

In accordance with the Amendment LXXXII, item 1, para. 7 of the Constitution of the Republic of Montenegro, the Assembly of the Republic of Montenegro, at its session held on October 12, 1992, has passed

**THE DECISION
ON THE PROMULGATION OF THE CONSTITUTION OF THE REPUBLIC OF
MONTENEGRO**

The Constitution of the Republic of Montenegro having been adopted by the Assembly of the Republic of Montenegro at its session held on October 12, 1992 is hereby promulgated.

No. : 02-2893

In Podgorica, on this 12th day of October 1994

No authority shall be either established or re

Article 12.
LEGISLATURE

The law shall prescribe and regulate the following, in accordance with the Constitution:

1. Manner in which rights and freedoms shall be exercised if this is necessary for their exercise;
2. Manner of establishing, organising and competence of the state authorities and the procedure before the authorities if this is necessary for their proper functioning;
3. The system of the local self-government;
4. Other matter of interest for the Republic.

Article 13.
LIMITS OF FREEDOM

In Montenegro everything shall be deemed to be free if not prohibited by law.

Everyone is obliged to uphold the Constitution and the law.

Public officials must consciously and honestly perform their duties and shall be held responsible for their performance.

Section II
Freedoms and Rights

Article 14.
BASIC PROVISIONS

Freedoms and rights shall be exercised in accordance with the Constitution.

Article 15.
FREEDOM AND EQUALITY

All citizens are free and equal regardless of any particularities and/or other personal attributes.

Everyone shall be equal before the law.

Article 16.
INVIOABILITY

Freedoms and rights are inviolable.

Everyone is obliged to respect freedom and rights of other.

Everyone shall have the right to a healthy environment and shall be entitled to a timely and complete information on its state.

Everyone has the duty to preserve and promote the environment.

1. Personal Freedoms and Rights

Article 20.

PERSONAL INVIOLABILITY

Physical and psychological integrity of a man, his privacy and personal rights are inviolable. Dignity and safety of a man are inviolable.

Article 21.

CAPITAL PUNISHMENT

Human life is inviolable.

The capital punishment may be ruled and pronounced only for the most serious criminal offence.

Article 22.

DETENTION

Every person is entitled to personal freedom.

The seizure or detention must be understood by the arrested person to be an arrest, promptly and in his own language or in the language which he understands, and the reasons for the arrests must

Under a court decision the principle of inviolability of the privacy of mail and other means of communication may be put in abeyance if so required for purpose of criminal proceedings or for the defence of the Federal Republic of Yugoslavia.

Article 31.

PERSONAL DATA

Protection of secrecy of personal data shall be guaranteed.

The use of personal data for purposes other than those for which they were compiled shall be prohibited.

Everyone shall have the right of access to personal data concerning his own person and the right of judicial protection in case of their abuse.

2. Political Freedoms and Rights

Article 32.

VOTING RIGHT

Every citizen of Montenegro who has reached the age of 18 shall be entitled to vote and be elected to a public office.

The voting right is exercised at the elections.

The voting right is general and equal.

Elections shall be free and direct and voting shall be by a secret ballot.

Article 33.

INITIATIVE, REPRESENTATION AND PETITION

Every person shall be entitled to a free initiative, to submit representation, lodge a petition or a proposal to a state authority and shall be entitled to receive an answer thereto.

No person shall be held responsible and neither shall suffer any other detrimental consequences for opinions expressed and contained in the initiatives, representations, petitions or proposals, except in case the person in question has therethrough committed a criminal offence.

Article 34.

FREEDOM OF MAN

Freedom of belief and conscience shall be guaranteed.

Freedom of thought and public expression of opinion, freedom of confession, public or private profession of religion and freedom to express national affiliation, culture and the freedom to use one's own language and alphabet shall be guaranteed.

No person shall be obliged to declare his opinion, confession and national affiliation.

Article 35.

FREEDOM OF PRESS

Freedom of press and of other public information media shall be guaranteed.

Citizens shall have the right to express and publish their opinion in the public information media.

Publication of newspapers and public dissemination of information by other media shall be accessible to everyone without prior permission, subject to registration with the competent authority.

Radio and television broadcasting organisations shall be established in accordance with law.

Article 36.

RESPONSE, RECTIFICATION, COMPENSATION OF DAMAGES

CENSORSHIP OF PRESS

Citizens shall have the right to participate in regional and international non-governmental organisations.

Citizens shall have the right to address international institutions for purpose of protection of their freedoms and rights guaranteed under the Constitution.

3. Economic, Social and Cultural Freedoms and Rights

Article 45. PROPERTY

Property shall be inviolable.

No person shall be deprived of his property, nor may it be restricted except when so required by the public interest, as prescribed by law, subject to fair compensation which may not be below its market value.

Article 46. INHERITANCE

The right of inheritance shall be guaranteed.

Article 47. EARNING AND ENTREPRENEURSHIP

Freedom of earning and freedom of entrepreneurship shall be guaranteed.

All acts and activities creating or instigating monopoly and preventing market oriented economic activities shall be prohibited.

Article 48. RESTRICTION OF OWNERSHIP AND EARNING

The right to own property and the freedom of earning may be restricted by law, i.e. legal regulations with the force of law, for the duration of a state of emergency, in times of immediate threat of war or a state of war.

Article 49. TAXATION

All person shall be obliged to pay taxes and other dues.

Article 50. COPYRIGHT

Freedom of creation and publishing of scientific and works of art, scientific discoveries and technical innovations shall be guaranteed and their authors shall be entitled to moral and material rights.

Article 51. STATE OF EMERGENCY

Everyone shall be obliged to participate in prevention and elimination of the general state of emergency.

Article 52. RIGHT TO WORK

Everyone shall have the right to work, to a free choice of occupation and employment, to just and humane conditions of work and to protection during unemployment.

Forced labour shall be prohibited.

Article 53. RIGHTS OF WORK FORCE

All persons employed shall have the right to corresponding remunerations.

All persons employed shall have the right to limited working hours and a paid vacation.

All persons employed shall have the right to protection at work.

Youth, women and disabled persons shall enjoy special protection at work.

Article 54.

STRIKE

All persons employed shall have the right to a strike for protection of their professional and economic interests.

Persons employed in the state administration and professional members of the police force shall not have the right to strike.

Article 55.

SOCIAL SECURITY

Under a mandatory insurance scheme all persons employed shall provide for themselves and members of their families all forms of social security.

The state shall provide social welfare for citizens unable to work and without livelihood, as well as for citizens without the means of subsistence.

Article 56.

PROTECTION OF DISABLED PERSONS

Disabled persons shall be guaranteed social protection.

Article 57.

HEALTH CARE

Everyone shall be entitled to health care.

Children, expectant mothers and elderly persons shall be entitled to publicly financed health care, if they are not covered by another insurance program.

Article 58.

MARRIAGE

Marriage may be contracted only upon a free consent of both bride and groom.

Article 59.

FAMILY

Family shall enjoy special protection.

Parents shall be obliged to care for their children, for their up-bringing and education.

Children shall be obliged to care for their parents whenever they should be in need of care.

Article 60.

MOTHER AND CHILD

Mother and child shall enjoy special protection.

Children born out of wedlock shall have the same rights and obligations as children born in wedlock.

Article 61.

ABUSE OF CHILDREN

Abuse of children is prohibited.

Employment of children and minors on jobs hazardous for their health and development shall be prohibited.

Article 62.

EDUCATION

Everyone shall be entitled to education under equitable conditions.

Primary education shall be mandatory and free of tuition fees.

Article 63.

AUTONOMY OF UNIVERSITIES

The autonomy of universities, higher education institutions and scientific institutions shall be guaranteed.

Article 64.

LANGUAGE

Members of the national and ethnic groups shall be guaranteed the right to the use of their mother tongue in the proceedings before the state authorities.

Article 73.

REPRESENTATION

Members of the national and ethnic groups shall be guaranteed the right to a proportional representation in the public services, state authorities and in local self-government.

Article 74.

CONTACTS

Members of the national and ethnic groups shall have the right to establish and maintain free contacts with citizens outside of Montenegro with whom they are having a common national and ethnic origin, cultural and historical heritage and religious beliefs, but without any detriment for Montenegro.

RIGHT OF APPEAL

Members of the national and ethnic groups shall have the right to participate in the regional and international non-governmental organisations, and the right to address international institutions for purpose of protection of their freedoms and rights guaranteed by the Constitution.

Article 75.

EXERCISE OF RIGHTS

Special rights granted to members of the national and ethnic groups may not be exercised if they are in contradiction with the Constitution, principles of international law and principle of territorial integrity of Montenegro.

Article 76.

PROTECTION COUNCIL

Republican Council for Protection of Rights of National and Ethnic Groups shall be established in Montenegro, for purpose of preservation and protection of the national, ethnic, cultural, linguistic and religious identity of national and ethnic groups and for the exer3.9(e3.6(d)-6.3(ti)7. .8(onMto the

Term of office of the Assembly shall be four years.

In cases of the state of war the term of office of the Assembly shall be extended for as long as peace is not established.

At the proposal of not less than 25 deputies, Government or the President of the Republic, the Assembly may decide to shorten the term of office.

Article 79.
IMMUNITY

A deputy shall enjoy immunity.

A deputy shall not be called to account for an opinion expressed or a vote cast in the Assembly.

No deputy may be subject to criminal proceedings nor detained without prior approval of the Assembly.

A deputy may be detained without the approval of the Assembly if he should be apprehended during a criminal offence for which the penalty prescribed exceeds five years of prison sentence.

Article 83.

DECISION MAKING

The Assembly shall decide if the session is attended by more than one half of the total number of deputies, and the decision shall be made by a majority of votes of the deputies present, if not otherwise prescribed by the Constitution.

When the Assembly is deciding on the enactments regulating the manner in which the freedoms and rights are exercised, on the electoral system, on the material obligations of the citizens, on the state symbols, on the dismissal of the President of the Republic and on the vote of confidence

1. represent the Republic in the country and abroad;
2. promulgate laws by ordinance;
3. call elections for the Assembly;
4. propose to the Assembly candidates for the Prime Minister, president and justices of the Constitutional Court;
5. propose to the Assembly calling of a referendum;
6. grant amnesty for criminal offences prescribed by the republican law;
7. confer decoration and awards;
8. perform all other duties in accordance with the Constitution.

The President of the Republic shall be a member of the Supreme Defence Council.

Article 89.

PROMULGATION OF LAWS

President of the Republic shall promulgate a law by ordinance within seven days from the date of its adoption.

The President of the Republic may, within seven days from the date of adoption of a law, request the Assembly to decide again on the same law.

The President of the Republic shall be bound to promulgate a law passed for the second time by the Assembly.

Article 90.

PERFORMANCE OF DUTIES

In case of termination of the term of office of the President of the Republic, and until the election of the new President and in the case the President of the Republic is temporarily prevented to perform his functions, his duties shall be assumed by the President of the Assembly and in case the Assembly is dissolved, by the Prime Minister.

3. Government

Article 91.

COMPOSITION AND PRIME MINISTER

The Government is composed of the Prime Minister, one or more deputy prime ministers and ministers.

The Government shall be headed by the Prime Minister.

Article 92.

ELECTION

The candidate for the Prime Minister shall present to the Assembly his program and shall propose the list of ministers of his Government to the Assembly.

If the Assembly should not adopt the proposed program, the President of the Republic shall propose a new candidate for the Prime Minister within ten days.

Article 93.

INCOMPATIBILITY OF FUNCTION

A member of the government may not serve as a deputy or perform any other public function and neither may he professionally engage

4. propose development plan, budget and the annual balance sheet of the Republic;
5. determine organisation and manner of work of state administration;
- 6.

Courts of law shall rule on the basis of the Constitution and the law.

Article 101.

JUDICIAL COUNCIL

Courts of law shall adjudicate in a council, except in cases specified by law when a single judge shall rule.

JUDGES

Judicial functions shall be performed by the judge and jurors.

Article 102.

PUBLIC TRIALS

Trial before the court of law shall be public.

In exceptional cases only the court may decide that the public shall not be allowed to attend the trial or any part thereof.

Article 103.

PERMANENT FUNCTION

Judges shall have a life tenure.

A judge's tenure of office may be terminated at his own request or when he meets conditions for retirement, and if he should be sentenced to a prison sentence without the right of appeal.

A judge may be dismissed if he has been convicted of an offence making him unsuitable to perform judicial functions, or when he performs his judicial function unprofessionally and unconscientiously, or when he has permanently lost the working capacity for performing judicial function.

A judge may not be transferred against his will.

Article 104.

SUPREME COURT

The Supreme Court shall be deemed to the highest instance court of law in the Republic.

Article 105.

PUBLIC PROSECUTOR

Public Prosecutor shall perform the tasks of criminal prosecution, shall apply legal remedies for protection of constitutionality and legality and shall represent the Republic in property and legal matters.

COMPETENCE

Public Prosecutor shall perform his function on the basis of the Constitution and law.

TERM OF OFFICE

Public Prosecutor shall be elected for the term of office of five years.

Article 106.

INCOMPATIBILITY OF FUNCTION

Judges and the Public Prosecutor may not be delegates or perform any other public function and neither engage in any professional activity.

Section IV

Constitutionality and Legality

Article 107.

CONSTITUTIONALITY AND LEGALITY

The law must be in conformity with the Constitution, and all other regulations and enactments must be in conformity with the Constitution and law.

Article 108.

VACATIO LEGIS

Statutes, other laws and general enactments shall be published prior to coming into force.

Statutes, other laws and general enactments shall come into force on the eighth day from the day of publication.

Exceptionally, when justified reasons shall prevail as prescribed during their adoption, provision is made for the statutes, other laws and general enactments to come into force on the day of publication.

Article 109.

RETROACTIVE EFFECT

Statutes, other laws and general enactments may not have a retroactive effect.

Exceptionally, only certain provisions of statutes, if so required by the public interest, as prescribed when they were adopted, may have a retroactive effect.

Article 110.

LEGALITY OF INDIVIDUAL ENACTMENTS

The Court of law shall decide on the legality of particular enactments in an administrative suit, on the basis of which the state administration authorities and authorities with public authorisation are ruling on the rights and obligations, if for

Article 116.

DECISION

The Constitutional Court shall decide by a majority of vote of the justices.

The decision of the Constitutional Court shall be generally binding and final.

Decision of the Constitutional Court shall be published together with the opinion of justices who did not vote in favour of the decision.

Whenever necessary, execution of the decision of the Constitutional Court shall be enforced by the Government.

Section V

Amendments to the Constitution

Article 117.

COMING INTO FORCE

The present Constitution shall come into force with the day of its promulgation.