

Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

DECREE

PROMULGATING THE LAW ON CIVIL SERVANTS AND STATE EMPLOYEES

I hereby promulgate the Law on Civil Servants and State Employees passed by the 26th Parliament of Montenegro at the Tenth sitting of the Second ordinary (fall) session in 2017 on 29th December 2017

Number: 01-1263/2

Podgorica, 29 December 2017

President of Montenegro

Filip Vujanović

Pursuant to Article 82 paragraph 1 item 2 of the Constitution of Montenegro and Amendment IV paragraph 1 to the Constitution of Montenegro, the 26th Parliament of Montenegro at the Tenth sitting of the Second ordinary (fall) session in 2017 on 29th December 2017 passed the

LAW

ON CIVIL SERVANTS AND STATE EMPLOYEES

I BASIC PROVISIONS

Subject Matter of the Law

Article 1

This Law shall regulate categorisation of job positions and titles of civil servants and/or state employees, entering employment and procedure for filling job positions, human resources management, the rights, obligations, responsibilities and protection of rights of civil servants and state employees, and other issues relating to the exercise of their rights and obligations.

Civil Servant and State Employee

Article 2

Civil servant shall mean a person who entered employment in a state authority to perform the tasks for the purpose of exercising competency of that authority prescribed by the Constitution, law and other regulations.

Civil servant shall also mean a person who performs in a state authority information technology, financial, accounting and other tasks of administrative nature.

State employee shall mean a person who entered employment in a state authority to perform ancillary and other tasks.

Application of the Law

Article 3

State authority, under this Law, shall mean a ministry and other administration authority (hereinafter referred to as: the state administration authority), as well as the service of the President of Montenegro, of the Parliament of Montenegro, of the Government of Montenegro, of the Constitutional Court of Montenegro, judicial authority, and State Prosecutor's Office.

This Law shall also apply to employees of the Pension and Disability Insurance Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Office of Montenegro, Labour Fund, and Agency for Peaceful Settlement of Labour Disputes.

This Law shall also apply to employees in other authorities, regulatory and independent bodies, if prescribed so by a separate law.

Employer of Civil Servant and State Employee

Article 4

The State of Montenegro shall be the employer of civil servant and/or state employee.

Rights and duties of the employer in the name of the State of Montenegro shall be exercised by a head of state authority, unless otherwise laid down by law or other regulation.

Legality and Responsibility

Article 5

Civil servant and/or state employee shall perform the tasks in compliance with the Constitution, laws, other regulations and general acts.

Civil servant and/or state employee shall be responsible for legality, expertise, and efficiency of their work.

Civil servant and/or state employee shall be responsible for legal, efficient and appropriate use of the assets belonging to the state they administer or use in work.

Civil servant and/or state employee, in accordance with law, shall be liable for damage caused to state authority or third person by their illegal or improper work.

Clerical Ethics

Article 6

In performing their tasks, civil servant and/or state employee shall be obliged to comply with the Code of Ethics of Civil servants and/or state employees.

Discrimination Prohibition

Article 7

In performing tasks, civil servant and/or state employee must not discriminate against citizens on the grounds of their race, skin colour, nationality, social or ethnic origin, link to a minority ethnic group or national minority, language, religion or convictions, political or other opinion, gender, change of gender, gender identity, sexual orientation and/or sexual characteristics, health condition, disability, age, wealth status, marital or family status, group affiliation, or assumption

about group affiliation, political party, trade union or other organisation affiliation, as well as on the grounds of other personal features.

Avoiding Conflict of Interest

Article 8

In performing tasks, civil servant and/or state employee must not place private interest before public interest and use the performance of tasks for acquiring monetary and non-monetary gains.

Political Neutrality and Impartiality

Article 9

Civil servant and/or state employee shall perform the tasks in politically neutral and impartial manner, in accordance with public interest.

Civil servant and/or state employee shall be obliged to refrain from public demonstration of their political convictions.

Equal Access to Job Positions

Article 10

Civil servant and/or state employee shall enter employment on the basis of public announcement.

Job positions of civil servants and/or state employees shall be accessible to all candidates under equal terms.

Professional Development

Article 11

Civil servant and/or state employee shall be entitled to vocational education and professional development.

Legal Protection

Article 12

Civil servant and/or state employee, in the procedure of deciding on rights and obligations, shall be entitled to legal protection.

Prohibition or Positive or Negative Discrimination

Article 13

Any positive or negative discrimination of civil servant and/or state employee regarding their rights and obligations, or deprivation or limitation of their rights, particularly on the grounds of political, ethnic, racial, gender or religious affiliation, or on the grounds of another personal feature shall be prohibited.

Violation of Official Duty

Article 14

Civil servants and/or state employee shall be held accountable for any violation of official duty in accordance with the law.

Trade Union Association

Article 15

Civil servant and/or state employee shall be entitled to trade union association in accordance with law.

Using Gender-Sensitive Language

Article 16

All references in this Law to physical persons in the masculine gender shall be deemed to include the feminine gender.

Provision of paragraph 1 of this Article shall be interpreted so that titles in internal organisation and systematisation act and individual documents on employment, allocation, appointment and nomination, as well in other documents regulating rights and obligations of civil servants and/or state employees shall be expressed in gender of the person those documents refer to.

Subsidiary Application of General Labour Legislation

Article 17

General labour legislation shall apply to rights, obligations and responsibilities of civil servants and/or state employees that are not regulated by this Law or separate law.

II CATEGORISATION OF JOB POSITIONS AND TITLES OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Categorisation of Job Positions

Categories

Article 18

System of categorisation of job position categorisation system in state authority shall include five categories, as follows:

- Head of state authority;
- Senior management staff;
- Expert-management staff;
- Expert staff; and
- Operational staff.

One or more levels with appropriate titles may be determined within same job position category.

State authority shall not determine any job position other than those within the categories and titles set forth by this Law.

Criteria

Article 19

Criteria for categorisation of job positions within state authority and categorisation of levels within specific categories shall be as follows:

- Responsibility;
- Participation in decision-making;
- Complexity of tasks;
- Autonomy in work;
- Required expertise for performing tasks;
- Needs for cooperation with other state authorities and communication with clients; and
- Work experience.

Work Experience

Article 20

Work experience, in the sense of this Law, shall mean performing tasks within education qualification required for performing tasks within specific title, unless otherwise prescribed by this Law.

a) Head of Administration Authority

Job Description

Article 21

Head of administration authority shall represent, manage and organise work of the administration authority.

Conditions

Article 22

Head of authority must have VIII qualification level and at least five years of work experience in managerial jobs or nine years of work experience in other jobs, unless otherwise specified by a separate law.

b) Senior Management Staff

Job Description

Article 23

Tasks of senior management staff shall refer to: management, coordination and organisation of work in one or more organisational units or areas of work; providing for establishing relations and cooperation with other state authorities, bodies of local self-government, local government bodies, commercial entities, non-governmental organisations and citizens and decision-making on the most complex matters.

Titles and Requirements

Article 24

Within the senior management staff category in state administration authorities, the following titles shall be determined: Secretary of Ministry and Director General in Ministry, Deputy Head of Administration Authority, Deputy Head of Service of the Government of Montenegro (hereinafter referred to as: the Government) and Deputy Director of legal entity referred to in Article 3 paragraph 2 of this Law.

Senior management staff of other state authority shall be determined by the regulation on establishing state authority or on organisation of service.

Person performing tasks within the category of senior management staff must have VIII1 qualification level and at least three years of work experience in managerial jobs or eight years of experience in performing tasks that are the same as or similar to the tasks of the announced position, unless otherwise prescribed by a separate law.

c) Expert- Management Staff

Article 25

Tasks of expert-management staff shall refer to: management and coordination of work of smaller organisational units; communication with other organisational units, authorities and citizens; autonomous work and decision-making on matters in the jurisdiction of the organisational unit.

Levels, Titles, Requirements

Article 26

Within the expert-management staff category, the levels, titles and requirements shall be as follows:

- 1) Level one: head, manager, or other appropriate title – VIII1 qualification level and at least two years of work experience in managerial jobs or five years of work experience in other jobs;
- 2) Level two: supervisor, coordinator or other appropriate title – VIII1 qualification level and at least five years of work experience.

The titles of chief inspector, chief authorised official and head of national office - VIII1 qualification level and at least two years of work experience in managerial jobs or seven years of work experience in other jobs – shall also be classified within level one.

The title of inspector coordinator - VIII1 qualification level and at least one year of work experience as an inspector I or six years of work experience in other jobs – shall be classified as a level two title.

d) Expert Staff

Article 27

Expert staff shall perform the tasks referring to: drafting of strategic documents and programmes, conducting analysis of the situation for the purpose of fostering economic, social, cultural, ecological and overall social development; drafting of laws and other regulations; administrative supervision; drafting of analytical and informative and other materials with the proposal to harmonise the system with internationally recognised standards; administrative procedure, decision-making in the administrative procedure and performing other administrative activities; taking administrative measures and administrative actions, providing explanations, issuing professional guidance and instructions for implementation of laws and other regulations, and drafting of special methodologies of work and procedures.

Levels, Titles and Requirements

Article 28

Within the expert staff category, the levels, titles and requirements shall be as follows:

- 1) Level 1:
 - Independent advisor I, inspector I and authorised official I – VIII level of qualifications and at least five years of work experience;
 - Independent advisor II, inspector II and authorised official II – VIII level of qualifications and at least three years of work experience;
 - Independent advisor III, inspector III and authorised official III – VIII level of qualifications and at least two years of work experience;
- 2) Level 2:
 - Senior advisor I – VIII level of qualifications and at least three years of work experience;
 - Senior advisor II – VIII level of qualifications and at least two years of work experience;
 - Senior advisor III – VIII level of qualifications and at least one year of work experience in performing tasks requiring VIII or VI level of qualifications;
- 3) Level 3:
 - Advisor I – VI level of qualifications and at least three years of work experience;
 - Advisor II – VI level of qualifications and at least two years of work experience;
- Advisor III – VI level of qualifications and at least one year of work experience.
- 4) Level 4:
 - Associate I – V level of qualifications and at least three years of work experience;
 - Associate II – V level of qualifications and at least two years of work experience;
 - Associate III – V level of qualifications and at least one year of work experience.

The titles of independent advisor III, inspector III, authorised official III, senior advisor III, advisor III, associate III and specific titles referred to in Article 33 of this Law, defined as initial titles shall represent the initial positions within the level of expert staff category.

e) Operational Staff

Job Description, Levels, Titles and Requirements

Article 29

Operational staff shall perform the tasks referring to: keeping records; gathering and exchange of information, reports, data and their processing; performance of simplest actions in administrative and other procedure, as well as other tasks of administrative nature.

Within the operational staff category, the levels, titles and requirements shall be as follows:

- 1) Level 1: Independent clerk – IV1 level of qualifications and at least three years of work experience;
- 2) Level 2: Senior clerk – IV1 level of qualifications and at least two years of work experience;
- 3) Level 3: Clerk – III or IV1 level of qualifications and at least one year of work experience in performing tasks requiring IV1 or III level of qualifications.

The title of clerk shall represent the initial position within the operational staff category.

2. State Employee Jobs

Job Description

Article 30

State employees shall perform ancillary and other tasks that are necessary for timely and efficient performance of state authority activities.

Other tasks shall include, in particular: technical maintenance of facilities, machinery and equipment; printing and copying of material; delivering services in the premises of state authorities and legal entities; and driving, courier, cleaning and other similar tasks.

Levels, Titles, and Requirements

Article 31

State employees' jobs shall be divided into levels, with titles and requirements as follows:

- 1) Level 1: Senior state employee I–IV1 level of qualifications and at least one year of work experience;
- 2) Level 2: Senior state employee II– III level of qualifications and at least one year of work experience;
- 3) Level 3: State employee - I 2 level of qualifications, without work experience.

3. Titles

Acquisition of Titles

Article 32

Civil servant and/or state employee shall perform the tasks envisaged for the given title.

Civil servant and/or state employee shall acquire a title by entering employment, appointment, reassignment or nomination.

Titles of civil servants and/or state employees may also contain more detailed name of job position.

Special Titles

Article 33

Titles of civil servants in judiciary authorities and state prosecution offices, authorities acting in the area of diplomacy, police, safety, defence, securing of detained and convicted persons, and performing other activities in execution of detention or imprisonment sanctions and safety measures, custom affairs and other activities with special authorisations and obligations, may be determined by law or other regulation when prescribed so by law.

Regulation on establishing a service or standing working body may also determine other titles, when it is necessary to do so due to the nature of activities.

III FILLING JOB POSITIONS

1. Requirements and Procedure for Entering Employment in State Authorities

Requirements for Entering Employment

Article 34

A person may enter employment with a state authority provided that he:

- is of Montenegrin nationality;
- is of legal age;
- is medically fit to perform the tasks within the given job position;
- holds required qualifications;
- has passed professional examination for working in state authorities;
- has not been convicted of a criminal offence making him unworthy of working in a state authority and against whom there are no pending criminal proceedings for a criminal offence prosecuted ex officio.

Notwithstanding paragraph 1 item 5 of this Article, persons that have passed the bar examination or persons entering employment as state employees in level 3 positions are exempted from the requirement of having passed the professional examination for working in state authorities.

The information referred to in paragraph 1, item 6 of this Article shall be determined on the basis of statement or certificate from relevant records kept in accordance with law.

Certificate that a person has been convicted of a criminal offence making him unworthy of working in a state authority shall be acquired ex officio.

In addition to the requirements referred to in paragraph 1 of this Article and other requirements prescribed by this Law, other requirements for entering employment may be prescribed by a separate law, other regulation or internal organisation and systematisation act.

Person exercising the right to superannuation in accordance with the law cannot enter employment with state authority.

A foreign national or a stateless person may enter employment with a state authority as state employee under the conditions determined by a separate law and/or international agreements.

Certificate on Medical Fitness

Article 35

Medical fitness referred to in Article 34 paragraph 1 item 3 of this Law shall be confirmed by a certificate issued by competent health institution in accordance with law (hereinafter referred to as: medical fitness certificate).

Medical fitness certificate shall contain assessment of the medical fitness for performing tasks of relevant job position and must not contain the data on health condition of a candidate.

Candidates selected by virtue of decision referred to in Article 48 of this Law shall submit the medical fitness certificate to the head of state authority within eight days from the receipt of decision.

Should a candidate selected based on decision referred to in Article 48 of this Law fail to submit medical fitness certificate within the deadline referred to in paragraph 3 of this Article, the decision on selection shall be put repealed.

In the event referred to in paragraph 4 of this Article, the head of state authority shall adopt a decision on selection of another candidate from the shortlist referred to in Article 47 of this Law.

Professional Examination for Working in State Authorities

Article 36

Professional examination for working in state authorities may be taken by candidates with, as a minimum, III qualification level and at least one year of work experience in performing tasks within level of qualifications for which the professional examination is required.

Professional examination referred to in paragraph 1 of this Article shall be taken before a commission for taking professional examination for corresponding level of qualification.

The commissions referred to in paragraph 2 of this Article shall be formed by the state administration authority in charge of administrative affairs (hereinafter referred to as: the Ministry).

Technical tasks on behalf of the commissions referred to in paragraph 2 of this Article shall be performed by the secretary appointed amongst the Ministry staff.

Administrative and other tasks required for the work of commissions referred to in paragraph 2 of this Article shall be performed by the human resources management authority.

Chairmen, members and secretary of commissions referred to in paragraph 2 of this Article shall be entitled to a compensation for their work.

Candidates shall bear the cost of examination for working in state authorities.

Programme and modality of taking examination referred to in paragraph 1 of this Article, the composition and method of setting commissions referred to in paragraph 2 of this Article, compensation for the work of chairmen, members and secretaries of commissions, and the cost of professional examination shall be regulated by the Government.

Other Professional Examination

Article 37

Other appropriate examination as a requirement for performing tasks in state authority may also be prescribed by law.

Decision on Initiating the Procedure for Filling Job Position

Article 38

Head of state authority may take a decision on initiating the procedure to fill a vacancy, if:

- The job position is determined by an internal organisation and systematisation act;
- The job position is vacant, with the exception of situation referred to in Article 52 paragraph 2 of this Law;
- Filling the vacancy is envisaged by the staffing plan referred to in Article 148 of this Law;
- State authority has provided funds for such purpose.

Exceptionally, head of state authority may adopt a decision on initiating procedure for filling a job position that was not envisaged by the staffing plan referred to in Article 148 of this Law, provided the vacancy remained unfilled after a civil servant and/or state employee left the state authority within a given calendar year.

Funds

Article 39

If filling a vacancy is carried out by internal announcement, public announcement or public competition, state authority other than the Parliament of Montenegro (hereinafter referred to as: the Parliament) or judicial authority or state prosecution, shall be obliged to obtain a confirmation of the allocated funds from the minister in charge of budget affairs, prior to taking decision on initiating the procedure for filling of vacancy.

If the decision for filling vacancy is taken without obtaining confirmation referred to in paragraph 1 of this Article this shall serve as grounds for repelling such decision in accordance with the law.

Manner of Filling Vacant Job Positions

Article 40

Job positions in state authorities shall be filled on the basis of:

- Assignment, in accordance with this law;
- Internal announcement;
- Public announcement; and
- Public competition.

Notwithstanding paragraph 1 of this Article, vacancies in authorities acting in the area of diplomacy, police, safety, defence, guarding of detained and convicted persons, and performing other activities in execution of detention or imprisonment sanctions and safety measures may be filled under alternative procedure, in accordance with a separate law.

Filling Job Positions

Article 41

Filling a job position within the category of head of authority and senior management staff shall be done based on public competition.

Filling of initial positions within the categories of expert staff and operational staff, as well as the position of state employee shall be done based on a public announcement.

Filling a job position of a civil servant that is not covered by provisions of paragraphs 1 and 2 of this Article shall be done by assignment, in accordance with Art. 63, 64 and 65 of this Law.

If the vacancy is not filled in the manner referred to in paragraph 3 of this Article, filling of the vacancy shall be done based on internal announcement.

In case of failure to fill vacancy in accordance with the procedure referred to in paragraphs 3 and 4 of this Article, it shall be filled based on public announcement.

Publication of Announcement and Competition

Article 42

Internal announcement, public announcement and public competition (hereinafter referred to as: the announcement) shall be published by administration authority in charge of human resources management upon submission of a decision on initiating the procedure for filling the job position, within five days from the day of submitting the decision on initiating the procedure for filling the job position.

The announcement referred to in paragraph 1 of this Article for filling vacancies in the Service of the Parliament shall be published by the Service of the Parliament within five days from adoption of decision for initiating procedure for filling vacancies.

The announcement shall be published on a website of the state authority in charge of human resources management (hereinafter referred to as: the human resources management authority) and the website of the state authority filling the job position.

Public announcement and public competition shall be published on a website of the human resources management authority and in a daily newspaper distributed on the entire territory of Montenegro.

Deadline for submission of applications to internal announcement and to public announcement cannot be shorter than 15 days from the day of publishing the announcement.

Deadline for submission of applications to public competition shall be 20 days from the day of publishing the competition.

Content of the announcement shall be determined by the Ministry.

Withdrawal and Amendment of Announcement

Article 43

Should an announcement cannot be finalised due to changes in regulations or in internal organisation and systematisation act or due to other circumstances taking place after the announcement, head of the state authority shall withdraw the announcement and terminate the procedure for filling vacancy.

Decision to withdraw an announcement and to terminate the procedure for filling vacancy may

be adopted any time before the end of application stage.

Should a mistake regarding the content of announcement be identified the published announcement may be amended.

Amendment of the announcement is published by the state authority in charge of human resources management, in the same manner as the announcement.

Should an announcement be amended, the deadline for application of candidates shall begin as of the date of publishing of the amendment.

Ministry shall determine the manner and procedure for withdrawal and amendment of the announcement.

Notwithstanding paragraph 6 of this Article, content of announcement, manner of publishing and procedure of withdrawal and amendment of the announcement in Service of the Parliament shall be determined by a working body if the Parliament in charge of approving internal organisation and systematisation act of Service of the Parliament.

Right to Apply to Internal Announcement

Article 44

Right to apply to internal announcement shall have civil servant that entered open-ended employment, civil servant referred to in Article 55, paragraphs 1 and 2 of this Law and persons whose term of office has expired in accordance with Article 60 paragraph 1 it. 1, 2 and 4 of this Law.

Civil servants on probationary period shall not have the right to apply to internal announcements.

List of Candidates Meeting the Announcement Requirements

Article 45

The human resources management authority shall develop a list of candidates meeting the announcement requirements based on timely, complete and proper documentation.

Notwithstanding paragraph 1 of this Article, Service of the Parliament shall develop a list of candidates meeting the announcement requirements based on timely, complete and proper documentation.

Testing of Knowledge, Capabilities, Competences and Skills

Article 46

Candidates that meet requirements of an internal or public announcement shall be subject to mandatory procedure for testing of knowledge, capabilities, competences and skills, depending of the job position category.

Testing procedure referred to in paragraph 1 of this Article shall be done in writing and by interview, but it also may be done in another appropriate manner, by assessing knowledge, capabilities, competences and skills against established criteria.

The testing procedure referred to in paragraph 1 of this Article shall be administered by a commission formed by the authority in charge of human resources management, and it shall consist of a representative of the authority in charge of human resources management, representative of the employing state authority which, as a rule, is the head of organisational unit

filling the job position, and experts for testing specific skills required by the announcement.

As an exception referred to in paragraph 3 of this Article, testing procedure referred to in paragraph 1 of this Article for Service of the Parliament shall be administered by the commission formed by the head of that state authority.

Experts referred to in paragraph 3 of this Article shall be appointed by the head of the human resources management authority from the list of technical experts determined by that authority.

Commission referred to in paragraph 3 of this Article shall prepare report on testing of candidates in the sense of paragraph 1 of this Article.

Commission referred to in paragraph 4 of this Article shall prepare a report on testing of candidates in the sense of paragraph 1 of this Article.

Procedure for testing referred to in paragraph 1 of this Article, the criteria and manner of assessment referred to in paragraph 2 of this Article, as well as the method for establishing a list of experts referred to in paragraph 5 of this Article shall be determined by the Government.

Exceptionally, the manner of testing referred to in paragraph 1 of this Article, criteria and method of assessing referred to in paragraph 2 of this Article for filling vacancies in Service of the Parliament shall be determined by the working body of the Parliament in charge of approving organisation and systematisation act of Service of the Parliament.

Shortlist of Candidates

Article 47

Within three days from the day of making the report referred to in Article 46 paragraph 6 of this Law, the human resources management authority shall determine a shortlist of candidates and submit it to the state authority. Notwithstanding paragraph 1 of this Article, the commission referred to in Article 46 paragraph 4 of this Law, within three days from the day of making the report referred to in Article 46 paragraph 7 of this Law, shall determine a shortlist of candidates for Service of the Parliament and submit it to the head of that authority.

Shortlist of candidates shall contain the three best ranked candidates, and may contain more candidates if they have the same ranking.

Should more than one person be required by the announcement for filling single job position, the number of shortlisted candidates shall by two exceed the number of civil servants required by the announcement.

The report referred to in Article 46 paragraphs 6 and 7 of this Law shall be sent to the state authority together with the shortlist of candidates.

Decision on Selection of Candidates

Article 48

Decision on selection of candidates in the Ministry shall be taken by the head of organisational unit filling the position in senior management staff category.

Decision on selection of civil servants and/or state employees in other state authorities shall be taken by the head of the employing state authority.

Head of other state authority may, in writing, authorise the person performing tasks of senior management staff to take decision on selection of civil servant and/or state employee.

The decision on selection is made based on the interview with all short-listed candidates, and reasons for making such a decision are presented in the explanatory note to the decision on selection.

Decision on selection of candidates shall be taken and submitted to the authority in charge of human resources management within ten days from the delivery of shortlist.

Within five days from the receipt of the decision on selection of candidates, the authority in charge of human resources management shall deliver the decision to shortlisted candidates.

Notwithstanding paragraph 5 and 6 of this Article, should positions in Service of the Parliament be filled, head of the authority shall adopt the decision on selection of candidates within ten days from the receipt of shortlist and distribute it to the shortlisted candidates within five days.

Records on Non-Selected Candidates

Article 49

State authority in charge of human resources management shall keep records on candidates from the list referred to in Article 47 of this Law other than the selected candidate, provided prior consent of those candidates is obtained.

Should a candidate entered in records referred to in paragraph 1 of this Article enter employment or seek to revoke the consent referred to in paragraph 1 of this Article, he shall notify the human resources management authority consequently.

State authority in charge of human resources management shall delete data on the candidate that submitted notification referred to in paragraph 2 of this Article from records referred to in paragraph 1 of this Article as of the date of receipt of notification.

Right to Inspection and Return of Documentation

Article 50

A candidate who applied to the announcement shall be entitled to review the documentation concerning the announcement, in the presence of authorised official of the Human Resources Management Authority.

Human Resources Management Authority shall be obliged to return to the candidates who are not selected the submitted documentation, within 10 days from the day of adopting the decision on selection based on published announcement, provided that an appeal was not lodged against the decision on selection.

Ministry shall determine the manner of reviewing the documentation related to the announcement.

Manner of reviewing the documentation concerning the announcement for filling vacancy in Service of the Parliament shall be determined by the working body of the Parliament in charge of approving internal organisation and systematisation act of Service of the Parliament.

Should a vacancy in Service of the Parliament be filled, authorised official of Service of the Parliament shall return the documents submitted to the candidates that were not the candidates selected within thirty days from the delivery of the decision selection based on published announcement, provided that the appeal against the decision on selection was not lodged.

Decision on Employment and Assignment

Article 51

Based on the final decision referred to in Article 48 of this Law, head of state authority shall adopt:

- Decision on entering employment with a civil servant and/or state employee entering civil service for the first time based on employment;
- Decision on assignment of civil servant in the event of filling vacancy based on internal announcement.

Duration on Employment

Article 52

Civil servant and/or state employee shall, as a rule, enter open-ended employment.

Fixed-term employment may be entered for the purpose of:

- Replacement of a temporarily absent civil servant and/or state employee for the period of the absence of civil servant and/or state employee, and for no longer than two years;
- Performance of project-related tasks with a specific duration, for the life-time of the project, and for no longer than two years;
- Performance of temporarily increased workload, which cannot be handled by the existing number of civil servants and/or state employees, for the period of temporary increase in the workload, and for no longer than six months, unless otherwise prescribed by this law.

Fixed-term employment shall be entered based on public announcement, in accordance with the provisions of this Law relating to filling of vacancies for open-ended period.

Notwithstanding paragraph 3 of this Article, in cases referred to in paragraph 2 indents 1 and 3 of this Article, the head may adopt a decision on entering employment over a maximum period of six month with a person from the register referred to in Article 49 of this Law without prior public announcement, provided that the statement on availability of finds is provided, unless otherwise provided for by a separate law.

Head of state authority may adopt decision on employment of a certain candidate in accordance with the procedure referred to in paragraph 4 of this Article for not more than once.

Probationary period

Article 53

Probationary period shall be mandatory for civil servant and/or state employee entering for the first time open-ended employment in state authority.

Probationary period shall last for one year.

Probationary Period Performance Appraisal

Article 54

Probationary period performance appraisal of civil servant and/or state employee shall be expressed with a phrase “satisfactory performance in the probationary period” or “unsatisfactory

performance in the probationary period”, based on the criteria set.

Head of state authority shall make a decision on performance appraisal for a civil servant/state employee during probationary period no later than 15 days prior to expiration of the probationary period.

Civil servant and/or state employee who showed satisfactory performance during the probationary period shall continue to work in the state authority.

Employment of civil servant and/or state employee who showed unsatisfactory performance during the probationary period shall be terminated by operation of law.

The Ministry shall determine the manner of probationary period supervision and assessment.

2. Appointment of Inspector and Authorised Official and Rights in Case of Termination of Term of Office

Appointment and Term of Office

Article 55

Chief inspector, principal authorised official and the Head of National Office shall be appointed by a head of state authority, with the consent of the Government, for the period of five years.

Inspector coordinator, inspector and authorised official shall be appointed by a head of state authority for the period of five years.

The job positions referred to in paragraphs 1 and 2 of this Article shall be filled based on internal announcement, with the exception of titles of inspector III and authorised official III.

In case of failure to fill vacancy in accordance with paragraph 3 of this Article, the position shall be filled based on public announcement.

On the basis of a final decision on selection referred to in Article 48 of this Law, head of state authority shall make a decision on appointment referred to in paragraphs 1 and 2 of this Article.

3. Procedure of Testing and Nomination of Senior Management Staff

Conducting Public Competition for Senior Management Staff

Article 56

Candidates that meet requirements of a public competition for filling senior managerial job position shall be subject to mandatory procedure for testing of competences, knowledge and skills.

The testing referred to in paragraph 1 of this Article shall be done in writing and by a structured interview, by assessing knowledge and skills of the candidate against the criteria set.

The testing procedure referred to in paragraph 1 of this Article shall be administered by a commission formed by the authority in charge of human resources management that comprising the head of the authority in charge of human resources management, person performing tasks of senior management staff in the employing state authority or legal entity referred to in Article 3

paragraph 2 of this Law and an expert distinguished in the relevant area of work.

Notwithstanding paragraph 3 of this Article, testing procedure referred to in paragraph 1 of this in Service of the Parliament shall be administered by commission formed by the head of that authority.

Distinguished expert referred to in paragraph 3 of this Article shall be determined by the head of the human resources management authority from the list determined by that authority.

Commission referred to in paragraph 3 of this Article and commission referred to in paragraph 4 of this Article shall prepare a report on the testing procedure referred to in paragraph 1 of this Article.

Shortlist of candidates shall be developed in accordance with Article 47 paragraphs 1 and 3 of this Law; and the report referred to in paragraph 5 of this Article shall be submitted to the head of state authority or director of legal entity referred to in Article 3 paragraph 2 of this Law.

Detailed procedure for testing referred to in paragraph 1 of this Article, criteria and method of assessment referred to in paragraph 2 of this Article and the manner for establishing the list of distinguished experts referred to in paragraph 4 of this Article shall be adopted by the Government.

Proposal and Appointment of Senior Management Staff

Article 57

Within ten days from the day of receiving the shortlist of candidates and the report referred to in Article 56 paragraph 7 of this Law, following interviews with all short-listed candidates, the minister shall submit to the Government a proposal for appointment of the secretary or acting director of ministry.

Head of other state authority or service formed by the Government, no later than ten days from the day of receiving the shortlist of candidates and the report referred to in Article 56 paragraph 7 of this Law, following interviews with all short-listed candidates, shall submit to the Government the proposal for appointment of the deputy head of state authority or service, unless otherwise laid down by a separate law.

Director of legal entity referred to in Article 3 paragraph 2 of this Law, following interviews with all short-listed candidates, shall adopt the decision on appointment of deputy director no later than ten days from the day of receiving the shortlist of candidates and report referred to in Article 56 paragraph 7 of this Law.

4. Testing and Proposal of the Head of Administration Authority

Conducting Open Competition for Head of Administration Authority

Article 58

Candidates that meet requirements of public competition for filling job position of the head of

state authority shall be subject to mandatory procedure for testing of competences, knowledge and skills.

Testing procedure referred to in paragraph 1 of this Article shall be done in writing and by structured interview, but it also may be done in another appropriate manner, by assessing knowledge, capabilities, competences and skills against the criteria set.

The testing procedure referred to in paragraph 1 of this Article shall be administered by a commission formed by the authority in charge of human resources management, and it shall consist of a representative of the authority in charge of human resources management, person performing tasks of senior management staff in the line ministry and an expert distinguished in relevant area from the list of experts referred to in Article 56 paragraph 5 of this Law.

The procedure referred to in paragraph 1 of this Article for testing of candidates for the head of state authority in charge of human resources shall be administered by a commission formed by the minister in charge of the administrative affairs that shall consist of a person performing tasks of senior management staff in the Ministry and two experts distinguished in the relevant area from the list of experts referred to in Article 56 paragraph 5 of this Law.

The commission referred to in paragraph 3 of this Article and the commission referred to in paragraph 4 of this Article shall prepare a report on the testing procedure referred to in paragraph 1 of this Article.

Shortlist of candidates shall be developed in accordance with Article 47 para. 1 and 3 of this Law; and the report referred to in paragraph 5 of this Article shall be submitted to the line minister.

Detailed procedure for testing referred to in paragraph 1 of this Article, criteria and method of assessment referred to in paragraph 2 of this Article shall be adopted by the Government.

Proposal of Candidates and Nomination Procedure

Article 59

Line minister shall, within ten days from the date of receiving the shortlist and report referred to in Article 58 paragraph 5 of this Law, following interviews with all short-listed candidates, propose to the Government nomination of a candidate for the head of state authority.

5. Termination of Term of Office of Nominated or Appointed Person

Termination of Term of Office

Article 60

Term of office shall terminate to a nominated or appointed person:

- by expiration of the term of office;
- upon personal request;
- by termination of employment;
- in case referred to in Article 84 paragraph 5 and Article 134 of this Law;
- by revocation.

The person referred to in paragraph 1 of this Article shall be revoked, if:

- he is convicted to an unconditional imprisonment;
- he is convicted of a criminal offence making him unworthy of performing the duties;
- he is imposed in the form of a final decision a disciplinary measure instituting termination

- of employment, and
- in other cases envisaged by a separate law.

The person, whose term of office terminated under paragraph 1 indents 1, 2 and 4 of this Article, with his prior consent, may be reassigned within the same state authority to a job position corresponding to his qualifications and skills.

The person, whose term of office terminated under paragraph 1 indents 1, 2 and 4 of this Article, with his prior consent, may be reassigned to another state authority to a job position corresponding to his qualification level and skills, based on a written agreement of heads of authorities; and in the event that the person had held position of head of state authority, based on written agreement between the line minister and head of state authority to which the person is reassigned.

Decision on reassignment referred to in paragraphs 3 and 4 of this Article shall be adopted by the head of state authority.

Person referred to in paragraph 1 indent 1, 2 and 4 of this Article, who cannot be reassigned in line with paragraph 3 and 4 of this Article, within a year from the day of termination of term of office, shall be entitled to receive during that period of time the compensation in the amount of the salary he received for the last month of performing the service, with appropriate adjustment. Exceptionally, the right to compensation may be extended for one additional year, if within that period of time the person acquires the right to retirement.

The right referred to in paragraph 6 of this Article shall be exercised on the basis of a personal request subject to submission to a competent working body of the authority that had selected, nominated or appointed him within 30 days from the day of termination of term of office.

Acting Official

Article 61

In case of termination of term of office of a head state authority or service, or of a person performing tasks of senior management staff an official acting over the period until nomination or appointment may be assigned in accordance with the Law, and this period may not exceed 6 months.

Acting official shall be determined by the authority in charge of nominating and/or appointment of the head of administration authority or service, or of a person performing tasks of senior management staff.

A civil servant from the state administration authority or service, or from the legal entity referred to in Article 3 paragraph 2 of this Law for which acting official is determined, meeting requirements of the position of head of administration authority or service or of the service or job position of senior management staff for which acting official is determined, may be appointed as acting official.

In the event that there are no civil servants in the state administration authority or service or legal entity referred to in Article 3 paragraph 2 of this Article that meet requirements in sense of paragraph 2 of this Article, a person external to the authority or service, or to the legal entity meeting requirements for of the position of head of administration or service, or of the senior management position for which acting official is determined, may be appointed as acting official.

Acting official shall have all competences, rights, obligations and responsibilities of a head of administration authority or service, or of a person performing tasks of senior management staff, in the acting period.

Civil servant appointed as acting official shall have the right to return to his former or other position in accordance with Article 63 paragraph 2 of this Law upon expiry of the acting period.

Provisions of paragraph 1 this Article shall also apply to acting directors of legal entities referred to in Article 3 paragraph 2 of this Law.

Provisions of paragraphs 1 to 6 of this Article shall apply to determining acting director of legal entities referred to in Article 3 paragraph 2 of this Law.

6. Special Advisors

Rights and Obligations of Special Advisors

Article 62

President of Montenegro, Parliament Speaker of Montenegro and Prime Minister may have advisors, chiefs of cabinet and deputy chiefs of cabinet for performing tasks in their area of competence, in accordance with regulations of those authorities.

Deputy Parliament Speaker of Montenegro and Deputy Prime Ministers may have advisors, in accordance with regulations of those authorities.

Term of office of persons referred to in paragraphs 1 and 2 of this Article shall terminate with the termination of term of office of the President of Montenegro, Parliament Speaker and Deputy Parliament Speaker of Montenegro, Prime Minister and Deputy Prime Ministers of Montenegro, by virtue of resignation or by revocation.

Titles of persons referred to in paragraphs 1 and 2 of this Article, their appointment, rights and obligations shall be governed by regulations of those authorities.

Job positions in the Prime Minister's Cabinet shall be filled without public announcement, in accordance with a separate regulation.

IV REASSIGNMENT OF CIVIL SERVANTS AND/OR STATE EMPLOYEES FOR WORK PURPOSES

Permanent Reassignment

Article 63

Civil servant and/or state employee may, for purposes of work, be reassigned to another adequate job position within the same state authority, provided that he meets the requirements set for that position.

Adequate job position, under paragraph 1 of this Article, shall mean a job position requiring the same level of qualification and the same or longer work experience.

Civil servant and/or state employee may be reassigned to higher level position provided that he meets the conditions referred to in paragraph 2 of this Article and his performance in the last year was assessed as "outstanding".

Head of the authority or person belonging to the senior management staff category authorised by the head shall adopt the decision on reassignment.

The decision referred to in paragraph 4 of this Article shall be accompanied by a summarised rationale.

An appeal against the decision referred to in paragraph 5 of this Article shall not stay execution.

Temporary Reassignment within Same Authority

Article 64

Civil servant and/or state employee may be temporarily reassigned to another job position, within the same title, or to a lower-rank position, for the purpose of replacing an absent civil servant and/or state employee or increased workload, while retaining all rights of the job position he has been reassigned from.

Temporary reassignment referred to in paragraph 1 of this Article shall last no longer than one year and afterwards a civil servant and/or state employee shall have the right to return to the job position he had been working at prior to reassignment.

Cases of reassignment referred to in paragraph 1 of this Article shall not require consent of civil servant and/or state employee being reassigned.

Provisions of Article 63 para. 4, 5 and 6 of this Law shall apply to adopting decision on temporary reassignment.

Notwithstanding paragraph 1 of this Article, in authorities acting in the area of diplomacy, police, safety, defence, guarding of detained and convicted persons, and performing other activities in execution of detention or imprisonment sanction and security measures, temporary reassignment may take different form, in accordance with a separate law.

Temporary Reassignment to Other Authority

Article 65

Civil servant and/or state employee may, for purposes of work, be reassigned to another state authority, to adequate job position in the sense of Article 63 paragraph 2 of this Law, with his prior consent and for a period not longer than six months.

Decision on temporary reassignment to another authority shall be adopted by the head of state authority to which the civil servant and/or state employee is reassigned, with the prior consent of the head of state authority employing the civil servant and/or state employee prior to reassignment.

Restriction of Reassignment

Article 66

Nominated or appointed persons from the senior management staff category cannot be reassigned to another position before the expiry of their term of office.

Reassignment of a civil servant and/or state employee cannot be performed during temporary inability to work, during pregnancy or maternity leave.

V RIGHTS AND OBLIGATIONS

1. Rights of Civil Servants and/or State Employees

Work Conditions

Article 67

Employing state authority shall provide necessary technical and other conditions to civil servant and/or state employee to perform activities and job-related tasks in accordance with the labour-related rules and standards of the state authority.

Civil servant and/or state employee, during his work, must not be exposed to any form of hazard to his health or safety.

Civil servant and/or state employee shall be entitled to the protection of physical and moral integrity during the work.

Salaries, Compensations and other Earnings

Article 68

Civil servant and/or state employee shall be entitled to salary, salary compensation and other earnings for his work, in accordance with the law governing salaries of civil servants and state employees.

Civil servant and/or state employee shall be entitled to equal salary for equal work, regardless of whether he is employed based on open-ended or fixed term arrangement.

Holidays and Absences

Article 69

Civil servant and/or state employee shall be entitled to an annual leave. Annual leave shall be determined based on the length of service, in the following manner:

- From 1 to 3 years 20 working days;
- From 3 to 7 years 21 working days;
- From 7 to 10 years 22 working days;
- From 10 to 15 years 23 working days;
- From 15 to 20 years 24 working days;
- From 20 to 30 years 26 working days;
- Over 30 years 28 working days.

Civil servant and/or state employee shall be entitled to absence from work in accordance with general labour legislation.

2. Obligations of Civil Servant and/or State Employee

Obligation to Enforce Orders

Article 70

Civil servant and/or state employee shall be obliged to perform the tasks of the job position he is assigned to without any specific order and to carry out tasks based on the order of a manager of organisational unit (hereinafter referred to as: immediate manager), in accordance with law, other regulations and rules of the profession, Code of Ethic for Civil Servants and State Employees

and professional rules.

Civil servant and/or state employee shall be obliged to warn immediate manager that the order he received from him is in contravention to law, other regulation and Code of Ethics, or if its enforcement might cause damage, constitute a criminal offence or misdemeanour.

Civil servant and/or state employee, who is ordered, despite the warning referred to in paragraph 2 of this Article, to enforce the order, shall be entitled to request a written order from the immediate manager.

In case when a civil servant and/or state employee receives a written order referred to in paragraph 3 of this Article, he shall be obliged to enforce such order, unless its enforcement would constitute a criminal or misdemeanour.

Civil servant and/or state employee shall not be liable for the damage incurred by enforcement of the order, if he acted in accordance with paras, 2, 3 and 4 of this Article.

Obligation to Safeguard and Protect Confidential and Personal Data

Article 71

Civil servant and/or state employee shall be obliged to provide, in the course of their work, the free access to information, in accordance with law and other regulations.

Civil servant and/or state employee shall be obliged to ensure the protection and safeguard of confidential and personal data in accordance with law, regardless of the manner in which he got access to such data.

Civil servant and/or state employee shall be obliged to keep the confidentiality of the data referred to in paragraph 2 of this Article also upon the termination of employment with state authority, in accordance with the law governing the confidentiality of data.

Head of state authority may relieve a civil servant and/or state employee from the obligation to safeguard the data referred to in paragraphs 2 and 3 of this Article in a court procedure, if such data are necessary to establish the facts in such a procedure and adopt a lawful decision.

Observance of Working Hours

Article 72

Civil servant and/or state employee shall be obliged to observe the working hours.

In case of being prevented from coming to work, civil servant and/or state employee shall be obliged to inform an immediate manager on reasons for being absent, no later than 24 hours from their occurrence, unless it is impossible to do so due to objective reasons.

Extraordinary Situations and Circumstances

Article 73

Civil servant and/or state employee shall be obliged, in case of force majeure, natural disasters and other adversities, and in other extraordinary situations and circumstances, to perform tasks falling beyond his job description, or tasks that do not correspond to their qualifications, or outside working hours, as long as the situation and circumstances require so.

The obligation of the civil servant and/or state employee referred to in paragraph 1 of this Article shall last as long as the circumstances, due to which it has been introduced, last, but not exceeding

three months.

During the time referred to in paragraph 2 of this Article, civil servant and/or state employee shall have the same rights as during the performance of regular tasks.

Code of Ethics

Article 74

Code of Ethics for civil servants and state employees shall be adopted by the Government.

3. Conflict of Interest and Limitations

Avoiding Conflict of Interests

Article 75

In performance of tasks, civil servant and/or state employee shall be obliged to avoid situations wherein their private interest affects or may affect their impartial and objective performance of tasks of their job positions.

Private interest shall mean ownership and other material or non-material interest of a civil servant and/or state employee.

Obligation to Report Potential Conflict of Interest

Article 76

Civil servant and/or state employee shall be obliged to inform in writing an immediate manager about the following:

- Private interest that he or his related person may have in relation to activities within the competency of a state authority wherein he participates;
- Ownership of shares and bonds or other financial and other interests in business organisations subject to administrative affairs within competency of a state authority he is working for;
- Natural persons and legal entities that he had contractual or business relation with, two years prior to entering employment with a state authority, and which are subject to administrative affairs within competency of the state authority he is working for.

Related person, under this Law, shall mean a relative of a civil servant and/or state employee in the first direct line and in the collateral line up to the second degree of kinship, relative-in-law up to the first degree of kinship, spouse and out-of-wedlock partner, adoptive parent and adoptee.

In case of the existence of the circumstances referred to in paragraph 1 of this Article, a head of state authority shall make a decision on exempting the civil servant and/or state employee from working on certain tasks, in accordance with the law governing the general administrative procedure.

Prohibition of Abuse of Authorisations and Use of Assets

Article 77

Civil servant and/or state employee must not use his authorisations in state authority to influence the realisation of private interest or interest of his related natural person or legal entity.

Civil servant and/or state employee must not, for the purpose of achieving private interest or

interest of his related physical person or legal entity, use State assets and data available to him while performing the tasks.

Prohibition to Receive Gifts

Article 78

Civil servant and/or state employee must not receive money, securities or precious metal, regardless of their value.

Civil servant and/or state employee must not receive gifts, except for appropriate gifts of smaller value.

The appropriate gift referred to in paragraph 2 of this Article shall be considered to be a gift worth up to EUR 50.

Should a civil servant and/or state employee receive multiple appropriate gifts from the same donor during the same calendar year, total value of those gifts must not exceed EUR 50; should appropriate presents in the same period be presented by various donors, total value of those presents shall not exceed EUR 100.

Outside Employment

Article 79

Civil servant and/or state employee may perform activities or provide services to a natural person or legal entity outside working hours, following prior approval of a head of state authority, only if the state authority that he is working for does not supervise such activities or work, or if such a work is not prohibited by a separate law, and if it does not represent a conflict of interest or obstacle to proper performance of regular tasks, and if it does not damage reputation of the state authority.

With a prior notification of a head of state authority, civil servant and/or state employee may perform work in scientific, research, pedagogic, humanitarian, sports activity, as well as publish professional papers and act as lecturer at professional seminars and conferences.

Restrictions of Membership in Bodies of Legal Entities

Article 80

Civil servant and/or state employee must not be a chairperson or member of management or supervisory body of a business organisation.

Civil servant and/or state employee may be a chairperson or member of management or supervisory body of a public company, public institution or another legal entity, wherein the State or municipality is the owner, as well as of management and supervisory body of scientific, humanitarian and sports associations, unless it is otherwise regulated by a separate law.

4. PERFORMANCE APPRAISAL

Appraisal Criteria

Article 81

Performance appraisal of civil servant and/or state employee shall be done for the purpose of monitoring their work and making proper decisions on their career development in service under the following criteria:

- 1) Performing tasks;
- 2) Quality and quantity of work performed;
- 3) Volume and timely manner of performing the tasks;
- 4) Other competencies and skills in performing the tasks.

Performance appraisal in state authorities acting in the area of diplomacy, police, safety, defence, securing of detained and convicted persons, and performing other activities in execution of detention or imprisonment sanction and safety measures may be done differently, in accordance with a separate law.

Performance Appraisal Grades

Article 82

A civil servant and/or state employee shall be assigned the following performance appraisal grades:

- 1) "Outstanding", if he performs the tasks with exceptional results and exceeds planned results for the job position he is assigned to;
- 2) "Good" if he performs the tasks with average results and has achieved results that provide for acceptable performance quality standards, and makes negligible mistakes in his work;
- 3) "Unsatisfactory" if he fails to perform tasks with average results in accordance with requirements of the job position, in spite of being reprimanded and warned about omissions and irregularities by his immediate manager or head of authority.

A civil servant and/or state employee assigned with "unsatisfactory" performance grade shall have the duty of professional development for performing tasks of the job position he is assigned to, at the request of supervisor and in line with programme referred to in Article 87 of this Law.

Performance appraisal shall be conducted on annual basis, by 31 January of a given year for the previous year.

Performance of a civil servant and/or state employee that worked less than six months in a calendar year shall not be appraised.

Manner of Performance Appraisal

Article 83

A grade shall be assigned to a civil servant and/or state employee by a head of organisational unit from the category of senior management staff, in the form of a decision, at the proposal of immediate manager.

Prior to determining a proposal for performance appraisal grade, immediate manager shall be obliged to inform civil servant and/or state employee on the proposal for the grade, and to conduct an interview with him.

Should the head of organisational unit from the category of senior management staff be directly in charge of that organisational unit, he shall fill the form referred to in paragraph 4 of this Article before assigning performance grade, inform the civil servant and/or state employee about the grade and give him the opportunity to make a statement.

Performance appraisal grade of a civil servant and/or state employee shall be proposed on the form determined by the human resources management authority.

Performance appraisal grade shall be registered in the Central Personnel Records.

Employment of civil servant and/or state employee who received two consecutive unsatisfactory grades shall terminate as of the day the decision on performance appraisal becomes final.

The Government shall determine the Criteria, manner and procedure of performance appraisal of civil servants and/or state employees.

The Criteria, manner and procedure of performance appraisal for civil servants or state employees of Service of the Parliament and the appraisal form shall be determined by working body of the Parliament in charge of approving internal organisation and systematisation act of Service of the Parliament.

Performance Appraisal of Persons Performing Senior Management Staff Tasks

Article 84

Performance appraisal grades for the persons performing senior management tasks shall be as follows:

- „Outstanding“, if he demonstrated exceptional competencies in organisation of work and leadership, in cooperation and communication with other authorities and staff and other competencies aimed at efficient execution of tasks;
- „Good“, if he demonstrated average competencies in organisation of work and leadership, in cooperation and communication with other authorities and staff and other competencies aimed at efficient execution of tasks;
- „Unsatisfactory“, if he demonstrated below average competencies in organisation of work and leadership, in cooperation and communication with other authorities and staff and other competencies aimed at efficient execution of tasks.

State authorities shall appraise performance of senior management staff twice a year and prepare appraisal report.

The report referred to in paragraph 2 of this Article shall be prepared on an appraisal form determined by the human resources management authority.

Performance of senior management staff shall be appraised by head of state authority in a form of decision.

Should the person referred to in paragraph 1 of this Article get two consecutive “unsatisfactory” grades, the head of the state authority shall, based on the final decision on performance appraisal, submit to the Government proposal for termination of his tenure.

The Government shall determine the Criteria, manner and procedure of performance appraisal of persons referred to in paragraph 1 of this Article.

Performance Appraisal of Head of State Authority

Article 85

Performance appraisal grade of heads of state authorities shall be given by line minister.

Performance of head of state administration authority shall be made in accordance with Article 84

of this Law.

VII PROFESSIONAL TRAINING AND DEVELOPMENT OF CIVIL SERVANTS AND/OR STATE EMPLOYEES AND INTERNS

1. Professional Training and Development

Right and Obligation of Professional Training and Development

Article 86

Civil servant and/or state employee shall have the right and obligation to undergo professional training and development for the purpose of improving professional competencies and skills to perform the tasks pertaining to their job positions.

Head shall have the duty to provide for the professional training and development of civil servants and/or state employees for performance of tasks pertaining to their job positions, on the basis of professional training and development programme as laid down by this Law.

Types of Professional Training and Development Programmes

Article 87

Professional training and development shall be done on the basis of professional training and development programme, namely:

- 1) General programme for acquiring and fostering basic knowledge and skills required for working in state authorities;
- 2) Specific programmes for acquiring and fostering basic knowledge and skills required for performing tasks of specific job positions;
- 3) Special programmes for professional development in specific state authorities, in accordance with a separate law.

General programme referred to in paragraph 1 item 1 of this Article shall be adopted by the human resources management authority. Specific programmes referred to in paragraph 1 item 2 of this Article shall be adopted by the human resources management authority, unless otherwise provided for by a separate law.

Funds for implementing general and specific professional training and development programme shall be provided in the Budget of Montenegro, at the expense of the human resources management authority.

Manner of preparing professional training and development programme referred to in paragraph 1 items 1 and 2 of this Article, basic elements of the curricula, manner of implementing of programmes and other issues of significance for the professional training and development shall be determined by the Government, at the proposal of the human resources management authority.

More detailed contents, manner of preparing and adopting professional training and development programme of Service of the Parliament shall be determined by working body of the Parliament in charge of approving internal organisation and systematisation act of Service of the Parliament.

Additional and/or Specific Professional Training and Development

Article 88

Civil servant may be instructed to undergo additional and/or specific professional training and development in the country or abroad, in accordance with the needs of the state authority.

Rights and obligations of civil servant who acquired the right to additional and/or specific professional training and development shall be regulated by a contract between a head of state authority and civil servant.

Civil servant who concluded the contract referred to in paragraph 2 of this Article shall be obliged to continue to work with the state authority at least twice as long as the duration of the additional and/or specific professional training and development, unless otherwise specified by the contract.

In the event that civil servant fails in continuing to work with the authority over the period referred to in paragraph 3 of this Article he shall be obliged to reimburse the total amount of funds allocated for the additional and/or specific professional training and development and other cost incurred in relation with the additional and/or specific professional training and development, in accordance with the contract.

2. Interns

Concept

Article 89

Intern shall mean a person who for the first time enters employment in a state authority requiring certain qualifications for the purpose of being trained for autonomous work.

Intern shall enter employment on the basis of the public announcement that is published and carried out by the human resources management authority in accordance with this Law, unless otherwise provided for by a separate law.

Human resources management authority shall prepare a list of candidates meeting the announcement requirements, on the basis of timely, complete and proper documentation, and submits it within three days to the head of state authority who then makes decision on selection.

Duration of Internship

Article 90

Internship shall last for 12 months, unless otherwise provided for by a separate law.

Internship shall be prolonged for an intern, who was absent from work for a period exceeding one month due to justifiable reason, for the duration of the absence.

Training Programme for Interns

Article 91

Intern shall be trained in accordance with the programme determined by a state authority where the intern is being trained.

Program referred to in paragraph 1 of this Article shall be developed on the basis of methodology developed by the authority in charge of human resources management.

Practical Training in State Authorities

Article 92

State authority may deliver practical training to students, in accordance with the law governing university education.

VIII LIABILITY OF CIVIL SERVANT AND/OR STATE EMPLOYEE

1. Disciplinary Liability of Civil Servant and/or State Employee

Ground for Disciplinary Liability

Article 93

Civil servant and/or state employee shall be disciplinary liable for violations of official duty arising from employment that may be minor and severe.

Liability for criminal offence or misdemeanour offence shall not exclude disciplinary liability.

Minor Violations of Official Duty

Article 94

Minor violations of official duty shall be:

- 1) failure to observe working hours;
- 2) improper keeping of official files or data;
- 3) unjustified absence from work for up to three work days over a calendar year;
- 4) failure to wear official attire and/or name tag;
- 5) failure to inform the immediate manager of omissions related to the occupational health and safety issues;
- 6) failure to inform the immediate manager of being prevented to come to work within 24 hours, without justified reasons;
- 7) unjustified absence from professional training and development civil servant and/or state employee was instructed to undergo;
- 8) violation of rules and standards prescribed by the Code of Ethics of civil servants and/or state employees;
- 9) other violations determined as minor violations of official duty by law.

Severe Violations of Official Duty

Article 95

Severe violations of official duty shall be:

- 1) Failure to perform or reckless, untimely or negligent fulfilment of official obligations;
- 2) Refusal to enforce orders or perform job tasks;
- 3) Improper use and handling of entrusted assets;
- 4) Abuse of office or overstepping authorities in service;
- 5) Any commission or action preventing a citizen or a legal entity to exercise rights stipulated by law;
- 6) Unjustifiable absence from work for three consecutive business days;
- 7) Disclosure of confidential data;
- 8) Expression of political beliefs in performance of tasks;
- 9) Violent, inappropriate or offensive conduct towards a head of state authority, civil servants, state employees or parties, or showing any form of intolerance;
- 10) Coming to work intoxicated, alcohol abuse during work, or drug abuse;

- 11) Providing false data relevant for decision-making;
- 12) Two-fold or three-fold repetition of minor violations of official duty within a year;
- 13) Violation of work obligations that entails serious consequences for parties or the state authority;
- 14) Violation of obligation in case referred to in Article 78 and Article 80 paragraph 1 of this Law;
- 15) Engaging in an activity outside working hours without obtaining prior written consent of the head of state authority in the sense of Article 79 of this Law;
- 16) Restriction or deprivation of rights of civil servant and/or state employee, who denounces a criminal offence against the official duty or criminal offence or action with elements of corruption;
- 17) Failure to submit the proposal for initiation of disciplinary procedure in the case referred to in Article 97, paragraph 3 of this Law;
- 18) Other violations determined as severe violations of official duty by law.

Disciplinary Measures

Article 96

- 1) Written admonishment;
- 2) Fine imposed for one month, in the amount of up to 20% of the salary paid for the month when the minor offence was committed.

Disciplinary measures for severe violations of official duty shall be:

- 1) Fine imposed during the period from two to six months in the amount from 20% to 40% of the salary paid for the month when a severe violation of official duty was committed;
- 2) Reassignment to another job position of a lower level or title;
- 3) Termination of employment.

Initiation of Disciplinary Procedure

Article 97

Disciplinary procedure shall be initiated by a head of state authority at his initiative or at the proposal of the immediate manager.

Disciplinary procedure shall be initiated in the form of a decision.

The immediate manager shall be obliged to submit the proposal referred to in paragraph 1 of this Article, if there are facts and circumstances indicating a violation of official duty.

Decision on initiating disciplinary procedure for minor violation of official duty shall be submitted to the person authorised for conducting disciplinary procedure referred to in Article 98 of this Law and to a civil servant and/or state employee whose disciplinary liability is being established.

Decision on initiating disciplinary procedure for severe violation of official duty shall be submitted to the Disciplinary Commission referred to in Article 105 of this Law (hereinafter referred to as: Disciplinary Commission) and to a civil servant and/or state employee whose disciplinary liability is being established.

Separate appeal against Decision referred to in paragraphs 4 and 5 shall not be allowed.

Disciplinary Procedure for Establishing Minor Violation of Official Duty

Article 98

Disciplinary procedure for minor violation of official duty against civil servant and/or state employee shall be administered by an officer in state authority selected by the head of that state authority from the list referred to in Article 99 of this Law (hereinafter: authorised officer for conducting disciplinary procedure).

Authorised officer for conducting disciplinary procedure shall enable civil servant and/or state employee whose disciplinary responsibility for minor violation of official duty is being established to present their position on violation held against him.

In case civil servant and/or state employee whose disciplinary procedure is being established was duly summoned but failed in presenting and excusing himself, and authorised officer for conducting disciplinary procedure finds that responsibility of civil servant and/or state employee in question can be established based on evidence presented, he will administer the procedure in the absence of civil servant and/or state employee.

Based on the procedure from para. 2 and 3 of this Article, authorised officer for conducting disciplinary procedure shall determine proposal for the decision and submit it to the head of state authority.

In the procedure for establishing disciplinary liability authorised officer for administering disciplinary procedure shall observe the law governing administrative procedure, unless otherwise provided for by this or other law.

Disciplinary measure for minor violation of official duty against civil servant and/or state employee, at the proposal of authorised officer for conducting disciplinary procedure, shall be imposed in the form of decision by the head of state authority, within 10 days from submission of the proposal for decision to the head of state authority.

Civil servant and/or state employee shall have the right to an appeal against the decision referred to in paragraph 6 of this Article.

List of Persons for Administering Disciplinary Procedure for Establishing Minor Violation of Official Duty

Article 99

List of persons for administering administrative procedure for establishing minor violations of professional duty for each calendar year shall be determined by the human resources management authority based on a public call.

Persons with VII1 qualification level in law and legal studies and minimum of five years of experience in the relevant field shall have the right to apply to public call.

Method and procedure for developing list referred to in paragraph 1 of this Article shall be established by the Ministry.

Disciplinary Procedure for Establishing Severe Violation of Official Duty

Article 100

Disciplinary procedure for severe violation of official duty against civil servant and/or state employee shall be administered by Disciplinary Commission.

Disciplinary procedure shall involve hearing in which civil servant and/or state employee shall have the right to a defence. Civil servant and/or state employee may represent himself or through an attorney, proxy or trade union representative.

Exceptionally, the hearing may be held in the absence of the civil servant or state employee whose disciplinary procedure is being established in the event that the civil servant or state employee was duly summoned but failed in presenting and excusing himself, and Disciplinary Commission finds that responsibility of the civil servant and/or state employee in question can be established based on evidence presented.

In establishing disciplinary liability of civil servant and/or state employee Disciplinary Commission shall not be bound by legal qualification of a violation of official duty from the decision on initiating disciplinary procedure.

In the procedure for establishing disciplinary liability Disciplinary Commission shall observe the law governing administrative procedure, unless otherwise specified by this or other law.

Imposing Disciplinary Measures for Severe Violation of Official Duty

Article 101

Disciplinary Commission shall impose a disciplinary measure against a civil servant and/or state employee for severe violation of official duty.

When choosing a disciplinary measure, gravity of violation of official duty, consequences, degree of liability, circumstances under which official duty was violated, as well as extenuating and aggravating circumstances shall be taken into account.

Decision of Disciplinary Commission may be challenged in the administrative procedure.

Disciplinary Procedure against Persons belonging to Senior Management Staff and head of State Authority

Article 102

Head of state authority shall initiate a disciplinary procedure due to violation of official duty against a person belonging to senior management staff.

Disciplinary procedure against a head of state authority due to violation of official duty shall be initiated by the line ministry.

Disciplinary procedure against the persons referred to in par. 1 and 2 of this Article shall be administered and disciplinary measures shall be imposed by Disciplinary Commission.

Statute of Limitations

Article 103

The initiation of disciplinary procedure for minor violation of official duty shall fall under the statute of limitations within six months from the day of learning of the minor violation of official duty, or at latest within one year from the day of committing minor violation of official duty at latest.

The initiation of disciplinary procedure for severe violation of official duty shall fall under the statute of limitations within one year from the day of learning of the violation of official duty, or within four years from the day of committing a severe violation of official duty at latest.

In case referred to in Article 95, paragraph 1 item 12 of this Law, the initiation of disciplinary procedure shall fall under the statute of limitations within six months from the day the last disciplinary decision has become final.

The conduct of disciplinary procedure shall fall under the statute of limitations when two times as much time as required by law for falling under the statute of limitations has passed.

If violation of official duty has an element of a criminal offence, disciplinary procedure may be initiated any time before absolute deadlines for falling under statute of limitations of criminal charges.

Statute of limitations shall not run at the time when it is not possible to initiate and/or conduct disciplinary procedure.

Enforcement of disciplinary measure shall fall under the statute of limitations within one year from the day when the disciplinary decision imposing such measure has become final.

Registration and Deletion of Disciplinary Measure

Article 104

If a civil servant and/or state employee, within two years from the day the decision imposing disciplinary measure for minor violation of official duty becomes final, or within five years from the day when the decision imposing disciplinary measure for severe violation of official duty becomes final, except for the measure constituting termination of employment, does not commit a new violation of official duty, the registered disciplinary measure shall be deleted from the Central Personnel Records, and it shall be considered that a civil servant and/or state employee has not been sanctioned.

Disciplinary Commission

Article 105

Disciplinary Commission shall have a chairperson and four members.

Chairperson and members of the Disciplinary Commission shall be nominated and dismissed by the Government, at the proposal of the Ministry, following public competition.

Chairperson and members shall have the term of five years shall be professional in performing their function.

Chairperson and members of Disciplinary Commission shall have the right to compensation in accordance with the law governing salaries of public sector employees.

Disciplinary Commission shall have a seal, in accordance with the regulation governing seal of state authorities.

Criteria for Nomination of Chairperson and Members of the Disciplinary Commission

Article 106

A civil servant who is a legal graduate with VIII1 qualification level, who has passed bar examination and who has at least ten years of legal work experience may be appointed as a chairperson of the Disciplinary Commission.

A civil servant who is a legal graduate with VIII1 qualification level and at least seven years of work experience may be appointed as a member of the Disciplinary Commission.

Report of Work of Disciplinary Commission

Article 107

Disciplinary Commission shall submit the work report to the Government once a year.

Termination of Term of Office

Article 108

Term of office of the chairperson and members of Disciplinary Commission shall terminate:

- 1) By expiration of the term of office;
- 2) Upon personal request;
- 3) By revocation.

The chairperson and members of Disciplinary Commission shall be revoked, if:

- 1) He is convicted to an unconditional imprisonment;
- 2) He is convicted of a criminal offence making him unworthy of performing the duties;
- 3) He is not performing his work professionally or diligently.

Chairperson and members of Disciplinary Commission whose term of office has terminated in accordance with paragraph 1 it. 1 and 2 of this Article shall have the rights form Article 60 para. 3, 4 and 6 of this Law.

Expert and Administrative Activities for the Needs of Disciplinary Commission

Article 109

Authority in charge of human resources management shall conduct expert and administrative activities on behalf of the Disciplinary Commission.

Funds

Article 110

Budgetary funds for operations of the Disciplinary Commission shall be provided at the expense of human resources management authority.

2. Temporary Restriction of Performance of Duties

Grounds for Temporary Restriction of Performance of Duties

Article 111

Civil servant and/or state employee against whom criminal charges have been brought or disciplinary procedure has been initiated due to severe violation of official duty, until the

termination of disciplinary procedure, if his presence would harm the interest of state authority or interfere with the course of disciplinary procedure, may be:

- Restricted or deprived of given authorisations;
- Temporary transferred to another job position; or
- Prohibited to perform activities in the state authority (suspension).

Decision on Temporary Restriction of Performance of Duties

Article 112

Head of state authority shall decide on temporary restriction of performance of duties in the form of a decision following simplified procedure.

In case of decision-making referred to in paragraph 1 of this Article, a head of state authority shall take into consideration which form of temporary restriction of performance of duties would most efficiently ensure the interest of state authority.

An appeal against the decision referred to in paragraph 1 of this Article shall not stay execution.

Rights in Case of Suspension

Article 113

During the prohibition to perform the activities referred to in Article 111 paragraph 1 indent 3 of this Law, a civil servant and/or state employee shall be paid compensation in the amount of 60% of the salary paid in the month preceding the month in which prohibition is imposed.

Civil servant and/or state employee shall be given the unpaid portion of the salary with default interests, if:

- criminal or disciplinary procedure has been discontinued;
- criminal or disciplinary procedure has fallen under the statute of limitations;
- it has been found in the disciplinary procedure that he has not violated official duty due to which the measure of suspension has been imposed on him.

3. Material Liability of Civil Servant and/or State Employee and the State

Material Liability

Article 114

Civil servant and/or state employee shall be materially liable for damage he caused to a state authority at work, related to work, illegally, intentionally or as gross negligence.

The State shall be liable for damage a civil servant and/or state employee incurs to a third person at work or related to work. Third person may request compensation for damage also from a civil servant and/or state employee who caused the damage, if the damage was caused intentionally.

Procedure for Establishing Material Liability

Article 115

Provisions of this Law regulating disciplinary procedure shall apply to the procedure of deciding on material liability for damage of a civil servant and/or state employee.

Damage compensation may be decided on in a disciplinary procedure, if the damage was incurred due to violation of official duty.

Damage Compensation before Court

Article 116

In case it is determined that a civil servant and/or state employee is materially liable for damage, and he fails to compensate the damage, a state authority may exercise its rights before competent court.

Written Agreement and Lump Sum Damage Compensation

Article 117

A written agreement may be concluded between a head of state authority and civil servant and/or state employee on the amount and manner of damage compensation.

Written agreement referred to in paragraph 1 of this Article shall be enforceable instrument.

If determining the amount of damage would cause disproportionate costs, damage compensation may be determined as lump sum.

Acquittal for Damage Compensation

Article 118

If a civil servant and/or state employee is acquitted of liability for damage in accordance with Article 70, paragraph 5 of this Law, the immediate manager who issued the written order shall be held liable for damage.

Damage Caused to Third Person

Article 119

The State shall be entitled to a recourse claim against a civil servant and/or state employee amounting to the total amount of the compensation paid for damage that the civil servant and/or state employee caused at work or in connection with work, intentionally, to a third person.

The State shall be entitled to a recourse claim against a civil servant and/or state employee amounting to the total or partial amount of the compensation paid for damage that the civil servant and/or state employee caused at work or in connection with work to a third person, out of gross negligence.

The provisions of Articles 115 to 118 of this Law shall apply to the procedure for establishing material liability of civil servant and/or state employee.

Material liability of the State

Article 120

The State shall be liable for damage caused to a civil servant and/or state employee, at work or in connection with work, pursuant to the law regulating obligations.

A written agreement on the amount and manner of compensation for damage may be concluded between the head of a state authority and a civil servant and/or state employee to whom the damage was caused.

Written agreement referred to in paragraph 2 of this Article shall be enforceable instrument.

IX TERMINATION OF EMPLOYMENT

Grounds for Termination of Employment

Article 121

Employment of civil servant and/or state employee shall terminate:

- by operation of law;
- in the event of absence from work referred to in Article 123 of this Law;
- by resignation of civil servant and/or state employee;
- by agreement between a head of state authority and civil servant and/or state employee;
- by expiration of the period employment was entered for.

Termination of Employment by Operation of Law

Article 122

Employment of civil servant and/or state employee shall terminate by operation of law:

- when he turns 67 years of age and at least 15 years of contributing to insurance – on the day of adoption of decision;
- of the work ability is lost – on the day of submitting the final and enforceable decision on determining the loss of work ability;
- of it is determined that he provided false information at the time of entering employment - on the day of submitting the final and enforceable decision;
- in cases referred to in Article 132, paragraph 3, and Article 133, paragraph 1 of this Law – on the day of passing decision on termination of employment;
- if he fails to show satisfactory performance during probationary period – on the day decision

- on probationary period appraisal becomes final and enforceable;
- if he gets two consecutive “unsatisfactory” grades - on the day appraisal decision becomes final and enforceable;
 - if a measure of termination of employment is imposed on him in the disciplinary procedure - on a day the decision imposing the disciplinary measure becomes final and enforceable;
 - if he fails to start working at a job position that he is reassigned to - on a day the decision on reassignment becomes final and enforceable;
 - if he is forbidden, in accordance with law, by final and enforceable court decision or decision of another authority, to perform certain activities, and he cannot be reassigned to other activities - on the day of submitting the final and enforceable decision;
 - if he is sentenced by a final and enforceable judgment to an imprisonment sentence of at least six months - on the day of receipt of the final and enforceable judgement by the authority;
 - if a safety measure, corrective or protective measure is imposed on him, lasting more than six months, due to which he must be absent from work –on the day this measure starts to apply;
 - in case of his death.

Termination of Employment due to Absence from Work

Article 123

Employment of civil servant and/or state employee shall terminate in the event of unjustified absence from work for five consecutive work days.

In the event referred to in paragraph 1 of this Article, employment of civil servant and/or state employee shall terminate on the day decision on termination of employment becomes final and enforceable.

Resignation by Civil Servant and/or State Employee

Article 124

Civil servant and/or state employee may submit a written resignation at least 30 days prior to the day designated as the day of termination of employment.

Termination of Employment by Mutual Agreement

Article 125

Head of state authority and civil servant and/or state employee may conclude a written agreement on termination of employment.

Employment of civil servant and/or state employee in state authority shall terminate based on the agreement referred to in paragraph 1 of this Article, on the day specified in the agreement.

Termination of Employment by Expiration of Term

Article 126

Fixed-term employment shall terminate by expiration of the period that a civil servant and/or state employee entered employment for, or by completion of tasks for the performance of which he was employed for a fixed period of time.

Decision on Termination of Employment

Article 127

Head of state authority shall adopt a decision on termination of employment, except in case referred to in Article 122 paragraph 1 indents 4 and 7 and Article 125 of this Law.

X ABOLISHMENT OF AN AUTHORITY AND/OR TASKS AND REORGANISATION

Abolishment of a State Authority of Part of Tasks Assumed by another State Authority

Article 128

In case of abolishment of a state authority or some of its tasks, a state authority assuming the tasks shall take over civil servants and/or state employees who used to work on those tasks, based on decision of the head of that state authority.

Civil servant and/or state employee taken over in accordance with paragraph 1 of this Article shall continue performing tasks in accordance with the former decision on assignment of the state authority in charge of the assumed part of tasks, and other activities as instructed by the head of state authority that assumed him, until his reassignment to new position in accordance with internal organisation and systematisation act of the authority that has taken him over, and shall be entitled to a salary in amount paid before the assumption.

Civil servant and/or state employee, who is not reassigned under paragraph 2 of this Article because of no available job positions that he is meeting the requirements for, shall be made available to the human resources management authority for the needs of internal labour marked, based on decision of the head of authority.

Decision on reassignment and/or decision making civil servant and/or state employee available shall be adopted by the head of state authority assuming tasks referred to in paragraph 1 of this Article, within two months from adoption of internal organisation and systematisation act of that authority at latest.

Based on decision on making civil servant and/or state employee available referred to in paragraph 4 of this Article, authority in charge of human resources management shall adopt decision on rights and obligations of civil servant and/or state employee that is made available.

Abolishment of a State Authority or Part of Tasks Not Assumed by another State Authority

Article 129

Civil servant and/or state employee, whose job position is abolished due to the abolishment of a state authority shall be made available by decision of the authority in charge of human resources management for the needs of the internal labour market.

Civil servant and/or state employee, whose job position is abolished due to the abolishment of some tasks not assumed by another state authority, shall be made available to the human resources management authority for the needs of the internal labour market, by decision of state authority whose tasks are abolished.

The rights and obligations of a civil servant and/or state employee, who is made available, as referred to in paragraphs 1 and 2 of this Article, shall be determined, in the form of a decision, by the authority in charge of human resources management ex officio.

Reorganisation

Article 130

When due to change in internal organisation of state authority a new internal organisation and systematisation act is adopted or amendments are made thereto, reassignment of civil servants and/or state employees shall be done to job positions corresponding to their qualification level and for which they meet the prescribed requirements, considering tasks they had performed prior to the change.

In case there is no adequate job position in the sense of paragraph 1 of this Article that a civil servant and/or state employee may be assigned to, he shall be made available to the authority in charge of human resources management for the needs of the internal labour market and for determining the possibility for his appropriate reassignment, in form of decision adopted by the head of employing state authority.

Reassignment of a civil servant and/or state employee cannot be performed during temporary inability to work, during pregnancy or maternity leave.

Protection of Civil Servant and/or State Employee who is Made Available

Article 131

Civil servant and/or state employee made available based on decision referred to in Article 128 paragraph 4, Article 129 paragraphs 1 and 2 and Article 130 paragraph 2 of this Law shall have the right to salary compensation in the amount of the salary paid in the month before he has been made available, until his appropriate reassignment, and at the most six months from the day of making him available.

The availability of a civil servant and/or state employee, who prior to becoming available had worked or was entitled to work part-time because of taking care of a child with severe developmental disorders or is a single parent of a child up to seven years of age or is a parent of a child with severe disability, shall last until the appropriate reassignment, and at the most one year from the day of making him available.

Funds for exercising rights referred to in paragraphs 1 and 2 of this Article shall be provided in the Budget of Montenegro, at the expense of state authority that made civil servant and/or state employee available.

Reassignment of Civil Servant and/or State Employee who is Made Available

Article 132

Prior to publishing internal announcement, head of state authority shall be obliged to check with the human resources management authority whether there are available civil servants and/or state employees who meet requirements for being reassigned to the job position to be filled.

If it is determined that there are civil servants and/or state employees in the human resources management authority who meet the requirements of the job position to be filled, the authority for human resources management shall be obliged to invite them for testing referred to in Article 46 of this Law.

Human resources management authority shall adopt a decision on termination of employment of civil servant and/or state employee who refuses to participate in the procedure referred to in paragraph 2 of this Article or refuses to start working on a job position he is selected for.

Termination of Employment and Right to Severance Payment

Article 133

Where a civil servant and/or state employee referred to in Article 131 paragraphs 1 and 2 of this Law during the availability period is not reassigned, his employment shall terminate by operation of law upon the expiration of availability period.

Civil servant and/or state employee whose employment has terminated in accordance with paragraph 1 of this Article shall be entitled to severance payment in accordance with the law regulating salaries of civil servants and/or state employees.

Civil servant and/or state employee who acquired the right to severance payment under paragraph 2 of this Article cannot enter employment with a state authority or a legal entity referred to in Article 3 paragraph 2 of this Law within a year from the day the severance payment is made.

Limitation referred to in paragraph 3 of this Article shall not apply to persons who repay the total severance payment disbursed.

Decision on termination of employment referred to in paragraph 1 of this Article shall be adopted by the head of the human resources management authority.

Termination of Term of Office of Senior Management Staff

Article 134

Term of office of person performing tasks of senior management staff shall terminate if a state authority is abolished or some tasks not assumed by another state authority are abolished or if his job position is abolished with the adoption of new internal organisation and systematisation act or amendments thereto.

In case referred to in paragraph 1 of this Article, person performing tasks of senior management staff shall exercise the rights referred to in Article 60, paragraphs 3, 4 and 6 of this Law.

XI PROTECTION OF RIGHTS OF CIVIL SERVANTS AND/OR STATE EMPLOYEES

1. Procedure

Authorisation for Decision-Making

Article 135

Head of state authority or person performing tasks of senior management staff authorised by the head of state authority, in the form of a decision, shall decide on the rights and obligations of a civil servant and/or state employees, unless otherwise specified by this Law.

The authorisation referred to in paragraph 1 of this Article may be time- and scope- limited.

Appeal

Article 136

Appeal may be lodged against decision on rights, obligations and responsibilities of a civil servant and/or state employee, and against decision on selection of civil servant and/or state employee, within eight days from the day of receiving the decision.

Competence in Decision-Making

Article 137

Appeal Commission shall decide on appeal against the decision on rights, obligations and

responsibilities of a civil servant and/or state employee, and/or on appeal against the decision on selection of a civil servant and/or state employee.

Decision-Making on Appeal

Article 138

Appeal Commission shall decide on the appeal no later than 30 days from the day of receiving the appeal.

Notwithstanding paragraph 1 of this Article, the Appeal Commission shall decide on the appeal against the decision on temporary restriction of performance of duties within 15 days.

When deciding on the appeal referred to in paragraph 1 of this Article, the Appeal Commission may refuse the appeal, reverse the decision in its entirety or partially or amend the decision.

When enabled by the nature of administrative matter, Appeal Commission shall resolve the administrative matter independently.

Should the Appeal Commission reverse the first-instance decision and revert it back to the first-instance authority for repeated procedure, head of state authority shall be obliged to act in compliance with the decision of the Appeal Commission, and to adopt a new decision, without delay, and no later than 20 days from the day of receiving the decision of the Appeal Commission.

In the decision-making procedure on appeal, the Appeal Commission shall apply the law regulating the general administrative procedure, unless otherwise specified by this Law.

Judicial Protection

Article 139

Administrative dispute may be initiated against the decision of the Appeal Commission.

Alternative Redress

Article 140

Civil servant and/or state employee who thinks he was injured due to violation of his labour-based and labour-related rights, prior to initiating dispute before competent court, shall be obliged to lodge a proposal for peaceful resolution of dispute with the competent authority.

In case referred to in paragraph 1 of this Article, state authority shall have the obligation to agree with the proposal for peaceful resolution of dispute.

In case labour dispute is not resolved in the manner referred to in paragraph 1 of this Article, civil servant and/or state employee is entitled to initiate dispute before competent court.

The procedure for peaceful resolution of labour-related disputes shall be governed by the law regulating peaceful resolution of labour-related disputes.

Monetary claims referred to in paragraph 1 of this Article shall fall under the statute of limitations within three years from the date of claim.

2. Appeal Commission

Appointment of the Appeal Commission

Article 141

The Appeal Commission shall consist of a chairperson and four members.

The Government shall, at the proposal of the Ministry, appoint and revoke the chairperson and members of the Appeal Commission based on open competition.

Chairperson and members of the Appeal Commission shall be appointed for the period of five years and shall perform this office professionally.

Chairperson and members of the Appeal Commission shall have the right to salary in accordance with the law governing salaries of civil servants and state employees.

Appointment Requirements

Article 142

A civil servant who is a law graduate with VIII1 qualification level, who passed the bar examination and has 10 years of relevant legal work experience may be appointed as a chairperson of the Appeal Commission.

A civil servant who is a law graduate with VIII1 qualification level and who has at least seven years of legal work experience may be appointed as a member of the Appeal Commission.

Work of the Appeal Commission

Article 143

The Appeal Commission shall be autonomous and independent in its work.

The Appeal Commission shall adopt Rules of Procedure governing the method of work and decision-making procedure.

The Appeal Commission shall have seal, in accordance with the regulation governing seal of state authorities.

Report on Work of the Appeal Commission

Article 144

The Appeal Commission shall submit report on its work to the Government annually.

Termination of Term of Office of the Appeal Commission

Article 145

Term of office of the chairperson and/or member of the Appeal Commission shall terminate:

- 1) By expiration of the period he is nominated for;
- 2) Upon personal request;
- 3) By revocation.

Chairperson and/or member of the Appeal Commission shall be revoked from the duty if:

- 1) He is convicted to unconditional imprisonment;
- 2) He is convicted of criminal offence making him unworthy of working in state authority;
- 3) He is performing his duty in an unprofessional or reckless manner.

Expert and Administrative Tasks for the Appeal Commission

Article 146

Human resources management authority shall conduct expert and administrative tasks on behalf of the Appeal Commission.

Funds

Article 147

Funds for operations of the Appeal Commission shall be provided in the Budget of Montenegro, at the expense of the human resources management authority.

XII HUMAN RESOURCES MANAGEMENT IN STATE AUTHORITIES

Staffing Plan

Article 148

For the purpose of human resources management, state authorities shall adopt Staffing plan for planning of the number of staff, changes in personnel structure and other strategic human resources management issues in line with budget and strategic planning of the work of Government.

Adoption of Staffing Plan

Article 149

Staffing plan for state administration authorities and services of the Government shall be adopted by the Government.

Staffing plan for other state authority shall be adopted by the head of such state authority after obtaining the consent of the ministry in charge of finance, which is not obtained for the Parliament of Montenegro and judicial authorities, unless otherwise determined by a separate law.

Staffing plan shall be adopted for a calendar year, within 30 days from the day of adoption of the Budget Law for that year, and shall include projections for the next two years.

Method, procedure and method of preparation and amendments to the Staffing plan for state administration authorities and services of the Government shall be adopted by the Government.

Responsibility for Implementation of Staffing Plan

Article 150

Head of state authority shall be responsible for implementation of staffing plan.

Competence of Human Resources Management Authority

Article 151

Human Resources Management Authority shall perform the following tasks:

- administer announcement procedure on behalf of state authorities and informing the competent inspection authority on prospective illegalities and irregularities;
- adopt and deliver professional training and development programmes and monitor and assessing results of professional training and development programmes;
- issue opinion on the internal organisation and systematisation act of state authority and legal entity referred to in Article 3 paragraph 2 of this Law;
- participate in developing proposals of staffing plans for the state administration authorities and Service of the Government;
- participate in development of professional grounds for drafting of regulations and strategic documents in the area of civil service, as well as initiate amendments to regulations governing or related to civil service;
- keep the Central Personnel Records and internal labour market records;
- assist state authorities in implementing their human resources policies, training and development;
- determine rights and obligations of civil servants and/or state employees made available and examine the possibility of their reassignment to vacant job positions in state authority;
- perform other tasks in the area of human resources development and management, in accordance with law.

Internal organisation and systematisation act of legal entities referred to in Article 3 paragraph 2 of this Law shall be adopted by the Government, at the proposal of persons managing such legal entities.

Human resources management authority shall be obliged to submit the report on its activities once a year to the Government, in accordance with law.

Human resources management authority may submit to the Government a separate report with the proposal of measures with respect to especially important issues regarding civil service.

Central Personnel Records and Internal Labour Market Records

Article 152

Central Personnel Records shall include the data on: state authority, internal organisation and systematisation act of the state authority, civil servants and/or state employees, vacant positions; interns; data that will be used for payroll and other data of relevance for human resources management.

Internal labour market records shall include the data on: available civil servants and/or state employees and other necessary data.

Central Personnel Records shall be interfaced with payroll information system in accordance with regulations governing electronic operations.

Human resources management authority shall delete the data from the records referred to in paragraphs 1 and 2 of this Article within five years from the day of termination of employment of civil servant and/or state employee.

The Ministry shall determine in further detail contents and manner of keeping the Central Personnel Records and internal labour market records, as well as the manner in which the data from these records can be made available and inspected, as well as the manner of deletion of the data.

Data Entry and Use

Article 153

State authority shall be obliged to enter the data in the Central Personnel Records, no later than fifteen days from the day of occurrence or change in circumstances that the records are kept on.

Data from the Central Personnel Records and Internal Labour Market Records can be made available to: civil servant and/or state employee that the data relate to, head of state authority or another authority deciding on rights and obligations of civil servant and/or state employee, in accordance with law.

Data from the Central Personnel Records and Internal Labour Market Records can be made available to a third person only with the consent of civil servant and/or state employee that the data relate to.

XIII SUPERVISION

Supervisory Body

Article 154

The Ministry shall conduct administrative supervision over the implementation of this Law and other regulations adopted based on this Law.

The Ministry shall perform inspection supervision over the implementation of this Law through administrative inspectors.

Administrative Inspector

Article 155

In supervising the implementation of this Law, the administrative inspector shall have the right to inspect the documentation and records on civil servants and/or state employees.

Administrative inspector shall perform supervision, in particular, of:

- procedure, adoption and implementation of Human Resources plan;
- regularity and timeliness of data submission to the Central Personnel Records and maintenance of files related to the human resources records;
- timeliness of adoption and submission of individual acts;
- procedure for filling job positions in state authorities;
- announcement procedure;
- procedure for performance appraisal of civil servants and/or state employees, and the procedure for their assignment;
- procedure for carrying out reorganisation;
- other issues related to the rights and obligations of civil servants and/or state employees.

Measures of Administrative Inspector

Article 156

Administrative inspector shall be obliged to process every submission or initiative within his powers, and inform the submitting party about the outcome of actions taken on the basis of submission or initiative.

Should, in performing supervision, administrative inspector identify illegal actions or irregularities, he shall be obliged to prepare records and impose measures on elimination of illegal actions and irregularities identified, in accordance with law, and shall be obliged to inform the

Appeal Commission on illegal actions and irregularities identified.

If the head of state authority fails in rectifying the illegal actions and irregularities identified referred to in paragraph 2 of this Article within given timeframe, administrative inspector may propose to the Appeal Commission to annul the illicit decision in accordance with the law governing administrative procedure.

XIV PENAL PROVISIONS

Offences

Article 157

A fine from EUR 30 to EUR 2,000 shall be imposed for an offence on a responsible person in a state authority –the head of state authority who:

- 1) Fails to adopt a decision on selection of candidate and fails to submit it to the human resources management authority within ten days from the day of receiving the shortlist of candidates (Article 48, paragraph 5);
- 2) Adopts a decision on entering fixed-term employment contrary to Article 52, paragraphs 2 to 5 of this Law;
- 3) Reassigns a civil servant and/or state employee contrary to Articles 63, 64 and 65 of this Law;
- 4) Fails to determine the duration of annual leave in accordance with Article 69 of this Law;
- 5) Fails to adopt decision on performance appraisal of civil servant and/or state employee by 31 January of calendar year for the previous year (Art. 82 and 83);
- 6) Fails to adopt new decision within twenty days from the day of receiving the decision of the Appeal Commission (Article 138, paragraph 5);
- 7) Fails to enter data to the Central Personnel Records (Article 153, paragraph 1);
- 8) Makes available the data from the Central Personnel Records to a third person, without the consent of a civil servant and/or state employee that the data relate to (Article 153, paragraph 3).

XV TRANSITIONAL AND FINAL PROVISIONS

Article 158

Secondary legislation for implementation of this Law shall be adopted until 1 July 2018.

Code of Ethics of Civil Servants and State Employees shall also be adopted within the timeframe referred to in paragraph 1 of this Article.

Article 159

Internal organisation and systematisation act of state authorities and legal entities referred to in Article 3 paragraph 2 of this Law shall be harmonised with this Law within 60 days from the day of application of this Law.

Article 160

Civil servants and/or state employees who are working in a state authority on the day this Law becomes applicable, shall continue to work with titles they have acquired in accordance with the existing regulations, until the adoption of the decision on reassignment to job positions in accordance with the internal organisation and systematisation acts referred to in Article 159 of this Law.

Article 161

Work experience over the six-month period acquired by persons with III or IV1 qualification level who completed internship in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14) shall be recognised as work experience of 12 months.

Article 162

Heads of authorities and persons belonging to senior management staff, nominated and appointed before this Law starts to apply, shall continue to work in that capacity until the expiration of the period that are nominated and appointed for.

Persons appointed as acting heads of authorities and acting senior management staff, shall continue to work in that capacity until the expiration of the acting period.

Article 163

Inspectors and authorised officials appointed in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14) before the application day of this Law shall continue to work in that capacity until the expiration of the period that are appointed for.

Article 164

Chairperson and members of the Appeal Commission shall be nominated in accordance with this Law within sixty days from the day this Law starts to apply.

Chairperson and members of the Appeal Commission nominated in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14) shall continue in that capacity until nomination of new chairperson and members of the Appeal Commission in accordance with this Law.

Article 165

Chairperson and members of the Disciplinary Commission shall be nominated in accordance with this Law within sixty days from the day this Law starts to apply.

Disciplinary procedure against senior management staff and disciplinary procedure for establishing severe disciplinary violations of civil servants and/or state employees shall be administered, and the decision on disciplinary liability shall be taken in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14) until nomination of new chairperson and members of the Disciplinary Commission in accordance with this Law.

Article 166

The procedure for deciding on rights, obligations and responsibilities of civil servant and/or state employee, and procedure for selection based on announcement which is not completed by way of final and enforceable decision until the day this Law starts to apply, shall be completed in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14).

Article 167

Labour-related monetary claims that occurred between 1 January 2013 and the date of

application of this Law shall fall within statute of limitations within three years from the date of application of this Law.

Article 168

Civil servant and/or state employee, that acquired certain labour-based rights in accordance with the Law on Civil Servants and State Employees (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14) and other regulations adopted on the basis of that Law, shall continue to exercise those rights until the expiration of the period determined on the basis of those regulations.

Article 169

On the day this Law becomes applicable, the Law on Civil Servants and State Employees shall be repealed (Official Gazette of Montenegro, No. 39/11, 66/12 and 34/14).

Article 170

This Law shall come into force on the eighth day from the day of its publishing in the Official Gazette of Montenegro, and it shall become applicable as of 1 July 2018.

No: 23-2/17-3/10 EPA
317 XXVI

Podgorica, 29 December 2017

26th Parliament of Montenegro

Chairperson,

Ivan Brajovic