

24 Annex - Justice, freedom and security

**165. LAW ON AMENDMENTS TO THE LAW ON CIVIL
PROCEDURE**

AMENDMENTS

The Decision of the Constitutional Court of the Republic of Montenegro determining that the provision of Article 187, paragraph 4 of the Law on Civil Procedure (Official Gazette of Montenegro, 22/04) is not in compliance with the Constitution of the Republic of Montenegro and shall cease to have effect as from the date of publication of this decision. The Constitutional Court of the Republic of Montenegro composed of: judge Radovan Krivokapić, replacing the President of the Court and judges – Veselin Racković, Fetija Međedović and Zoran Smolović, according to provisions of Article 113, paragraph 1, item 1 of the Constitution of the Republic of Montenegro, Article 51, paragraph 2 and Article 56, item 1 of the Law on Constitutional Court of Republic of Montenegro (Official Gazette of the Republic of Montenegro, 21/93), at the sitting of 06 April 2005 adopted the following

Decision

Decision was published in the Official Gazette of the Republic of Montenegro, 28/2005 of 05 May 2005

IT IS DETERMINED that the provision of Article 187, paragraph 4 of the Law on Civil Procedure (Official Gazette of the Republic of Montenegro, 22/04) is not in compliance with the Constitution of the Republic of Montenegro and shall cease to have effect as from the date of publication of this decision.

This Decision shall be published in the Official Gazette of the Republic of Montenegro.

In 78/04 and 102/04

Podgorica, 06 April 2005

Constitutional Court of the Republic of Montenegro

Replacing the President of the Constitutional Court of the Republic of Montenegro

Judge,

Radovan Krivokapić, authentic signature

Pursuant to Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby issue the

Decree on Promulgating the Law on Amendments to the Law on Civil Procedure

I hereby promulgate the Law on Amendments to the Law on Civil Procedure passed by the Constituent Assembly of the Republic of the Republic of Montenegro, at the fifth sitting of the second ordinary session in 2006, on 29 November 2006.

No: 01-1486/2

Podgorica, 30 November 2006

President of the Republic of Montenegro

Filip Vujanović,
authentic signature

Law on Amendments to the Law on Civil Procedure

*The Law was published in the Official Gazette of the Republic of Montenegro,
76/2006 of 12 December 2006*

Article 1

In the Law on Civil Procedure (Official Gazette of the Republic of Montenegro, 22/04) Article 3 shall be amended as follows:

“The party should have a legal interest for complaint and any other litigation action”

Article 2

Article 13 shall be deleted.

Article 3

In Article 24, paragraph 1 the words: “Article 21” shall be replaced by words: “Article 20”.

Article 4

In Article 34 after the word: “existence”, the words: “lease or” shall be deleted, and the words: “unless the rent or lease has been contracted” shall be replaced by the words: “if the lease has been contracted”.

Article 5

In Articles 41, 130, paragraph 2 after the word: “citizens” and the word: “representatives” and Article 143, paragraphs 1 and 2, the words: “Serbia and” shall be deleted.

Article 6

In Article 42, paragraph 1 after the word: “rent”, the words: “and lease” shall be deleted.

Article 7

In Article 43 the words: “The State Union of Serbia and Montenegro” shall be replaced by the words: “The Republic of Montenegro”.

Article 8

In Article 82, after paragraph 3, new paragraph 4 shall be added which reads:
“The ruling referred to in paragraphs 1 and 2 of this Article may not be appealed”.
Paragraph 4 shall become paragraph 5.

Article 9

In Article 83 after the word: “representatives”, a conjunction “as well“ shall be deleted and after the words: “legal person” the words: “and a business organisation without capacity of a legal person” shall be added.

Article 10

In Article 84, paragraph 2 shall be replaced with two new paragraphs which read:
“In the cases referred to in Article 82, paragraphs 2 and 3 of this Law, the plaintiff shall deposit the amount of costs of the temporary representative.”
“If the plaintiff fails to deposit the amount of costs for the appointment of temporary representative within the deadline determined by the Court the complaint shall be deemed withdrawn.”

Article 11

In Article 95, paragraph 2 the word: “written” shall be replaced by the words: “in writing”.

Article 12

In Article 106, paragraph 1, the word: “three” shall be replaced by the word: “eight”.

Article 13

In Article 128, paragraph 3 the words: “public defendant” shall be replaced by the words: “competent municipal body”.

Article 14

Article 185 shall be amended as follows:

“If the person representing the Republic or a competent municipal body or undertaking the action in the procedure under their authority, disturbs order the court shall inform a competent Republic or municipal body about that and it may postpone the trial and demand from the competent body of the Republic or municipal body to appoint another person to take part in the litigation”.

Article 15

In Article 190, paragraph 3 shall become paragraph 2.

Article 16

In Article 191, paragraph 4 the word: “permit” shall be replaced by the word: “allow”.

In Article 6, the word: “adopt” shall be replaced by the word: “allow”.

Article 17

In Article 211, paragraph 1, after item 5, new item 6 shall be added which reads:

“6) where legal consequences arise from initiating the liquidation procedure”.

Items 6 and 7 shall become items 7 and 8.

Article 18

In Article 226, paragraph 1 shall be replaced as follows:

“The document issued in a prescribed form by a state body within its competence or an institution and other legal person within the public authority entrusted by law (public document), shall prove authenticity of what is confirmed or determined by it”.

Article 19

In Article 321, paragraph 3 after the words: “on-the-spot investigation”, the following words shall be added: “and that evidence be not presented again by hearing the parties”.

Article 20

In Article 327 after paragraph 1, new paragraph 2 shall be added which reads:

“If judicial settlement is annulled the procedure shall continue as if the decision on the statement of claims has not been rendered in the procedure.”

Paragraphs 2, 3, 4 and 5 shall be deleted.

Article 21

In Article 329, paragraph 2 the words: “of 60” shall be replaced by the words: “of 90”.

Article 22

In Article 341, new paragraph 4 shall be added which reads:

“After conclusion of the main hearing parties shall be warned that the deadline for the appeal shall commence on the first day following the date of rendering the judgment”.

Article 23

In Article 375, paragraph 3 after the word: “reversed”, the following words shall be added: “according to provisions of this Law”.

Article 24

In Article 397, paragraph 2 and 3, the words: “EUR 5 000” shall be replaced by the words: “EUR 10 000”.

Article 25

After Article 428, a new Article shall be added which reads:

Article 428 a

When the European Court for Human Rights establishes violation of a human right or fundamental freedom guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, a party may, within three months from the final judgment of the European Court for Human Rights, file a request for the reversal of the judgment violating that right or fundamental freedom before the court in the Republic of Montenegro which tried in the first instance procedure in which the decision violating a human right or fundamental freedom was rendered if the violation may not be removed in any other way than by reopening the procedure.

The procedure referred to in paragraph 1 of this Article shall be conducted subject to proper application of provisions on reopening the procedure.

In the retrial, the court shall be bound by a legal notion expressed in the final judgment of the European Court for Human Rights which established violation of a fundamental human right or freedom”.

Article 26

In Article 438, after the word: “permitted” the word: “only” shall be added.

Article 27

In Article 452, paragraph 2 the word: "first" shall be deleted.

Article 28

In Article 458, paragraph 1 the words: "EUR 25 000" shall be replaced by the words: "EUR 30 000".

Article 29

Legislative Committee of the Parliament of Montenegro is hereby authorised to draw up consolidated text of this Law.

Article 30

This Law shall enter into force on the eight day following that of its publication in the Official Gazette of the Republic of Montenegro.

SU-SK No 01-538/6

Podgorica, 29 November 2006

Constituent Assembly of the Republic of Montenegro

President,
Ranko Krivokapić, authentic signature