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193. LAW ON CULTURE

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

Decree Promulgating the Law on Culture

I hereby promulgate the Law on Culture passed by the Parliament of Montenegro at the seventh sitting of the first ordinary session in 2008 on 29th July 2008.

No: 01-1547/2

Podgorica, 4 August 2008

President of Montenegro,

Filip Vujanović

LAW ON CULTURE

The Law was published in the Official Gazette of Montenegro, no. 49/2008 of 15 August 2008.

I. GENERAL PROVISIONS

Subject matter of the Law

Article 1

This law establishes the public interest in culture and regulates the institutions of culture, the status and the rights of artists and experts in culture, the encouragement and the support to the development of culture, its funding and other issues of relevance for culture.

Notion of culture

Article 2

The term culture covers cultural and artistic creation and the activities that create, present, promote, protect and preserve cultural properties, the works of art and other spiritual creations, professional and scientific work in culture and the services of the immediate significance for the accomplishment of cultural and artistic creation.

Culture is the issue of public interest for Montenegro.

Principles of achieving and developing culture

Article 3

Culture is achieved and developed on the principles of:

- 1) freedom of creation and respecting the right to culture;
- 2) determination of the state and the local self-government to encourage and assist the development of cultural and artistic creation and the protection and the preservation of cultural heritage;
- 3) equal preservation of all cultural identities and respecting cultural diversity;
- 4) building and improving the system of culture, in line with the international standards, especially the EU standards;
- 5) establishing the efficient, rational and creative management in culture;
- 6) transparent activities in culture;
- 7) respect and protection of copyright and similar rights;
- 8) democratization of cultural policy and decentralization with regards to organizing and financing culture.

Special regulations

Article 4

Certain fields of cultural and artistic creation, as well as the activities of culture are regulated by special laws.

II. PUBLIC INTEREST IN CULTURE

Activities of public interest in culture

Article 5

The public interest in culture constitutes in particular:

- 1) equal development of culture in the entire territory of Montenegro;
- 2) institutional organization and performance of cultural activities;
- 3) protection and preservation of tangible and intangible cultural heritage;
- 4) protection and preservation of the Montenegrin cultural creation and cultural properties outside the territory of Montenegro;
- 5) creation of conditions for the achievement and development of all areas of cultural creation;
- 6) international cultural cooperation and the presentation of the Montenegrin cultural and artistic creation and cultural heritage;
- 7) scientific researches and professional development in culture;
- 8) creation of conditions for encouraging development and the affirmation of talented people;
- 9) encouraging donor activities and sponsorship in culture;
- 10) preservation of the original and traditional cultural and ethno-cultural features;
- 11) development of amateur cultural-artistic creation;
- 12) development of cultural and artistic creation of disabled people;
- 13) securing spatial and material conditions for the work of artists and experts for the area of culture;
- 14) creation of conditions for the development of creative industries;
- 15) other activities of public interest, in line with the law.

Achievement of public interest

Article 6

The achievement of public interest in culture is secured by the State of Montenegro and local self-government (hereinafter referred to as the municipality).

The manner and the measures of achieving public interest are determined by the National Culture Development Programme (hereinafter referred to as the National Programme) and by the culture development programmes in the municipalities (hereinafter referred to as the municipal programme).

National programme

Article 7

The national programme is a strategic document which determines long-term objectives and the priorities for the development of culture, as well as the organizational, financial and administrative measures for the achievement of the same in the territory of Montenegro.

The national programme contains particularly the following:

- 1) the objectives and the priorities for the development of the culture of Montenegro as a multinational, multi-cultural and multi-confessional state;
- 2) the standards of cultural needs at the national and local level and the principles of the achievements of the same;
- 3) basic prerequisites for the realization of culture and the manner of securing the same;

- 4) projection of the reconstruction, construction and technical-technological equipping of edifices in the field of culture;
- 5) the manner of securing highly professional, scientific-research, creative and artistic personnel;
- 6) the methodology of evaluation of all actors active in the field of culture;
- 7) the manner of encouraging and assisting the development of cultural and artistic creation and cultural activities;
- 8) the activities on the protection and the preservation of cultural heritage;
- 9) the priorities of international cultural cooperation;
- 10) the planning of staffing needs, training and professional development;
- 11) scientific-research work and capital projects in the field of culture;
- 12) the measures for securing conditions for the work of artists and experts in the area of culture;
- 13) the measures for the improvement of the social position of those employed in the field of culture, independent artists and experts in the field of culture;
- 14) the projection of budgetary and extra-budgetary funds for the financing of culture;
- 15) guidelines for the drafting of municipal programmes;
- 16) the principles of cooperation and coordination of the activities of the entities in the field of culture;
- 17) the principles of the achievement and the development of the cooperation with the entities in other areas;
- 18) the methodology and the deadlines for the achievement of the National programme;
- 19) other activities and measures significant for the achievement and development of culture.

For certain areas and the activities in the field of culture, pursuant to the law, special national development programme can be passed.

Adoption of National Programme

Article 8

The National Programme is adopted by the Government of Montenegro (hereinafter referred to as the Government), upon the proposal of the public administration body competent for cultural affairs (hereinafter referred to as the Ministry), for the period of five years.

In the process of drafting the National Programme, the Ministry is obliged to include the representatives of the scientific and professional institutions, professional associations, trade unions and other entities in the area of culture.

When needed, and at least once a year, the Ministry notifies the Government on the implementation of the National Programme.

National Council for Culture

Article 9

The Government, upon the proposal of the Ministry, establishes the National Council for Culture (hereinafter referred to as the National Council) for the monitoring of condition in certain areas and activities of culture and for proposing the measures for the improvement and development of culture.

The composition, the mandate, the competence and the manner of work of the National Council are established by the act on the establishment of the Council.

A member of the National Council is appointed from among artists and experts in the field of culture, of high reputation, from the country and the international ones.

The Ministry secures the administrative-technical conditions and the funds for the work of the National Council.

Municipal programmes

Article 10

A municipal programme contains the long-term needs of the local population and of the actors in the area of culture, development priorities, implementation dynamics and the organizational, financial and administrative measures for the achievement of the same.

The Programme from the paragraph 1 of this article is adopted by the local council in line with the National Programme, for the period of five years.

At least once a year, the Mayor submits the report to the local council on the implementation of the municipal programme.

Both the programme and the report from the paragraph 2 and 3 of this article are submitted to the Ministry.

Municipal Council for Culture

Article 11

The Mayor appoints the Council for Culture as a professional-advisory body.

An affirmed artist or an expert in the field of culture is appointed a member of the council from the paragraph 1 of this article.

III. INSTITUTIONS OF CULTURE

1. Common provisions

Activity of institution

Article 12

An institution of culture (hereinafter referred to as the institution) is a non-profit organization established for the performance of the activities in the field of culture.

Beside the activities in the field of culture, the institution may also perform some other activity which is of significance for the performance of the activity for which it was established.

Status of institution

Article 13

An institution is a legal entity performing independently the activity for which it was established in the manner and under the conditions established by the law, the foundation act and the statute.

Establishment of institution

Article 14

An institution can be established by the state, a municipality, a national and foreign legal entity or natural person (hereinafter referred to as the founder).

An institution is established either for an indefinite or definite time.

In case an institution is established by several entities from the paragraph 1 of this article, the mutual rights and obligations of the founders are regulated by means of an agreement.

Study on establishing institution

Article 15

The founder of an institution is obliged, prior to the adoption of the act on establishing the institution, to adopt the study on the justification of establishing the institution (hereinafter referred to as the Study).

The Study contains, in particular:

- 1) the objectives and the tasks for which the institution is established;
- 2) the needs for the performance of the activities of the institution;
- 3) the programme of the activities of the institution;
- 4) the intentions to perform other activities;
- 5) the manner of securing the funds and other conditions for the work of the institution;
- 6) the institution development concept.

Act on establishing institution

Article 16

The founder passes the act on establishing the institution which contains:

- 1) the name of the Founder;
- 2) the name and the seat of the institution;
- 3) the activity of the institution;
- 4) the amount of funds for the establishment and the initiation of work of the institution and the manner of securing the funds for the performance of the activities of the institution;
- 5) the rights and the obligations of the founder towards the institution and of the institution towards the founder;
- 6) composition and the manner of appointing the management bodies of the institution;
- 7) institution management bodies;
- 8) the deadline for the appointment of administration and management bodies, adoption of the statute and the registration of the institution into the Central Register of the Commercial Court (hereinafter referred to as the Register);
- 9) the person who will temporarily carry out the duty of the director of the institution;
- 10) the period to which the institution is established, in case it is established for a definite period of time, or for the performance of certain task.

The Founder, other than the Government, is obliged to submit to the Ministry the Act on Establishing the Institution within 15 days as of the day of the adoption of the Act.

Capacity of legal entity

Article 17

The institution acquires the right of a legal entity on the day of its inscription into the Register.

Parts of the institution do not have the capacity of legal entity.

Statute of institution

Article 18

The Statute of the institution contains: name, seat and the address of the institution; activity of the institution; scope of work of the administration and management bodies; conditions and the procedure for the election and dismissal of the director of the institution; general acts of the institution and the manner of the adoption of the same; financing of the operations; the manner of establishing the candidates from among the employees to be appointed as the members of the management bodies; the manner of determining the proposal for the dismissal of a member of a management body from among the employees; the publicity of work and other issues of significance for the work of the institution.

The Founder approves the Statute.

Managing institution

Article 19

The Council of the institution manages the institution.

The Council of the institution:

- 1) adopts the Statute of the institution;
- 2) determines the business policy and the programmed development conception of the institution;
- 3) adopts the programme of work of the institution;

- 4) adopts the artistic programme and the rules for the implementation of the artistic programme of the institution;
- 5) adopts the act on internal organization and job description in the institution and other general acts of the institution;
- 6) elects and dismisses the director of the institution;
- 7) elects and dismisses the artistic director of the institution;
- 8) adopts the reports on the work and the reports on the financial operations of the institutions;
- 9) determines the prices of the products and services extended by the institution;
- 10) proposes to the Founder the changes of the status of the institution;
- 11) adopts the rules of procedure;
- 12) performs other activities in line with the law, the Statute and other general acts of the institution.

Composition of Council of institution

Article 20

The Council of an institution has got a Chair and at least two more members.

The Chair or at least one Council member is appointed from among the employees.

Appointment and dismissal of Council of institution

Article 21

The Chair and the members of the Council of an institution are appointed and dismissed by the Founder.

The term of office of the Chair and of the members of the Council is four years.

Dismissal of Chair and member of Council of institution

Article 22

The Chair and a member of the Council of an institution can be dismissed prior to the end of the term of office if:

- 1) he/she resigns;
- 2) he/she acts contrary to the Law or the Statute of the institution;
- 3) he/she does not carry out the duty for a period longer than six months;
- 4) an enforceable unconditional imprisonment sentence is pronounced against him/her.

A member of the Council of the institution from among the employees can be dismissed even before the end of his/her term of office in case he/she does not represent the interests of the employees in the manner established by the Statute of the institution.

Director of institution

Article 23

The institution is managed by the director, if the Law does not regulate differently.

The Director of the institution:

- 1) proposes the Statute of the institution;
- 2) organizes the work and manages the operations of the institution;
- 3) represents and acts on behalf of the institution;
- 4) proposes the business policy and the programmed development conception of the institution;
- 5) proposes the act on internal organization and job description in the institution and other general acts which are adopted by the Council;
- 6) proposes the programme of work and the financial plan of the institution;

- 7) submits to the Council of the institution the report on the work and the report on financial operations;
- 8) takes care of securing the conditions and the funds for the implementation of the programme of work of the institution;
- 9) executes the decisions of the Council of the institution;
- 10) adopts the general acts which are not within the competence of the Council of the institution;
- 11) responsible for the legality of the work of the institution;
- 12) pursuant to the law, until the final decision of a competent body, withholds the execution the decisions of the Council of the institution which he/she deems contrary to the law;
- 13) appoints and dismisses the heads of the internal organizational units of the institutions;
- 14) decides on the commencement and the end of the employment in the institution;
- 15) carries out even other activities in line with the law, the Statute and other general acts.

Election of Director of institution

Article 24

The Director of the institution is elected on the basis of a public competition, to the period of four years, in line with the Statute of the institution.

Dismissal of Director of institution

Article 25

The Director of the institution can be dismissed even before the end of his/her term of office, if:

- 1) he/she resigns;
- 2) he/she does not enforce the decisions of the Council of the institution;
- 3) he/she meets some of the conditions prescribed by the law for the termination of employment according to the letter of the law;
- 4) there is an enforceable unconditional imprisonment sentence pronounced against him/her;
- 5) he/she acts contrary to the law, the Statute and general acts of the institution;
- 6) does not ensure legal work of the institution;
- 7) the Council of the institution does not adopt the programme of work or the report on the financial operations of the institution.

Artistic director of institution

Article 26

The institutions in the area of cultural-artistic creation may also have an artistic director.

The artistic director of an institution:

- 1) proposes the programmed development conception of the institution;
- 2) proposes the artistic programme of the institution and the rules for the implementation of the same;
- 3) decides on technical-technological equipping of the institution necessary for the implementation of the artistic programme;
- 4) manages the organizational units and the employees who carry out the artistic programmes in the institution;
- 5) administers the funds intended to the programmed activities in the institution;
- 6) decides on the engagement of the employees and the associates at the realization of the artistic programme in the institution.

Selection and dismissal of artistic director of institution

Article 27

The artistic director of the institution is elected on the basis of a public competition, for a period of four years.

The conditions for the election of the artistic director are determined by the statute of the institution.

The artistic director may be dismissed before the end of his/her term of office, if:

- 1) he/she resigns;
- 2) does not implement the established artistic programme without a justified reason;
- 3) he/she uses the funds he/she administers in an undedicated and irrational way;
- 4) he/she meets some of the conditions for the termination of employment in line with the law;
- 5) there is an enforceable unconditional imprisonment sentence pronounced against him/her.

In case of the dismissal of the artistic director of the institution prior to the expiration of his/her term of office, the duties of the artistic director are carried out by the director of the institution.

Approval for work

Article 28

Prior to the commencement of the operations, the institution is obliged to acquire the approval for work.

The approval from the paragraph 1 above is issued by the Ministry when it has established that the institution has secured the prescribed conditions for the performance of the activities it was established for.

Detailed conditions for the performance of the activities of the institution with regards to the premises, personnel and equipment, are prescribed by the Ministry, pursuant to the law.

Register of institutions

Article 29

With the purpose of monitoring the condition and the establishing of the database, the Ministry keeps the register of institutions.

Status of employees in institution

Article 30

General labour regulations and collective agreements apply to the employees in the institution, in case the law does not regulate differently.

Obligations of founder

Article 31

The Founder is obliged to provide the funds for the work of the institution on a regular basis.

The funds from the paragraph 1 of this article include the following: the funds for wages and other incomes of the employees, material expenditures, maintenance and security of the structures and the equipment, technical-technological equipping for the implementation of the programmed activities of the institution.

The funds from the paragraph 2 of this article are secured on the basis of the annual programme of work of the institution.

Obligations of institution

Article 32

The institution is obliged to perform the activity for which it was established, to use the equipment in the intended manner and to submit to the founder, by the end of April of the current year, the report on the activities performed and the report on financial operations for the previous year.

The reports from the paragraph 1 of this article are submitted to the Ministry, with a view of establishing a database and compiling statistical reports.

Own revenues of institution

Article 33

An institution can gain revenues by performing the activity for which it was established.

The institution is obliged to use the own revenues for the covering of the expenditures incurred with the performance of the activities which achieved the revenues and for the improvement of the activity of the institution.

The improvement of the activity of the institution includes the following: investments in the premises, in the equipment and other means that are necessary for the performance of the activity; professional development and training of the employees; improvement of the working conditions; participation in international projects and activities and media promotion of the institution.

A part of the own revenues, with the approval of the Founder, may be used by the institution for the increase of the salaries and for the payment of other remunerations and allowances to the employees.

Donations and other assistance

Article 34

An institution is obliged to use the funds coming from donations and other kinds of assistance, in line with the purpose stipulated by the donor, or the donor of assistance.

The donations and the assistance without a specific purpose are used for the implementation of the programmed activities of the institution.

Supervision over activities of institution

Article 35

Supervision over the activities of an institution is carried out by the Founder in case the law or the act on establishing do not envisage differently.

The Ministry carries out the supervision over the activities of the institution with regards to the fulfilment of the conditions for the performance of the activities from the Article 28, paragraphs 2 and 3 of this law.

Changes of status

Article 36

The Founder may change the status of an institution (detaching one part of the institution with the establishing of a new institution, merging one part of the institution to another institution, organizing a new institution by the unification of its parts, or joining two or more institutions, or indeed transforming the institution into a company), following the procedure prescribed for the establishing an institution, in case some special law does not envisage differently.

The change of name, the activity and the seat of an institution is made by means of the Act on establishing the institution.

Reasons for cessation of activities of institution

Article 37

An institution ceases with its activities if:

- 1) it does not meet the conditions prescribed for the performance of its activities;
- 2) there is an enforceable judicial decision on the nullity of the inscription into the Register;
- 3) does not perform the activity for which it was established;
- 4) there is another case envisaged by the law or the act on establishing.

Institution activities ceasing manner

Article 38

Once the Ministry establishes that the institution does not fulfil the conditions prescribed for the performance of the activity for which it was originally established, it will specify the deadline within which the institutions obliged to secure the necessary conditions and to notify the Founder about that.

In case the institution does not fulfil the necessary conditions within the specified deadline, the Ministry will pass the decision on prohibiting further activities of the institution.

When the body which supervises the activity of the institution establishes that the institution does not perform the activity for which it was established for the period longer than 90 days, it will issue the order for it to continue with the performance of the original activity within 15 days as well as notify the Ministry, in case it is not the Ministry that performs the supervision.

Should the institution not follow the order of the body from the paragraph 3 above, the supervising body shall initiate the procedure for the cancellation of the institution from the Register.

Act on cessation of institution

Article 39

The Act on the cessation of an institution is passed by the Founder.

2. Public institution

Establishing of public institution

Article 40

An institution the founder of which is the state or the municipality is established as a public institution.

A public institution may be established for the purpose of performing the activities in one or more areas of culture.

A public institution is subject to the provisions on institution, in case this law does not provide differently.

Study on establishing public institution

Article 41

The study on the establishing of a public institution, beside the elements from the Article 15 paragraph 2 of this law, should also contain the reasons which specify that the needs for the performance of the activity for which a public institution is established cannot be satisfied in the existing public institutions.

Act on establishing public institution

Article 42

The Act on establishing a public institution, the founder of which is the state, is passed by the Government, and for the public institutions the founder of which is the municipality, the Town Council.

Composition of public institution council

Article 43

Public institution council has got a Chair and four members, one of whom comes from among the employees of the public institution.

An affirmed creator or expert from the field which is of significance for the development of culture is appointed a member of the Council of a public institution the founder of which is the state, except for the member from among the employees.

A creator or expert from the field which is of significance for the development of culture is appointed a member of the Council of a public institution the founder of which is the municipality, except for the member from among the employees.

Appointment and dismissal of public institution council

Article 44

The Chair and the members of the Council of a public institution, the founder of which is the state, are appointed and dismissed by the Government, at the proposal of the Ministry.

The Chair and the members of the Council of a public institution, the founder of which is the municipality, are appointed and dismissed by a competent municipal body.

Reasons for dismissal of Chair and member of public institution council

Article 45

The Chair and a member of the Council of a public institution, beside the reasons from the Article 22 herein, can be dismissed prior to the end of the term of office to which he/she were appointed, in the manner prescribed by the Statute and in case he/she does not protect the public interest.

Managing public institution

Article 46

A public institution is managed by the director.

A public institution from the field of cultural-artistic creation is managed by the Director and Business Director.

Exceptionally from the paragraph 2 of this article, the appointment of the Artistic Director is not mandatory, in case the Business Director is a highly reputed artist or a highly esteemed expert in the area of culture.

The Business Director performs the duties from the Article 23 herein, which are not within the competence of the Artistic Director.

Appointment of management bodies of public institution established by State

Article 47

The Director, the Artistic Director and the Business Director of a public institution, the founder of which is the State, are appointed and dismissed by the Government at the proposal of the Ministry.

An affirmed artist or expert in the field of culture is appointed the Director of a public institution the founder of which is the State.

A highly reputed artist or a highly esteemed expert in the area of culture is appointed the Artistic Director of a public institution, the founder of which is the State.

An affirmed expert from the area of social work is appointed the Business Director of a public institution, the founder of which is the State.

Founder's responsibility

Article 48

The Founder of a public institution is responsible for the obligations of the public institution.

Use of own revenues of public institution

Article 49

A public institution may use up to 35% of own revenues for the increase of the salaries of the employees and for the payment of remunerations and allowances which funds are provided by the Founder.

IV. ARTISTS AND EXPERTS IN CULTURE

Artist

Article 50

An artist is a person who, as an author, creates original works of art or a person who interprets works of art or some other works.

Expert in culture

Article 51

An expert in culture is a person with the appropriate level of qualifications, who performs scientific-research, theoretical-critical, educational, production, artistic-associative, specialist-technical or organizational activities in the area of culture.

Prominent cultural creator

Article 52

An artist or an expert in culture, whose works or creations are of exceptional significance for the culture of Montenegro, can be awarded the status of a prominent cultural creator.

The status of a prominent cultural creator is awarded by the Government, upon the proposal of the Ministry.

A prominent cultural creator is entitled to the lifelong monthly benefit as of the day of the status being awarded, in the amount of one up to two average net wages in Montenegro, in the year which precedes the disbursement of the benefit.

Detailed criteria and the manner of the awarding the status of a prominent cultural creator, as well as the conditions and the criteria for establishing the amount and the manner of disbursement of the benefit based on that status are prescribed by the Government.

Professional associations

Article 53

A professional association is a nongovernmental organization of artists or experts in the field of culture which is established and registered for the purpose of:

- 1) the protection of expert, professional and social rights and interests of artists and experts within a certain area of culture;
- 2) the achievement and the improvement of expert and professional principles and standards in certain area of culture;
- 3) the publishing, promoting or presenting artistic and other copyright works from the area of culture or interpretation achievements;
- 4) performing other activities of importance for the development of culture.

A professional association is obliged to keep a record of its members.

Representative professional association

Article 54

In case in one area of culture there are two or more professional associations, the one with a larger number of members from among the affirmed artists or experts in the area of culture, with broader programme objectives and tasks, as well as with more significant results is considered a representative one.

The Ministry determines the status of a representative professional association.

Detailed criteria and the manner of determining the status of a representative professional association are prescribed by the Ministry.

V. INDEPENDENT ARTISTS AND INDEPENDENT EXPERTS IN CULTURE

Status

Article 55

An independent artist or an independent expert in culture is an artist or indeed an expert in culture who deals with artistic or cultural creation, or rather the one who performs the activities from the Articles 50 and 51 herein as the principal activities, for the purpose of gaining income, without being employed.

Condition for acquiring status

Article 56

The status of an independent artist or an expert in the field of culture can be acquired by an artist or an expert in culture provided he/she:

- 1) is a Montenegrin citizen;
- 2) is domiciled in Montenegro;
- 3) is not employed;
- 4) is capable for performing activities;
- 5) is not the subject matter of an enforceable imprisonment term lasting longer than six months or that he/she is not the subject matter of a safeguard measure prohibiting the performance of activities in the area for which the acknowledgement of the independent artist or expert in culture status is sought;
- 6) is not a full-time student;
- 7) has his/her creative work published.

Detailed criteria with regards to the published works and the appropriate level of qualifications for the persons from the Article 51 herein are prescribed by the Ministry, upon the proposal of representative professional associations.

Acquisition of status

Article 57

Independent artist or expert in culture status, upon the request of the artist or expert in the field of culture, is acknowledged by the Ministry, upon the proposal of the expert commission (hereinafter referred to as the Commission).

The Commission from the paragraph 1 above is established by the Ministry from among the members of representative professional associations.

In case in certain area there is no representative association, an artist or expert in the field of culture who is not a member of a professional association may be appointed a Commission member.

Request for acknowledging status

Article 58

The request for acknowledging the independent artist or expert in the field of culture status contains the following:

- 1) basic data on the applicant (name and surname);
- 2) data on previous work;

- 3) name of the field of culture an independent artist or expert in the field of culture will be dealing with in his/her status.

Together with the request from the paragraph 1 above the proofs are submitted on the conditions from the Article 56 herein being met, except for the proof from the item 5, which is acquired ex officio.

Application of regulations

Article 59

The request for acknowledging the independent artist or expert in the field of culture status is resolved directly following the rules of a summary administrative procedure.

Status duration

Article 60

The independent artist or expert in the field of culture status is acknowledged as of the day of the submittal of the request and lasts for five years, with the possibility of it being extended.

The request for the extension of the status, with the evidence of the conditions from the Article 56 herein being met, is submitted within 60 days at the most prior to the expiration of the acknowledged status.

Exceptionally from the paragraph 1 above, the independent artist or expert in the field of culture status, without the need for it to be extended, is retained by a prominent cultural creator and independent artist, or an independent expert in the field of culture who has had this status for 20 years in a row.

Cessation of independent artist or independent expert in culture status

Article 61

The independent artist or independent expert in the field of culture status ceases if an independent artist or an independent expert in the field of culture:

- 1) submits a written request, on the day of submittal;
- 2) becomes employed, on the day of employment;
- 3) loses Montenegrin citizenship or his/her domicile in Montenegro, on the day of the finality of the decision on the loss of citizenship, or on the day of the notice of departure;
- 4) there is an enforceable unconditional imprisonment sentence longer than six months pronounced against him/her, on the day of his/her referral to the serving of the sentence;
- 5) there is a judicial decision on pronouncing a safeguard measure prohibiting the performance of activities in the field of culture for which the independent artist or expert in culture status was awarded to him/her lasting longer than six months, on the day of the decision becoming enforceable;
- 6) does not deal with cultural and artistic creation or does not perform the cultural activity for which the independent artist or expert in culture status was awarded to him/her lasting longer than two years, except in case of temporary disability, on the day of the expiration of this deadline;
- 7) the independent artist or expert in culture status does not get extended, with the expiration of the last day of the duration of the status;
- 8) meets the conditions for the exercising of the right to old age pension, on the day of achievement of this right;
- 9) he/she engages another person for the performance of of the activity for which the independent artist or expert in culture status was awarded to him/her.

The Ministry passes the decision on the termination of the independent artist or expert in culture status, upon the request of the independent artist or expert in culture, or ex officio.

Register of independent artists and experts in culture

Article 62

The Ministry keeps the register of independent artists and experts in the field of culture (hereinafter referred to as the Register).

The content and the manner of keeping the register is prescribed by the Ministry.

Duties of independent artist or expert in culture

Article 63

An independent artist or expert in the field of culture is obliged to:

- 1) in the operations with the third parties, alongside with his/her name and surname, use the designation "independent artist", or "independent expert in the field of culture";
- 2) submit to a public administration body competent for the collection of taxes, within a prescribed deadline, the tax report on the revenues gained with the status of independent artist or independent expert in the field of culture status;
- 3) immediately, within 15 days at the latest, notify the Ministry on the reasons for the termination of the independent artist or independent expert in the field of culture status from the Article 61 herein.

Gaining revenues

Article 64

An independent artist or an independent expert in the field of culture gains the revenues through the sale of his/her works, by means of extending services and in some other legal way.

Health and retirement-disability insurance

Article 65

An independent artist or an independent expert in the field of culture is entitled to health and retirement-disability insurance, pursuant to the law.

The funds for the payment of the contribution for the health insurance of an independent artist or an independent expert in the field of culture are provided from the budget of Montenegro.

The contributions for the retirement-disability insurance are paid by an independent artist or an independent expert in the field of culture.

Exceptionally from the paragraph 3 above, the contributions for the retirement-disability insurance of an independent artist or an independent expert in the field of culture are provided from the budget of Montenegro, in case an independent artist or an independent expert in the field of culture achieves the annual revenue which is greater than an average net wage in Montenegro during the previous year.

The payment of the contribution for the retirement-disability insurance from the budget of Montenegro is effected upon a written request of an independent artist or an independent expert in the field of culture. The request is accompanied by the proof of the gained revenues and the calculation of contributions established by the public administration body competent tax collection.

Exceptionally, the Ministry can, upon the proposal of the Commission, effect the payment of the contribution for an independent artist or an independent expert in the field of culture who has not gained the revenue from the paragraph 4 above, if he/she has not performed the activity for justified reasons.

Return of paid contributions

Article 66

An independent artist or an independent expert in the field of culture is entitled to the return of the contributions for health and retirement-disability insurance paid during a year up to the amount of the contributions paid from the budget of Montenegro in line with the Article 65 herein.

The return of the contributions from the paragraph 1 above is carried out in accordance with the law which regulates social insurance contributions.

Acknowledgement of status for previous period

Article 67

Exceptionally from the Article 60 paragraph 1 herein, the Ministry can, upon the proposal of the Commission, acknowledge to an artist or an expert in the field of culture the status of an independent artist, or the status of an independent expert in the field of culture for the previous period, according to the performed work, or the achieved creation, for the purpose of regulating retirement benefit.

The status of an independent artist or the status of an expert in the field of culture for the previous period may not be acknowledged for the period of: full-time education, or studying; military service; serving the imprisonment sentence and the duration of the safeguard measure prohibiting the performance of activities in culture.

The contributions for pension and disability insurance, based on the status from the paragraph 1 above are borne by the artist or expert himself/herself.

VI. ENCOURAGEMENT AND SUPPORT TO DEVELOPMENT OF CULTURE

1. Encouragement to development of culture

2.

Project co-financing

Article 68

The development of culture is encouraged through co-financing the programmes and projects of importance for the realization of the public interest in culture (hereinafter referred to as the Project) with the funds from the budget of Montenegro and the municipal budgets.

The Ministry and a competent municipal body prescribe the kind of projects from certain areas of culture which will be co-financed with the funds from the paragraph 1 above.

Scope of co-financing

Article 69

The funds from the budget of Montenegro, or from the municipal budget can be used for the co-financing of up to 50% of the funds necessary for the implementation of a project.

Exceptionally from the paragraph 1 above, the Ministry, or the competent municipal body can co-finance a project, which is of exceptional significance for Montenegro, or for the municipality, in the amount exceeding 50% of the total funds necessary for the implementation of the same.

Public competition

Article 70

Project co-financing is carried out on the basis of a public competition (hereinafter referred to as the Competition), which is published by the Ministry, or a competent municipal body.

The Competition is published for certain area of culture in November of the current year for the next year, in at least one daily printed medium published in Montenegro and on the website of the Ministry, or of a competent municipal body.

The Competition contains project evaluation criteria.

The deadline for the submission of the applications for the Competition may not be shorter than 30 days as of the day of the publishing of the Competition.

Exceptionally from the paragraph 1 above, the Ministry, or a competent municipal body can, without the announcing of a public competition, co-finance a project of capital significance for:

- 1) Montenegrin culture;
- 2) the achievement of the international cooperation;
- 3) balanced cultural development of Montenegro, or the municipalities.

The projects from the paragraph 5 above can be co-financed, or financed up to the full amount of the expenses necessary for their implementation.

Right to participation in competition

Article 71

The natural persons and legal entities domiciled in Montenegro, or those registered for the performance of activities in the area of culture, except for the public institutions and other entities the work of which is financed from the budget of Montenegro or from the funds of municipal budgets planned for culture, have the right to participate in the Competition.

Competition application

Article 72

The Competition application is submitted in the form prescribed by the Ministry, or by a competent municipal body.

Project evaluation criteria

Article 73

The projects applied for at the Competition are evaluated according to the following criteria:

- 1) artistic quality and significance for the development of Montenegrin culture;
- 2) references of implementing entities;
- 3) contribution to the development of multinational and multi-cultural values;
- 4) contribution to the encouragement of the international dialogue and to the development of partnership;
- 5) international affirmation of Montenegrin culture;
- 6) contribution to the preservation of tradition and of Montenegrin cultural heritage;
- 7) affirmation of promising talents;
- 8) contribution to the affirmation of creative activity of the persons with disabilities;
- 9) reality of the project budget and the provision of the conditions for the implementation of the same.

The Ministry, or a competent municipal body can also establish other criteria for the evaluation of projects from certain area of culture, pursuant to the law.

Project evaluation Commission

Article 74

The evaluation of projects from certain area of culture is carried out by the Commission established by the Ministry, or by a competent municipal body composed of the affirmed artists and experts in the field of culture.

The act on the establishing the Commission determines the composition, the tasks, the method of work, the term of office and the remuneration for the work of the Commission members.

The work of the Commission is public.

Prevention of conflict of interest

Article 75

A Commission member who is in no way included in a project may not participate in the evaluation of the same, or indeed if there is some of the reasons envisaged by the law which regulates the conflict of interest.

Co-financing proposal

Article 76

Following the evaluation of the projects, the Commission submits to the Ministry, or to a competent municipal body a reasoned proposal for the co-financing of the projects of significance for the achievement of the public interest in culture.

The proposal from the paragraph 1 above contains: the title of the project, name and surname and address, or the name and the seat of the implementing party and the amount of project co-financing funds.

Decision on co-financing

Article 77

The decision on project co-financing is passed by the Minister, or a competent municipal body.

In case the Minister, or a competent municipal body does not accept the proposal of the Commission for project co-financing, he/she is obliged to notify the Commission on the reasons for rejecting the same.

The decision from the paragraph 1 above is communicated publicly and published on the website of the Ministry, or of a competent municipal body.

The project implementing party who has not discharged the obligations from the previous co-financing contract may not get the funds for the co-financing of a new project until the obligations are discharged.

Co-financing contract

Article 78

The Ministry, or a competent municipal body and the project implementing party, based on the act from the Article 77 herein, conclude the agreement on project co-financing, which regulates the dynamics of project implementation, the payment, utilization and justification of the approved funds, reporting on project stage and the manner of project presentation, as well as the final report on project implementation.

The agreement from the paragraph 1 above is concluded within 30 days as of the day of the publishing of the decision from the Article 77 herein.

Exceptionally, the Ministry, or a competent municipal body can, upon a written request of project implementing party, extend the stipulated project implementation deadline and co-finance the project on that ground with the funds from the Budget of Montenegro or the from the municipal budget for the next year.

Project management

Article 79

In case of the eventuality from the Article 69 paragraph 2 and the Article 70 paragraph 6 of this law, the Ministry, or a competent municipal body is entitled to participate in project management, as well as to a share of gain achieved with the implementation of the project, proportionately to the amount of the invested funds, on the basis of co-financing, in relation to the overall amount of the project implementation costs.

Intended use of funds

Article 80

The project implementing party is obliged to use the funds allocated from the budget of Montenegro, or from the municipal budget, on the basis of the co-financing of projects in culture, exclusively for the approved project implementation purposes.

The project implementing party, who uses project co-financing funds in a non-intended manner, or who does not implement the project within the contractual deadline, is obliged to return the entire amount of the funds being paid with interest at the average interest rate for short-term loans.

Utilization of co-financing funds

Article 81

The funds from the budget of Montenegro, or from the municipal budget, allocated for the co-financing of the projects of significance for the achievement of the public interest in culture, are used without an obligation to return the same, under the conditions established by this law and by the co-financing agreement, in case a special law does not provide differently.

Contract execution supervision

Article 82

The Ministry, or a competent municipal body shall supervise the execution of the obligations from the project co-financing contract.

During the supervision procedure from the paragraph 1 above, the Ministry, or a competent municipal body can:

- 1) request the fulfilment of the contractual obligations within the appropriate deadline;
- 2) terminate the contract unilaterally, in case the project implementing party does not discharge the stipulated obligations;
- 3) request the return of the paid funds with an appropriate interest, in case the approved funds are not used in line with the Article 80 of this law.

2. Special forms of support to development of culture

Purchasing books

Article 83

With the purpose of supplementing library holdings, the Ministry, or a competent municipal body, is obliged to allocate funds for purchasing books to national and other lending libraries in the territory of Montenegro or in the territories of municipalities.

The purchasing of books using the funds from the paragraph 1 above is carried out on the basis of a public competition, upon the proposal of the expert commission.

Detailed conditions, criteria and the manner of utilization the funds for the purchasing of books are prescribed by the Ministry.

Purchasing fine arts works and museum objects

Article 84

The Ministry, or a competent municipal body is obliged to purchase fine arts works and museum objects via a public competition and for the needs of museums and galleries the founder of which is the state or a municipality.

The obligation from the paragraph 1 above includes the purchase of fine arts works and museum objects carried out by the museums and galleries using the funds from the budget of Montenegro, or from municipal budgets.

The purchase of fine arts works and museum objects is carried out upon the proposal of the expert commission.

Exceptionally, the entities from the paragraphs 1 and 2 above can acquire via direct agreement a unique museum object and a museum object with the status of a cultural property.

Detailed conditions for the purchasing of fine arts works and museum objects, as well as the criteria for the establishing of their value shall be prescribed by the Ministry.

Provision of working and residential area

Article 85

Both, the State and municipalities can make it possible for an artist and an expert in the field of culture to use and purchase a working and residential area under favourable conditions.

The rental fee and the sales price of a working and residential area below the average market price for renting and sale of a working and residential area in the territory of a municipality are considered to be favourable conditions from the paragraph 1 above, as well as enabling the payment of the rental fee and of the sales price by means of works of art or services, granting loans for the purchase of a working and residential area under the conditions more favourable than the bank ones, giving an apartment and a working area to be used on the basis of a lease agreement and enabling the purchase of an apartment under the conditions prescribed for the employees whose wages are financed from the budget of Montenegro, or from municipal budgets.

Detailed conditions, criteria and the manner of providing a working and residential area to artists and experts in the field of culture are prescribed by the Government, or a competent municipal body.

Ensuring conditions for work of representative professional associations

Article 86

The State ensures the area and the funds for material resources necessary for the work of the representative professional associations.

The funds for the programmed activities of the representative professional associations are provided in the manner and according to the procedure prescribed for project co-financing.

A representative professional association is obliged to submit to the Ministry the report on its activities, at least once every six months.

Reimbursement of expenses to artists

Article 87

The Ministry can reimburse an artist certain amount of expenses incurred in relation to custom duties and the VAT for the acquired equipment, instruments or material necessary for his/her work.

The criteria and the conditions for the reimbursement from the paragraph 1 above are prescribed by the Ministry.

Creative industries

Article 88

The State and the municipalities encourage and support the development of creative industries which cover the production of cultural products and services from the area of intellectual property.

Traditional crafts and skills

Article 89

The State and the municipalities encourage the preservation and the development of traditional crafts and skills by granting financial assistance for the acquisition of tools and material and for the training of professional personnel.

Amateurism

Article 90

The State and the municipalities encourage non-commercial forms of amateur activities in culture which contribute to the affirmation of the original Montenegrin cultural values or to the affirmation of the contemporary cultural-artistic creation.

The criteria, conditions and the manner of allocating the funds from the paragraph 1 above are prescribed by the Ministry.

3. Cultural events and festivals of special significance

Article 91

The Ministry can proclaim certain cultural event or a festival as being of special significance for Montenegro.

Detailed criteria for proclaiming a cultural event or a festival as being of special significance are prescribed by the Government.

The Act from the paragraph 1 above regulates the status, organization and the manner of financing a festival or an event.

VI. FINANCING OF CULTURE

Funding sources

Article 92

Culture is financed from:

- 1) the funds of the Budget of Montenegro;
- 2) the funds of the municipal budgets;
- 3) restricted sources of revenue for culture (fees, rental fees etc.);
- 4) revenues from hazardous games;
- 5) donations;
- 6) sponsorship;
- 7) own revenues of the entities dealing with culture;
- 8) other legal sources.

Funds from Budget of Montenegro

Article 93

The Budget of Montenegro provides the funds for culture in line with the National programme.

The funds for the work of the Ministry in the current budget are allocated at least at the level of 2.5% of the national budget, reduced for the expenditures of the state funds and capital budget, in case the planned real growth of the gross national product (GNP) is up to 8%, or at least at the level of 3%, in case the planned real GNP growth is greater than 8%.

Funds from municipal budget

Article 94

Municipal budgets provide the funds from culture in accordance with municipal programmes.

Restricted sources of revenue

Article 95

For certain areas of culture the Law can establish special sources of revenue.

Donations

Article 96

The funds for the payment of custom duties and the VAT, on the basis of the purchase of properties and services from donor funds, shall be specially planned in the budget of the Ministry and do not constitute the integral part of the percentage from the Article 93 paragraph 2 herein.

Tax exemptions for the investments in culture, on the basis of donations, are applied in line with the tax regulations.

VII. SUPERVISION

Administrative supervision

Article 97

The Ministry carries out the administrative supervision over the application of this law.

VIII. PENAL PROVISIONS

Article 98

The fine from tenfold to one hundredfold amount of the lowest wage in Montenegro shall be imposed on a body, legal entity and the entrepreneur, who is the founder of an institution of culture, if:

- 1) prior to the adoption of the act on establishing the institution, the study on establishing the institution is not adopted (Article 15 paragraph 1);
- 2) the act on establishing the institution is not submitted to the Ministry within the prescribed deadline (Article 16 paragraph 2);
- 3) the funds for the activity of the institution are not secured on a regular basis (Article 31 paragraph 1).

The fine from the twofold to the tenfold amount of the lowest wage in Montenegro shall be imposed on the responsible person of an authority and legal entity and on a natural person who is the founder of an institution of culture for the offence from the paragraph 1 above.

Article 99

The fine from the tenfold to the fifty fold amount of the lowest wage in Montenegro shall be imposed on a legal entity – institution of culture, if:

- 1) the approval for work is not acquired prior to the beginning of operations (Article 28 paragraph 1);
- 2) the report on the operations is not submitted to the founder or to the Ministry within the prescribed deadline (Article 32);
- 3) the own revenues are used outside the purposes established by this law (Article 33 and 49);
- 4) the funds from the donation or another assistance are used outside the purpose specified by the donor, or by the assistance granting party (Article 34).

The fine from the twofold up to the tenfold amount of the lowest wage in Montenegro shall be imposed on the responsible person of a legal entity – institution of culture for the offence from the paragraph 1 above.

Article 100

The fine from the twofold up to the fivefold amount of the lowest wage in Montenegro shall be imposed on a natural person who is an independent artist, or an independent expert in the field of culture, if:

- 1) in the activities with the third parties alongside his/her name he/she does not indicate "independent artist", or "independent expert in the field of culture" (Article 63 paragraph 1 item 1);
- 2) he/she does not notify the Ministry on every reason for the cessation of the independent artist or independent expert in the field of culture status within a prescribed deadline (Article 63 paragraph 1 item 3).

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 101

The National programme from the Article 7 of this law shall be passed within 12 months as of the day of the coming into force of this law.

The municipal programmes from the Article 10 of this law shall be passed within 120 days as of the day of the passing of the National programme.

Article 102

The bylaws for the implementation of this law shall be adopted within 120 days as of the day of the coming into effect of this law.

Article 103

The rights and obligations of the founders of the public institutions in the area of culture established by the Parliament of Montenegro according to the previous regulations shall be taken over by the Government.

The acts on establishing public institutions shall be harmonized with this law, within 120 days as of the day of the coming into effect of this law.

Article 104

The establishing of public institutions councils, pursuant to this law, shall be performed within 90 days as of the day of the coming into effect of this law.

Until the establishing of the councils from the paragraph 1 above, the duty of management bodies shall be carried out by the existing public institutions management bodies.

Article 105

The directors, business directors and artistic directors of public institutions shall be appointed in accordance with this law within 90 days as of the day of the coming into effect of this law.

Until the directors from the paragraph 1 above are appointed the duty of directors shall be carried out by the current directors.

Article 106

Independent artists who acquired that status according to the previous regulations retain the status until the expiry of the deadline to which the status had been acknowledged.

Article 107

The Law on Independent Artists (Official Gazette of the Socialist Republic of Montenegro 31/84) ceases to be valid with the coming into effect of this Law.

Article 108

This law comes into effect on the eighth day as of its publishing in the Official Gazette of Montenegro.

SU-SK No. 01-736/10
Podgorica, 29th July 2008

Parliament of Montenegro

The Speaker,
Ranko Krivokapić, m.p.