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# Constitution of the Republic of Montenegro

In accordance with the Amendment LXXXII, item 1, para. 7 of the Constitution of the Republic of Montenegro, the Assembly of the Republic of Montenegro, at its session held on October 12, 1992, has passed

## **THE DECISION**

### **ON THE PROMULGATION OF THE CONSTITUTION OF THE REPUBLIC OF MONTENEGRO**

The Constitution of the Republic of Montenegro having been adopted by the Assembly of the Republic of Montenegro at its session held on October 12, 1992 is hereby promulgated.

No. : 02-2893

In Podgorica, on this 12th day of October 1994

The Assembly of the Republic of Montenegro

President of the Assembly

Dr. Risto Dj. Vukcevic

(signature)

Mindful of the historical right of the Montenegrin people to have its own state, acquired through centuries-long struggle for freedom;

Dedication of the citizens of Montenegro to freedom, democracy and equality among peoples and friendship among nations;

In the belief that nature is the source of health, spirituality and culture, of the human kind, whereas the state is a guardian of sanctity and purity of nature;

Determination of its citizens for Montenegro to continue to live in the joint state of Yugoslavia as a sovereign and equitable republic;

The Assembly of the Republic of Montenegro, striving to provide permanent peace and secure all the tributes of tranquility, honour, justice and freedom,

hereby adopts and promulgates

## **CONSTITUTION OF THE REPUBLIC OF MONTENEGRO**

### **Section I**

#### **Basic Provisions**

##### **Article 1.**

###### **STATE**

Montenegro is a democratic, social and ecological state.

Montenegro is a republic.

Montenegro is the member of the Federal Republic of Yugoslavia.

##### **Article 2.**

###### **SOVEREIGNTY**

Montenegro shall be sovereign in all matters which it has not conferred on to the jurisdiction of the Federal Republic of Yugoslavia.

Sovereignty is vested in all the citizens of the Republic of Montenegro.

Citizens shall exercise their sovereignty directly and through their freely elected representatives.

Any change in the status of the country, change of the form of government and any change of frontiers shall be decided upon only by citizens in a referendum.

##### **Article 3.**

###### **DEMOCRACY**

No authority shall be either established or recognised which does not result from the freely expressed will of citizens.

##### **Article 4.**

###### **RULE OF LAW**

The state is founded on the rule of law.

The government shall be in conformity with the Constitution and Law.

##### **Article 5.**

###### **DIVISION OF POWER**

The government of Montenegro shall be arranged according to the rule of the division of power into the legislative, executive and judicial.

Legislative power is vested in the Assembly, the executive power in the Government and the judicial in the courts of law.

Montenegro shall be represented by the President of the Republic.

Constitutionality and legality shall be protected by the Constitutional Court.

**Article 6.**

**THE STATE SYMBOLS**

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

**Article 7.**

**THE CAPITAL CITY AND ADMINISTRATIVE CENTRE**

The administrative centre of Montenegro shall be Podgorica.

The capital city of Montenegro shall be Cetinje.

**Article 8.**

**TERRITORY**

The territory of Montenegro shall be a single and inalienable territory.

Montenegro shall be organised in territorial units - municipalities.

**Article 9.**

**LANGUAGE AND ALPHABET**

In Montenegro Serbian language of the iekavian dialect will be the official language.

Cyrillic and Latin alphabets shall be deemed to be equal.

In the municipalities in which the majority or a substantial number of population consists of the national minorities and ethnic groups, their respective languages and alphabets shall be in the official use.

**Article 10.**

**CITIZENSHIP**

Montenegro shall confer Montenegrin citizenship on its citizens.

No person may be deprived of the Montenegrin citizenship nor of the right to change the citizenship.

**Article 11.**

**RELIGION**

The Orthodox Church, Islamic religious community, the Roman Catholic Church and other faiths shall be separate from the state.

All the faiths shall be deemed to be equal and free in the performance of their religious rites and affairs.

All the religious denominations will independently arrange their interior organisation and religious affairs within the legal set-up.

The state shall offer material assistance to religious denominations.

**Article 12.**

**LEGISLATURE**

The law shall prescribe and regulate the following, in accordance with the Constitution:

1. Manner in which rights and freedoms shall be exercised if this is necessary for their exercise;
2. Manner of establishing, organising and competence of the state authorities and the procedure before the authorities if this is necessary for their proper functioning;
3. The system of the local self-government;
4. Other matter of interest for the Republic.

**Article 13.**

**LIMITS OF FREEDOM**

In Montenegro everything shall be deemed to be free if not prohibited by law.

Everyone is obliged to uphold the Constitution and the law.

Public officials must consciously and honestly perform their duties and shall be held responsible for their performance.

## **Section II**

### **Freedoms and Rights**

**Article 14.**

**BASIC PROVISIONS**

Freedoms and rights shall be exercised in accordance with the Constitution.

**Article 15.**

**FREEDOM AND EQUALITY**

All citizens are free and equal regardless of any particularities and/or other personal attributes.

Everyone shall be equal before the law.

**Article 16.**

**INVIOLABILITY**

Freedoms and rights are inviolable.

Everyone is obliged to respect freedom and rights of other.  
Any abuse of the freedom and rights shall be deemed to be unconstitutional and shall be punishable according to law.

**Article 17.**  
**PROTECTION**

Everyone is entitled to an equal protection of his freedoms and rights in the procedure prescribed by law.

**RIGHT OF APPEAL**

Everyone is guaranteed the right to an appeal or some other legal remedy against the decisions deciding on his rights or interests based on the law.

**Article 18.**  
**LEGAL ASSISTANCE**

Everyone shall have the right to legal assistance.

Legal assistance shall be offered by the Bar Association, as an independent service and by other legal services.

**Article 19.**  
**ENVIRONMENT**

Everyone shall have the right to a healthy environment and shall be entitled to a timely and complete information on its state.

Everyone has the duty to preserve and promote the environment.

## **1. Personal Freedoms and Rights**

**Article 20.**  
**PERSONAL INVIOABILITY**

Physical and psychological integrity of a man, his privacy and personal rights are inviolable. Dignity and safety of a man are inviolable.

**Article 21.**  
**CAPITAL PUNISHMENT**

Human life is inviolable.

The capital punishment may be ruled and pronounced only for the most serious criminal offence.

**Article 22.**  
**DETENTION**

Every person is entitled to personal freedom.

The seizure or detention must be understood by the arrested person to be an arrest, promptly and in his own language or in the language which he understands, and the reasons for the arrests must be communicated.

Detained person must be promptly informed of his right to remain silent.

At the request of the person detained, the arresting authority must promptly inform close relations of the detained about his arrest.

Person detained shall have the right to have the defence council of his choice present at the hearing.

Illegal arrest shall be deemed to be a punishable offence.

**Article 23.**  
**CUSTODY**

A person reasonably suspected of having committed a criminal offence may be detained and held in confinement on the basis of the decision by a competent court of law, only when this is indispensable for the conduct of criminal procedure.

Person detained must be given the warrant for the arrest with adequate explanation at the time of the arrest or within 24 hours at the latest from the moment of the arrest. The detained person shall have the right of appeal against the arrest which shall be decided upon by the court of law within 48 hours.

The length of detention must be of the shortest possible duration.

The detention ordered by a first instance court must not exceed three months from the day of arrest. This time limit may be extended for further three months by the decision of a higher court. If by the end of this period the indictment has not been filed, the accused shall be released.

The detention of persons underage (minors) may not exceed 60 days.

**Article 24.**  
**RESPECT OF HUMAN DIGNITY**

Respect of human dignity and dignity in all criminal and any other proceedings is hereby guaranteed, both in the case of arrest or limitation of freedom and during serving of pronounced sentence.

**PROTECTION OF PHYSICAL INTEGRITY**

The use of force against a suspect who has been detained or whose freedom has been restricted and any forcible extraction of a confession or statement, shall be prohibited and punishable.

No one may be subject to torture, humiliating and degrading treatment or punishment.

Medical and other scientific experimentation may not be carried out on an individual without his consent.

**Article 25.**

**RULE OF LEGALITY**

No one may be punished for an act which did not constitute a penal offence under law or by-laws at the time it was committed, nor may a punishment be pronounced which was not envisaged for the offence in question.

Criminal offences and criminal sanction shall be prescribed by law.

Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty by a valid decision of the court of law.

**COMPENSATION OF DAMAGE**

Any person wrongfully detained or wrongfully convicted shall be entitled to compensation of damages by the state.

**RIGHT TO DEFENCE**

Every person shall be guaranteed the right to defend himself and the right to engage a defence counsel before the court of law or before some other body authorised to conduct proceedings.

**Article 26.**

All criminal and other punishable offences shall be determined and sentences pronounced according to legal regulation and provisions based on the law which was in force at the time the offence was committed, except if the new legal regulations and provisions are based on the law which is more lenient for the perpetrator.

**Article 27.**

**NE BIS IN IDEM**

No person shall be tried twice for the same offence.

**Article 28.**

**FREEDOM OF MOVEMENT AND RESIDENCE**

Citizens shall be guaranteed the freedom of movement and residence.

Freedom of movement and residence may be restricted only for purpose of conducting criminal investigations, for prevention of contagious diseases or when so required for the defence of the Federal Republic of Yugoslavia.

**Article 29.**

**HOME**

The home shall be inviolable.

A person in an official capacity may enter a dwelling or other premises against the will of the tenant and may search them, but only on the grounds of a search warrant issued by a court of law.

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

A person in an official capacity may enter dwelling or other premises without the court warrant and may conduct the search without the presence of two witnesses if so required for immediate apprehension of the perpetrator of a criminal act or for purpose of saving human lives and property.

**Article 30.**

**PRIVACY OF MAIL**

Privacy of mail and other means of communication shall be inviolable.

Under a court decision the principle of inviolability of the privacy of mail and other means of communication may be put in abeyance if so required for purpose of criminal proceedings or for the defence of the Federal Republic of Yugoslavia.

**Article 31.**

**PERSONAL DATA**

Protection of secrecy of personal data shall be guaranteed.

The use of personal data for purposes other than those for which they were compiled shall be prohibited. Everyone shall have the right of access to personal data concerning his own person and the right of judicial protection in case of their abuse.

## **2. Political Freedoms and Rights**

**Article 32.**

**VOTING RIGHT**

Every citizen of Montenegro who has reached the age of 18 shall be entitled to vote and be elected to a public office.

The voting right is exercised at the elections.

The voting right is general and equal.

Elections shall be free and direct and voting shall be by a secret ballot.

**Article 33.**

**INITIATIVE, REPRESENTATION AND PETITION**

Every person shall be entitled to a free initiative, to submit representation, lodge a petition or a proposal to a state authority and shall be entitled to receive an answer thereto.

No person shall be held responsible and neither shall suffer any other detrimental consequences for opinions expressed and contained in the initiatives, representations, petitions or proposals, except in case the person in question has therethrough committed a criminal offence.

**Article 34.**

**FREEDOM OF MAN**

Freedom of belief and conscience shall be guaranteed.

Freedom of thought and public expression of opinion, freedom of confession, public or private profession of religion and freedom to express national affiliation, culture and the freedom to use one's own language and alphabet shall be guaranteed.

No person shall be obliged to declare his opinion, confession and national affiliation.

**Article 35.**

**FREEDOM OF PRESS**

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

Citizens shall have the right to express and publish their opinion in the public information media.

Publication of newspapers and public dissemination of information by other media shall be accessible to everyone without prior permission, subject to registration with the competent authority.

Radio and television broadcasting organisations shall be established in accordance with law.

**Article 36.**

**RESPONSE, RECTIFICATION, COMPENSATION OF DAMAGES**

The right to a response and the right to rectification of incorrect published information or data as well as the right to compensation of damages caused by publishing of incorrect information or data shall be guaranteed.

**Article 37.**

**CENSORSHIP OF PRESS**

Censorship of press and of other forms of public information media shall be prohibited.

**DISTRIBUTION OF PRESS**

No person shall have the right to prevent distribution of press and dissemination of other information except when the competent court of law shall find that they call for a forcible overthrow of the order established by the Constitution, violation of the territorial integrity of Montenegro and the Federal Republic of Yugoslavia, violation of guaranteed freedoms and rights or incite and foment national, racial or religious hatred and intolerance.

**Article 38.**

**FREEDOM OF SPEECH**

Freedom of speech and of public appearance shall be guaranteed.

**Article 39.**

**FREEDOM OF ASSEMBLY**

Citizens shall be guaranteed the right to peacefully assemble without prior approval, subject to prior notification of the competent authorities.

Freedom of association and other peaceful assembly may be provisionally restricted by a decision of the competent authority in order to prevent a threat to public health and morals or for the protection of human lives and property.

**Article 40.**

**FREEDOM OF ASSOCIATION**

Citizens shall be guaranteed the freedom of political, trade union and other association and activities, without the requirement of a permit, subject to registration with the competent authorities.

The state shall offer assistance to political, trade union and other associations whenever there is a public interest thereof.

**Article 41.**

**PROHIBITION OF ORGANISATION**

Political organisation in the state authorities shall be prohibited.

Professional members of the police force may not be members of the political parties.

Judges, justices of the Constitutional Court and the public prosecutor may not be members of the bodies of the political parties.

**Article 42.**

**SECRET AND PARA-MILITARY ORGANISATIONS**

Activities of political, trade union and other organisations aimed at the violent overthrow of the constitutional order, violation of the territorial integrity of Montenegro and of the Federal Republic of Yugoslavia, violation of guaranteed freedoms and rights of man and citizen or inciting and fomenting of national, racial, religious and other hatred or intolerance shall be prohibited.

Establishment of secret (clandestine) organisations and paramilitary groups shall be prohibited.

**Article 43.**

**INEQUALITY AND INTOLERANCE**

Any incitement or encouragement of national, racial, religious and other inequality and incitement and fomenting of national, racial, religious and other hatred or intolerance shall be unconstitutional and punishable.

**Article 44.**

**CITIZEN AND INTERNATIONAL ORGANISATIONS**

Citizens shall have the right to participate in regional and international non-governmental organisations. Citizens shall have the right to address international institutions for purpose of protection of their freedoms and rights guaranteed under the Constitution.

**3. Economic, Social and Cultural Freedoms and Rights**

**Article 45.**

**PROPERTY**

Property shall be inviolable.

No person shall be deprived of his property, nor may it be restricted except when so required by the public interest, as prescribed by law, subject to fair compensation which may not be below its market value.

**Article 46.**

**INHERITANCE**

The right of inheritance shall be guaranteed.

**Article 47.**

**EARNING AND ENTREPRENEURSHIP**

Freedom of earning and freedom of entrepreneurship shall be guaranteed.

All acts and activities creating or instigating monopoly and preventing market oriented economic activities shall be prohibited.

**Article 48.**

**RESTRICTION OF OWNERSHIP AND EARNING**

The right to own property and the freedom of earning may be restricted by law, i.e. legal regulations with the force of law, for the duration of a state of emergency, in times of immediate threat of war or a state of war.

**Article 49.**

**TAXATION**

All person shall be obliged to pay taxes and other dues.

**Article 50.**

**COPYRIGHT**

Freedom of creation and publishing of scientific and works of art, scientific discoveries and technical innovations shall be guaranteed and their authors shall be entitled to moral and material rights.

**Article 51.**

**STATE OF EMERGENCY**

Everyone shall be obliged to participate in prevention and elimination of the general state of emergency.

**Article 52.**

**RIGHT TO WORK**

Everyone shall have the right to work, to a free choice of occupation and employment, to just and humane conditions of work and to protection during unemployment.

Forced labour shall be prohibited.

**Article 53.**

**RIGHTS OF WORK FORCE**

All persons employed shall have the right to corresponding remunerations.

All persons employed shall have the right to limited working hours and a paid vacation.

All persons employed shall have the right to protection at work.

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

**Article 54.**

**STRIKE**

All persons employed shall have the right to a strike for protection of their professional and economic interests.

Persons employed in the state administration and professional members of the police force shall not have the right to strike.

**Article 55.**

**SOCIAL SECURITY**

Under a mandatory insurance scheme all persons employed shall provide for themselves and members of their families all forms of social security.

The state shall provide social welfare for citizens unable to work and without livelihood, as well as for citizens without the means of subsistence.

**Article 56.**

**PROTECTION OF DISABLED PERSONS**

Disabled persons shall be guaranteed social protection.

**Article 57.**

**HEALTH CARE**

Everyone shall be entitled to health care.

Children, expectant mothers and elderly persons shall be entitled to publicly financed health care, if they are not covered by another insurance program.

**Article 58.**

**MARRIAGE**

Marriage may be contracted only upon a free consent of both bride and groom.

**Article 59.**

**FAMILY**

Family shall enjoy special protection.

Parents shall be obliged to care for their children, for their up-bringing and education.

Children shall be obliged to care for their parents whenever they should be in need of care.

**Article 60.**

**MOTHER AND CHILD**

Mother and child shall enjoy special protection.

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

**Article 61.**

**ABUSE OF CHILDREN**

Abuse of children is prohibited.

Employment of children and minors on jobs hazardous for their health and development shall be prohibited.

**Article 62.**

**EDUCATION**

Everyone shall be entitled to education under equitable conditions.

Primary education shall be mandatory and free of tuition fees.

**Article 63.**

**AUTONOMY OF UNIVERSITIES**

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

**Article 64.**

**SCIENCE, CULTURE AND ARTS**

The state shall render assistance and instigate development of education, sciences, culture, arts, sports, physical and technical culture.

The state shall protect scientific, cultural, artistic and historical values.

**Article 65.**

**STATE AND ENVIRONMENT**

The state shall protect environment.

Freedom of earning and free entrepreneurship shall be restricted by environment protection.

## **4. Local Self-Government**

**Article 66.**

**LOCAL SELF-GOVERNMENT**

The right to a local self-government shall be guaranteed.

Local self-government shall be exercised in the municipality and in the capital.

Citizens shall decide through local self-government directly and through their freely elected representatives on certain public and other affairs of direct interest for the local population.

Local self-government in the municipality shall consist of the assembly and of the president of the municipality.

The Republic shall offer assistance to the local self-government.

## **5. Special Rights of National and Ethnic Groups**

**Article 67.**

**PROTECTION OF IDENTITY**

The protection of the national, ethnic, cultural, linguistic and religious identity of the members of national and ethnic groups shall be guaranteed.

Protection of rights of members of national and ethnic groups shall be exercised in accordance with the

international protection of human and civic rights.

**Article 68.**

**LANGUAGE, ALPHABET, EDUCATION AND INFORMATION**

Members of national and ethnic groups shall have the right to free use of their mother tongue and alphabet, the right to education and the right to information in their mother tongue.

**Article 69.**

**SYMBOLS**

Members of national and ethnic groups shall have the right to the use and display of their national symbols.

**Article 70.**

**ASSOCIATION**

Members of national and ethnic groups shall have the right to establish educational, cultural and religious associations, with the material assistance of the state.

**Article 71.**

**EDUCATIONAL PROGRAMS**

Curriculum of educational institutions shall cover both history and culture of the national and ethnic groups.

**Article 72.**

**LANGUAGE**

Members of the national and ethnic groups shall be guaranteed the right to the use of their mother tongue in the proceedings before the state authorities.

**Article 73.**

**REPRESENTATION**

Members of the national and ethnic groups shall be guaranteed the right to a proportional representation in the public services, state authorities and in local self-government.

**Article 74.**

**CONTACTS**

Members of the national and ethnic groups shall have the right to establish and maintain free contacts with citizens outside of Montenegro with whom they are having a common national and ethnic origin, cultural and historical heritage and religious beliefs, but without any detriment for Montenegro.

**RIGHT OF APPEAL**

Members of the national and ethnic groups shall have the right to participate in the regional and international non-governmental organisations, and the right to address international institutions for purpose of protection of their freedoms and rights guaranteed by the Constitution.

**Article 75.**

**EXERCISE OF RIGHTS**

Special rights granted to members of the national and ethnic groups may not be exercised if they are in contradiction with the Constitution, principles of international law and principle of territorial integrity of Montenegro.

**Article 76.**

**PROTECTION COUNCIL**

Republican Council for Protection of Rights of National and Ethnic Groups shall be established in Montenegro, for purpose of preservation and protection of the national, ethnic, cultural, linguistic and religious identity of national and ethnic groups and for the exercise of their rights prescribed by the Constitution.

Republican Council for Protection of Rights of National and Ethnic Groups shall be headed by the President of the Republic.

Composition and competencies of the Republican Council shall be prescribed by the Assembly.

## **Section III**

# **Organisation of the State**

## **1. The Assembly**

**Article 77.**

**COMPOSITION AND ELECTION**

The Assembly shall consist of deputies elected by citizens in direct and secret ballot, on the basis of a general and equitable voting right.

One deputy shall be elected for every six thousand voters.

**INDEPENDENCE OF DEPUTIES**

Every deputy shall decide and vote according to his own belief and may not be recalled.



## **PROFESSIONAL FUNCTION**

Every deputy shall be entitled to a professional exercise of his function as deputy.

### **Article 78.**

## **TERM OF OFFICE**

Term of office of the Assembly shall be four years.

In cases of the state of war the term of office of the Assembly shall be extended for as long as peace is not established.

At the proposal of not less than 25 deputies, Government or the President of the Republic, the Assembly may decide to shorten the term of office.

### **Article 79.**

## **IMMUNITY**

A deputy shall enjoy immunity.

A deputy shall not be called to account for an opinion expressed or a vote cast in the Assembly.

No deputy may be subject to criminal proceedings nor detained without prior approval of the Assembly.

A deputy may be detained without the approval of the Assembly if he should be apprehended during a criminal offence for which the penalty prescribed exceeds five years of prison sentence.

The immunity enjoyed by the deputies is also enjoyed by the President of the Republic, members of the Government, judges, justices of the Constitutional Court and the public prosecutor.

### **Article 80.**

## **PRESIDENT AND VICE PRESIDENT**

The Assembly shall have a president and one or more vice presidents to be elected from among the deputies for the term of office of four years.

President shall represent the Assembly, call elections for the President of the Republic and perform other tasks prescribed by the rules of procedure of the Assembly.

### **Article 81.**

## **COMPETENCIES**

The Assembly shall:

1. adopt the Constitution;
2. enact laws, other regulations and general enactments;
3. enact development plan of Montenegro, budget and annual balance sheet;
4. determine principles for organisation of the state administration;
5. ratify international treaties within the competences of the Republic;
6. announce a republican referendum;
7. float public loans and decide on entering into indebtedness of Montenegro;
8. elect and dismiss president and members of the government, president and justices of the Constitutional court, president and judges of all the courts of law;
9. appoint and dismiss public prosecutor and other officials;
10. grant amnesty for criminal offences prescribed by the republican law;
11. perform other duties as prescribed by the Constitution.

### **Article 82.**

## **SESSIONS**

The Assembly shall sit in regular and extraordinary sessions.

Regular sessions of the Assembly shall be convened two times a year, in accordance with the rules of procedure of the Assembly.

The first regular session shall begin on the first working day in March and the second session on the first working day in October.

The Assembly shall convene in extraordinary session at the request of not less than one third of the total number of deputies, or at the request of the President of the Republic and of the Prime Minister.

### **Article 83.**

## **DECISION MAKING**

The Assembly shall decide if the session is attended by more than one half of the total number of deputies, and the decision shall be made by a majority of votes of the deputies present, if not otherwise prescribed by the Constitution.

When the Assembly is deciding on the enactments regulating the manner in which the freedoms and rights are exercised, on the electoral system, on the material obligations of the citizens, on the state symbols, on the dismissal of the President of the Republic and on the vote of confidence to the Government, on a referendum, on shortening of the term of office and on its rules of procedure, decision shall be brought by a majority of votes of the total number of deputies.

### **Article 84.**

## **DISSOLUTION OF THE ASSEMBLY**

The Assembly shall be dissolved if it should fail to elect the Government within 60 days from the date when the President of the Republic proposes candidates for the Prime Minister.

The Assembly may not be dissolved during the state of war, in case of an imminent danger of war or a state of emergency.

If the Assembly should cease to perform its duties as prescribed by the Constitution for a considerable period of time, the Government may, after hearing the opinion of the president of the Assembly and of the presidents of the clubs of deputies of the Assembly, dissolve the Assembly.

The Government shall not be entitled to dissolve the Assembly if a procedure had been instituted for the vote of no-confidence in the Government.

Dissolution of the Assembly shall be prescribed by the decree of the President of the Republic and a date shall be set for the election of the new Assembly.

#### **Article 85.**

#### **INTRODUCTION OF BILLS**

The right to introduce bills, other regulations and general enactments shall be vested in the Government, deputies and at least six thousand voters.

## **2. President of the Republic**

#### **Article 86.**

#### **ELECTION**

The President of the Republic shall be elected in direct elections and by secret ballot, on the basis of a general and equitable voting right, and for a term of office of five years.

In the event of a state of war the term of office of the President of the Republic shall be extended for as long as the peace is not established.

The same person may be elected only two times for the President of the Republic.

#### **Article 87.**

#### **TERMINATION OF MANDATE**

The term of office of the President of the Republic shall cease when the term of office for which he has been elected expires, in the event of recall or by his resignation.

The President of the Republic may be recalled by the Assembly only in case the Constitutional Court should decide that he has breached the provisions of the Constitution.

The procedure to determine the breach of Constitution shall be instituted by the Assembly.

#### **Article 88.**

#### **COMPETENCIES**

The President of the Republic shall:

1. represent the Republic in the country and abroad;
2. promulgate laws by ordinance;
3. call elections for the Assembly;
4. propose to the Assembly candidates for the Prime Minister, president and justices of the Constitutional Court;
5. propose to the Assembly calling of a referendum;
6. grant amnesty for criminal offences prescribed by the republican law;
7. confer decoration and awards;
8. perform all other duties in accordance with the Constitution.

The President of the Republic shall be a member of the Supreme Defence Council.

#### **Article 89.**

#### **PROMULGATION OF LAWS**

President of the Republic shall promulgate a law by ordinance within seven days from the date of its adoption.

The President of the Republic may, within seven days from the date of adoption of a law, request the Assembly to decide again on the same law.

The President of the Republic shall be bound to promulgate a law passed for the second time by the Assembly.

#### **Article 90.**

#### **PERFORMANCE OF DUTIES**

In case of termination of the term of office of the President of the Republic, and until the election of the new President and in the case the President of the Republic is temporarily prevented to perform his functions, his duties shall be assumed by the President of the Assembly and in case the Assembly is dissolved, by the Prime Minister.

## **3. Government**

#### **Article 91.**

#### **COMPOSITION AND PRIME MINISTER**

The Government is composed of the Prime Minister, one or more deputy prime ministers and ministers.

The Government shall be headed by the Prime Minister.

**Article 92.**

**ELECTION**

The candidate for the Prime Minister shall present to the Assembly his program and shall propose the list of ministers of his Government to the Assembly.

If the Assembly should not adopt the proposed program, the President of the Republic shall propose a new candidate for the Prime Minister within ten days.

**Article 93.**

**INCOMPATIBILITY OF FUNCTION**

A member of the government may not serve as a deputy or perform any other public function and neither may he professionally engage in other activities.

**Article 94.**

**COMPETENCIES**

The Government shall:

1. determine and conduct interior and foreign policy;
2. enact and execute laws and other regulations necessary for the enforcement of law;
3. conclude international treaties within the competences of the Republic;
4. propose development plan, budget and the annual balance sheet of the Republic;
5. determine organisation and manner of work of state administration;
6. perform supervision over work of ministries and other state administration authorities, and shall annul and abolish their regulations;
7. enact decrees and enactments during a state of emergency, in the event of imminent war danger or in the event of a state of war, if the Assembly shall not be able to convene, and shall submit to the Assembly the said enactments for its approval as soon as the Assembly shall be in session;
8. perform all other tasks as prescribed by the Constitution and law.

**Article 95.**

**RESIGNATION AND RECALL**

The Government and the member of the Government may submit their resignation. Resignation by the Prime Minister shall be deemed to mean resignation of the Government. The Prime Minister may propose to the Assembly to recall any member of the Government.

**Article 96.**

**VOTE OF CONFIDENCE**

The Government may raise the question in the Assembly of its vote of confidence.

**Article 97.**

**VOTE OF NO CONFIDENCE**

The Assembly may vote no confidence in the Government.

The proposal for a vote of no confidence may be submitted by not less than ten deputies.

The vote of no confidence for the Government shall be performed three days at the earliest from the date the proposal to that effect had been submitted.

If the Government has received a vote of confidence, the proposal to vote on no confidence for the same reasons may not be submitted before a period of 90 days from the date of previous voting.

**Article 98.**

**TERMINATION OF MANDATE**

The Government shall terminate its mandate when the mandate of the Assembly is terminated, when the Assembly is dissolved, when it submits its resignation and when it receives the vote of no confidence. The Government which has received a vote of no confidence or whose mandate has been revoked because of the dissolution of the Assembly shall remain in office until the election of the new Government.

**Article 99.**

**STATE ADMINISTRATION**

The affairs of the state administration shall be conducted by the ministries and the state administration authorities.

Certain tasks of the state administration may be transferred by law to the local self-government.

**TRANSFER AND ENTRUSTING**

Certain tasks of the state administration may be entrusted by decree to the local self-government, to the institutions and legal persons.

## **4. Courts of Law and Public Prosecutor**

**Article 100.**

**INDEPENDENCE AND AUTONOMY**

Courts of law (judiciary) shall be independent and autonomous.

Courts of law shall rule on the basis of the Constitution and the law.

**Article 101.**

**JUDICIAL COUNCIL**

Courts of law shall adjudicate in a council, except in cases specified by law when a single judge shall rule.

**JUDGES**

Judicial functions shall be performed by the judge and jurors.

**Article 102.**

**PUBLIC TRIALS**

Trial before the court of law shall be public.

In exceptional cases only the court may decide that the public shall not be allowed to attend the trial or any part thereof.

**Article 103.**

**PERMANENT FUNCTION**

Judges shall have a life tenure.

A judge's tenure of office may be terminated at his own request or when he meets conditions for retirement, and if he should be sentenced to a prison sentence without the right of appeal.

A judge may be dismissed if he has been convicted of an offence making him unsuitable to perform judicial functions, or when he performs his judicial function unprofessionally and unconscientiously, or when he has permanently lost the working capacity for performing judicial function.

A judge may not be transferred against his will.

**Article 104.**

**SUPREME COURT**

The Supreme Court shall be deemed to the highest instance court of law in the Republic.

**Article 105.**

**PUBLIC PROSECUTOR**

Public Prosecutor shall perform the tasks of criminal prosecution, shall apply legal remedies for protection of constitutionality and legality and shall represent the Republic in property and legal matters.

**COMPETENCE**

Public Prosecutor shall perform his function on the basis of the Constitution and law.

**TERM OF OFFICE**

Public Prosecutor shall be elected for the term of office of five years.

**Article 106.**

**INCOMPATIBILITY OF FUNCTION**

Judges and the Public Prosecutor may not be delegates or perform any other public function and neither engage in any professional activity.

## **Section IV**

# **Constitutionality and Legality**

**Article 107.**

**CONSTITUTIONALITY AND LEGALITY**

The law must be in conformity with the Constitution, and all other regulations and enactments must be in conformity with the Constitution and law.

**Article 108.**

**VACATIO LEGIS**

Statutes, other laws and general enactments shall be published prior to coming into force.

Statutes, other laws and general enactments shall come into force on the eighth day from the day of publication.

Exceptionally, when justified reasons shall prevail as prescribed during their adoption, provision is made for the statutes, other laws and general enactments to come into force on the day of publication.

**Article 109.**

**RETROACTIVE EFFECT**

Statutes, other laws and general enactments may not have a retroactive effect.

Exceptionally, only certain provisions of statutes, if so required by the public interest, as prescribed when they were adopted, may have a retroactive effect.

**Article 110.**

**LEGALITY OF INDIVIDUAL ENACTMENTS**

The Court of law shall decide on the legality of particular enactments in an administrative suit, on the basis of which the state administration authorities and authorities with public authorisation are ruling on the rights and obligations, if for a certain matter no other judicial remedy has been prescribed.

Exceptionally, in certain types of administrative matters, administrative suit may be dismissed by decree.

# **Constitutional Court**

## **Article 111.**

### **COMPOSITION OF COURT**

The Constitutional Court shall have five justices.

The term of office of a justice of the Constitutional Court shall be nine years and the justice may not be re-elected.

### **ELECTION**

Justice of the Constitutional Court shall be elected from among the distinguished legal experts with at least 15 years of professional experience.

### **TERM OF OFFICE**

President of the Constitutional Court shall be elected from among the justices of the Constitutional Court, for a term of office of three years.

### **INCOMPATIBILITY OF FUNCTION**

President and justices of the Constitutional Court may not be deputies and perform any other public function and neither engage in any other professional activity.

## **Article 112.**

### **TERMINATION OF FUNCTION**

Justice of the Constitutional Court shall terminate his office for which he has been elected at his own request, or after meeting the requirements for retirement, or if he is sentenced to a term of imprisonment without the right of appeal.

### **DISMISSAL**

Justice of the Constitutional Court shall be dismissed from duty if he is sentenced for the offence which makes him unsuitable for the function or if he has permanently lost the capacity for performing his function of justice of the Constitutional Court.

### **SUSPENSION**

The Constitutional Court may decide to suspend the justice of the Constitutional Court if against him criminal proceedings have been instituted and he shall not perform his function for the duration of the proceedings.

## **Article 113.**

The Constitutional Court shall:

1. decide on the conformity of law with the Constitution;
2. decide on conformity of other regulations and general enactments with the Constitution and law;
3. determine whether the President of the Republic has committed a violation of the Constitution;
4. decide on constitutional complaints for violation, by individual enactments or deeds, of the freedoms and rights of man and citizen as prescribed by the Constitution, whenever this protection is not within the competencies of the Federal Constitutional Court and whenever some other legal remedy is not prescribed;

### **COMPETENCIES**

1. rule on the conflict of competencies between the administrative and judicial authorities, on conflict of competence between these authorities and authorities of the local self-government and in conflicts of competencies between the units of the local self-government;
2. decide on conformity of statutes of a political party or association of citizens;
3. decide on banning of a political party and association of citizens;
4. decide on electoral disputes and disputes connected with a referendum, which are not within the competencies of the regular courts of law;
5. performs other task prescribed by the Constitution.

The Constitutional Court may rule on constitutionality and legality of laws which have ceased to be in force, if from the moment they have ceased to be in force until the procedure has been initiated a period of not more than one year has elapsed.

## **Article 114.**

### **INITIATING PROCEEDINGS**

All persons are entitled to initiate the proceedings of assessing the constitutionality and legality. Proceedings before the Constitutional Court shall be initiated by state agencies and legal entities after finding that their rights or interest have been violated by the act whose constitutionality and legality are being challenged.

The Constitutional Court may itself initiate the proceedings for assessing the constitutionality and legality.

## **Article 115.**

### **CESSATION OF VALIDITY**

When the Constitutional Court shall decide that the statute, other regulation or a general enactment is not in conformity with the Constitution or law, such a statute, other regulation or general enactment shall

cease to be in force with the day of publication of ruling to that effect by the Constitutional Court.

#### **PROVISIONS ORDER**

During the proceedings and until the ruling, the Constitutional Court may order a suspension in the execution of an individual act or deed undertaken on the basis of the statute, other regulation or a general enactment whose constitutionality i.e. legality is being assessed, if such an execution would cause irreparable damage.

#### **Article 116.**

#### **DECISION**

The Constitutional Court shall decide by a majority of vote of the justices. The decision of the Constitutional Court shall be generally binding and final. Decision of the Constitutional Court shall be published together with the opinion of justices who did not vote in favour of the decision. Whenever necessary, execution of the decision of the Constitutional Court shall be enforced by the Government.

## **Section V**

### **Amendments to the Constitution**

#### **Article 117.**

#### **PROPOSAL OF AMENDMENTS**

A proposal to amend the Constitution may be submitted by at least 10,000 voters, by not less than 25 deputies, by the President of the Republic and by the Prime Minister. A proposal to amend the Constitution shall contain the provisions where amendments are requested and an adequate explanation thereof. The Assembly shall decide on the proposal for amending the Constitution by the two-thirds majority of votes of all of its deputies. If the proposal to amend the Constitution should not be adopted, the same proposal may not be submitted again before one year has elapsed from the day the proposal was refused.

#### **Article 118.**

#### **AMENDMENTS**

The Constitution shall be amended by the Constitutional amendments.

#### **DRAFT**

The Assembly shall provide the draft of the amendment to the Constitution. The Assembly shall decide on the amendment to the Constitution by the two-thirds majority of votes of all of its deputies.

#### **Article 119.**

#### **SIGNIFICANT AMENDMENTS AND A NEW CONSTITUTION**

If the proposal to amend the Constitution shall pertain to the provisions regulating the status of the country and the form of rule, if it restricts freedoms and right or if the adoption of a new constitution is proposed, with the day of adoption of the amendment to that effect the Assembly shall be dissolved and a new Assembly convened within 90 days from the day such an amendment was adopted. The new Assembly shall decide by a two-thirds majority of votes of all the deputies only on those amendments to the Constitution which are contained in the adopted amendment, i.e. the adopted amendment for the promulgation of the new constitution.

## **Section VI: Final Provisions**

#### **Article 120.**

#### **CONSTITUTIONAL LAW**

The Republic of Montenegro shall pass a constitutional law for purpose of enforcement of the Constitution. The Constitutional law shall be adopted and shall come into force simultaneously with the Constitution of the Republic of Montenegro.

#### **Article 121.**

#### **COMING INTO FORCE**

The present Constitution shall come into force with the day of its promulgation.