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176. LAW ON CIVIL SERVANTS AND STATE EMPLOYEES

LAW ON CIVIL SERVANTS AND STATE EMPLOYEES

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I. BASIC PROVISIONS

Subject matter of the Law

Article 1

This Law shall regulate issues of the status of civil servants and state employees relating to: employment, titles, rights and obligations, accountability, transfer, performance appraisal, promotion and competency testing, professional training, termination of employment, protection of rights, human resources management, and control of the enforcement of the law.

Civil Servant and State Employee

Article 2

A Civil Servant and/or State Employee is a person employed in a state body.

For the purpose of this Law, a Civil Servant shall include a head of a state body and a person who has been employed by appointment in a state body with respect to the exercise of certain rights, duties and responsibilities.

For the purpose of this Law, a Civil Servant shall not mean a Member of Parliament, or a person who is elected or appointed by the Parliament of Montenegro.

For the purpose of this Law, a state body shall mean a state administration body, another state body and services of the President of Montenegro, the Parliament of Montenegro, the Government of Montenegro and the Constitutional Court of Montenegro.

Civil Servants and State Employees' tasks

Article 3

A Civil Servant shall perform administrative, professional and other tasks for the exercise of competences of the state body laid down by the Constitution, law and other regulations.

A State Employee shall perform administrative, accounting and financial and ancillary and technical tasks necessary for timely and effective performance of affairs falling within the competence of a state body.

General labour legislation

Article 4

General labour regulations as to rights, obligations and responsibilities, which are not otherwise regulated by this Law or other regulations, shall apply to Civil Servants and/or State Employees.

Political neutrality and impartiality

Article 5

Civil Servant and/or State Employees shall perform their tasks in a politically neutral and impartial manner, in accordance with the public interest.

Civil service ethics

Article 6

A Civil Servant and/or State Employee shall abide by the Code of Ethics for Civil Servants and State Employees in the performance of their duties.

The Code of Ethics for Civil Servants and State Employees shall be adopted by the ministry competent for administration affairs, following a prior opinion from Civil Servants and State Employees.

In performing their duties, a Civil Servant and/or State Employee, shall not give private interest precedence over public interest or abuse the performance of their duties to obtain material or other gain.

A Civil Servant and/or State Employee shall be obliged to avoid conflict of interest.

Legality and accountability

Article 7

A Civil Servant and/or State Employee shall perform their duties according to the Constitution, law, other regulations and general acts.

A Civil Servant and/or State Employee shall be responsible for lawfulness, professionalism and efficiency of their work.

A Civil Servant and/or State Employee shall be responsible for lawful, efficient and rational utilisation of public resources he/she administers or uses in work.

In accordance with law, Civil Servant and/or State Employee shall be liable for damage caused to the state body or third party by his/her unlawful or erroneous work.

Equal access

Article 8

On the occasion of employment of Civil Servants and State Employees, the candidates shall have equal access to all posts under equal conditions.

Civil Servant and/or State Employee shall enter into employment on the basis of an open advertisement.

Promotion

Article 9

A Civil Servant and/or State Employee shall have the right to promotion.

The promotion shall depend on professional competence and ability to work, quality of work and achieved work results.

Protection of rights of Civil Servants and State Employees

Article 10

Civil Servant and/or State Employee shall have rights laid down by law and other regulations.

Nobody shall exert any kind of pressure on the Civil Servant and/or State Employee in order that he/she do or omit to do something contrary to legislation.

In the process of decision-making on rights and obligations, Civil Servant and/or State Employee shall have the right to protection of their rights.

Favouring or disfavouring

Article 11

It is prohibited to favour or disfavour a Civil Servant and/or State Employee, in their rights, and in particular on the grounds of political or ethnic affiliation, race, religion, gender, or for some other reason contrary to the rights and freedoms guaranteed by the Constitution and law.

Violation of official duty

Article 12

A violation of an official duty shall be stipulated by law and other regulations.

The procedure upon violation of an official duty and the authorities competent to act in such procedure shall be prescribed by law.

Transfer

Article 13

A Civil Servant and/or State Employee may be transferred to another post, under the conditions laid down by law.

Professional training

Article 14

A Civil Servant and/or State Employee shall have the right and duty to undergo professional training.

The head of a state body shall be responsible to ensure the conditions for professional training of the Civil Servant and/or State Employee.

Trade unions

Article 15

Civil Servants and State Employees have the right to form and join trade unions, in accordance with general labour regulations.

II. EMPLOYMENT

General requirements

Article 16

A person may enter into employment in a state body provided that he/she:

- is a national of Montenegro;
- is of legal age;
- is medically fit;
- has the required degree of education;
- has been convicted of a criminal offence that makes him/her unfit for work in the state administration and against whom no criminal proceedings are pending for criminal offence prosecuted ex officio;
- meets other requirements laid down by law and other regulations.

- A foreign national or a stateless person may enter into employment in a state body under the conditions laid down by a separate law and international conventions.

Entering into employment

Article 17

A decision to fill a vacancy may be adopted if:

- the post is specified in the act on internal organisation and job descriptions;
- the post is vacant;
- the state body has provided necessary financial resources for this purpose.

Internal resources

Article 18

A vacant post in a state body may be filled by way of transfer of a Civil Servant or a State Employee within the same state body.

If a vacant post has not been filled in the manner set forth in paragraph 1 of this Article, it may be filled by way of transfer of a Civil Servant or State Employee from another state body by way of internal vacancy announcement.

The requirements and procedure for the internal vacancy announcement shall be determined by the Government of Montenegro (hereinafter referred to as the "Government"), on a proposal of the ministry competent for administration affairs.

Open advertisement

Article 19

If a vacant post has not been filled in the manner set forth in Article 18 of this Law, a procedure for an open advertisement shall be carried out.

By way of exception, the open advertisement procedure shall not be carried out for employment of the person who received scholarship from the state body on the basis of open advertisement.

Open advertisement procedure shall be carried out by the administration body competent for human resources management (hereinafter referred to as the "human resources management authority")

Publication of open advertisement

Article 20

Open advertisement shall be published in accordance with the general labour legislation.

Time limit for submission of applications on the basis of an open advertisement shall not be less than eight or longer than fifteen days from the day of publication of the open advertisement.

Contents of open advertisement

Article 21

The open advertisement must contain the following:

- the name of the state body and the place of the performance of duties;
- title of the post;
- requirements for employment;
- supporting documents which the candidate must enclose to the application;
- the application deadline and the address for information about the application;
- the name of the person authorised to provide information during the open advertisement procedure.

List of Candidates

Article 22

On the basis of the applications, the human resources management authority shall make a list of candidates who meet the requirements stipulated in the open advertisement.

Procedure of obligatory testing

Article 23

Persons from the list of candidates are subject to obligatory testing of the ability to perform the duties pertaining to the respective post (hereinafter referred to as the “competency testing”).

The competency testing procedure may be carried out in several phases, in which the number of candidates is gradually reduced. The competency testing procedure may be carried out through a written test, by way of interview or in another appropriate manner.

The procedure for, method of and criteria for the competency testing shall be determined by the Government on a proposal from the ministry competent for administration affairs.

Selection List

Article 24

The human resources management authority shall make a selection list consisting of candidates who achieved satisfactory results in the competency testing procedure.

When, during the competency testing procedure, it has been established that no candidate achieved satisfactory results, the open advertisement may be repeated.

Decision on selection of a Civil Servant and State Employee

Article 25

The selection list shall be submitted to the head of a state body.

The head of a state body shall decide on selection of a Civil Servant and/or State Employee.

If the head of a state body fails to make selection among candidates from the selection list, he/she shall inform the human resources management authority of his/her reasons for such a decision. In that case the open advertisement may be repeated.

The head of a state body shall make decision referred to in paragraphs 2 and 3 of this Article and deliver it to the human resources management authority within 30 days from the day of receipt of the selection list.

Decision on employment

Article 26

A Civil Servant and/or State Employee shall enter into employment by way of decision on employment.

Right to Insight

Article 27

A candidate who applied for vacancy on the basis of an open advertisement shall have the right to examine the documentation of the open advertisement, on his/her request.

Probationary period

Article 28

Probationary period may be stipulated in the act on internal organisation and job descriptions as a special requirement for the performance of particular duties.

The act referred to in paragraph 1 of this Article shall specify the duration of a probationary period.

Probationary period appraisal

Article 29

During probationary period, a Civil Servant and/or State Employee shall be appraised in a manner and according to the procedure determined by the Government on a proposal from the ministry competent for administration affairs.

The probationary period appraisal shall be made by the head of a state body, no later than eight days from the day of expiry of the probationary period.

If the probationary period appraisal is not satisfactory, the employment of the Civil Servant and/or State Employee shall terminate by operation of law.

Duration of Employment

Article 30

A Civil Servant and/or State Employee shall be employed for an indefinite period of time.

Fixed-term employment is entered into in the following cases:

- replacement of a temporarily absent Civil Servant and/or State Employee – for the period of absence of the Civil Servant and/or State Employee;
- performance of project tasks with a limited duration – for the period of duration of the project;
- performance of temporarily increased workload, which is not possible to complete with the existing number of Civil Servants and/or State Employees – for the period of duration of temporary increase in workload;
- training of trainees – for the period of duration of traineeship;

Fixed-term employment in the cases referred to in paragraph 2 indents 2, 3 and 4 of this Article may be entered into only if necessary funds have been provided for such purpose.

III. POSTS OF CIVIL SERVANTS AND STATE EMPLOYEES

Managerial posts

Managing persons

Article 31

Managing persons shall be:

- in a ministry: secretary of the ministry and assistant minister,
- in an administration body: deputy head of administration body,
- in a service established by the Government: deputy head of service.

Managing persons in other state bodies and services shall be defined by the regulation on establishment of a body and/or on the organisation of a service.

Requirements for managing persons

Article 32

A managing person shall possess university degree, minimum five years of working experience and passed civil service exam.

Other requirements for managing persons shall be laid down in the act on internal organisation and job descriptions.

Appointment procedure

Article 33

A managing person shall be employed on the basis of an open competition.

The human resources management authority shall make a list of candidates who meet the requirements stipulated in the open competition notice, on the basis of the submitted applications.

Competency testing shall be carried out by way of interview, with the obligatory presence of the head of the state body in which a vacancy is to be filled.

A list of candidates shall be submitted to the head of a state body for the purpose of establishing proposal for appointment.

If the head of a state body fails to propose a candidate from the list of candidates for appointment, he/she shall inform the human resources management authority of his/her reasons for such decision. In that case the open competition shall be repeated.

The provisions of this Law regulating open advertisement shall apply to the open competition procedure.

Appointment

Article 34

The decision on appointment and removal from office of a managing person in a state administration body and a service established by the Government shall be adopted by the Government on a proposal from the head of the state administration body and/or service.

The decision on appointment and removal from office of a managing person in another state body shall be adopted by the body and/or person authorised by the act on establishment of the body and/or act on organisation of the service.

A managing person shall be appointed for a term of five years, and on the expiry of that period he/she may be reappointed.

Removal from office of managing persons

Article 35

A managing person shall be removed from office:

- on his/her own request,
- if his/her performance has been appraised as “unsatisfactory” during his/her term of office, in accordance with this Law,
- on expiry of his/her term of office, and
- on termination of employment.

The person referred to in paragraph 1 of this Article may be transferred to a post corresponding to his/her qualifications and competencies in the same or another state body, except in case of termination of employment.

In the cases when the transfer of managing person is not possible within one year from the day of removal from the office, the managing person shall have the right to receive, during that period, a compensation in the amount of the salary for the last month of performance of his/her duties, with appropriate adjustment. By way of exception, the right to compensation may be extended for an additional one-year period, if the person removed from office should attain the right to retirement within that period.

2. Titles of Civil Servants and State Employees

Tasks of Civil Servants and State Employees

Article 36

Civil Servant and/or State Employee shall perform his/her tasks under a specific title.

Tasks performed by the Civil Servant and/or State Employee under a specific title in the state administration body shall be determined by the Government.

Manner of Acquisition of a Title

Article 37

A Civil Servant and/or State Employee shall acquire a title by employment or by transfer.

Civil Servants' titles and requirements

Article 38

Titles of Civil Servants shall be assigned to three grades as follows:

1) First grade:

- Advisor to the Head, Chief Inspector and Chief Authorised Official – university degree and minimum seven years of working experience;
- Senior Advisor I, Inspector I and Authorised Official I - university degree and minimum five years of working experience;
- Senior Advisor II, Inspector II and Authorised Official II - university degree and minimum three years of working experience;
- Senior Advisor III, Inspector III and Authorised Official III - university degree and minimum one year of working experience.

2) Second grade:

- Advisor I - university degree and minimum three years of working experience;

- Advisor II - university degree and minimum two years of working experience;
- Advisor III - university degree and minimum one year of working experience,

3) Third grade:

- Junior Advisor I – associate’s degree and minimum three years of working experience
- Junior Advisor II - associate’s degree and minimum two years of working experience
- Junior Advisor III - associate’s degree and minimum one year of working experience

The head of a state body shall appoint a Civil Servant to the title of Inspector for a term of four years. The head of a state body shall appoint a Chief Inspector, with the consent of the Government, for a term of four years.

Special titles

Article 39

By way of exception, titles of Civil Servants in judicial and prosecutorial authorities, authorities that perform affairs of diplomacy, police, security, defence, guarding detained and convicted persons, customs and other affairs with special powers and responsibilities may be stipulated by law or another regulation when provided by law.

By way of exception, the act on establishment of a service or standing working body may also stipulate other titles, when necessary due to the nature of the relevant tasks.

State Employees’ titles and requirements

Article 40

Titles of State Employees shall be assigned to five grades, as follows:

1) First grade:

- Senior State Employee I - university degree and minimum five years of working experience
- Senior State Employee II - university degree and minimum three years of working experience
- Senior State Employee III - university degree and minimum one year of working experience

2) Second grade:

- State Employee I - university degree and minimum three years of working experience
- State Employee II - university degree and minimum two years of working experience
- State Employee III - university degree and minimum one year of working experience

3) Third grade:

- Junior State Employee I - associate’s degree and minimum five years of working experience
- Junior State Employee II - associate’s degree and minimum three years of working experience
- Junior State Employee III - associate’s degree and minimum one year of working experience

4) Fourth grade:

- Junior State Employee IV - secondary education and minimum three years of working experience
- Junior State Employee V - secondary education and minimum two years of working experience

- Junior State Employee VI - secondary education and minimum one year of working experience

5) Fifth grade:

- Junior State Employee - elementary education

Titles of State Employees may also contain his/her vocation.

Special requirements for acquiring titles

Article 41

Special requirements for acquiring titles for the performance of duties pertaining to particular posts are foreign language skills, computer literacy and other professional competencies and skills.

Special requirements pursuant to paragraph 1 of this Article shall be defined by the act on internal organisation and job descriptions of a state body.

Civil service exam

Article 42

For the performance of tasks and acquisition of a title, Civil Servant and/or State Employee, except for the State Employees with elementary education, must pass a civil service exam.

By way of exception, a Civil Servant and/or State Employee may acquire a title without having passed civil service exam, on condition that he/she passes the exam no later than one year from the day of entering into employment and/or from the day of transfer to a specific post.

Programme and manner of taking the exam referred to in paragraph 1 of this Article shall be determined by the Government, on a proposal from the ministries competent for justice and administration affairs.

Other professional exam

Article 43

Law or other regulations may also prescribe, as a requirement for the performance of tasks in a state body, to pass other adequate exams.

Programme and manner of taking the exams referred to in paragraph 1 of this Article shall be determined by the ministry competent for administration affairs, on a proposal from the state body in which such exam is prescribed as a requirement for the performance of tasks.

Termination of title

Article 44

A Civil Servant's and/or State Employee's title shall terminate:

- upon transfer to another title;
- upon termination of employment;
- in case of established incompetence;
- in other cases laid down by law.

IV. RIGHTS AND OBLIGATIONS

Performance of duties

Article 45

A Civil Servant and/or State Employee shall perform their duties conscientiously, in accordance with law, other regulations and rules of profession.

A Civil Servant shall abide by the regulations on official duty and comply with the rules of service.

Superior Officer

Article 46

A Civil Servant and/or State Employee who manages an internal organisational unit in a state body (hereinafter referred to as the “superior officer”) shall, additionally to the responsibility for his/her own work, be responsible for the work of civil servants and/or state employees that he/she coordinates, regardless of their personal responsibility.

Instructions and orders

Article 47

In the performance of their duties, a Civil Servant and/or State Employee shall observe the instructions and orders of the superior officer.

A Civil Servant and/or State Employee shall have the right to demand a written instruction or order, if he/she believes that the contents of the oral instruction or order are not clear, or if he/she believes that the execution of the oral order or instruction would be contrary to regulations. The Civil Servant and/or State Employee shall perform the task according to the written instruction or order, except in the case when the execution of the task would amount to a criminal offence.

A Civil Servant and/or State Employee shall be acquitted from material liability and disciplinary responsibility, if he/she caused damage or committed a disciplinary offence on the basis of a written order of his/her superior officer.

Obligation to perform tasks

Article 48

A Civil Servant and/or State Employee shall perform tasks outside his/her job description and working hours, if these tasks correspond to his/her qualification.

A Civil Servant and/or State Employee shall perform tasks in a working group within the body, in another state body or in an interdepartmental working group.

Extraordinary situations and circumstances

Article 49

A Civil Servant and/or State Employee, shall, in the case of *force majeure*, natural disasters and other adversities, temporary increase in workload, and in other extraordinary situations and circumstances, perform tasks that do not correspond to his/her qualification, while such situations and circumstances so require.

A Civil Servant and/or State Employee shall be obliged to perform tasks while the circumstances referred to in paragraph 1 of this Article last, but for no longer than three months.

While performing tasks pursuant to paragraph 1 of this Article, the Civil Servant and/or State Employee shall have the same rights as in the regular performance of tasks.

Conflict of Interest

Article 50

A Civil Servant and/or State Employee shall not perform tasks:

- that can cause a conflict between the public interest and his/her private interest;
- that affect the impartiality of performance of his/her tasks;
- where the abuse of information which are not available to the public might be possible;
- that harm the reputation of the state body.

A Civil Servant and/or State Employee may engage in work outside working hours, following a prior approval from the head of a state body, if such work is not subject to restrictions pursuant to paragraph 1 of this Article.

A Civil Servant and/or State Employee may perform, without the approval referred to in paragraph 2 of this Article, scientific and research, pedagogical, humanitarian, sporting and other similar activity.

In the performance of his/her tasks, a Civil Servant and/or State Employee shall not receive money, gifts, except for protocol or appropriate gifts of small value, or any other service or other benefit for himself/herself or other persons.

Complying with working hours

Article 51

A Civil Servant and/or State Employee shall comply with working hours and be present at his/her post during working hours. In case of emergency reasons, he/she shall explain his/her absence immediately upon return.

A Civil Servant and/or State Employee who is unable to come to work shall inform his/her superior of the reasons for his/her absence no later than 24 hours from the emergence of those reasons, except if that is impossible for objective reasons.

Official Secret

Article 52

A Civil Servant and/or State Employee shall keep confidential an official secret stipulated by law or other regulations, regardless of the manner in which he/she has learned of it.

An obligation to keep confidential an official secret shall last even upon termination of employment, but no longer than five years from the day of termination of office. By way of exception, the obligation to keep confidential an official secret may last even longer, when prescribed by law.

The head of a state body may release a Civil Servant and/or State Employee, from the obligation to keep confidential an official secret during judicial proceedings or administrative procedure, if it concerns data without which the establishment of facts and making of a legal decision would be impossible.

Protection of Civil Servants and State Employees

Article 53

In conscientious performance of tasks, a Civil Servant and/or State Employee shall be entitled to a protection from threats, attacks and other forms of danger.

The head of a state body shall undertake measures for the protection of a Civil Servant and/or State Employee, immediately after he/she finds out about the danger.

On the request from a Civil Servant and/or State Employee or a trade union, the head of a state body shall inform them on measures undertaken, within seven days from the date of submitting of request.

Protection of Civil Servants and State Employees reporting suspicion of corruption

Article 54

The employment of the Civil Servant and State Employee who reported to the head of a state body or authorised person of competent state body a criminal offence that has an element of corruption or gave an official statement thereof may not terminate on this basis.

The persons referred to in paragraph 1 of this Article shall be guaranteed protection from revealing of identity to unauthorised persons and protection from abuse, denying or restriction of rights established by this Law.

When there is a reasonable fear that the Civil Servant and State Employee who reported suspicion of corruption will be subjected to real and serious danger to life, health, physical integrity, freedom or property to a great extent, the protection shall be provided in accordance with separate legislation regulating witness protection.

Abuse of right to report suspicion of corruption or giving malicious statement thereof shall amount to serious disciplinary violation.

Salary, compensation and other income

Article 55

A Civil Servant and/or State Employee shall be entitled to a salary and have the right to compensation and other income in accordance with a separate law.

Annual leave and leave of absence

Article 56

A Civil Servant and/or State Employee shall be entitled to annual leave.

Annual leave is determined depending on the years of service, as follows:

- from 1 to 3 years 18 days,
- from 3 to 7 years 19 days,
- from 7 to 10 years 20 days,
- from 10 to 15 years 21 days,
- from 15 to 20 years 22 days,
- from 20 to 30 years 24 days,
- more than 30 years 26 days.

A Civil Servant and/or State Employee shall have the right to leave of absence in accordance with the general labour legislation.

V. ACCOUNTABILITY OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Disciplinary responsibility of Civil Servant and State Employee

Grounds for disciplinary responsibility

Article 57

A Civil Servant and/or State Employee shall be subject to disciplinary responsibility for violation of duties arising from employment relationship which may amount to minor or serious disciplinary violation.

Issues of disciplinary responsibility for certain Civil Servants and State Employees may be regulated differently by law.

Minor disciplinary violation

Article 58

Minor disciplinary violations are:

- 1) not complying with working hours;
- 2) irregular keeping of official acts and data;
- 3) unexcused absence from work for one working day;
- 4) not wearing of official attire and/or indication with personal name;
- 5) failure to inform the superior officer about omissions related to the protection at work;
- 6) violation of rules and standards prescribed by the Code of Ethics for Civil Servants and State Employees, as minor disciplinary violations;
- 7) other violations established by law or other regulations as minor disciplinary violations.

Serious disciplinary violation

Article 59

Serious disciplinary violations are:

- 1) non-executing or unconscientiously, untimely or negligent performance of official duties;
- 2) refusal to execute orders or working duties;
- 3) inappropriate management of resources entrusted;
- 4) abuse of official position or exceeding official powers;
- 5) each omission or act preventing citizen or a legal person in exercise of legal rights;
- 6) unexcused absence from work for an uninterrupted period of two to four working days;
- 7) revealing business, official or other secret stipulated by law or other regulations;
- 8) expression of political beliefs in the performance of duties;
- 9) violent, inappropriate or insulting conduct towards parties or showing any form of intolerance;
- 10) appearance at work in a drunk condition, drinking during working hours, or using narcotic drugs;
- 11) giving incorrect data that affect decision making;
- 12) repeated minor disciplinary violations;
- 13) violation of duties, which entails serious consequences for parties or the state body;
- 14) performing work contrary to this Law, acts or omissions amounting to conflict of interest in accordance with this Law;
- 15) abuse, restriction or denying of rights of the Civil Servant and State Employee established by this Law who reported a criminal offence that has an element of corruption or gave an official statement thereof;

16) other violations laid down by law or other regulations as serious disciplinary violations.

Disciplinary measures

Article 60

The disciplinary measure for minor disciplinary violation shall be a fine in the amount of up to 15% of a salary paid in the month in which the offence was committed.

Disciplinary measures for serious disciplinary violation shall be as follows:

- a fine in the amount from 20% to 30% of the salary paid in the month in which the offence was committed;
- termination of employment.

Initiating disciplinary procedure

Article 61

Disciplinary procedure shall be initiated by the head of a state body on a proposal from the superior officer.

Disciplinary procedure shall be initiated by way of decision, which shall be served on the Civil Servant and/or State Employee, whose disciplinary responsibility is examined. Such decision shall not be subject to appeal.

A Civil Servant and/or State Employee shall have the right to file an initiative to initiate disciplinary procedure and to provide reasons for such initiative and/or to demonstrate that the allegations of initiative are probable.

Disciplinary committee

Article 62

Disciplinary procedure against Civil Servants and/or State Employees shall be conducted and decisions proposed by a disciplinary committee.

The composition of the disciplinary committee shall be established by the head of a state body by way of decision and it shall comprise a chairperson and two members.

Disciplinary committee shall deliver the proposal for a decision regarding the responsibility and disciplinary measure to the head of a state body as soon as possible but no later than 60 days from the day of initiation of disciplinary procedure.

Imposing disciplinary measures

Article 63

Disciplinary measure against a Civil Servant and/or State Employee shall be imposed by the head of a state body on a proposal from the disciplinary committee.

Disciplinary procedure against managing persons

Article 64

Disciplinary procedure against a managing person shall be conducted and disciplinary measures imposed by a committee which shall be formed by the body competent for the appointment of such person.

The head of a state body shall be obliged to initiate disciplinary procedure before the committee referred to in paragraph 1 of this Article for a serious violation of duty arising from employment

relationship against a managing person who has acted contrary to Article 54 paragraph 2 of this Law.

Disciplinary procedure

Article 65

During a disciplinary procedure it is required to hold a hearing in which a Civil Servant and/or State Employee shall have the right of defence. A Civil Servant and/or State Employee may defend himself/herself or through an attorney, representative, or representative of a trade union.

Issues as to the conduct of disciplinary procedure, which are not regulated by this Law, shall be governed by the provisions of the law regulating general administrative procedure.

Selection of disciplinary measure

Article 66

When selecting disciplinary measure, account shall also be taken of the facts concerning earlier disciplinary responsibility of the Civil Servant and/or State Employee.

Statute of limitation

Article 67

The initiation of a disciplinary procedure for a minor disciplinary violation shall become barred by lapse of time on expiry of one month from the day of learning of the offence or on expiry of two months from the day when the offence had been committed.

The initiation of a disciplinary procedure for a serious disciplinary violation shall become barred by lapse of time on expiry of three months from the day of learning of the offence or on expiry of six months from the day when the offence had been committed.

In the case referred to in Article 59 paragraph 1 item 12 of this Law, the initiation of a disciplinary procedure shall become barred by lapse of time on expiry of six months from the day when the last disciplinary decision became final.

The enforcement of a disciplinary measure shall become barred by lapse of time on expiry of two months from the day when the disciplinary decision became final.

The period of limitation shall not run during the period when it is not possible to initiate and/or conduct disciplinary procedure.

The conduct of disciplinary procedure shall become barred by lapse of time when three times as much time as required by law for barring by lapse of time the initiation of disciplinary procedure has passed, and in any case, it shall become barred by lapse of time on expiry of one year from the day of learning of disciplinary offence.

If the disciplinary offence has an element of a criminal offence, the provisions of the law governing criminal responsibility shall apply to absolute limitation periods.

Registering and deleting disciplinary measure

Article 68

Disciplinary measure shall be registered into the Central Human Resources Records.

If a Civil Servant and/or State Employee, within a year from the day when the disciplinary measure imposed for a minor disciplinary violation became final and enforceable and/or within two years from the day when the disciplinary measure imposed for a serious disciplinary violation became final and enforceable, does not commit another disciplinary offence, the registered disciplinary

measure shall be deleted from the Central Human Resources Records and it shall be considered that the Civil Servant and/or State Employee, has never been imposed disciplinary sanctions.

2. Suspension

Grounds for suspension

Article 69

A Civil Servant and/or State Employee, against whom a disciplinary procedure has been initiated for a serious disciplinary violation, may be suspended pending the conclusion of the disciplinary procedure, if his/her presence might harm the interest of the state body, or if it might interfere with the course of the disciplinary procedure.

Suspension shall be carried out in the manner that the Civil Servant and/or State Employee shall be:

- restricted or deprived of the authority given,
- imposed a measure of temporary transfer to another post,
- prohibited to perform duties within the state body.

Of all the manners of suspension referred to in paragraph 2 of this Article, the manner which most efficiently ensures the interest of a state body shall be selected.

Deciding on suspension

Article 70

The head of a state body shall decide on suspension.

Rights in case of suspension

Article 71

During the prohibition to perform duties referred to in Article 69 paragraph 2 indent 3 of this Law, the Civil Servant and/or State Employee shall be paid compensation in the amount of 60% of the salary paid in the previous month.

The Civil Servant and/or State Employee shall be compensated for the unpaid portion of the salary together with default interest, if by way of final decision:

- the disciplinary procedure has been discontinued,
- the procedure has become barred by lapse of time,
- it has been found in the disciplinary procedure that the Civil Servant and/or State Employee had not committed a disciplinary offence for which he/she was imposed the disciplinary measure of suspension.

3. Material Liability of Civil Servants and State Employees

Material liability

Article 72

A Civil Servant and/or State Employee shall be subject to material liability for damage caused at work or in relation to work unlawfully, intentionally or out of utter negligence to a state body.

Montenegro shall be liable for the damage caused by a Civil Servant and/or State Employee at work or in relation to work to a third person. A third person may also claim damages from the person who caused the damage if the damage was caused intentionally.

Procedure for establishing material liability

Article 73

In the procedure of determination of material liability of the Civil Servant and/or State Employee for damages, the provisions of this Law governing the disciplinary procedure shall apply.

The compensation for damages may also be decided in a disciplinary procedure if the damage was caused due to disciplinary offence.

Compensation for damages through the court

Article 74

If it has been found that a Civil Servant or State Employee is materially liable for damages and he/she does not compensate damage, the state body may exercise its rights through the competent basic court.

Written agreement and lump sum damages

Article 75

A written agreement on the amount and method of compensation for damages may be concluded between the head of a state body and a Civil Servant and/or State Employee.

A written agreement referred to in paragraph 1 of this Article shall be an enforceable instrument.

If the determination of the amount of damage would cause disproportionate costs, the damages may be assessed as a lump sum amount provided that the cases of wrongful acts and the amounts of lump sum damages are defined by regulations.

Acquittal of liability for damages

Article 76

If a Civil Servant or State Employee has been acquitted of the liability for damages pursuant to Article 47 paragraph 3 of this Law, the superior officer who issued the order and/or instruction shall be held liable for the damages.

Damage caused to third person

Article 77

Montenegro shall be entitled to a regressive claim against a Civil Servant and/or State Employee for 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, in the amount of the total compensation paid.

Montenegro shall be entitled to a regressive claim against a Civil Servant and/or State Employee for 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 utter negligence, in the total amount or a portion of the compensation paid.

The provisions of Articles 73 to 76 of this Law shall apply to the proceedings for regressive claim.

Liability of Montenegro

Article 78

Montenegro shall be liable for damage caused to a Civil Servant and/or State Employee, at work or in connection with work, pursuant to general rules of civil law.

The liability for damage shall also relate to damage that Montenegro causes to a Civil Servant and/or State Employee by violating his/her rights related to work and arising from work.

A written agreement on the amount and method of compensation for damages may be concluded between the head of a state body and a Civil Servant and/or State Employee who incurred damage. A written agreement shall be an enforceable instrument.

VI. TRANSFER OF CIVIL SERVANTS AND STATE EMPLOYEES

Requirements of service

Article 79

A Civil Servant and/or State Employee may be transferred to another post that corresponds to his/her qualifications, without his/her consent or on his/her own request, where needs of the state body so require.

By way of exception, a Civil Servant may be transferred to a State Employee's post, with his/her consent, whereby the Civil Servant retains the acquired title, while the period of performance of duties at a State Employee's post shall count towards promotion.

Transfer referred to in paragraphs 1 and 2 of this Article may be permanent or temporary. Temporary transfer shall last no less than one month and no longer than one year.

Secondment to another body

Article 80

A Civil Servant and/or State Employee may be seconded to another state body in order to eliminate the consequences of *force majeure* or for performance of increased workload, as long as the reasons for his/her secondment persist but not longer than three months.

A Civil Servant and/or State Employee referred to in paragraph 1 of this Article shall exercise rights and fulfil obligations in the state body from which he/she was seconded.

Transfer Restrictions

Article 81

Transfer of a Civil Servant and/or State Employee shall not be permissible during temporary work incapacity due to illness, during pregnancy or maternity leave.

VII. APPRAISAL, PROMOTION AND ASSESSING ABILITY TO WORK

1. Performance appraisal

Work and Professional Qualities

Article 82

The performance of Civil Servants and/or State Employee shall be appraised with the aim of monitoring his/her work and proper decision-making on his/her promotion.

The performance of Civil Servants and/or State Employee shall be appraised with regard to:

- work results;
- independence and creativity in the performance of duties;
- cooperation achieved with parties and colleagues;
- quality of organisation of work in the performance of duties;
- other abilities, skills and quality in the performance of duties.

Appraisal grades

Article 83

The performance appraisal grades for a Civil Servant and/or State Employee shall be as follows:

- “excellent”;
- “good”;
- “satisfactory”;
- “unsatisfactory”.

The appraisal shall be made once a year, but not later than 31 January for the previous year.

The appraisal pursuant to paragraph 2 of this Article may be made for a shorter period of time but not less than six months.

Appraisal procedure

Article 84

The appraisal grade of performance of a Civil Servant and/or State Employee shall be awarded by the head of a state body on a reasoned proposal from the superior officer.

Prior to submitting the proposal for performance appraisal grade, the superior officer shall be obliged to talk to the Civil Servant and/or State Employee about the proposed appraisal grade.

The procedure for and the manner of performance appraisal of the Civil Servant and/or State Employee shall be determined by the Government, on a proposal from the ministry competent for administration affairs.

Notification of appraisal grade

Article 85

A Civil Servant and/or State Employee must be acquainted with the appraisal grade.

A Civil Servant and/or State Employee who does not agree with the appraisal grade may request reconsideration of the appraisal grade, within eight days from the day of notification of the appraisal grade. The request shall be submitted in writing and must contain statement of reasons.

Reconsideration of the appraisal grade shall be carried out by a commission. Head of a state body shall form the commission by way of decision and the commission shall consist of the superior officer and two Civil Servants and/or State Employees, who have the same education degree as the Civil Servant and/or State Employee whose appraisal grade is to be reconsidered and who are acquainted with his/her work. The Civil Servant and/or State Employee shall have the right to participate in the appraisal grade reconsideration procedure.

The head of the state body shall adopt the decision on appraisal grade of the performance of the Civil Servant and/or State Employee, on a proposal from the Commission.

The appraisal grade shall be entered into the Central Human Resources Records.

Appraisal of managing persons

Article 86

The appraisal grade of performance of a managing person shall be awarded by the head of the state body, in accordance with the regulation of the Government referred to in Article 84 paragraph 3 of this Law.

Appraisal grades for the managing persons are as follows:

- "Satisfactory" and
- "Unsatisfactory".

In the case when the managing person is awarded an appraisal grade "unsatisfactory", the head of the state body shall initiate the procedure for his/her removal from office. In the procedure for removal from office, statement of the managing person must be obtained.

2. Promotion

Promotion

Article 87

A Civil Servant and/or State Employee may be promoted to a higher title within the same grade, and only exceptionally to the initial title within a higher grade, under the conditions laid down by this Law.

A Civil Servant and/or State Employee shall be promoted to a higher salary grade under the conditions laid down by this Law.

Promotion to a higher title

Article 88

A Civil Servant and/or State Employee may be promoted provided that:

- he/she meets the requirements prescribed for a higher title,
- he/she has been awarded an appropriate appraisal grade.

A Civil Servant and/or State Employee may be promoted to the initial title within the higher grade if he/she meets the requirements referred to in paragraph 1 of this Article, and if the tasks of his/her post may be performed under such title.

Promotion period and appraisal grade required for promotion

Article 89

A Civil Servant and/or State Employee shall be promoted to a one-level higher title within the same grade if he/she has been awarded five times at least the appraisal grade "good" during the period of five years, or if he/she has been awarded the appraisal grade "excellent" three consecutive times.

A Civil Servant and/or State Employee shall be promoted to an initial title within the higher grade if he/she has been awarded the appraisal grade "excellent" five times during the period of five years.

Promotion to a higher salary grade

Article 90

Civil Servant and/or State Employee shall be promoted to a higher salary grade if his/her performance has been appraised as “good” three times or as “excellent” two times during the period of three years.

Decision-making procedure

Article 91

The decision on promotion of a Civil Servant and/or State Employee shall be adopted by the head of a state body on a proposal from the superior officer.

The decision referred to in paragraph 1 of this Article shall be issued no later than 30 days from the day when the proposal was submitted.

Data on promotion of Civil Servants and/or State Employees shall be entered in the Central Human Resources Records.

Recognition

Article 92

A Civil Servant and/or State Employee may be awarded recognition for extraordinary achievements and/or for particularly successful achievements in the work of the state body.

Types of recognition and the procedure for the awarding thereof shall be determined by the Government.

Data on recognition awarded to a Civil Servant and/or State Employee shall be entered in the Central Human Resources Records.

2. Assessing the ability to work

Ability to work

Article 93

A Civil Servant and/or State Employee, whose performance has been appraised as “unsatisfactory” shall be referred to a procedure for assessing the ability to work.

The procedure for assessing the ability of a Civil Servant and/or State Employee to work shall be initiated by way of decision which must be delivered to the Civil Servant and/or State Employee whose ability is assessed.

Testing ability to work

Article 94

Testing the ability of a Civil Servant and/or State Employee to work shall be carried out by a commission appointed by the head of a state body.

The commission referred to in paragraph 1 of this Article shall be composed only of Civil Servants and/or State Employees who possess at least equal level and type of qualifications as the Civil Servant and/or State Employee whose ability is assessed, and minimum five years of working experience in such or similar duties. Civil Servants and/or State Employees from another state body may also be appointed to the commission and if the Civil Servant and/or State Employee

whose ability is assessed so requires, a representative of the trade union may also be appointed to the commission.

On a proposal from the commission, the head of a state body shall decide whether a Civil Servant or State Employee has the ability to perform duties pertaining to his/her post.

Termination of employment due to incompetence

Article 95

The employment of a Civil Servant or State Employee, who has been assessed as incompetent for the performance of duties, shall terminate if it is not possible to transfer him/her to another post within a state body for which he/she meets the requirements.

The procedure for testing the ability of a Civil Servant and/or State Employee to work shall be determined by the Government, on a proposal from the ministry competent for administration affairs.

VIII. PROFESSIONAL TRAINING OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Professional training

Professional training programme

Article 96

A Civil Servant and/or State Employee shall develop his/her professional knowledge in accordance with the professional training programme.

The human resources management authority shall adopt the professional training programme.

The programme referred to in paragraph 2 of this Article shall particularly determine the content of professional training, as well as the amount of resources necessary for the implementation of the programme.

The costs of professional training of Civil Servants and/or State Employees shall be borne by the state body.

Special training

Article 97

A Civil Servant and/or State Employee shall be entitled to apply for special training, when this is relevant to the work of the state body.

The costs of the special training shall be borne by the state body. The rights and obligations of a Civil Servant and/or State Employee, who has been selected for special training, shall be regulated by a contract between the head of a state body and the Civil Servant and/or State Employee.

After the completed special training, a Civil Servant and/or State Employee who has signed the contract on special training may not resign before the expiry of twice the period he/she spent in special training. Otherwise the state body shall claim from the Civil Servant and/or State Employee the reimbursement of costs of his/her special training.

2. Trainees

Trainee

Article 98

A trainee is a person who enters into employment in a state body for the first time for the purpose of training for independent performance of duties.

The traineeship for Civil Servants and/or State Employees with university degree or associate's degree shall last for minimum 12 months and for Civil Servants and/or State Employees with secondary education for 12 months at most.

A trainee shall be trained according to the programme adopted by the human resources management authority.

3. Scholarships

Awarding scholarship

Article 99

A state body may, on the basis of an open advertisement, conclude a contract on awarding scholarship, when it finds that this is necessary and if financial resources for that purpose have been provided.

IX. TERMINATION OF EMPLOYMENT

Termination of fixed-term employment

Article 100

Fixed-term employment of a Civil Servant or State Employee shall terminate upon expiry of time for which a Civil Servant or State Employee was employed, or by completion of tasks for the performance of which he/she was employed for a limited period of time.

Termination of employment by mutual agreement

Article 101

Employment may terminate on the basis of a written agreement concluded between a Civil Servant and/or State Employee and the head of a state body.

The agreement shall specify the day of termination of employment.

Termination of employment by resignation

Article 102

Employment may terminate by resignation of a Civil Servant and/or State Employee, which can not be filed during suspension and/or during a disciplinary procedure.

A notice of resignation shall be given in writing.

Employment may also terminate by a dismissal by the head of a state body, in accordance with general labour regulations.

Termination of employment due to civil service exam

Article 103

Employment of a Civil Servant and/or State Employee shall terminate if he/she fails to pass civil service exam within the specified time limit, if that was a condition for entering into employment.

In the case referred to in paragraph 1 of this Article, the employment of a Civil Servant and/or State Employee shall terminate on expiry of time limit within which he/she was obliged to pass civil service exam.

Termination of employment by operation of law

Article 104

Additionally to the cases specified in general labour regulations, employment of a Civil Servant and/or State Employee shall terminate by operation of law when he/she has been appointed to a duty which is, in accordance with law, incompatible with civil service and in other cases provided by this Law.

Act on termination of employment

Article 105

Termination of employment in the cases provided by this Law shall be determined by way of decision.

X. ABOLITION OF AUTHORITY AND/OR AFFAIRS AND REORGANISATION

Abolition of authority and/or affairs

Article 106

In the case of abolition of a state body and/or part of affairs, the state body to whose scope of work the affairs are transferred shall take over the Civil Servants and/or State Employees who used to discharge these tasks.

A Civil Servants and/or State Employee referred to in paragraph 1 of this Article has a status of employee in the body to whose scope of work the affairs are transferred and he/she shall exercise rights and fulfil obligations in that body until such time he/she is assigned to a post in accordance with the act on internal organisation and job descriptions.

Civil Servants and/or State Employees who are not assigned pursuant to paragraph 2 of this Article, shall have the rights and obligations as those employees whose work has become redundant due to technological, economic and restructuring changes in companies and other forms of business organisation, laid down by general labour regulations.

In the case of abolition of a state body or parts of affairs not assumed by another state body, the Civil Servant and/or State Employee, who used to work in such state body and/or who performed the abolished tasks, shall enjoy the rights referred to in paragraph 3 of this Article.

Funds for the exercise of rights referred to in paragraphs 3 and 4 of this Article shall be provided in the Budget of Montenegro.

Reorganisation of state body

Article 107

A Civil Servant's and/or State Employee's employment may terminate or he/she may be transferred to a post that does not correspond to his/her title and/or qualification, in the case of decrease in the scope of affairs of a state body and for organisational reasons, public finance and other similar reasons and changes (hereinafter referred to as the "reorganisation").

The basis for establishing reasons referred to in paragraph 1 of this Article shall be the amendment to the act on internal organisation and job descriptions.

A Civil Servant and/or State Employee whose employment terminated pursuant to paragraph 1 of this Article shall enjoy the rights referred to in Article 106 paragraph 3 of this Law.

Reorganisation programme

Article 108

In order to carry out reorganisation, the head of a state body shall prepare a special reorganisation programme.

The programme referred to in paragraph 1 of this Article shall include in particular the following:

- data on Civil Servant and/or State Employee whose work in the state body has become permanently redundant;
- data on Civil Servant and/or State Employee who is foreseen for transfer to a post which is discharged under a lower title and/or to a post requiring a lesser education degree.

The reorganisation programme shall be delivered to the human resources management authority.

The human resources management authority shall maintain the records on Civil Servants and State Employees who are covered by the reorganisation for the needs of internal labour market and determine the possibilities for their appropriate working engagement.

XI. PROTECTION OF RIGHTS OF CIVIL SERVANTS AND/OR STATE EMPLOYEES AND HUMAN RESOURCES MANAGEMENT

1. Protection of Rights of Civil Servants and State Employees

Deciding on rights and obligations

Article 109

The rights and obligations of a Civil Servant and/or State Employee related to work and arising from work, shall be decided by the head of a state body.

Civil Servant and/or State Employee may file an appeal against the decision referred to in paragraph 1 of this Article and against decision on selection of Civil Servant and/or State Employee for violation of selection procedure, in accordance with this Law.

Delegation of authority

Article 110

The head of a state body may authorise a managing person to decide on the rights and obligations of a Civil Servant and/or State Employee related to work and arising from work. Regardless of the delegated authority, the head of a state body shall always have the right to decide on the rights and obligations of a Civil Servant and/or State Employee related to work and arising from work.

The authority referred to in paragraph 1 of this Article may be conferred on only one person in the state body. The authority may be limited with regard to time and contents and it must be given in writing.

Trade Union

Article 111

In the procedure of exercise of rights related to work and arising from work, Civil Servant and/or State Employee shall have the right to protection provided by the trade union.

In the case referred to in paragraph 1 of this Article, the trade union may request the head of the state body to state his/her views of the manner of exercise of the rights for which the protection by the trade union is required.

The head of a state body is obliged to provide response to the request from the trade union.

2. The Appeals Commission

Competence of the Commission

Article 112

The appeal against a decision on rights and obligations related to work and arising from work of a Civil Servant and/or State Employee shall be decided by the Appeals Commission.

The appeal shall be filed within eight days from the date of receipt of decision.

Appointment and release of the Commission

Article 113

The Appeals Commission shall consist of a chairperson and six members, one of whom shall be a representative of trade union.

The chairperson and members of the Appeals Commission shall be appointed and released by the Government, on a proposal from the ministry competent for administration affairs.

A person who is a law graduate with minimum five years of work experience may be appointed as a chairperson or member of the Appeals Commission.

The chairperson and members of the Appeals Commission shall be appointed for a period of four years and may not be reappointed.

The chairperson or a member of the Appeals Commission may be released prior to the expiry of his/her term of office on his/her own request, or if he/she fails to perform his/her tasks properly and conscientiously.

The manner of work of the Appeals Commission shall be regulated by the Rules of Procedure of the Commission.

The Appeals Commission shall once a year submit to the Government an activity report. The report shall also be submitted to the ministry competent for administration affairs.

Work of the Commission

Article 114

In determination of appeals, the Commission shall apply the provisions of the Law on General Administrative Procedure, unless otherwise provided by this Law.

The Appeals Commission shall decide on appeal as soon as possible however no later than 30 days from the day of submission of the appeal.

The Appeals Commission shall decide on the appeal against the decision on suspension within five days from the day of receipt of the appeal.

Protection of the law

Article 115

Administrative dispute proceedings may be initiated against the decision of the Appeals Commission within 30 days from the date of delivery of the decision.

An appeal shall not stay the enforcement of the decision of the Appeals Commission, except in the case of dispute related to entering into employment.

The procedure upon appeal shall be urgent.

Civil Servant and/or State Employee shall not have the right to legal remedy against the decision of the Appeals Commission on the basis of the appeal against the decision on suspension.

Civil Servant and/or State Employee may institute dispute before the competent basic court against the decision of the Appeals Commission on the appeal against decision regarding compensation for damages.

Dispute resolution by arbitration

Article 116

Dispute related to work or arising from work may be settled through arbitration, in accordance with general labour legislation.

The composition, procedure and manner of work of arbitration shall be determined by the ministry competent for administration affairs and the trade union.

3. Human Resources Management

Human resources management authority

Article 117

The human resources management authority shall in particular perform the following affairs:

- monitoring enforcement of this Law and other regulations on Civil Servants and State Employees;
- delivering opinion of organisation and job descriptions of a state body;
- conducting internal and open vacancy advertisements and open vacancy competitions for state bodies and services;
- maintaining records and other affairs related to the internal labour market;
- activities relating to reorganisation of state administration;
- preparing proposals for appropriate professional training programmes and other programmes for human resources development;
- professional assistance to the Government concerning human resources management;
- assistance to state bodies in implementing human resources management policy, training and development;
- monitoring implementation of measures aimed at achieving proportional representation of minority peoples and other national minorities in state bodies;
- participating in drafting of secondary legislation whose adoption is prescribed by this Law,
- other affairs in the field of human resources development and management, in accordance with law.

The human resources management authority shall report to the Government on its activities once a year.

Central Human Resources Records

Article 118

The human resources management authority shall maintain Central Human Resources Records for all Civil Servants and State Employees.

Central Human Resources Records shall in particular include data on the following:

- person - forename and surname, nationality and mother tongue, address and personal identification number (JMBG), etc.;
- employment relationship - type of employment and the date of its commencement;
- current post and transfers within service;
- appointment, promotion and title;
- education degree, functional and special knowledge, professional training and exams;
- years of service, pensionable service and reduced pension qualifying period;
- special functions and participation in project tasks and groups, and in special activities relevant to the state body;
- performance appraisals;
- recognitions;
- disciplinary responsibility and material liability;
- termination of employment;
- permission to access confidential data;
- personal income and allowances;
- other data in accordance with law.

Internal Labour Market Records

Article 119

The Internal Labour Market records shall in particular contain data on:

- vacant posts in state bodies;
- Civil Servants and State Employees who seek transfer to another post;
- trainees in state bodies.

Delivery and use of data

Article 120

The head of a state body shall deliver to the human resources management authority the data designated for entry in the Central Human Resources Records no later than eight days from the occurrence or change in the circumstances to be recorded.

The data from the Central Human Resources Records may be made available to the head of a state body or another body who decides on rights and obligations of Civil Servants and/or State Employees.

The data from the Central Human Resources Records may also be made available to the trade union, only with the consent of the Civil Servant and/or State Employee concerned, in the case

when it participates in the procedure of protection of rights of the Civil Servant and/or State Employee.

XII. SUPERVISION OVER THE ENFORCEMENT OF LAW

Supervisory authority

Article 121

Supervision over the enforcement of this Law and other regulations on Civil Servants and State Employees shall be exercised by the ministry competent for administration affairs, through administrative inspectors.

Administrative inspector

Article 122

When performing supervision over the enforcement of this Law, the administrative inspector shall have the right to examine the entire documentation and records on Civil Servants and/or State Employees.

An administrative inspector shall control in particular:

- regularity and timeliness of delivery of data to the Central Human Resources Records and of maintenance of the collection of documents related to the human resources records;
- timeliness of issuance of individual acts;
- employment procedure;
- open vacancy announcement procedure;
- procedures for the appraisal of work and professional qualities, as well as promotion and transfer procedures;
- carrying out reorganisation;
- procedures for assessing competence of Civil Servants and State Employees
- other issues related to the rights and obligations of Civil Servants and/or State Employees.

Measures of administrative inspector

Article 123

The administrative inspector shall take up each petition or initiative in matters that fall within his/her competence and inform the petitioner or submitter of initiative on the outcome of proceeding upon petition or initiative.

If the administrative inspector finds illegality and irregularities during the inspection control, he/she shall take measures laid down by legislation on inspection control.

Administrative inspector shall notify the Appeals Commission and the human resources management authority of illegality and irregularities found.

XIII. PENAL PROVISIONS

Violations

Article 124

The head of a state body shall be fined for a violation in the amount from ten to three hundred minimum wages in Montenegro, if he/she:

- 1) fails to submit decision to the human resources management authority (Article 25 paragraph 4);
- 2) issues a decision on employment for a limited period of time contrary to Article 30 paragraphs 2 and 3 of this Law;
- 3) proposes the appointment of a managing person contrary to Articles 32 to 34 of this Law;
- 4) issues a decision on employment contrary to Articles 16 to 27 of this Law;
- 5) fails to determine the title to a Civil Servant or State Employee in accordance with the prescribed requirements (Articles 37 to 44);
- 6) fails to notify a Civil Servant or State Employee or a trade union on measures taken (Article 53 paragraph 3);
- 7) fails to issue a decision on the length of annual leave in accordance with Article 56 of this Law;
- 8) transfers a Civil Servant or State Employee contrary to Articles 79 to 81 of this Law;
- 9) promotes a Civil Servant or State Employee contrary to Articles 87 to 91 of this Law;
- 10) fails to adopt the reorganisation programme (Article 108);
- 11) fails to provide response to the request from the trade union (Article 111);
- 12) fails to submit data for entry in the Central Human Resources Records or if he/she discloses data from the Central Human Resources Records to unauthorised persons (Article 120).

XIV. TRANSITIONAL AND FINAL PROVISIONS

Article 125

Regulations for the implementation of this Law shall be adopted no later than one year from the day of entry into force of this Law.

Regulations in force until the day of entry into force of this Law shall apply until the regulations referred to in paragraph 1 hereof are adopted unless they are contrary to this Law.

Article 126

The acts on internal organisation and job descriptions of state bodies shall be harmonised with this Law no later than one year from the day of entry into force of this Law.

Article 127

Managing persons and civil servants who were appointed in accordance with the current legislation shall continue to work in that capacity until the expiry of their term of office.

Article 128

A procedure for determination of rights, obligations and responsibilities of a Civil Servant and/or State Employee which has been initiated but has not been closed by a final and enforceable decision until the day of entry into force of this Law, except for the procedures of competency testing and performance appraisal, shall be completed in accordance with this Law, if this is more favourable for the Civil Servant and/or State Employee.

Article 129

A managing person and/or a Civil Servant who acquired certain rights arising from employment according to the Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04 and 31/05) shall continue to use these rights until the expiry of the period determined with respect to those rights.

Article 130

A Civil Servant and/or State Employee who has at least 15 years of service in a state body on the day of entry into force of this Law and has not passed civil service exam shall continue to work in that state body without the obligation to sit for civil service exam.

Article 131

A Civil Servant and/or State Employee who does not possess prescribed education degree for the post to which he/she has been assigned on the day of entry into force of this Law shall continue to work at that post.

A Civil Servant and/or State Employee referred to in paragraph 1 of this Article shall be obliged to acquire a relevant education degree within three years from the day of entry into force of this Law.

If a Civil Servant and/or State Employee fails to acquire a relevant education degree within time limit referred to in paragraph 2 of this Article, he/she shall be assigned to a post corresponding to the education degree.

Article 132

Legislation regulating in a special manner titles of civil servants and state employees shall be harmonised with this Law within nine months from the day of entry into force of this Law.

Article 133

The Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04 and 31/05) shall be repealed on the day of entry into force of this Law.

Article 134

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

SU-SK No 01-368/14

Podgorica, 29 July 2008

The Parliament of Montenegro

The Speaker,

Ranko Krivokapić m.p.

