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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

MONTENEGRO

DRAFT LAW

**ON THE AMENDMENTS TO THE LAW ON MINORITY RIGHTS AND
FREEDOMS**

Table of Contents

I. DRAFT LAW ON AMENDMENTS TO THE LAW ON MINORITY RIGHTS AND FREEDOMS	3
II. STATEMENT OF REASONS	7
III. THE LAW ON MINORITY RIGHTS AND FREEDOMS (CONSOLIDATED VERSION) ...	10

I. DRAFT LAW ON AMENDMENTS TO THE LAW ON MINORITY RIGHTS AND FREEDOMS

Article 1

In the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07 and Official Gazette of Montenegro 2/11 and 31/17), the words „in local public media “shall be added in Article 11 paragraph 3 after the words „using language”.

Article 2

Words „or a local self-government unit “shall be added in Article 12 paragraph 3 after the words: „whose founder is Montenegro “.

The word „once “in paragraph 4 shall be replaced with words „two times”.

Article 3

After the word „communities “in Article 13 paragraph 6, a full stop shall be inserted, while the words „with which they live together “shall be deleted.

Article 4

In Article 18 paragraph 2 shall be amended to read:

“The director of a school institution established by Montenegro or a local self-government unit with instruction in the language and alphabet of minority nations and other minority national communities who fulfils the conditions from paragraph 1 of this Article shall be elected in accordance with the law”.

Article 5

In Article 22, at the end of paragraph 2, the full stop shall be replaced with a comma, and the words “according to the principle of proportionate representation” shall be added.

Paragraph 3 shall be amended to read:

„Minority nations and other minority national communities and their members may, in order to exercise common interests, co-operate with governmental and non-governmental establishments, associations, organizations and academic communities in the country and abroad, in line with the law”.

Article 6

In Article 25 paragraph 1, after the words „authorities of state administration”, a comma shall be inserted and the words „and local government “shall be replaced with the words: „local self-government bodies and local administration bodies, in line with the law.”

Article 7

In Article 26 paragraph 1 the words „and bodies of local self-government units “shall be added after the words „state authorities”.

Article 8

In Article 28 paragraph 1, the words „local self-government shall be obliged to “shall be replaced with the words “local self-government unit shall be obliged to respect the principle of proportionate representation”.

Article 9

In Article 29 paragraph 2 indent 3 shall be amended to read:

- “issues pertaining to the preservation of language, culture and national identity of minority nations and other minority national communities”

After indent 3 a new indent shall be added to read:

- issues pertaining to preservation of economic status and welfare of citizens in the local self-government units where minority nations and other minority national communities make the majority or at least 5% of the population”.

Article 10

In Article 33 paragraph 5 shall be amended to read:

„A council of minority nation and other minority national community shall comprise the members by function: members of Parliament and members of the Government from among the respective minority nation and other minority national community, presidents of municipalities, mayor of the Capital of Podgorica, mayor of the Historic Capital Cetinje, presidents of municipality assemblies, president of the municipal assembly of the Capital of Podgorica, president of the municipal assembly of the Historic Capital of Cetinje, presidents of parties represented in the Parliament, municipality assemblies, municipal assembly of the Capital of Podgorica, municipal assembly of the Historic Capital of Cetinje from among the respective minority nation and other minority national community.”

Article 11

In Article 33a paragraph 2, the words: „31 January “shall be replaced with the words: „20 February”.

Article 12

In Article 36d paragraph 1 indent 1, the word „performing “shall be replaced with the word „exercising”.¹

Article 13

In Article 36 dž paragraph 3 shall be amended to read:

“a persons who has at least VII1 level of education qualifications and at least eight years of work experience, out of which two years on managerial tasks in the area of minority rights and freedoms or at least VI level of education qualification and at least eight years of work experience, out of which three years on managerial tasks in the area of minority rights and freedoms may be elected Director of the Fund”.

¹ Amendment is linguistical and it seems to be relevant only in Montenegrin language (translator's comment)

Article 14

In Article 36đ paragraph 1 indent 9 shall be deleted.
Former indent 10 shall become indent 9.

Article 15

In Article 36h, at the end of the paragraph 1, full stop shall be replaced by a comma and the following words shall be added: „at latest by 31 March in the year in which allocation of funds is done”.

Article 16

In Article 36i paragraph 5, after the words „and other minority national communities “, full stop shall be deleted and the words „and presidents of the councils “shall be added.

In paragraph 6, the words „two projects or one project in the amount of “shall be replaced with the words „two projects, i.e. one project in the amount of at most”.

Article 17

In Article 36k paragraph 1 the words „VII1 level “shall be replaced with the words „at least VI level”, while the words „or evaluating” shall be replaced with the words „and evaluating”.

Article 18

In Article 36lj paragraph 1 indent 2, the words „to perform the function as a member of the project evaluation commission “shall be replaced with the words „to exercise the function of a member of the project evaluation commission”².

After indent 2, a new indent shall be added to read:

- „if he/she misconducts “.

Current indent 3 shall become indent 4.

Article 19

In Article 38 paragraph 1, the word „development “shall be replaced with the word „promotion”.

Article 20

After Article 44č, two new articles shall be added to read:

² Amendment is linguistical and it seems to be relevant only in Montenegrin language (translator's comment)

„Article 44c

Director of the Fund elected in line with the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07 and Official Gazette of Montenegro 2/11 and 31/17) shall continue working by the end of his/her term of office.

Article 44 d

Members of the Evaluation Commission elected in line with the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07) and Official Gazette of Montenegro 2/11 and 31/17) shall continue working by the end of their term of office.

Article 21

This Law shall come into force on the eighth day after being published in the Official Gazette of Montenegro.

II. STATEMENT OF REASONS

A. CONSTITUTIONAL BASIS FOR ADOPTION OF THE LAW

Constitutional basis for adoption of this law is contained in Article 16 paragraph 1 item 2 of the Constitution of Montenegro which stipulates that the law, in line with the Constitution, shall regulate the manner of exercising special minority rights.

B. REASONS FOR ADOPTION OF THIS LAW

Law on Minority Rights and Freedoms was adopted in 2006, with a view to regulating the field of special – minority rights and freedoms. In the meantime, the important circumstances related to social changes and the change of the state-legal status of Montenegro caused adoption of the new constitutional enactment and listing of special rights and freedoms of minority nations and other minority national communities and their members (Article 79 and 80 of the Constitution of Montenegro).

Before the Constitution of Montenegro came into effect, the decision of the Constitutional Court of Montenegro U.br. 53/06 of 11 July 2006 repealed the provisions of Articles 23 and 24 of the Law, with the reasoning that those provisions violated the principle of equality in exercising minority rights and freedoms, and the principle of equality in exercising voting right as one of the fundamental human rights and freedoms. The latest novelties of the election legislation regulated this field in a separate law, just like some other fields are regulated in special laws.

Amendments to the Law on Minority Rights and Freedoms were done three times: in 2007, 2011 and 2017.

The key reasons for adoption of this Law stem from the need to intervene in the field of institutional support to exercising minority rights and freedoms, promotion of exercising minority rights on the local level, improving cooperation of minority nations and other minority national communities with government and non-government associations, organizations and institutions and academic communities in the country and abroad, compliance with the principle of proportionate representation, preservation of culture and economic status and welfare of citizens in the communities with a significant number of inhabitants who are members of minority nations and other minority national communities, amount of funds to finance councils of minority nations and other minority national communities, and improving distribution of funds by the Fund for Protection and Exercise of Minority Rights.

In the process of drafting the text of this Law, recommendations of the Venice Commission were taken into account.

C. iii. ALIGNMENT WITH THE EU ACQUIS COMMUNAUTAIRE AND RATIFIED INTERNATIONAL CONVENTIONS

Proposed Law on Amendments to the Law on Minority Rights and Freedoms is aligned with the ratified international treaties and other documents adopted under the auspices of the United Nations and the Council of Europe, and in particular with the following:

- Universal Declaration on Human Rights (1948)
- International Covenant on Civic and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- International Convention on Elimination of All Forms of Racial Discrimination (1965)

- European Convention on the Protection of Human Rights and Fundamental Freedoms (1950) and Protocol 12 to the Convention (2000)
- Framework Convention for Protection of National Minorities (1995)
- European Charter on Regional or Minority Languages (1992)
- Convention on Elimination of All forms of Racial Discrimination (1965)
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)
- International Covenant on Economic, Social and Cultural Rights (1966)

The principles that provide the basis for this Law aim at implementing the principle of non-discrimination enshrined in Article 21 of the European Union Charter on Fundamental Rights which prohibits every form of discrimination based on gender, race, colour of skin, ethnic or social origin, genetic features, language, confession or belief, political or any other opinion, belonging to a national minority, material status, birth, disability, age or sexual orientation.

D. EXPLANATION OF BASIC LEGAL INSTITUTES

Article 1 of the Proposal of this Law stipulates that the official use of the language of minority nation or other minority national communities implies, inter alia, the use in local public media in the local self-government units where members of minority nations and other minority national communities make majority or at least 5% of population, according to the results of the two latest consecutive censuses.

Article 2 of the Proposal of this Law stipulates that the relevant administrative and programme bodies of the media, except for the media founded by Montenegro and media founded by the local self-government unit, shall ensure appropriate number of hours for broadcasting information, cultural, educational, sports and entertainment programme in the languages of minority nations and other minority national communities and their members, as well as programme contents that refer to the life, tradition and culture of minority nations and other minority national communities and ensure funds for financing such programme contents. In addition to this, this Article stipulates that the contents that refer to the life, culture and identity of minority nations and other minority national communities are broadcast at least two times a month, in the official language, through public broadcasters.

Article 5 of the Proposal of this Law stipulates that minority nations and other minority national communities and their members have the right to manifest their interest, to participate effectively in exercising power and public control of authorities according to the principle of proportionate representation.

Article 7 of the Proposal of this Law stipulates that minority nations and other minority national communities and their members have the right to participate in the process of rendering and proposing decisions, inter alia, the decisions of the bodies of the local self-government units, that are of interest for exercising the rights of minority nations and other minority national communities, in line with the law.

Article 8 of the Proposal of this Law stipulates that, in the local self-government units where the majority or at least 5% of the population belongs to the minority nations and other minority national communities, local self-government unit is obliged to respect the principle of proportionate representation, within the plan and programme for effective participation of the local population in exercising public tasks or by adopting special plan and programme, through the council of the respective minority nations and other minority national communities, and thus provide conditions for participation of minority nations and other minority national communities in adopting the programme of development of the municipality, spatial and zoning plans, budget and general enactments establishing the rights and duties of citizens and to regulate the manner and procedure for participation of minority nations and other minority

national communities in exercising public tasks and determine the body to implement public consultations on such and other enactments.

Article 9 of the Proposal of this Law stipulates that harmonization of opinions, in terms of Article 29 paragraph 1 of the current law, refers, inter alia, to the issues related to preservation of the language, culture and national identity of minority nations and other minority national communities, as well as to the issues related to preservation of economic status and welfare of citizens in the local self-government units where members of minority nations and other minority national communities make the majority or at least 5% of the population.

Article 11 of the Proposal of this Law extends the deadline for the Councils of minority nations or other minority national communities to file the report referred to in Article 33 a paragraph 1 of the current law.

Article 13 of the Proposal of this Law aligns the requirements for election of the Director of the Fund with the provisions of the current Law on Civil Servants and State Employees.

Article 15 of the Proposal of this Law stipulates the deadline for publishing Public Advertisement for allocation of funds for financing projects for support to the activities referred to in Article 36 paragraph 1 of the current Law.

Article 16 of the Proposal of this Law stipulates that, apart from the Council of minority nations and other minority national communities as the legal entity, presidents of the Council do not have the right to participate in the public advertisement for allocation of funds referred to in Article 36i paragraph 1 indent 2 of the current law.

Article 17 of the Proposal of this Law stipulates that a person with VI level of education qualification can be elected to be a member of the Evaluation Commission, instead of a person with VII1 level of education qualification, as stipulated in the current law.

Article 18 of the Proposal of this Law stipulates that a member of the Evaluation Commission can be dismissed before the end of the term of office, inter alia, in case of misconduct.

Article 21 of the Proposal of this Law stipulates that this Law shall come into effect on the eighth day after its publication in the Official Gazette of Montenegro.

E. ASSESSMENT OF FUNDS FOR IMPLEMENTATION OF THE LAW

Additional funds from the Budget of Montenegro for financing councils of minority nations and other minority national communities are required for implementation of the Law on Amendments to the Law on Minority Rights and Freedoms.

III. THE LAW ON MINORITY RIGHTS AND FREEDOMS³ (CONSOLIDATED VERSION)⁴

(Official Gazette of the Republic of Montenegro, No. 031/06 of 12.05.2006, 051/06 of 04.08.2006, 038/07 of 22.06.2007, Official Gazette of Montenegro, No. 002/11 of 12.01.2011, 008/11 of 04.02.2011, 031/17 of 05/12/2017)

1. BASIC PROVISIONS

Article 1

Montenegro, in accordance with the Constitution, ratified and published international treaties and generally accepted rules of international law, shall ensure to minority nations and other minority national communities and their members, the protection of human rights and freedoms guaranteed to all citizens, as well as protection of particular minority rights and freedoms.

Article 2

Minority nations and other minority national communities, for the purpose of the present Law, shall mean any group of citizens of Montenegro, numerically smaller than the rest of predominant population, having common ethnic, religious or linguistic characteristics, different from those of the rest of the population, being historically tied to Montenegro and motivated by the wish to express and maintain their national, ethnic, cultural, linguistic and religious identity.

Article 3

Members of minority nations and other minority national communities can exercise their rights and enjoy freedoms individually or in community with others.

Article 4

Members of minority nations and other minority national communities are equal to other citizens and enjoy equal legal protection.

Any violation of the rights of minority nations and other minority national communities is unlawful and punishable.

³ The text in colour shows the draft amendments integrated to the version of the Law which is currently in force.

⁴ Consolidated text of the Law on Minority Rights and Freedoms includes the following regulations:

1. The Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro, No. 031/06 of 12.05.2006),
2. The Decision of the Constitutional Court of the Republic of Montenegro U no. 53/06, of 11 July 2006, with a dissenting opinion (Official Gazette of the Republic of Montenegro, No. 051/06 of 04.08.2006),
3. The Law on Amendments to the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro, No. 038/07 of 22.06.2007),
4. The Law on Amendments to the Law on Minority Rights and Freedoms (Official Gazette of Montenegro, No. 002/11 of 12.01.2011),
5. The Correction of the Law on Amendments to the Law on Minority Rights and Freedoms (Official Gazette of Montenegro, No. 008/11 of 04.02.2011),
6. The Law on Amendments to the Law on Minority Rights and Freedoms (Official Gazette of Montenegro, No. 031/17 dated 12.05.2017), in which the date of its entry into force is indicated.

Article 5

In addition to rights provided for by the generally accepted international rules and ratified international treaties, the present Law shall ensure to minority nations and other minority national communities and their members the full exercise of rights, which may not be reduced with respect to the level of already achieved rights, under equal terms and with a view to provide their substantial equality with other citizens.

Article 6

Montenegro shall conclude international agreements for the protection of rights of members of minority nations and other minority national communities with other states.

When concluding international agreements referred to in paragraph 1 of this Article, Montenegro shall stand for the creation and promotion of conditions necessary for the preservation, development and protection of national, ethnic, cultural, linguistic and religious identity.

Article 7

The Government of Montenegro (hereinafter referred to as: the Government) shall adopt the Strategy on Minority Nations and Other Minority National Communities Policy.

With a view of providing conditions for unhindered enjoyment and cultivation of national and ethnic specificities of minority nations and other minority national communities and their members, state authorities shall have a duty to undertake appropriate measures, in accordance with the Strategy on Minority Nations and Other Minority National Communities Policy.

The Strategy referred to in paragraph 1 of this Article shall, in particular, define measures for implementation of the present Law and improvement of living conditions of minority nations and other minority national communities and promotion of measures and activities.

Article 7a

Expressions used in the present Law for natural persons in masculine gender include the same expressions in feminine gender.

2. RIGHTS AND FREEDOMS OF MINORITY NATIONS AND OTHER MINORITY NATIONAL COMMUNITIES AND THEIR MEMBERS

Article 8

Minority nations and other minority national communities and their members shall have the right to express, preserve, develop, transmit and publicly manifest their national, ethnic, cultural, religious and linguistic identity, as a part of their tradition.

Montenegro shall be developing and promoting the study of history, tradition, language and culture of minority nations and other minority national communities.

In accordance with the present Law and accepted international commitments, the competent authorities shall provide for the protection of the cultural heritage of minority nations and other minority national communities and their members.

Article 8a

In order to promote and protect minority rights, encourage preservation, development and expression of culture of minority nations and other national minority communities in

Montenegro and to encourage the spirit of tolerance and multicultural dialogue and mutual respect and understanding, the Government shall establish a public institution, in a manner and under conditions prescribed by the law governing cultural institutions.

Supervision over the work of the institution referred to in paragraph 1 of this Article shall be performed by the authority of state administration responsible for human and minority rights (hereinafter referred to as: the Ministry).

Article 9

With a view to preserve and develop national or ethnic identity, minority nations and other minority national communities and their members shall have the right to establish institutions, societies, associations and non-governmental organizations in all areas of social life.

Also, Montenegro shall take part in financing organizations referred to in paragraph 1 of this Article, in accordance with financial possibilities.

Article 10

Members of minority nations and other minority national communities shall have the right to national determination in a free and independent manner, the right on free choice and use of their personal and family names and of names of their children, as well as the right to enter those names in public registers and personal documents in their own language and alphabet.

The right to a name and registration of the name in the language and alphabet of minority nations and other minority national communities can also be exercised by organizations referred to in Article 9 of the present Law.

Article 11

Minority nations and other minority national communities and their members shall have the right to use their own language and alphabet.

In the local self-government units, in which members of minority nations and other minority national communities constitute a majority or at least 5% of the population, according to the results of the last two consecutive censuses, also the language of that minority nation and other minority national community shall be in official use.

The official use of the language of minority nations and other minority national communities, for the purpose of paragraph 2 of this Article, shall particularly imply the following: use of the language **in local public media**, in administrative and court proceedings and in conducting administrative and court proceedings, at issuance of public documents and keeping official records, on ballot papers and other electoral material as well as in the work of representative bodies.

Within the territory of the local self-government units referred to in paragraph 2 of this Article, the names of authorities performing public powers, the name of the local self-government unit, the names of settlements, squares and streets, institutions, businesses and other entities and the topographical indications shall also be written in the language and alphabet of minority nations and other minority national communities.

Article 12

Minority nations and other minority national communities and their members shall be provided with the freedom of information at the level of the standards that are set forth in international documents on human rights and freedoms.

Members of minority nations and other minority national communities shall have the right to freely establish media and unhindered work based on: freedom of expression of opinions, research, collection, dissemination, publication and reception of information, free

access to all sources of information, protection of personality and dignity of human being and free flow of information.

Competent administrative and programmatic authorities of the media established by Montenegro or a local self-government unit shall provide an appropriate number of hours for broadcasting news, cultural, educational, sports and entertainment programmes in the languages of minority nations and other minority national communities and their members, as well as programme contents related to life, tradition and culture of minorities and shall provide the financial means for funding those programme contents.

The programme contents which refer to life, culture and identity of minority nations and other minority national communities shall be broadcasted at least once two times a month in the official language, through the public services.

Montenegro can, in accordance with its financial possibilities, provide translation (subtitling) of programmes from languages of minority nations and other minority national communities into the official language.

The Government can also undertake incentive measures to provide for broadcasting of programmes referred to in paragraph 3 of this Article within other radio and television programmes.

Article 13

Minority nations and other minority national communities and their members shall have the right to education in their own language and to adequate representation of their own language in general and vocational education, depending on the number of pupils and financial possibilities of Montenegro.

The rights referred to in paragraph 1 of this Article shall be exercised at all levels of education.

The rights referred to in paragraph 1 of this article shall be exercised through special schools or special classes in regular schools.

Instruction shall be fully performed in the language of minority nations and other minority national communities.

When instruction is performed in the language of minority nations and other minority national communities, the official language and alphabet shall be studied compulsory.

Pupils and students who do not belong to minority nations and other minority national communities can learn the language of minority nations and other minority national communities. ~~with which they live together.~~

Article 14

Classes with instruction on the language and alphabet of minority nations and other minority national communities can also be established for a smaller number of pupils than prescribed for work of such an institution, and which cannot be less than 50% of the number of pupils envisaged by the law.

Article 15

The subject curricula for the purpose of education referred to in Article 13, paragraph 1 of the present Law shall contain topics in the areas of history, art, literature, tradition and culture of minority nations and other minority national communities.

Before adopting the subject curricula, which reflect specificities of minority nations and other minority national communities, a council of respective minority nation and other national minority community shall provide opinion to the competent authority in charge for the adoption of the curricula for the subjects concerned.

The education curricula in the institutions and schools in which instruction is performed in the official language, shall contain topics covering mother tongue and literature, history, art

and culture of minority nations and other minority national communities and other contents that promote mutual tolerance and cohabitation.

Within the territories where also the language of minority nations and other minority national communities is in the official use, the education curricula of the institutions in the official language can also provide for a possibility of learning the language of minority nations and other minority national communities.

Article 16

For purposes of education in the language of respective minority nations and other minority national communities referred to in Article 13, paragraph 1 of the present Law, within higher education can be established departments, faculties or institutes so to educate pre-school, primary school and secondary school teachers in the language of that minority nations and other minority national communities.

In order to have an effective participation of minority nations and other minority national communities, Montenegro can foster international educational, scientific and technical co-operation with a view to enable members of minorities to study abroad in their mother tongue and to recognize diplomas that way obtained, in accordance with the law.

Article 17

Minority nations and other minority national communities and their members shall have the right to establish educational institutions.

Financing of the institutions referred to in paragraph 1 of this Article shall be the obligation of the founder.

Article 18

Educational work in a school institution or in a special class of regular school with instruction in the language of minority nations and other minority national communities shall be delivered by teachers belonging to the respective minority nation and other minority national communities who have active knowledge of the language of minority nations and other minority national communities, or teachers not belonging to the respective minority nations and other minority national communities provided that they have active knowledge of the language and alphabet of those minority nations and other minority national communities.

~~The director of a school institution established by Montenegro or municipality with instruction in the language and alphabet of minority nations and other minority national communities who fulfils the conditions from paragraph 1 of this Article shall be elected in accordance with the law.~~

The director of a school institution established by Montenegro or a local self-government unit with instruction in the language and alphabet of minority nations and other minority national communities who fulfils the conditions from paragraph 1 of this Article shall be elected in accordance with the law.

Competent authority of the state administration, prior to election of the person referred to in paragraph 2 of this Article, shall be obliged to obtain the opinion from a council of respective minority nation and other minority national communities.

Article 19

For the purpose of the full enjoyment of minority rights, the higher education institutions in Montenegro, at the proposal of a Council of minority nations and other minority national communities, can enrol at the beginning of each academic year a certain number of students, members of minority nations and other minority national communities, in accordance with their acts.

Article 20

Minority nations and other minority national communities and their members shall have the right to use their national symbols, in accordance with the law.

Article 21

Minority nations and other minority national communities and their members shall have the right to celebrate important dates, events and personalities from their tradition and history.

Article 22

Members of minority nations and other minority national communities shall have the right to free association, in accordance with the law and principles of international law on freedom of association.

Minority nations and other minority national communities and their members shall have the right to expression of their interests, effective participation in governance and in public control of governance, **according to the principle of proportionate representation.**

~~Minority nations and other minority national communities and their members may, in order to exercise common interests, co-operate with governmental and non-governmental organizations in the country and abroad.~~

Minority nations and other minority national communities and their members may, in order to exercise common interests, co-operate with governmental and non-governmental establishments, associations, organizations and academic communities in the country and abroad, in line with the law.

Article 22a

Authentic representation of minority nation whose language is in official use in Montenegro and of other minority national communities in the Parliament of Montenegro (hereinafter referred to as: the Parliament) and the assemblies of the local self-government units where they constitute a significant part of the population, is provided according to the principle of affirmative action, in accordance with electoral legislation.

Article 23

Deleted. (The Decision of the Constitutional Court of the Republic of Montenegro U no. 53/06, of 11 July 2006, with a dissenting opinion, Official Gazette of the Republic of Montenegro, No. 051/06 of 04.08.2006)

Article 24

Deleted. (The Decision of the Constitutional Court of the Republic of Montenegro U no. 53/06, of 11 July 2006, with a dissenting opinion, Official Gazette of the Republic of Montenegro, No. 051/06 of 04.08.2006).

Article 25

Minority nations and other minority national communities shall have the right to proportional representation in public services, authorities of state administration, ~~and local government~~ local self-government bodies and local administration bodies, in line with the law.

Competent authorities in charge of human resources, in co-operation with the councils of minority nations and other minority national communities, shall take care of the

representation of members of minority nations and other minority national communities in the sense of paragraph 1 of this Article.

Article 26

Minority nations and other minority national communities and their members shall have the right to participate in the process of adopting and proposing decisions of state authorities and bodies of local self-government units that are of interest for exercising the rights of minority nations and other minority national communities, in accordance with the law. Participation referred to in paragraph 1 of this Article shall comprise consultations, opinion polls, dialogue and special procedures undertaken by those who are directly concerned by the respective decision.

Article 27

In the local self-government units referred to in Article 11, paragraph 2 of the present Law, a statute, decision or other general legal act adopted by the authorities of the local self-government units shall be written and published in the official language and in the language and alphabet of minority nations and other minority national communities.

Article 28

In the local self-government units in which minority nations and other minority national communities constitute either a majority or least 5% of the population, ~~the local self-government shall be obliged to~~ the local self-government unit shall be obliged to respect the principle of proportionate representation, within the plan and programmes for effective participation of the local population in performing public affairs or by delivering a special plan and programme, through the councils of the respective minority nations and other minority national communities, provide conditions for the participation of minority nations and other minority national communities in the adoption of a development programme of municipality, spatial and urban planning, budgets and general acts stipulating rights and obligations of citizens as well as regulate the manner and procedure for the participation of minority nations and other minority national communities in performing public affairs and to appoint an authority to conduct public debates related to these and other legal acts.

Article 29

Should Members of Parliament elected in accordance with the principle of affirmative action, and in accordance with the electoral legislation consider that a proposed act or regulation substantially interferes with interests of those minority nations and other minority national communities, the proponent and those Members of Parliament shall coordinate their stands thereon.

Coordination, in the sense of paragraph 1 of this Article, shall relate to:

- issues pertaining to changes in the ethnic composition of the population contrary to Article 39 paragraph 1 of the present Law;
- issues pertaining to content of educational curricula adopted without the opinion of a council of minority nations and other minority national communities;
- ~~- issues pertaining to the preservation of linguistic and national identity of minority nations and other minority national communities;~~
- issues pertaining to the preservation of language, culture and national identity of minority nations and other minority national communities;
- issues pertaining to preservation of economic status and welfare of citizens in the local self-government units where minority nations and other minority national communities make the majority or at least 5% of the population.

Article 30

The rights referred to in Articles 9, 12, 13 and 17 of the present Law shall be exercised in accordance with special regulations.

Article 31

Minority nations and other minority national communities and their members shall have the right to establish and maintain free and peaceful relations across borders with parent countries and with their compatriots residing in other countries, in particular those with which they share ethnic, cultural, linguistic and religious identity.

Article 32 Minority nations and other minority national communities and their members can receive material and financial assistance from domestic and foreign organizations, foundations and private persons. In case of financial or other material assistance to associations, institutions, societies and nongovernmental organizations of minority nations and other minority national communities received from abroad, the state can provide suitable tax or other reliefs or customs exemption, in accordance with the law.

Article 32

Minority nations and other minority national communities and their members can receive material and financial assistance from domestic and foreign organizations, foundations and private persons.

In case of financial or other material assistance to associations, institutions, societies and nongovernmental organizations of minority nations and other minority national communities received from abroad, the state can provide suitable tax or other reliefs or customs exemption, in accordance with the law.

Article 33

Minority nation and other minority national community and their members, in order to preserve their overall national identity and improve their rights and freedoms, can establish a council of that minority nation and other minority national community.

Minority nation and other minority national community shall establish only one council.

A council of minority nation and other minority national community shall be elected for a period of four years.

A council of minority nation and other minority national community shall be composed of at least 17 members.

~~A council of minority nation and other minority national community shall be composed of: the members by function: members of Parliament and members of the Government pertaining to the respective minority nation and other minority national community, presidents of municipalities, presidents of city municipalities, presidents of municipality assemblies, presidents of city municipality assemblies, presidents of parties represented in the Parliament, municipality assemblies, city municipality assemblies pertaining to the respective minority nation and other minority national community.~~

A council of minority nation and other minority national community shall comprise the members by function: members of Parliament and members of the Government from among the respective minority nation and other minority national community, presidents of municipalities, mayor of the Capital of Podgorica, mayor of the Historic Capital Cetinje, presidents of municipality assemblies, president of the municipal assembly of the Capital of Podgorica, president of the municipal assembly of the Historic Capital of Cetinje, presidents of parties represented in the Parliament, municipality assemblies, municipal assembly of the Capital of Podgorica, municipal

assembly of the Historic Capital of Cetinje from among the respective minority nation and other minority national community.

Persons referred to in paragraph 5 of this Article shall confirm their membership in the council of minority nation and other minority national community by the declaration on acceptance of the membership.

Other members of the council of minority nation and other minority national community shall be elected by secret ballot during the electoral assembly of the minority nation and other minority national community concerned.

The right to participate on electoral assembly belongs to every adult citizen – member of the respective minority nation and other minority national community.

Persons referred to in paragraph 5 of this Article shall not participate on the electoral assembly.

The Ministry shall pass the rules and instructions for the election of members of a council of minority nation and other minority national community.

The rules referred to in paragraph 10 of this Article include: the number of members of a council of minority nation and other minority national community, convening and manner of operation of an electoral assembly, as well as the method of election of members of a council of minority nation and other minority national community during the electoral assembly.

Members of a council of minority nation and other minority national community shall elect the president and the secretary of the council from amongst its members, by a secret ballot.

A council of minority nation and other minority national community shall adopt the budget, statute, annual work plan and rules of procedure regulating issues of significance for its work. The funds for financing a council of minority nation and other minority national community shall be provided in the budget of Montenegro, in the amount of at least 0.05% of the current budget.

Supervision over the legality of the work of a council of minority nation and other national minority community shall be conducted by the Ministry and the competent working body of the Parliament.

Article 33a

A council of minority nation and other minority national community is obliged to by 31 March of the current year for the previous year, submit to the competent working body of the Parliament a work report with a report on financial operations and report of independent auditor.

A council of minority nation and other minority national community is obliged to submit to the Ministry the report referred to in paragraph 1 of this Article, until **31 January 20 February** of the current year for the previous year, in order to obtain an opinion. The opinion of the Ministry referred to in paragraph 2 of this Article, shall be submitted to the competent working body of the Parliament enclosed to the reports referred to in paragraph 1 of this Article.

The work report referred to in the paragraph 1 of this Article shall contain the information on a council of minority nation and other minority national community, as well as the activities the council conducted with the goal to preserve overall national identity and promotion of freedoms and rights of minority nation and other minority national community and their members.

The report on financial operation referred to in paragraph 1 of this Article shall be drafted in compliance with the legislation governing the issues related to budget and fiscal responsibilities.

Detailed content of the work report referred to in paragraph 4 of this Article shall be prescribed by the Ministry.

Article 34

The Ministry shall keep the register of councils referred to in Article 33 of the present Law. Through the registration, a council shall acquire the status of a legal person.

The Ministry shall prescribe the form (data sheet) and manner of keeping the register. The decision on the registration of a council shall be published in the Official Gazette of Montenegro.

Article 35

A council: - represents and acts on behalf of minority nations and other minority national communities; - submits a proposal for promotion and development of the rights of minority nations and other minority national communities and their members to state authorities, local self-government authorities and public services; - submits an initiative to the President of Montenegro to refuse to promulgate a law which is violating the rights of minority nations and other minority national communities and their members; - participates in planning and establishing of educational institutions; - provides an opinion on the subject curricula which reflect specificities of minority nations and other minority national communities; - proposes the enrolment of a certain number of students at the institutions for higher education in Montenegro; - launches an initiative for the amendment of legislation and other acts that regulate rights of members of minority nations and other minority national communities; - performs other activities in accordance with the present Law.

In order to build mutual confidence, a necessary co-operation shall be established with the Council on issues which relate to the rights of minority nations and other minority national communities and their members falling within the competence of state authorities and public services.

State and other authorities shall, within 30 days as of the day of launching an initiative or request in the sense of paragraph 1 of this Article, inform the Council about the undertaken measures.

Article 35a

The mandate of a member of a council of minority nations or other national minority community shall be terminated before the expiry of the term for which the council was appointed: - if ceases the function based on which he became a member of the council of minority nation or other minority national community; - by dismissal, and - at personal request.

A member of a council of minority nation or other minority national community shall be dismissed: - if performing activities of a member of a council of minority nation or other minority national community in a negligent manner; - if permanently loses capacity for performing activities of a member of a council of minority nation or other minority national community; - if gets convicted to unconditional prison sentence or gets convicted for a criminal offence that makes him unworthy of performing activities of a member of a council of minority nation or other minority national community; and - if fails to excuse his absence from the session of the council for at least three times in a calendar year.

The council of minority nation or other national minority community shall decide on the dismissal of a member of the council in the cases referred to in paragraph 2 of this Article.

The notice on the termination of the function referred to paragraph 1 indent 1 of this Article and the request for termination of the function referred to in paragraph 1 indent 3 of this Article, a member of the council of minority nation or other national minority community shall submit to the council of minority nation or other national minority community which acknowledges the termination of the mandate.

The manner of establishment of the reasons for dismissal of a member of a council of minority nation or other national minority community shall be prescribed in detail by the Statute of the council.

3. THE FUND FOR PROTECTION AND EXERCISE OF MINORITY RIGHTS

Article 36

For the purpose of supporting the activities important for preservation and development of national, i.e., ethnic specificities of minority nations and other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity, the Parliament shall establish the Fund for protection and realisation of minority rights in these and other areas (hereinafter referred to as: the Fund).

The Fund shall have the status of a legal person. The founding act of the Fund shall prescribe in detail the competencies and manner of decision making of the Fund authorities, as well as other issues prescribed by the present Law.

Article 36a

The authorities of the Fund are the Management Board and the Director.

Article 36b

The Management Board is the authority that manages the Fund.

The Management Board of the Fund is composed of:

- three representatives of the Parliament,
- one representative of the Ministry;
- one representative of institutions of higher education in Montenegro;
- one representative per each council of minority nation or other minority national community;
- one independent expert dealing with human rights and minority rights; and
- one representative of the authority of state administration competent for media.

The members of the Management Board of the Fund are appointed for a term of four years and the same person may be appointed for a member of the Management Board at most for two consecutive times.

Members of the Management Board of the Fund are appointed and dismissed by the Parliament.

Article 36c

For a member of the Management Board of the Fund may be appointed a person who has three years of work experience in the area of minority rights and freedoms and experience in drafting, implementing or evaluating projects in the area of human rights and freedoms.

Article 36č

The members of the Management Board of the Fund shall be proposed by:

- the working body of the Parliament competent for election and appointment – the members of the Management Board referred to in Article 36b paragraph 2 ind. 1 and 5 of the present Law;
- the Ministry - the member of the Management Board referred to in Article 36b paragraph 2 indent 2 of the present Law;
- the Council for Higher Education - the member of the Management Board referred to in Article 36b paragraph 2 indent 3 of the present Law;
- the councils of minority nations or other minority national communities – the members of the Management Board referred to in Article 36b paragraph 2 indent 4 of the present Law;
- the authority of state administration competent for media – the member of the Management body referred to in Article 36b paragraph 2 indent 6 of the present Law;

The member of the Management Board referred to in Article 36b paragraph 2 indent 5 of the present Law shall be appointed based on a public call, which is administered by the proposing body referred to in paragraph 1 indent 1 of this Article.

The content and the manner of announcing the public call referred to in the paragraph 2 of this Article, as well as the manner of procedure for determining candidates shall be prescribed by the act referred to in Article 36 paragraph 3 of the present Law.

Article 36c

The Management Board of the Fund:

- adopts the Statute of the Fund;
- adopts working programs and plans of the Fund;
- elects the Director of the Fund;
- adopts the report on the financial operations and the balance sheet of the Fund;
- adopts the annual work report of the Fund;
- decides about announcing a public competition for the allocation of project funds to support the activities referred to in Article 36, paragraph 1 of the present Law;
- acts as the second instance authority for appeals against decisions of the Director of the Fund;
- adopts the act on internal organization and systematization of the Fund;
- adopts the rules of procedure for the Management Board of the Fund;
- decides on other issues in accordance with the law and the founding act of the Fund.

The Management Board may make decisions provided that more than a half of the members of the Managing Board are attending the session of the Management Board.

The Management Board shall decide by majority of votes of all members.

Article 36d

A member of the Management Board of the Fund may be dismissed before the expiry of his mandate:

- if permanently loses working capacity for **performing-exercising** the function of a member of the Management Board;
- if gets convicted to unconditional prison sentence or gets convicted for a criminal offence or other offence that makes him unworthy of performing the function; and
- at personal request. In case of the dismissal of a member of the Management Board of the Fund referred to in paragraph 1 of this Article, the proposers referred to in Article 36c paragraph 1 of the present Law whose representative has been dismissed, shall propose a new representative for a member of the Management Board in the manner prescribed by the present Law.

The manner of establishing the reasons for a dismissal of a member of the Management Board of the Fund and of informing the Parliament about those reasons shall be stipulated by the act referred to in Article 35a paragraph 3 of the present Law.

Article 36dž

The Director of the Fund shall be appointed by the Managing Board based on a public competition.

The Director of the Fund shall be appointed for a term of four years and the same person may be appointed for a Director of the Fund at most for two consecutive times.

~~For the Director of the Fund may be appointed a persons who have VIII level of education qualifications and three years of work experience in the area of minority rights and freedoms and experience in drafting, implementing and evaluating projects in the area of minority rights and freedoms.~~

A persons who has at least VII1 level of education qualifications and at least eight years of work experience, out of which two years on managerial tasks in the area of minority rights and freedoms or at least VI level of education qualification and at least eight years of work experience, out of which three years on managerial tasks in the area of minority rights and freedoms may be elected Director of the Fund”.

Article 36d

The Director of the Fund:

- represents the Fund and organizes the work and operations of the Fund;
- executes decisions of the Management Board of the Fund;
- proposes the statute of the Fund, work program and plan of the Fund, the act on internal organization and systematization and other acts of the Fund;
- submits the report on financial operations and balance sheet of the Fund to the Management Board of the Fund;
- is responsible for the operations and legality of work of the Fund;
- makes decision on the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of the present Law;
- provides for regular professional training in monitoring and evaluation of projects in duration of at least five days annually for the employees in the service of the Fund;
- carries out monitoring and evaluation of the approved projects to support the activities referred to in Article 36 paragraph 1 of the present Law;
- **submits to the Management Board of the Fund the annual report on the work of the Fund, monitoring and evaluation of the approved projects to support the activities referred to in Article 36 paragraph 1 of the present Law;**
- conducts public opinion surveys about the work of the Fund and on the needed activities relevant for the preservation and development of national or ethnic specifics of minority nations and other minority national communities and their members; and
- performs other tasks prescribed by the statute and the founding act of the Fund.

Article 36e

The Members of the Management Board of the Fund and the Director of the Fund may not be engaged in implementation of the projects to support the activities referred to in Article 36, paragraph 1 of the present Law, funded from the budget of the Fund.

Article 36f

The Statute of the Fund shall regulate in detail the organization and manner of work of the Fund.

The Statute of the Fund shall be the subject of the consent of the Parliament.

Article 36g

The Fund shall be financed from the budget of Montenegro and other sources in accordance with the law.

From the Budget of Montenegro for the purposes referred to in paragraph 1 of this Article shall be allocated at least 0.15% of the current budget.

Article 36h

The public competition for the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law, shall be announced by the Fund, **at latest by 31 March in the year in which allocation of funds is done.**

Public competition referred to in paragraph 1 of this Article shall be announced on the website of the Fund and in at least one printed media based in Montenegro.

Participants of the public competition may submit the projects to support the activities referred to in Article 36 paragraph 1, to the Fund, either directly or by regular mail, within the deadline defined in the public competition.

The Fund shall submit the projects to the commission referred to in Article 36J of the present Law, within eight days as of the day of expiry of the deadline for the submission of the projects referred to in paragraph 1 of this Article.

Article 36i

The funds referred to in Article 36g of the present Law shall be distributed as follows:

- the funds for the work of the Fund in amount of 30%; and
- the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law, in amount of at least 70%.

The decision on distribution of the funds in compliance with paragraph 1 of this Article shall be brought by the Management Board of the Fund, based on the work program and plans of the Fund, with the previously provided opinion of the councils of minority nations or other minority national communities.

The funds referred to in paragraph 1 indent 2 of this Article shall be distributed based on the public competition referred to in Article 36h of the present Law according to the following criteria:

- preservation and development of national, religious, language and ethnic identity of every minority nation or minority national community;
- compatibility of the project with strategic documents of the Government;
- contribution of the project to intercultural cooperation and to reduction of the ethnic distance;
- promotion of the spirit of tolerance, intercultural dialogue and mutual respect and understanding;
- transparency and possibility to monitor the implementation of the project; and
- professional and technical capacities of the project applicant.

The right to participate at the public competition for the allocation of the funds referred to in paragraph 1 and 2 of this Article, belongs to non-governmental organizations, legal and natural persons whose work or activities are aimed at preservation and development of minority rights, national or ethnic particularities of minority nations or other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity.

The right to participate at the public competition for the allocation of the funds referred to in paragraph 1 and 2 of this Article does not belong to councils of minority nations and other minority national communities, **and presidents of the councils.**

At the public competition for the allocation of funds referred to in paragraph 1 item 2 of this Article, may not participate non-governmental organizations, legal and natural persons whose **two projects or one project in the amount of two projects, i.e. one project in the amount of at most** 5% of the total funds allocated for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law were financed during the calendar year by the decision of the Fund.

Non-governmental organizations, legal and natural persons referred to in paragraph 4 of this Article shall submit projects for the public competition referred to in Article 36h of the present Law, using the prescribed form together with required documentation proving the fulfilment of the criteria referred to in paragraph 3 of this Article and of prescribed conditions for the participation at the competition.

The evaluation of projects in accordance with the criteria referred to in paragraph 3 of this Article shall be made using the prescribed form.

The manner of evaluation of projects by the criteria referred to in paragraph 3 of this Article, as well as the layout and the content of the forms and required documentation referred to in para. 7 and 8 of this Article shall be prescribed by the Ministry.

Article 36j

To evaluate the projects submitted at the public competition for the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law, based on the criteria referred to in Article 36i paragraph 3 of the present Law, which meet the conditions for participating at the public competition referred to in Article 36i para. 4, 5 and 6 of the present Law, the Parliament shall appoint a commission (hereinafter referred to as the Project Evaluation Commission).

Project Evaluation Commission shall consist of seven members.

The members of the Project Evaluation Commission shall be appointed based on a public call, for a term of four years and the same person may be appointed for a member of the of the commission at most for two consecutive times.

The professional service of the Fund shall perform administrative and technical tasks for the Project Evaluation Commission.

Article 36k

For a member of the Project Evaluation Commission may be appointed a person who has ~~VIII level~~ at least VI level of education qualifications and at least three years of working experience in the area of minority rights and freedoms, as well as the experience in drafting, implementing ~~or evaluating~~ and evaluating projects in the area of human rights and freedoms.

A member of the Project Evaluation Commission may not be the person referred to in Article 36i paragraph 4 of the present Law, or a person who is:

- an employee or a volunteer in the Fund, i.e. non-governmental organization or legal person referred to in Article 36i paragraph 4 of the present Law;
- a person authorized for representation or a member of Management Board of the Fund, i.e. of management authority of non-governmental organization or other legal person referred to in Article 36i paragraph 4 of the present Law;
- in contractual relation with the Fund, i.e. non-governmental organization, legal or natural person referred to in Article 36i paragraph 4 of the present Law; or
- a member of a council of a minority nation or other minority national community or employee, i.e. volunteer in a council of a minority nation or other minority national community.

Article 36l

The call referred to in Article 36j paragraph 3 of the present Law shall be announced by the Parliament on its Internet page and in at least one printed media based in Montenegro.

The call referred to in Article 36j paragraph 3 of the present Law shall contain the number of representatives in the Project Evaluation Commission, conditions that candidates should meet in compliance with Article 36k of this Law and proves on compliance with conditions, as well as the deadline and manner of submission of applications.

Based on the call referred to in paragraph 1 of this Article, the candidates shall submit their applications to the Parliament either directly or by regular mail, within 15 days as of the day of announcement of the call.

The proposal for the election of candidates for the Project Evaluation Commission shall be determined by the working body of the Parliament competent for election and appointment.

Article 36lj

A member of the Project Evaluation Commission may be dismissed before the expiry of the mandate:

- if permanently loses working ability to perform the function of a member of the Project Evaluation Commission;
- if gets convicted to unconditional prison sentence or gets convicted for a criminal offence or other offence that makes him unworthy ~~to perform the function as a member of the Project Evaluation Commission~~ to exercise the function of a member of the project evaluation commission;

- if he/she misconducts and
- at personal request. A member of the Project Evaluation Commission shall be dismissed by the Parliament at the proposal of the working body of the Parliament competent for election and appointment.

Article 36m

The Project Evaluation Commission:

- determines whether the conditions referred to in Article 36i para. 4, 5 and 6 of the present Law have been met;
- performs the project evaluation according to the criteria referred to in Article 36i paragraph 3 of the present Law;
- determines a rank list of evaluated projects; and
- determines the proposal for allocation of funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law. Article 36n A member of the Project Evaluation Commission may not be engaged in the implementation of the supported projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

Article 36nj Based on the proposal referred to in Article 36m paragraph 1 indent 4 of the present Law, the Director of the Fund shall bring a decision on the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

The Director of the Fund may decide not to accept the proposal referred to in Article 36m paragraph 1 indent 4 of the present Law if he considers that the conditions referred to in Article 36i para. 4, 5 and 6 of the present Law have not been met or that project evaluation has not been made in compliance with the criteria referred to in Article 36i paragraph 3 of the present Law, and he shall submit the decision on that to the Project Evaluation Commission within eight days as of the day of delivering the decision.

The Project Evaluation Commission shall be obliged to re-consider its own proposal, taking in consideration the reasons the Director stated in his decision referred to in paragraph 2 of the present Law, and shall, within eight days as of the day of receipt of the decision, submit to the Director of the Fund a new proposal of the decision on the allocation of funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

The Director of the Fund shall be obliged to within eight days as of the day of receipt of the proposal referred to in paragraph 3 of this Article, deliver a decision on the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

Decisions referred to in para. 1 and 4 of this Article shall be published on the website of the Fund and in at least one of the printed media based in Montenegro, within three days as of the day of delivering the decision.

Article 36n

A member of the Project Evaluation Commission may not be engaged in the implementation of the supported projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

Article 36nj

Based on the proposal referred to in Article 36m paragraph 1 indent 4 of the present Law, the Director of the Fund shall bring a decision on the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

The Director of the Fund may decide not to accept the proposal referred to in Article 36m paragraph 1 indent 4 of the present Law if he considers that the conditions referred to in Article 36i para. 4, 5 and 6 of the present Law have not been met or that project evaluation has not been made in compliance with the criteria referred to in Article 36i paragraph 3 of the present Law, and he shall submit the decision on that to the Project Evaluation Commission within eight days as of the day of delivering the decision.

The Project Evaluation Commission shall be obliged to re-consider its own proposal, taking in consideration the reasons the Director stated in his decision referred to in paragraph 2 of the present Law, and shall, within eight days as of the day of receipt of the decision, submit to the Director of the Fund a new proposal of the decision on the allocation of funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

The Director of the Fund shall be obliged to within eight days as of the day of receipt of the proposal referred to in paragraph 3 of this Article, deliver a decision on the allocation of the funds for financing projects to support the activities referred to in Article 36 paragraph 1 of the present Law.

Decisions referred to in para. 1 and 4 of this Article shall be published on the website of the Fund and in at least one of the printed media based in Montenegro, within three days as of the day of delivering the decision.

Article 36o

On the decision referred to in Article 36nj para. 1 and 4 of the present Law, the participants of the competition may lodge a complaint to the Management Board of the Fund within eight days as of the day of receiving the decision.

The Management Board of the Fund shall be obliged to deliver the decision upon the complaint within 15 days as of the day of receipt of the complaint.

In delivering the decision referred to in paragraph 2 of this Article, may not participate a member of the Management Board of the Fund if he or members of his family directly participated at the public competition for allocation of the funds referred to in Article 36h of the present Law or if there are reasons which bring or may bring in question the objectivity or impartiality of a member of the Management Board of the Fund.

On the facts, i.e. reasons referred to in paragraph 3 of this Article, a member of the Management Board of the Fund shall be obliged to notify the President of the Management Board.

In case the Management Board establishes the existence of the reasons referred to in paragraph 3 of this Article, out of which the member of the Management Board of the Fund cannot participate in delivering the decision referred to in paragraph 2 of this Article, it shall deliver a decision on his exclusion.

Against the decision referred to in paragraph 2 of this Article, as well as in the case that the Management Board fails to deliver a decision within prescribed deadline, may be initiated an administrative dispute.

The decision referred to in paragraph 2 of this Article shall be published on the web site of the Fund and in at least one printed media based in Montenegro within three days as of the day of delivering the decision.

Article 36p

Professional and administrative work for the Fund shall be performed by the professional service of the Fund.

On the employees in the professional service of the Fund shall apply the regulations on civil servants and state employees.

Article 36r

In addition to the control of spending the budget funds as prescribed by the law, the Fund provides, through an authorized employee in its professional service, for the internal control and audit of both running and completed projects regarding purposeful and lawful use of the funds, in accordance with the law governing the area of finance.

Article 36s

The Fund shall submit the annual report on its work to the Parliament, no later than 31 March of the current year for the previous year.

The Parliament may request a special report on issues from the area of work of the Fund, if those are issues of importance for the exercise of minority rights and freedoms or for the implementation of minority rights policy in Montenegro.

4. PROTECTION OF RIGHTS

Article 37

The protection of rights of minority nations and other minority national communities shall be provided by the authorities of the state, i.e. local government and courts.

Article 38

The Ministry shall propose to the Government the policy for **development promotion** and protection of the rights of minority nations and other minority national communities. At least once a year, the Government shall submit to the Parliament a report on development and protection of the rights of minority nations and other minority national communities.

Article 39

Undertaking measures and activities to change the structure of the population on the territories where members of minority nations and other minority national communities live, and which are aimed at restricting legal rights and freedoms shall be prohibited.

Any direct or indirect discrimination on any ground, including race, colour, sex, national belonging, social origin, birth or similar status, religion, political or other orientation, material status, culture, language, age and mental or physical disability shall be prohibited.

a) MONITORING**Article 39a**

Monitoring over the implementation of the present Law and regulations delivered based on the present Law shall be performed by the Ministry.

5. TRANSITIONAL AND FINAL PROVISIONS**Article 40**

Laws and other regulations establishing the rights of minority nations and other minority national communities and their members shall be harmonized with the present Law within six months as of the day of entry into force of the present Law.

Article 41

The statute and other general acts of the local self-government authorities shall be harmonized with the present Law within six months as of the day of entry into force of the present Law.

Article 42

The Ministry shall adopt regulations for implementation of the present Law within six months as of the day of entry into force of the present Law.

Article 42a

Rules and guidelines for the election of council members shall be adopted within six months as of the day of entry into force of the present Law.

Article 42b

Councils established based on the Rules for the First Elections of Councils (Official Gazette of the Republic of Montenegro, no. 46/07) shall continue their work until the establishment of councils of minority nations and other minority national communities in accordance with the present Law.

Article 42c

The secondary legislation act referred to in Article 33a paragraph 6 of the present Law shall be adopted within 180 days, and the secondary legislation act referred to in Article 36j paragraph 9 of the present Law shall be adopted within 90 days as of the day of entry into force of the present Law.

Article 42č

The Decision on the Establishment of the Centre for Preservation and Development of Minority Culture (Official Gazette of the Republic of Montenegro, No. 38/01 and 27/07 and Official Gazette of Montenegro, Number 3/10) shall be harmonized with the present Law within 90 days as of the day of entry into force of the present Law.

Article 43

The Strategy on Minority Policy shall be adopted within one year as of the day of entry into force of the present Law.

Article 44

The Fund for Minority Nations and Other Minority National Communities shall be established within six months as of the day of entry into force of the present Law.

Article 44a

The Decision on the Establishment of the Fund for the Protection and Exercise of Minority Rights (Official Gazette of Montenegro, No. 13/08 and 64/11) shall be harmonized with the present Law within 90 days as of the day of entry into force of the present Law.

Article 44b

The election of the Management Board of the Fund, in compliance with the present Law, shall be performed within 90 days as of the day of harmonisation of the acts referred to in Article 44a of the present Law.

The election of the Director of the Fund, in compliance with the present Law, shall be performed within 90 days as of the day of the election of the Management Board.

Article 44c

A Management Board and a Director of the Fund which are elected before the entry into force of the present Law shall continue with the work until the election of the Management Board and the Director of the Fund in compliance with the present Law.

Article 44č

The members of the Project Evaluation Commission shall be appointed within 90 days as of the day of the election of the Management Board of the Fund.

Article 44ć

Director of the Fund elected in line with the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07 and Official Gazette of Montenegro 2/11 and 31/17) shall continue working by the end of his/her term of office.

Article 44 d

Members of the Evaluation Commission elected in line with the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07) and Official Gazette of Montenegro 2/11 and 31/17) shall continue working by the end of their term of office.

Article 45

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

This Law shall come into force on the eighth day after being published in the Official Gazette of Montenegro.