or the first and last name or only the last name of one of the founders, to which the indication "and others" may be added;
2. a displayed sign bearing the business name;
3. a seal containing the business name and the seat of the partnership.

Article 33

Partnership shall lose the right to practise advocacy by deletion from the Register of Law Partnerships.

Partnership shall be deleted from the Register of Law Partnerships if:

1. it is deleted from the Central Register, as of the date the decision on deletion becomes final;
2. bankruptcy or liquidation proceedings are initiated, as of the date the decision initiating such proceedings becomes final;
3. it does not practise advocacy continuously for more than six months, as of the date the decision of the Bar Association on deletion becomes final;
4. in addition to advocacy, it begins to perform another activity, as of the date the decision of the Bar Association on deletion becomes final;
5. a disciplinary measure is imposed on a member of the partnership, as a result of which the conduct and operations of the law partnership damage the reputation of

advocacy, as of the date the decision imposing the disciplinary measure becomes final;

6. it does not fulfil the conditions prescribed by this Law for entry in the Register of Law Partnerships, as of the date the decision of the Bar Association on deletion becomes final.

The decision referred to in paragraph 2 items 3 to 6 of this Article shall be submitted by the competent authority of the Bar Association to the Central Register with a request for deletion of the partnership from the register.

Article 34

Rights and duties prescribed by this Law for attorneys shall also apply to law partnerships.

Article 35

Attorney trainee shall be a person who, by working with an attorney, is trained for independent practice of advocacy.

Attorney trainee may commence traineeship if he is entered in the Register of Attorney Trainees.

General labour regulations shall apply to an attorney trainee with regard to his rights and obligations, unless otherwise provided by this Law.

Article 36

Person who meets the following requirements may be entered in the Register of Attorney Trainee:

- 1) he is a citizen of Montenegro;
- 2) he has completed a four-year programme at a faculty of law, education qualification level VII1;
- 3) he has full legal capacity;
- 4) he is not employed elsewhere;
- 5) he has not been convicted of a criminal offence making him unworthy of trust for practising advocacy;
- 6) he does not perform another registered activity;
- 7) he is worthy of practising advocacy pursuant to the Code;
- 8) he has concluded an employment contract with an attorney;
- 9) he does not have work experience qualifying him to take the bar exam.

Article 37

Traineeship in advocacy shall last a maximum of five years, after which the attorney trainee shall be deleted from the Register of Attorney Trainees.

Article 38

Competent authority of the Bar Association shall adopt a training plan and programme for attorney trainees.

Attorney shall provide the attorney trainee with working conditions and training pursuant to the plan and programme referred to in paragraph 1 of this Article.

Article 39

Attorney trainee shall work in accordance with the instructions and within the authorisations granted by the attorney with whom he performs traineeship, unless such instructions are contrary to the law, the Statute or the Code.

An attorney trainee may substitute only the attorney or act only on behalf of the partnership with which he performs traineeship, in cases where that attorney or partnership represents or defends a client, as well as in cases where that attorney substitutes another attorney.

An attorney trainee may not independently and on his own account practise advocacy.

V BAR ASSOCIATION

Article 40

Bar Association shall be an autonomous, independent professional organisation of attorneys performing activities of general interest for attorneys entered in the Register of Attorneys and performing activities entrusted to it by this Law.

Attorneys shall be registered as members of the Bar Association.

Article 41

Bar Association shall have the status of a legal person.

The seat of the Bar Association shall be in Podgorica.

The Bar Association shall have a seal containing the name “Bar Association of Montenegro” – Podgorica and a logo depicting the Goddess of Justice – Iustitia, in front of whom is a shield with a lion passant (the shield being taken from the State Coat of Arms of RCG) and the year 1909 (the date of adoption of the Law on Legal Representatives of the Principality of Montenegro).

Article 42

The Bar Association shall:

- 1) adopt the Statute, the Code and other general acts;
- 2) adopt the Attorney Tariff, with the prior approval of the Government of Montenegro;
- 3) organise the bar exam;
- 4) regulate the content and manner of keeping the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships and the Register of Attorney Trainees;
- 5) represent the advocacy of Montenegro and carry out international cooperation in the field of advocacy;
- 6) represent the interests of attorneys before state authorities and organisations;
- 7) represent attorneys before domestic and foreign professional associations and organisations, legal and natural persons;
- 8) organise education and professional development of attorneys and attorney trainees;
- 9) provide opinions, upon request of authorities, on draft laws and other regulations;
- 10) issue permanent and occasional publications;
- 11) keep the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships and the Register of Attorney Trainees and issue attorney identification cards in the manner prescribed by the Statute;
- 12) regulate the manner of attorneys’ relations with the public;
- 13) perform other activities in accordance with the Law and the Statute.

Article 43

In performing its activities, the Bar Association shall decide on:

- 1) applications for entry, deletion and annulment of entry in the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships and the Register of Attorney Trainees;
- 2) applications for temporary cessation of practising advocacy;
- 3) applications for resumption of practising advocacy after temporary cessation;
- 4) applications for relocation of a law office;
- 5) temporary prohibition of practising advocacy;
- 6) the amount of membership fee and entry costs (entry fee);
- 7) initiation and conduct of disciplinary proceedings against an attorney or attorney trainee;
- 8) liability of attorneys in disciplinary proceedings and imposition of disciplinary measures;
- 9) other matters determined by this Law and the Statute.

Article 44

The Statute shall regulate the organisation of the Bar Association, the manner of election and powers of its bodies, the rights, duties and disciplinary liability of attorneys and attorney trainees and other matters of importance for advocacy.

The Statute and the Code shall be published in the "Official Gazette of Montenegro".

Article 45

An applicant for entry in the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships or the Register of Attorney Trainees shall attach to the application evidence of fulfilment of the conditions for entry prescribed by this Law.

Legal persons, authorities and organisations with which the applicant was employed and from which certain data are requested shall submit such data to the Bar Association upon its request no later than within 15 days.

Article 46

Upon applications for entry in the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships, the Register of Attorney Trainees, applications for temporary cessation of practising advocacy, applications for resumption of practising advocacy, applications for relocation of a law office and other applications, the competent authority of the Bar Association shall adopt a decision within 30 days from the date of submission of the application.

Article 47

Provided that, following the entry in the Register of Attorneys, Joint Law Offices, Law Partnerships or Attorney Trainees, it is established that the conditions for entry prescribed by this Law were not fulfilled, the competent authority of the Bar Association shall annul such entry.

In case of annulment of entry in the Register of Attorney Trainees, time spent working as an attorney trainee shall not be recognised as service required for taking the bar exam.

Article 48

Appeal against all first-instance decisions of the competent authorities of the Bar Association shall be allowed within eight days from the date of receipt of the decision, to the body designated by the Statute.

Appeal shall stay the enforcement of the first instance decision, unless otherwise provided by this Law.

The applicant may also file an appeal if no decision on his or her application has been adopted within the time limit referred to in Article 46 of this Law.

Article 49

Administrative dispute may be initiated against all final decisions of the competent authorities of the Bar Association deciding on the rights, obligations and liability of attorneys and attorney trainees.

Article 50

Bar Association shall be financed from membership fees, entry fees, revenues from fines imposed in disciplinary proceedings and other sources.

The amount of membership fee and entry fee shall be determined by the body designated by the Statute.

Article 51

Bar Association may organise the provision of free legal aid to citizens in its territory or part thereof, independently or on the basis of a contract concluded with a state authority or a body of local self-government that provides material and other conditions for the provision of assistance.

Article 52

Bar Association shall submit to courts and other authorities a list of attorneys entered in the Register of the Bar Association, with the necessary data, in accordance with the rules of the Bar Association, for the purpose of designating a court-appointed defence counsel in preliminary and criminal proceedings.

Bar Association shall submit to courts and other authorities a list of attorneys entered in the Register of the Bar Association, with the necessary data, in accordance with the rules of the Bar Association, in order for them, as appointed representatives, temporary representatives, temporary guardians or authorised recipients of documents, to provide professional and efficient legal assistance to parties in civil, non-contentious, enforcement, administrative and other proceedings.

VI DISCIPLINARY LIABILITY

Article 53

Attorneys shall be disciplinarily liable for violations of their duties before the disciplinary bodies determined by the Statute.

Manner of conducting disciplinary proceedings shall be set forth by the Statute.

Article 54

Minor and serious violations of attorney duties shall be determined by the Statute.

Article 55

The following disciplinary measures may be imposed on an attorney for committing a violation of duty:

- 1) warning;

- 2) fine;
- 3) temporary deletion from the Register of Attorneys;
- 4) deletion from the Register of Attorneys.

Article 56

Attorney may be imposed a warning or a fine for minor violations of duty.

Attorney may be imposed a fine, temporary deletion from the Register of Attorneys or deletion from the Register of Attorneys for serious violations of duty.

Article 57

The amount of the fine for a minor violation of duty may not exceed the single amount of the highest work fee prescribed by the Attorney Tariff applicable on the day of imposing the disciplinary measure and, for a serious violation of duty, it may not be lower than five times the lowest work fee nor higher than five times the highest work fee.

Article 58

The measure of temporary deletion from the Register of Attorneys may not be imposed for a period shorter than six months nor longer than two years, and, in the case of attorney trainees, for a period shorter than three months nor longer than one year.

Article 59

Statute of limitation for initiating disciplinary proceedings shall occur upon the expiry of six months from the date of learning of the committed violation and, in any case, upon the expiry of two years from the date of the committed violation.

Statute of limitation for conducting disciplinary proceedings shall occur upon the expiry of one year from the initiation of proceedings.

Statute of limitation for initiating and conducting disciplinary proceedings for a violation having elements of a criminal offence shall occur upon the expiry of the period prescribed for limitation of criminal prosecution.

Statute of limitation shall be interrupted by any procedural action undertaken for the purpose of conducting disciplinary proceedings.

Statute of limitation shall also be interrupted when, during the running of the limitation period, the attorney commits another violation of duty.

Upon each interruption, the statute of limitations begins to run anew.

Statute of limitation shall in any case occur when twice the period prescribed by this Law for limitation of conducting disciplinary proceedings has elapsed.

Article 60

Statute of limitation of enforcing a disciplinary measure shall occur upon the expiry of one year from the date the decision imposing the measure becomes final.

Statute of limitation shall be interrupted by any action undertaken for the purpose of enforcing the disciplinary measure.

Upon each interruption, the period shall begin to run anew, but the statute of limitation shall in any case occur when twice the period prescribed by this Law for limitation of enforcement of the imposed disciplinary measure has elapsed.

Article 61

Attorney on whom the disciplinary measure of temporary deletion from the Register of Attorneys has been imposed may submit an application for re-entry in the Register of Attorneys upon the expiry of the period for which the disciplinary measure was imposed.

Article 62

Provisions on disciplinary liability of attorneys shall apply mutatis mutandis to attorney trainees.

VII TEMPORARY CESSATION AND PROHIBITION OF PRACTISING ADVOCACY

Article 63

Attorney shall have the right to temporary cessation of practising advocacy:

- 1) for the purpose of professional development;
- 2) during temporary incapacity for work in accordance with the law, lasting longer than six months;
- 3) in case of election to a professional function in a state authority or a body of local self-government, for the duration of the mandate;
- 4) for other justified reasons.

Application for exercising the right referred to in paragraph 1 of this Article, containing the reasons and information on the commencement and duration of the temporary cessation of work, shall be submitted by the attorney to the Bar Association 30 days prior to the commencement of exercising the right referred to in paragraph 1 items 1 and 4 of this Article, or within 30 days from the occurrence of the reasons referred to in paragraph 1 items 2 and 3 of this Article.

Upon the application of the attorney referred to in paragraph 1 of this Article, the competent authority of the Bar Association shall adopt a decision on temporary cessation of practising advocacy.

If the attorney fails to submit the application referred to in paragraph 2 of this Article within the prescribed time limit, the competent authority of the Bar Association shall ex officio adopt a decision on his deletion from the Register of Attorneys.

Within 30 days following the cessation of any of the reasons referred to in paragraph 1 of this Article, the attorney may submit an application to the competent authority of the Bar Association to resume practising advocacy.

If the attorney fails to submit the application referred to in paragraph 5 of this Article, the competent authority of the Bar Association shall adopt a decision on his or her deletion from the Register of Attorneys.

Article 64

The competent authority of the Bar Association shall temporarily prohibit an attorney from practising advocacy as follows:

- 1) if detention has been ordered against him;
- 2) if disciplinary proceedings have been initiated against him for a serious violation of duty making him unworthy of practising advocacy;
- 3) if proceedings for annulment of entry in the Register of Attorneys have been initiated.

The decision on temporary prohibition of practising advocacy shall also determine the duration of the temporary prohibition.

Appeal lodged against the decision referred to in paragraph 2 of this Article shall not stay the execution of the decision.

The competent authority of the Bar Association shall adopt a decision on termination of the temporary prohibition of practising advocacy when the reasons for which the prohibition was imposed cease to exist.

Article 65

Bar Association shall notify all courts on the territory of Montenegro, as well as other state authorities, bodies of local self-government and local administration before which attorneys act, of the imposed temporary prohibition of practising advocacy and such authorities shall act in line with that decision.

VIII TERMINATION OF THE RIGHT TO PRACTISE ADVOCACY

Article 66

The right of an attorney to practise advocacy shall cease as follows:

- 1) if he submits an application for deletion from the Register of Attorneys – as of the date of adoption of the decision on deletion;
- 2) if his Montenegrin citizenship ceases – as of the date the decision becomes final;
- 3) if he is fully or partially deprived of legal capacity – as of the date the decision becomes final;
- 4) in the case of annulment of entry for reasons prescribed by Article 47 of this Law;
- 5) if the disciplinary measure of deletion from the Register of Attorneys is imposed on him or her – as of the date the decision on deletion becomes final;
- 6) if, in criminal proceedings, the security measure prohibiting the practice of advocacy is imposed on him – as of the date the judgement becomes final;
- 7) if he is convicted by a final judgement of a criminal offence rendering him or her unworthy of practising advocacy – as of the date of adoption of the final decision on deletion from the Register of Attorneys;
- 8) if he is convicted by a final judgement of a criminal offence to a term of imprisonment longer than six months – as of the date of commencement of serving the sentence;
- 9) if it is established that he has not practised advocacy for longer than six months – as of the date of adoption of the final decision on deletion. Attorney shall be deemed not to have practised advocacy for longer than six months if, during that period, service of documents could not be carried out at the seat of the law office and if, during that period, he fails to meet material commitments towards the Bar Association;
- 10) if he enters into employment outside advocacy or commences professional performance of another activity – as of the date of entering into employment or registration or entry of the other activity in the Central Register;
- 11) if, after bankruptcy or liquidation proceedings have been conducted and finally concluded, the law partnership ceases to exist or if he withdraws from a law partnership and, within 60 days from the date the decision on bankruptcy or liquidation becomes final or from the date of withdrawal from the law partnership, fails to notify and submit proof to the Bar Association that he will continue to practise advocacy independently, in a joint law office or in another partnership – as of the date when he was obliged to do so;
- 12) if he fails to obtain or renew the insurance referred to in Article 22 of this Law – as of the date on which he was obliged to do so.

The competent authority of the Bar Association shall delete the attorney from the Register within 15 days from the date any of the grounds for termination of the right to practise advocacy referred to in paragraph 1 of this Article have occurred.

Provisions of paragraphs 1 and 2 of this Article shall apply mutatis mutandis to attorney trainees.

VIIIa PRACTISING ADVOCACY BY ATTORNEYS FROM MEMBER STATES OF THE EUROPEAN UNION

Article 66a

Actions referred to in Article 51 and 54 of the present Law shall be subject to provisions of Articles 9 to 23 of the present Law.

Article 66b

Law firms as a form of practising advocacy in a Member State of the European Union and in a Member State of the World Trade Organization may establish their branches in Montenegro in accordance with an international agreement and this Law.

The branches referred to in paragraph 1 of this Article may provide in Montenegro advice on the law of their home State, European Union law and international law.

Article 66v

Provisions of Articles 53 to 66 of this Law shall apply mutatis mutandis to disciplinary liability, temporary cessation and prohibition of practising advocacy as well as to termination of the right to practise advocacy of attorneys referred to in Article 5a paragraph 1 and Article 5v paragraph 1 of this Law.

Attorney referred to in Article 5a paragraph 1 and Article 5v paragraph 1 of this Law shall have the right to assistance of the competent authority of the home State in disciplinary proceedings.

Measure of prohibition of practising advocacy imposed on an attorney referred to in Article 5a paragraph 1 and Article 5v paragraph 1 of this Law may be applied only in Montenegro.

Bar Association shall notify the competent authority of the home State of initiated disciplinary proceedings and imposed disciplinary measures against attorneys referred to in Article 5a paragraph 1 and Article 5v paragraph 1 of this Law.

Article 66g

Attorney referred to in Article 5đ of this Law shall comply with the Code.

Attorney referred to in Article 5đ of this Law shall be disciplinarily liable pursuant to this Law and for a committed disciplinary violation may be imposed a prohibition of practising advocacy in Montenegro, of which the Bar Association shall notify the competent authority of the home State.

Attorney referred to in Article 5đ of this Law shall have the right to assistance of the competent authority of the home State in disciplinary proceedings.

IX BAR EXAM

Article 67

A person who has passed the judicial exam shall have the right to take the bar exam.

At the bar exam, knowledge of the regulations governing advocacy, the Statute and the Code shall be assessed.

Article 68

The bar exam shall be taken before the Bar Exam Commission established by the President of the Bar Association.

The manner of work and decision-making of the Bar Exam Commission shall be prescribed by the Statute.

Article 69

The programme and manner of taking the bar exam shall be prescribed by the competent authority of the Bar Association.

X TRANSITIONAL AND FINAL PROVISIONS

Article 70

Attorneys entered in the Register of the Bar Association prior to the date of application of this Law shall not be required to take the bar exam in accordance with this Law.

Attorneys referred to in paragraph 1 of this Article shall conclude a professional liability insurance contract in accordance with this Law no later than three months from the date of commencement of application of this Law.

Article 71

Law partnerships established under previous regulations shall be entered in the Register of Law Partnerships in line with this Law no later than three months from the date of commencement of application of this Law.

Article 72

Bar Association shall adopt the Statute and other acts necessary for the implementation of this Law and regulate the content and manner of keeping the Register of Attorneys, the Register of Joint Law Offices, the Register of Law Partnerships and the Register of Attorney Trainees no later than six months from the date of entry into force of this Law.

Article 72a

Secondary legislation in line with this Law shall be adopted within three months from the day of entering into force of this Law.

Article 73

The President of the Bar Association shall establish the Bar Exam Commission no later than six months from the date of entry into force of this Law.

Article 73a

National of the European Union Member State may be entered in the Register of Attorneys in line with this Law from the day of accession of Montenegro into the European Union.

Article 73b

Provisions of Articles 5a to 5d and the provisions of Chapter VIIIa of this Law shall apply from the day of accession of Montenegro to the European Union.

Article 74

On the day of entry into force of the present Law, the Law on Advocacy (Official Gazette of the FRY 24/98 and 11/2002) and the Law on Advocacy and Legal Aid Service (Official Gazette of the SRCG 11/79 and 11/88) shall cease to apply.

Article 75

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

NOTE

On the day of entry into force of the Law Amending the Law and Other Regulations due to the Constitutional Change in the Name of the State (Official Gazette of Montenegro, No. 73/10), in the laws and other regulations that were adopted before the Constitution of Montenegro:

- title: "Republic of Montenegro" shall be replaced by the title: "Montenegro";
- in the title of state and other authorities and in the title of individual acts, the word "Republic" shall be deleted;
- title: "administrative authority of the Republic" shall be replaced by the title: "state administration authority";
- wording "of the Republic" shall be replaced by "the state" or shall be deleted.