Pursuant to Article 82, paragraph 1, Item 2 of the Constitution of Montenegro and Amendment IV, paragraph 1 to the Constitution of Montenegro, the 25th Parliament of Montenegro, at its sitting of the first extraordinary session in 2015, held on 26 February 2015, adopted the

LAW ON COURTS

I. BASIC PROVISIONS

Subject Matter

Article 1

The present Law shall regulate the establishment, organization and jurisdiction of courts, the organization of work of courts and judicial administration, as well as other issues of importance for the proper and timely functioning of the courts.

Judicial Power

Article 2

The judicial power shall be exercised by courts established by the present Law. The courts shall decide in legal matters under their jurisdiction in a lawful, objective and timely manner.

Availability of Courts and Equality of Parties

Article 3

Everyone shall have the right to address a court to enforce his / her rights. Everyone shall be equal before court.

Public Nature of Work

Article 4

The public nature of court work shall be provided in accordance with the law.

Impartiality

Article 5

Everyone shall have the right to an impartial trial within a reasonable time and to have a judge appointed by random allocation of cases decide in his / her legal matter, regardless of the parties and the characteristics of the legal matter.

Funds for Work of Courts

Article 6

Funds for work of courts shall be provided in the Budget of Montenegro.

The courts shall dispose of the funds referred to in paragraph 1 of this Article independently.

Use of Gender-Sensitive Language

Article 7

The terms used in this Law for individuals in the masculine gender shall equally refer to the same terms in the feminine gender.

II. ESTABLISHMENT, ORGANIZATION AND JURISDICTION OF COURTS

1. Establishment of Courts

Courts

Article 8

The courts shall be the following:

- 1) Misdemeanour Court;
- 2) High Misdemeanour Court of Montenegro (hereinafter: High Misdemeanour Court);
- 3) Basic Court;
- 4) High Court;
- 5) Commercial Court of Montenegro (hereinafter: Commercial Court);
- 6) Administrative Court of Montenegro (hereinafter: Administrative Court);
- 7) Appellate Court of Montenegro (hereinafter: Appellate Court);
- 8) Supreme Court of Montenegro (hereinafter: Supreme Court).

2. Misdemeanour Court

Establishment

Article 9

Misdemeanour Courts shall be the following:

- Misdemeanour Court in Bijelo Polje, for the territory of the municipalities of: Bijelo Polje, Andrijevica, Berane, Gusinje, Žabljak, Kolašin, Mojkovac, Petnjica, Plav, Pljevlja and Rožaje, with divisions in:
- Berane for the territory of the municipalities of Berane, Andrijevica and Petnjica;
- Žabljak for the territory of the municipality of Žabljak;
- Plav for the territory of the municipalities of Plav and Gusinje;
- Pljevlja for the territory of the municipality of Pljevlja;
- Rožaje for the territory of the municipality of Rožaje;
- Kolašin for the territory of the municipality of Kolašin;
- Mojkovac for the territory of the municipality of Mojkovac.

2) Misdemeanour Court in Budva, for the territory of the municipalities of: Budva, Bar, Kotor, Tivat, Herceg Novi and Ulcinj, with divisions in:

- Bar for the territory of the municipality of Bar;
- Kotor for the territory of the municipalities of Kotor and Tivat;
- Herceg Novi for the territory of the municipality of Herceg Novi;
- Ulcinj for the territory of the municipality of Ulcinj.

3) Misdemeanour Court in Podgorica, for the territory of the Capital City of Podgorica, Old Royal Capital Cetinje and the municipalities of Danilovgrad, Nikšić, Plužine and Šavnik, with divisions in:

- Old Royal Capital Cetinje for the territory of the municipality of the Old Royal Capital of Cetinje;
- Danilovgrad for the territory of the municipality of Danilovgrad;
- Nikšić for the territory of the municipalities of Nikšić, Plužine and Šavnik.

Jurisdiction

Article 10

Misdemeanour Courts shall have jurisdiction to adjudicate on the requests for misdemeanour proceedings and the requests for judicial determination.

3. High Misdemeanour Court

Establishment

Article 11

High Misdemeanour Court shall be established for the territory of Montenegro, with a seat in Podgorica.

Jurisdiction

Article 12

High Misdemeanour Court shall decide on appeals lodged against decisions of Misdemeanour Courts, shall decide on the conflict of jurisdiction between Misdemeanour Courts and shall perform other duties prescribed by law.

4. Basic Court

Establishment

Article 13

Basic Courts shall be the following:

1) Basic Court in Bar - for the territory of the municipality of Bar;

2) Basic Court in Berane – for the territory of the municipalities of Berane, Andrijevica and Petnjica;

3) Basic Court in Bijelo Polje – for the territory of the municipalities of Bijelo Polje and Mojkovac;

4) Basic Court in Danilovgrad - for the territory of the municipality of Danilovgrad;

5) Basic Court in Žabljak – for the territory of the municipalities of Žabljak and Šavnik;

6) Basic Court in Kolašin - for the territory of the municipality of Kolašin;

7) Basic Court in Kotor – for the territory of the municipalities of Kotor, Budva and Tivat;

8) Basic Court in Nikšić - for the territory of the municipalities of Nikšić and Plužine;

9) Basic Court in Plav – for the territory of the municipalities of Plav and Gusinje;

10) Basic Court in Pljevlja – for the territory of the municipality of Pljevlja;

11) Basic Court in Podgorica - for the territory of the Capital City of Podgorica;

12) Basic Court in Rožaje - for the territory of the municipality of Rožaje;

13) Basic Court in Ulcinj – for the territory of the municipality of Ulcinj;

14) Basic Court in Herceg Novi – for the territory of the municipality of Herceg Novi;

15) Basic Court in Cetinje – for the territory of the Old Royal Capital of Cetinje.

Jurisdiction

Article 14

Basic Courts shall have jurisdiction to:

1) In criminal offences:

a) Adjudicate in the first instance on criminal offences punishable by law by a fine or imprisonment of up to 10 years as principal punishment, regardless of the character, profession and position of the person against whom the proceedings are conducted and regardless of whether the criminal offence was committed in peace, state of emergency, in a state of imminent war danger or in a state of war, unless the jurisdiction of another court is prescribed for specific types of these criminal offences;

b) Adjudicate in the first instance on those criminal offences which are by separate law prescribed to fall within the jurisdiction of Basic Courts;

c) Conduct proceedings and decide on requests for expunging of a sentence, requests for termination of security measures or legal consequences of a sentence and adjudicate in those matters when they have imposed such a sentence or measures;

2) In civil cases, to adjudicate in the first instance:

a) On disputes relating to property, matrimony, family, personal-legal and other relationships, except in those disputes where the law prescribes the jurisdiction of another court;

b) On disputes relating to correction or reply to information provided by the media and petitions relating to violation of personal rights committed through the media;

3) In labour law cases, to adjudicate in the first instance on disputes relating to:

a) Employment,

b) Conclusion and application of collective bargaining agreements, as well as all disputes between employers and trade unions;

c) Application of the rules on strike;

4) In other legal matters:

a) To resolve non-contentious cases in the first instance, unless otherwise provided by the present Law;

b) To resolve cases of enforcement and security in accordance with the law governing enforcement and security;

c) To decide on recognition of foreign judgments, as well as on the enforcement of foreign judgments when so prescribed by law, except for those falling within the jurisdiction of the Commercial Court;

5) Perform tasks of legal assistance;

6) Perform tasks of international criminal legal assistance in criminal matters under a letter rogatory for service of documents.

Basic Courts shall have jurisdiction to adjudicate in the first instance on other matters as well, unless the jurisdiction of another court is prescribed by law.

Basic Courts shall also perform other duties laid down by law.

5. High Court

Establishment

Article 15

High Courts shall be the following:

1) High Court in Bijelo Polje – for the territory covered by Basic Courts in Bijelo Polje, Berane, Žabljak, Kolašin, Plav, Pljevlja and Rožaje; and

2) High Court in Podgorica – for the territory covered by Basic Courts in Podgorica, Bar, Danilovgrad, Kotor, Nikšić, Ulcinj, Herceg Novi and Cetinje.

Jurisdiction

Article 16

High Courts shall have jurisdiction to:

1) Adjudicate in the first instance on criminal proceedings conducted for criminal offences punishable by law by imprisonment in excess of 10 years as principal punishment, regardless of the character, profession and position of the person against whom the proceedings are conducted and regardless of whether the criminal offence was committed in peace, state of emergency, in a state of imminent war danger or in a state of war, and for the following criminal offences:

- Manslaughter,

- Rape,

- Endangering the safety of air traffic,

- Unauthorized production, keeping and putting into circulation of narcotic drugs,

- Calling for violent change of the constitutional order,
- Disclosure of secret data,
- Instigation of ethnic, racial and religious hatred, discord and intolerance,
- Violation of territorial sovereignty,
- Associating for anti-constitutional activity,
- Preparing acts against the constitutional order and security of Montenegro,

- Against humanity and other goods protected by international law;

2) Adjudicate in the first instance on those criminal offences which are by separate law prescribed to fall within the jurisdiction of High Court;

3) Adjudicate, in the second instance, on appeals against decisions of Basic Courts;

4) Conduct a procedure of determining the circumstances regarding the request for extradition of accused and convicted persons and the procedure of recognition and enforcement of foreign judgments in criminal matters;

5) Resolve conflict of jurisdiction between Basic Courts from their territory;

6) Decide on requests for expunging of a sentence based on judicial decision and upon requests for termination of security measures or legal consequences of a sentence relating to the prohibition to acquire certain rights, when they have pronounced such a sentence or measure;

7) Perform duties of international criminal legal assistance in criminal matters under a letter rogatory for a hearing person, implementation of special evidentiary actions, as well as other forms of international criminal legal assistance;

8) Perform other duties laid down by law.

Irrespective of the rules on territorial jurisdiction, the High Court in Podgorica shall adjudicate on criminal proceedings conducted for the following criminal offences:

1) Organized crime, regardless of the sentence prescribed;

- 2) High-level corruption:
 - a) If a public official committed the following criminal offences:
 - Abuse of official position,
 - Fraud in the conduct of official duty,
 - Illegal influence,
 - Incitement to illegal influence,
 - Passive bribery,
 - Active bribery.
 - b) If the material gain exceeding the amount of forty thousand euro was obtained through the commission of the following criminal offences:
 - Abuse of position in business operations,
 - Abuse of powers in economy.
- 3) Money laundering;
- 4) Terrorism; and
- 5) War crimes.

For the purpose of conducting trials for the criminal offences referred to in paragraph 2 of this Article, a special division shall be formed in the High Court in Podgorica.

6. Commercial Court

Establishment

Article 17

The Commercial Court shall be established for the territory of Montenegro, with a seat in Podgorica.

Jurisdiction

Article 18

The Commercial Court shall adjudicate in the first instance on:

1) Disputes between companies, entrepreneurs and other legal persons performing economic activity (commercial entities), which arise from their commercial-legal relationships and in the disputes arising between commercial entities and other legal persons in the performance of the activity of commercial entities, as well as in the case where one party in those disputes is a natural person, if he / she is in relation of substantive joint litigant to one of the parties;

2) Disputes relating to registration of commercial entities as well as disputes arising from relationships governed by company law;

3) Disputes relating to bankruptcy and liquidation of commercial entities, regardless of the capacity of the other party and irrespective of the time when the dispute was initiated, unless otherwise provided by law;

4) Disputes relating to copyrights and related rights, industrial property rights and trademark protection, and other rights arising from intellectual property regardless of the capacity of the parties;

5) Disputes relating to rights of artists, rights concerning the multiplication, duplication and releasing for circulation of audiovisual works, as well as disputes relating to computer programmes and their use and transfer between the parties referred to in Item 1 of this paragraph;

6) Disputes relating to disturbance of possession between the parties referred to in Item 1 of this paragraph;

7) Disputes relating to distortion of competition, abuse of monopolistic or dominant position in the market and entering into monopolistic agreements;

8) Disputes relating to ships and navigation at sea and inland waters, as well as disputes governed by navigation law, except for disputes relating to the transport of passengers;

9) Disputes relating to aircrafts and disputes governed by air law, except for disputes relating to the transport of passengers;

10) Disputes in other legal matters which the law places within the jurisdiction of the Commercial Court.

The Commercial Court shall, in the first instance:

1) Conduct the proceedings of bankruptcy and liquidation;

2) Decide on and conduct enforcement when the enforceable instrument has been issued by the Commercial Court or arbitration when so defined by a separate law, decide on enforcement between the parties referred to in paragraph 1, Item 1 of this Article, and decide on and conduct enforcement and security on board ships and aircrafts, regardless of the capacity of parties;

3) Decide in non-contentious proceedings concerning ships and aircrafts;

4) Decide on the recognition of foreign judicial decisions rendered by commercial courts, as well as of foreign arbitral awards.

The Commercial Court shall provide international legal assistance for matters under its jurisdiction and shall perform other tasks prescribed by law.

7. Appellate Court

Establishment

Article 19

The Appellate Court shall be established for the territory of Montenegro, with a seat in Podgorica.

Jurisdiction

Article 20

The Appellate Court shall:

1) Decide on appeals against first-instance decisions of High Courts, as well as on appeals against decisions of the Commercial Court;

2) Resolve the conflict of jurisdiction between:

- Basic Courts from the territories of different High Courts,

- Basic and High Courts,

- High Courts;

3) Perform other duties prescribed by law.

8. Administrative Court

Establishment

Article 21

The Administrative Court shall be established for the territory of Montenegro, with a seat in Podgorica.

Jurisdiction

Article 22

The Administrative Court shall adjudicate on administrative disputes and shall perform other duties laid down by law.

9. Supreme Court

Establishment

Article 23

The Supreme Court shall be the highest court in Montenegro, with a seat in Podgorica.

Jurisdiction

Article 24

The Supreme Court shall:

1) Adjudicate in the third instance when so provided by law;

2) Adjudicate on extraordinary legal remedies against decisions of the courts in Montenegro;

3) Adjudicate on legal remedies against decisions of its panel, when so prescribed by law;

4) Adjudicate on the transfer of territorial jurisdiction when it is obvious that it will be easier for the other court that has subject-matter jurisdiction to conduct the proceedings, or for other important reasons;

5) Determine which court shall have territorial jurisdiction when the jurisdiction of the courts in Montenegro is not excluded, and when, in accordance with the rules on territorial jurisdiction, it is not possible to reliably determine which court has territorial jurisdiction in a particular legal matter;

6) Resolve conflict of jurisdiction between different types of courts in the territory of Montenegro, except when the jurisdiction of another court has been prescribed to resolve the conflict of jurisdiction;

7) Perform other duties prescribed by law.

The Supreme Court shall decide on the matters relating to the transfer of territorial jurisdiction, determining the court having territorial jurisdiction and conflict of jurisdiction in a panel of three judges, without conducting a hearing.

General Session of the Supreme Court

Article 25

At a General Session, the Supreme Court shall:

1) Determine legal positions of principle;

2) Consider issues in relation to the work of courts, implementation of laws and other regulations and exercise of judicial power, informing the Parliament of Montenegro thereof when it deems necessary;

3) Adopt Rules of Procedure of the General Session of the Supreme Court;

4) Propose candidates for the President of the Supreme Court, issue the proposal for establishing the termination of office, disciplinary liability and dismissal of the President of the Supreme Court and issue opinions on candidates for judges of the Supreme Court;

5) Perform other duties prescribed by law.

Legal Position of Principle

Article 26

The legal position of principle shall be taken on disputable legal matters arising from case law, in view of ensuring uniformity in the application of law by the courts.

The legal position of principle may be taken ex officio or at the request of a court.

The manner of keeping records and publishing legal positions of principle shall be determined by the Rules of Procedure of the General Session of the Supreme Court.

Extended Session of the Supreme Court

Article 27

The extended session of the Supreme Court shall include the General Session of the Supreme Court and the presidents of the Appellate Court, Administrative Court, Commercial Court and High Courts.

The extended session of the Supreme Court shall perform duties prescribed by law.

III. ORGANIZATION OF WORK OF COURTS

1. Tasks of Organization

Article 28

The organization of work of the court shall mean the management of the court, the organization of court divisions and the sessions of all judges, trial organization and internal operation of the courts.

Internal operation referred to in paragraph 1 of this Article shall include the tasks of court administration and administrative and technical duties, as well as the use of judicial information system.

Judicial information system shall represent a single electronic system for case management in which the data from the records kept by the courts shall be entered, stored and transmitted.

The organization and the manner of internal operation of the courts shall be regulated by the Court Rules passed by the public administration body responsible for judicial affairs (hereinafter: the Ministry), with prior opinion of the Judicial Council.

Framework Criteria

Article 29

The required number of judges and civil servants and state employees shall be determined according to the framework criteria for work, which are prescribed by the Ministry, at the proposal of the Judicial Council.

2. The Court President

Management

Article 30

The work of the court shall be managed by the court president.

The court president shall organize the work of the court, allocate tasks and take measures for the orderly and timely execution of tasks of the court.

The court president whose office expired with the expiry of the time period for which he / she was appointed shall continue to perform his / her duties with all the rights and obligations of the court president until the appointment of a new president, but no longer than six months.

The court president shall be replaced by a judge determined through the annual work distribution of the court. Judge replacing the court president in the case of his / her absence or inability to work shall be determined through the annual work distribution by the court president (hereinafter: deputy court president).

3. Work Distribution of Court

Determining Annual Work Distribution

Article 31

The annual work distribution of the court shall be determined by the court president, not later than 15 January for the current year.

In the process of determining the proposal for annual work distribution of the court, the court president shall:

1) Take into account an equal distribution of duties in the court and specialization of judges;

2) Enable each judge to state his / her view of the proposal.

Through the annual work distribution, the court president shall designate a person authorized for public relations.

The proposal for the annual work distribution of the court shall be considered by a session of judges.

The court president shall provide a written declaration on the proposal of a judge or session of judges in relation to the proposed annual work distribution of the court that he / she did not accept, within eight days of the submission of the proposal.

Judges or the session of judges may inform the president of the immediately higher court on disagreement with the annual work distribution of the court.

Amending Annual Work Distribution

Article 32

The court president may amend the annual work distribution of the court, if:

1) The number of positions for judges or the number of judges decreases or increases; or

2) The number or type of cases in court significantly increases or decreases.

The annual work distribution of the court shall be amended so that it disrupts the already established annual work distribution of the court as little as possible.

The annual work distribution of the court shall be amended in accordance with Article 31 of the present Law.

Submission and Publication of Annual Work Distribution

Article 33

The court president shall submit an annual work distribution and amendments thereto to all judges and shall publish it on the bulletin board of the court.

4. Random Allocation of Cases

Allocation of Cases

Article 34

Cases shall be allocated to work without delay, according to the annual work distribution, through the method of random allocation of cases.

In accordance with paragraph 1 of this Article, the following cases shall also be allocated to other judges:

1) Cases that were assigned to a judge who does not perform a judicial office in that court any longer; and

2) Cases that were taken away in accordance with Article 36 of the present Law.

Method of Random Allocation of Cases

Article 35

Once the basic information about a case is entered into the judicial information system, in a manner that is more closely regulated by the Court Rules, cases shall be allocated to judges through the method of random allocation of cases.

Taking Away an Allocated Case

Article 36

An allocated case shall be taken away from a judge or panel only if it is determined that they unduly fail to take actions in the case, because of the recusal of a judge or if a judge is prevented from performing the judicial office for more than three months.

Cases whose urgent nature is prescribed by law may be taken away from a judge if the judge is not able to act in these cases in a timely manner or within the statutory period due to absence or incapacity for work.

The cases shall be taken away by the court president, through a decision.

The decision on taking a case away shall be submitted to the judge or the panel from which the case was taken away.

An objection may be lodged to the president of immediately higher court against the decision on taking the case away, as well as to the General Session of the Supreme Court against the decision of the Supreme Court, within three days of receipt of the decision.

The decision on the objection shall be made within two days of receipt of the objection.

The objection shall not stay the enforcement of the decision in detention cases.

If the objection is adopted, the case shall stay with the judge or panel from which it was taken away.

Right to Inspect a Court Case

Article 37

The court president shall have the right to inspect a case that is worked upon by a judge when there are objective circumstances indicating that the judge does not perform his / her duties in accordance with the law, on the basis of:

1) A petition by a party, relating to non-action or untimely action by a judge;

2) A request of the Protector of Human Rights and Freedoms of Montenegro;

3) A reason for initiating a procedure for establishing disciplinary liability;

4) A request for recusal of a judge;

5) A request to expedite the proceedings (request for review);

6) Taking away an allocated case.

In the cases referred to in paragraph 1 of this Article, the court president may require the judge to submit him / her with written information or a report on cases and reasons for which the cases have not been completed within the statutory deadline or reasonable time.

5. General Session, Session of Judges and Court Divisions

Work of the General Session of the Supreme Court

Article 38

The General Session of the Supreme Court shall be convened and chaired by the President of the Supreme Court, on his / her own initiative, at the proposal of the court division president or the proposal of the court requesting the adoption or amendment of a legal position of principle.

The General Session of the Supreme Court at which the proposal of candidates for the President of the Supreme Court is determined, or at which it is decided on submitting proposals for the termination of office, determining disciplinary responsibility and dismissal of the President of the Supreme Court, shall be convened and chaired by a Supreme Court judge who replaces the President of the Supreme Court.

The General Session of the Supreme Court shall make decisions if more than half of the judges of the Supreme Court are present, and shall make decisions by a majority vote of the total number of judges of the Supreme Court.

Notwithstanding paragraph 3 of this Article, the proposal of candidates for the President of the Supreme Court shall be determined by a two-thirds majority of the total number of judges of the Supreme Court, by secret ballot.

If no candidates referred to in paragraph 4 of this Article receive the required majority in the first ballot, the voting shall be repeated between the two candidates with the highest number of votes.

If in the repeated voting no candidates receive a two-thirds majority, the General Session of the Supreme Court shall conclude that the proposal of candidates for President of the Supreme Court has not been determined and shall notify the Judicial Council thereon.

The manner of work of the General Session of the Supreme Court shall be determined by the Rules of Procedure.

Session of Judges

Article 39

The session of judges shall consist of all the judges of the court.

The session of judges shall be convened and chaired by the court president.

The court president shall convene the session of judges at the request of a court division or at least one third of all the judges.

The session of judges shall work and decide if at least two thirds of all the judges of the court are present, and shall make decisions by a majority vote of all judges.

The manner of work of divisions and sessions of judges shall be regulated in more details by the Court Rules.

Scope of Work of Session of Judges

Article 40

The session of judges shall:

1) Consider the issues of application of the law if there is a difference in understanding between individual panels or judges of that court;

2) Propose the adoption or amendment of the legal position of principle;

3) Consider reports on the work of the court;

4) Consider issues of importance for the case-law, professional development and organization of work of the court;

5) Perform other tasks prescribed by the present Law.

In the courts in which court divisions have not been formed, the session of judges shall, in addition to duties prescribed by the present Law, perform the tasks of the session of divisions.

Court Divisions

Article 41

Depending on the number of judges, the volume and types of cases, court divisions may be established in courts, as follows:

1) In Basic Courts – civil, criminal and enforcement;

2) In High Court – civil and criminal;

3) In Commercial Court – division for commercial disputes, bankruptcy division, division for enforcement and security;

4) In Appellate Court – criminal and commercial;

5) In Administrative Court – administrative;

6) In Supreme Court – civil, criminal, administrative and the case-law division.

The case-law division may be formed in a court, as well as other divisions according to the needs of specialization for certain types of duties.

The court divisions shall be formed through an annual work distribution in the court, which determines the number, type and composition of the court divisions.

Composition and Scope of Work of Court Divisions

Article 42

The court division shall consist of judges and panels, who are assigned with cases in accordance with the annual work distribution of the court.

Through the annual work distribution of the court, the court president shall designate one or more judges to monitor and study the case-law, if the performance of these tasks was not assigned to a case-law division.

Sessions of divisions shall be convened and chaired by the division president, designated through the annual work distribution of the court.

The court division shall consider legal matters within its scope of work, take legal views on matters within its jurisdiction and perform other duties prescribed by the present Law.

The court division shall work and decide if at least two thirds of all judges of the division are present, and shall make decisions by a majority vote of all judges of the division.

6. Court Days and Records of Case-Law

Court Days

Article 43

The judicial office shall be performed in the seat of the court.

The judicial office may also be performed out of the seat of the court (court days), with a view to faster and more efficient procedure and determination.

Records of Case-Law

Article 44

Records of case-law shall be kept in courts.

The manner of keeping the records of case-law and publishing the decisions shall be prescribed by the Court Rules.

7. Court Administration

Court Administration Duties

Article 45

Court administration shall include activities that ensure the proper and timely work and functioning of the court, in particular the following: the internal work distribution of the court, the allocation of lay judges, tasks related to expert witnesses and permanent court interpreters, consideration of complaints and petitions, management of judicial information system, keeping the prescribed records and reports, the work of the clerk's office and archives, financial and material operations, handling deposits and certification of documents to be used abroad.

Report on Work

Article 46

The court president shall submit a report on the work of the court to the Judicial Council and the Ministry, at the latest by 10 February of the current year for the previous year, publishing the report on the website of the court within the same deadline.

At the request of the Judicial Council, the court president shall provide special or periodic reports, within a period determined by the Judicial Council.

Courts shall submit special reports that are required for reporting to the European Union and international organizations, as well as to monitor the application of the regulations.

The court president shall be responsible for accuracy of data in the reports.

Court Files

Article 47

A court file shall present a set of acts related to judicial proceedings in a certain case, included in the list of files.

Labelling of court files should be uniform for all courts of a certain type and degree in Montenegro.

The manner of labelling, keeping and safeguarding the court files shall be regulated by the Court Rules.

Restoring Files

Article 48

If the case files have been totally or partially lost, destroyed or damaged so that they can no longer be used, the procedure for restoring the files shall be initiated.

Restoration of the case files shall be conducted according to the rules of noncontentious proceedings, by applying the provisions governing the annulment of documents in non-contentious proceedings.

The procedure for restoring case files shall be initiated by the court ex officio when the files relate to the proceedings which have not been completed by a final and enforceable decision.

If the proceedings to which the case files are related have been completed by a final and enforceable decision, the procedure for restoring the case files shall be initiated by a party or other person who has a legal interest to have the case files restored.

The procedure referred to in paragraph 4 of this Article may not be initiated after the expiry of the time period set for keeping the files in the archives.

The procedure for restoring the case files shall be conducted by an individual judge or the presiding judge of the panel who conducted the first-instance proceedings to which these case files are related, and if that judge is no longer a judge of that court, the court president shall designate a judge who shall conduct the procedure for restoring the case files.

The procedure for restoring the case files shall be governed by the rules of evidence prescribed by the rules of such judicial proceedings as were conducted in the case whose files need to be restored, but at all times the court shall have the power to, for the purpose of restoring the case files, use the transcripts of the files in possession of the parties, the court or third persons, the data from the registers and statements of witnesses, expert witnesses and other participants in the proceedings whose files are being restored.

When restoring the case files of pending proceedings, the court shall endeavour to restore all the files, and when restoring the files of a case which was completed by a final and enforceable decision, the court shall limit itself to the files that are of considerable significance to the proceedings and legal interests of parties or other persons.

Supervision over Court Administration

Article 49

The supervision over the exercise of duties of the court administration shall be exercised by the Ministry.

In conducting supervision, the Ministry may not take actions that influence decisionmaking by the court in court cases.

Inspection Supervision

Article 50

Through the judicial inspectors, the Ministry shall conduct inspection supervision in the courts in relation to the organization of work in the courts in accordance with the present law, as well as over the implementation of the Court Rules in relation to the court administration, particularly with regard to:

1) Random allocation of cases;

2) Work of the clerk's office and archives;

3) Keeping prescribed official records;

4) Other tasks related to proper work and functioning of the court administration.

Judicial Inspector

Article 51

Those persons meeting the requirements for a judge of the Administrative Court may be appointed as the judicial inspector.

Conducting Inspection Supervision

Article 52

Inspection supervision shall be conducted in accordance with the annual plan of supervision, issued by the Minister responsible for judicial affairs (hereinafter: the Minister of Justice), by the end of the calendar year for the following year (regular inspection supervision).

The annual plan of supervision shall also include the courts in which, according to the results of the supervision conducted during a calendar year, it is necessary to repeat supervision in the following calendar year (control inspection supervision).

The annual plan of supervision shall be submitted to the courts in which the supervision will be conducted, no later than 31 January of the current year.

Extraordinary inspection supervision in a court shall be ordered by the decision of the Minister of Justice, at the proposal of the President of the Supreme Court, the president of the immediately higher court or the President of the Judicial Council.

The decision on extraordinary inspection supervision shall be submitted to the court in which the supervision is to be conducted, no later than one day before the start of the supervision.

The Ministry shall conduct inspection supervision on the basis of complaints and petitions by citizens that are related to duties of court administration.

Conducting Supervision

Article 53

Inspection supervision shall be conducted through direct inspection of documentation, data and the manner of work in the court, or by inspecting the submitted documentation and data of the court.

The court president shall enable unobstructed conduct of inspection supervision in the court, or submit the requested documentation and data.

Statement

Article 54

A statement shall be made on conducted inspection supervision, which contains information on established facts, irregularities and measures to be taken to eliminate the established irregularities and the deadlines for taking such measures.

The statement on inspection supervision shall be submitted to the court president.

If the inspection supervision establishes irregularities, the president of the court in which the inspection supervision was conducted may comment on the statement in writing, no later than eight days of receipt.

The statement on conducted inspection supervision and the comment of the court president in the case referred to in paragraph 3 of this Article shall be submitted to the president of immediately higher court, the President of the Supreme Court and the Judicial Council.

The court president shall eliminate the established irregularities in the work of court administration, within the deadlines specified in the statement on conducted inspection supervision.

The court president shall inform the Ministry, the president of immediately higher court, the President of the Supreme Court and the Judicial Council on the measures taken under paragraph 5 of this Article.

8. Internal Organization and Jobs Classification

Staff

Article 55

The required number of advisers, other civil servants and state employees in courts shall be determined by the act on internal organization and jobs classification, in accordance with the framework criteria referred to in Article 29 of the present Law.

The act on internal organization and jobs classification shall be passed by the court president, with the consent of the Government of Montenegro and the prior opinion of the Judicial Council, the Ministry and the competent authorities, in accordance with the law governing the rights and obligations of civil servants and state employees.

Secretary

Article 56

The Supreme Court shall have a secretary who shall assist the President of the Supreme Court in performing the tasks of court administration.

A court with at least ten judges shall have a court secretary who shall assist the court president in performing the tasks of court administration.

A secretary shall meet the conditions determined for advisers in that court.

Advisers

Article 57

A person who meets the general requirements for employment in state authorities, completed the law faculty – level VII1 of education qualifications, passed the bar exam and meets the special conditions laid down by the act on internal organization and jobs classification may be an adviser.

Advisers shall assist the judge in his / her work, make draft decisions and perform other specialized tasks prescribed by law or regulations adopted on the basis of the law, either independently or under the supervision of and on the instructions of the judge.

Head of Clerk's Office

Article 58

A person who meets the general requirements for employment in state authorities, completed the law faculty – level VI of education qualifications and meets the special conditions laid down by the act on internal organization and jobs classification may be a head of the clerk's office.

Professional Assistance

Article 59

If necessary, for the purpose of professional assistance in the work of the court, the court president may engage a judge whose office has expired due to meeting the requirements for old age retirement.

The person referred to in paragraph 1 of this Article shall be entitled to compensation in the amount determined by the court president, up to 80% of average gross salary in Montenegro in the previous year.

Trainees

Article 60

A person who completed the law faculty – level VII1 of education qualifications and meets the general requirements for employment in state authorities may be a trainee in court.

A separate law shall apply to special conditions and the procedure of employment, duration of traineeship and training during traineeship.

Application of other Laws

Article 61

The commencement and termination of employment of advisers, other civil servants and state employees in court, their salaries and other rights, obligations and responsibilities, conditions of employment and conditions for taking the professional exam shall be governed by regulations laying down the rights, obligations and responsibilities of civil servants and state employees, unless the present Law provides otherwise.

IV. RELATIONS BETWEEN COURTS, COURTS AND OTHER BODIES AND COURTS AND THE PARTIES

Relations between Courts

Article 62

At a request of the higher instance court, a court shall submit data and information to the higher instance court, and shall enable it to directly inspect the work of the court, with a view to monitoring and studying the case-law and controlling the work of courts.

At a session of a court division of immediately higher court, issues of common interest for lower instance courts from the territory of that court shall also be considered.

Respect for Dignity of Parties

Article 63

Court employees shall treat with respect all parties to judicial proceedings and other citizens who are in the court building or are present when certain actions are taken in the course of judicial proceedings.

If a court employee violates dignity of persons referred to in paragraph 1 of this Article, these persons shall be entitled to address the court president through a written petition.

Right to Inspect Files

Article 64

The court shall enable the parties and their representatives to inspect, transcribe and copy court files immediately after a request to that effect has been submitted and not later than three days.

A party or any other person who has been denied the right to inspect files shall be entitled to address the court president by way of a written petition and the court president shall decide that the files be made available for inspection within the time limit referred to in paragraph 1 of this Article.

The rules concerning the inspection of court files, the costs of transcribing and copying of files as well as the duties of the court employees shall be prescribed by the Court Rules.

Relations of Court with the Public

Article 65

The information on the work of the court shall be given by the court president, person referred to in Article 31, paragraph 3 of the present Law or another person designated by the court president.

The information shall be given in accordance with the present Law, Court Rules and the law governing free access to information.

The information that could affect the conduct of court proceedings may not be disclosed to the public.

A special service for public relations may be established in courts for the purpose of informing the public.

Judicial Robe

Article 66

Judges shall adjudicate while wearing a judicial robe.

The appearance and rules of wearing the judicial robe shall be determined by the Court Rules.

Relations between Court and the Parties

Article 67

The relations between the court and the parties shall be regulated in more details by the Court Rules.

V. SECURITY TASKS

Organizing Security Tasks

Article 68

Tasks of securing persons, property and facilities of the courts shall include the prevention of illegal acts directed against persons, facilities and property of courts, maintaining order, prevention of bringing in cold weapons and firearms, explosive devices and other dangerous items or substances, as well as the destruction or dispossession of property.

The tasks referred to in paragraph 1 of this Article shall be performed by court employees working on security tasks or by legal persons authorized to perform the duties of protection and security.

In the Supreme Court, a service for tasks of judicial security may be formed for all courts.

Conditions for Performing Security Tasks

Article 69

The tasks of providing security in courts may be exercised by a person who, in addition to the general conditions prescribed for work in state authorities, meets the following conditions:

1) Having level III or IV of education qualifications and meeting the requirements for possession and carrying of weapons in accordance with the law governing weapons;

2) Having completed a training programme for performing the duties of protection;

3) Not being convicted, in the year preceding the year in which the employment relationship is established, for a violation of public order with elements of violence that is

punishable by imprisonment, an offence prescribed by the law governing weapons or an offence prescribed by the law governing the protection of persons and property;

4) Non-existence of other circumstances that indicate abuse or unlawful exercise of protection duties (frequent or excessive alcohol or psychoactive substances consumption, behaviour prone to conflicts or incidents).

Prior verification of fulfilment of the conditions referred to in paragraph 1 of this Article shall be performed by the administration body competent for police affairs and, if necessary, in cooperation with the National Security Agency, with the consent of the person who is being assessed.

Security Tasks and Powers

Article 70

Security tasks shall be performed through the use of means of coercion, as follows: physical strength, batons, mechanical restraints, chemical agents and firearms (pistols).

In performing security tasks, the person performing security tasks shall be authorized to:

1) Establish the identity of persons entering and leaving the court;

2) Search the persons entering and leaving the court, as well as their belongings;

3) Issue warnings or orders;

4) Prohibit from entering the persons carrying cold weapons or firearms, or for whom there is reasonable suspicion that they are bringing in dangerous substances, with the exception of officers coming to court to perform working orders, who need weapons or other dangerous items in order to perform the tasks entrusted to them;

5) Keep the person caught in committing a criminal offence until surrendering him / her to administration body responsible for police affairs;

6) Remove from court persons obstructing the work of the court;

7) Perform other tasks, i.e. implement orders of the court president in relation to providing security of persons, property and facilities of the court.

Security tasks and powers referred to in paragraph 1 and 2 of this Article shall be performed in accordance with the law governing the protection of persons and property.

Procurement of Weapons

Article 71

If the tasks of security are performed by a security officer referred to in Article 69 of the present Law, the permit for procurement of weapons for that person shall be obtained by the court, in accordance with the provisions of the law governing weapons, which are related to the issuance of permits for procurement of weapons to legal entities.

The maintenance, keeping and recording of weapons procured in accordance with paragraph 1 of this Article shall be governed by the provisions of the regulations governing the maintenance, keeping and recording of weapons.

Official Identity Card and Uniform

Article 72

Security officers referred to in Article 69 of the present Law shall have an official identity card issued by the court, as well as an official uniform.

The manner of issuance and the form of official identity card and the appearance of uniform referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Joint Security

Article 73

In the case when courts are located in the same building, and when courts and public prosecution offices are located in the same building, the joint performance of the tasks of securing persons, property and facilities referred to in Article 68, paragraph 1 of the present Law may be organized.

VI. FINANCING THE WORK OF COURTS AND FINANCIAL-MATERIAL OPERATION OF THE COURT

Funds for Work of Courts

Article 74

The funds for work of the courts shall be provided in the section of the Budget of Montenegro intended for courts, as a special programme for each court individually.

The Judicial Council shall submit a proposal for the section of the Budget referred to in paragraph 1 of this Article to the Government of Montenegro.

Financial Principal in Court

Article 75

The court president shall be the financial principal in the court.

Court Deposit

Article 76

The following shall be kept in the court deposit: cash, valuables, securities, savings and deposit books, identification documents, other items on the basis of a special order of the court (hereinafter: money and items).

The manner of receiving, keeping, handling, issuing and proceeding with money and items referred to in paragraph 1 of this Article in case when the time limit has expired shall be governed by the Court Rules.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 77

Framework criteria referred to in Article 29 of the present Law shall be adopted within 15 days of the date of entry into force of the present Law.

Article 78

The Judicial Council shall, in accordance with the law, make a decision on the number of judges in courts within 15 days of the adoption of the framework criteria referred to in Article 77 of the present Law.

Article 79

Acts on internal organization and jobs classification of Misdemeanour Courts and the High Misdemeanour Court shall be adopted within 30 days of the appointment of the President of the Misdemeanour Court, i.e. the President of the High Misdemeanour Court.

Article 80

Acts on internal organization and jobs classification of the Commercial Court of Montenegro, the High Court in Bijelo Polje and the High Court in Podgorica shall be adopted within 30 days from the date of adoption of the decision on the number of judges referred to in Article 78 of the present Law.

Article 81

Public competition for the appointment of judges in the Misdemeanour Courts and the High Misdemeanour Court shall be announced no later than 15 days from the date of adoption of the decision referred to in Article 78 of the present Law.

Article 82

A person may be appointed as a judge or President of a Misdemeanour Court or judge or President of the High Misdemeanour Court, who shall be appointed by 1 January 2016, if he / she, in addition to the general requirements for employment in state authorities, meets the following conditions:

1) In a Misdemeanour Court – completed law faculty – level VII1 of education qualifications, passed bar examination and having four years of experience on legal affairs, of which the minimum of two years after having passed the bar examination;

2) In the High Misdemeanour Court – completed law faculty – level VII1 of education qualifications, passed bar examination and having seven years of experience on legal affairs, of which the minimum of four years after having passed the bar examination.

Article 83

The appointment of the president and judges referred to in Article 82 of the present Law shall be conducted under the provisions of the Law on Judicial Council (Official Gazette of Montenegro 13/08, 39/11, 31/12, 46/13 and 51/13), which relate to the appointment of judges of the Basic Courts.

Notwithstanding paragraph 1 of this Article, in case of candidates who have already performed the functions of a president and judges of the regional misdemeanour bodies, or judges and a president of the Misdemeanour Council, the appointment shall be done by applying the criteria referred to in Article 32a of the Law on Judicial Council (Official Gazette of Montenegro 13/08, 39/11, 31/12, 46/13 and 51/13), and the assessment of practical test, which consists in drafting a decision within the jurisdiction of the Misdemeanour Court.

Evaluation of candidates referred to in paragraph 2 of this Article shall be conducted as follows: candidates referred to in paragraph 2 of this Article may achieve a total of 100 points, based on: the knowledge acquired – up to 20 points, the ability to perform judicial functions -30 points, worthiness to perform judicial functions -20 points and on the basis of practical work -30 points.

Notwithstanding paragraph 2 of this Article, judges and presidents of Misdemeanour Courts, i.e. the judges and presidents of the Misdemeanour Council that used to perform the function of a judge of a regular court shall not take the practical test.

The candidates referred to in paragraph 4 of this Article shall be evaluated in accordance with paragraph 3 of this Article, but the working experience will be awarded points instead of the practical test.

Article 84

On the day of the appointment, in accordance with Article 82 and 83 of the present Law, of the court president and one-half of the judges of the total number of positions for judges in the Misdemeanour Court or its division, which is established by the decision on the number of judges referred to in Article 78 of the present Law, the office of misdemeanour judges and presidents of regional misdemeanour bodies appointed in accordance with the Law on Misdemeanours (Official Gazette of Montenegro 1/11, 39/11 and 32/14) shall expire.

On the day of the appointment, in accordance with Article 82 and 83 of the present Law, of the court president and one-half of the judges of the total number of positions for judges in the High Misdemeanour Court, which is established by the decision on the number of judges referred to in Article 78 of the present Law, the office of misdemeanour judges and of the president of the Misdemeanour Council appointed in accordance with the Law on Misdemeanours (Official Gazette of Montenegro 1/11, 39/11 and 32/14) shall expire.

Judges and presidents of regional misdemeanour bodies, i.e. judges and presidents of the Misdemeanour Council whose offices expire in terms of paragraph 1 and 2 of this Article shall be entitled to salary prescribed by Article 23 of the Law on Salaries of Civil Servants and State Employees (Official Gazette of Montenegro 14/12), for a period of one year following the termination of office.

Article 85

Until the commencement of the application of the law that will regulate salaries in the public sector, judges and presidents of Misdemeanour Courts shall be entitled to a salary in the amount of 80% of salary of judges and presidents of the Basic Courts, established by the Law on Salaries and other Incomes of Judges and Prosecutors (Official Gazette of the Republic of Montenegro 36/07).

Until the commencement of the application of the law that will regulate salaries in the public sector, judges and the President of the High Misdemeanour Court shall be entitled to a salary in the amount of 100% of salary of judges and presidents of the Basic Courts, established by the Law on Salaries and other Incomes of Judges and Prosecutors (Official Gazette of the Republic of Montenegro 36/07).

Article 86

Misdemeanour Courts, or the High Misdemeanour Court, shall take over cases that are processed before regional misdemeanour bodies, or the Misdemeanour Council, within 15 days of the appointment of court presidents and judges in Misdemeanour Courts or the court president and judges in the High Misdemeanour Court, in accordance with Article 84 paragraph 1 and 2 of the present Law.

If, in a particular Misdemeanour Court or division, the adequate number of judges was not appointed in accordance with Article 84, paragraph 1 of the present Law, the cases that are processed by regional misdemeanour bodies shall continue to be processed by the regional misdemeanour bodies having territorial and subject-matter jurisdiction, until the appointment of the necessary number of judges in Misdemeanour Courts or divisions.

If, in the High Misdemeanour Court, the adequate number of judges was not appointed in accordance with Article 84, paragraph 2 of the present Law, the cases that are processed by the Misdemeanour Council, as well as the cases within the jurisdiction of the Misdemeanour Council, shall continue to be processed by the Misdemeanour Council, until the appointment of the necessary number of judges in the High Misdemeanour Court.

Article 87

Civil servants and state employees who are employed in regional misdemeanour bodies or the Misdemeanour Council shall be taken over by the Misdemeanour Courts or the High Misdemeanour Court, which shall, in accordance with the prescribed jurisdiction, take over misdemeanour proceedings, and shall have the status of employees in that court until the assignment to a position in accordance with the act on internal organization and jobs classification of those courts.

Civil servants or state employees who are not assigned to a position in accordance with paragraph 1 of this Article because there are no vacant positions for which they meet the requirements shall be placed on disposal and shall exercise the rights and obligations on this basis, in accordance with the regulations on civil servants and state employees.

Article 88

On the date of appointment of the president and judges of Misdemeanour Courts in accordance with Article 82, 83 and 84 of the present Law, the Misdemeanour Courts shall take over the equipment and premises of regional misdemeanour bodies, in accordance with territorial and subject-matter jurisdiction prescribed by Article 9 of the present Law, as well as the identified needs of these courts.

On the date of appointment of the court president and judges of the High Misdemeanour Court in accordance with Article 82, 83 and 84 of the present Law, the High Misdemeanour Court shall take over the equipment and premises of the Misdemeanour Council.

Article 89

The Judicial Council shall make a decision on transferring the judges of the Commercial Court in Bijelo Polje to vacant positions for judges in other courts within 30 days from the date of adoption of the decision on the number of judges referred to in Article 78 of the present Law.

Article 90

Civil servants and state employees who are employed at the Commercial Court in Bijelo Polje shall be taken over by the Commercial Court of Montenegro, and they shall have the status of employees in that court until the assignment to a position in accordance with the act on internal organization and jobs classification of the Commercial Court of Montenegro.

Civil servants and state employees who are not assigned to a position in accordance with paragraph 1 of this Article because there are no vacant positions for which they meet the requirements shall be placed on disposal and shall exercise the rights and obligations on this basis, in accordance with the regulations on civil servants and state employees.

Article 91

Cases that were processed by the Commercial Court in Bijelo Polje until the date of entry into force of the present Law shall be taken over by the Commercial Court of Montenegro, within 30 days from the date of entry into force of the present Law.

Article 92

Premises and equipment of the Commercial Court in Bijelo Polje shall be taken over by the Basic Court in Bijelo Polje and the High Court in Bijelo Polje, in accordance with the identified needs of these courts.

Article 93

The cases received in the Basic Courts up to the date of entry into force of the present Law shall be completed by the courts having jurisdiction under previous legislation, until the final and enforceable termination of the proceedings.

Article 94

The cases received in the Special Division of the High Court in Bijelo Polje up to the date of entry into force of the present Law shall be completed by this Division, until the adoption of the first instance decision.

If, after the entry into force of the present Law, the first instance decision referred to in paragraph 1 of this Article is repealed, such cases shall be referred to the Special Division of the High Court in Podgorica.

Article 95

The tasks of securing persons, property and facilities in accordance with Articles 68 to 73 of the present Law shall begin to be performed from 1 July 2015.

Article 96

By-laws in accordance with the present Law shall be passed within six months from the date of entry into force of the present Law.

Article 97

The provision of Article 99, paragraph 3 and 4 of the Law on Courts (Official Gazette of the Republic of Montenegro 5/02 and 49/04 and Official Gazette of Montenegro 22/08, 39/11 and 46/13) shall be implemented by the commencement of application of the law which will regulate salaries in the public sector.

Article 98

On the day of entry into force of the present Law, the Law on Courts (Official Gazette of the Republic of Montenegro 5/02 and 49/04 and Official Gazette of Montenegro 22/08,

39/11 and 46/13) shall be repealed, with the exception of provisions of Articles 31 and 32, which shall be repealed on 1 January 2016.

Article 99

The present Law shall enter into force on the eighth day of its publication in the Official Gazette of Montenegro.

No: 23-1/14-18/17 EPA 696 XXV Podgorica, 26 February 2015

THE 25TH PARLIAMENT OF MONTENEGRO

SPEAKER

Ranko Krivokapić