

Pursuant to Article 82 paragraph 1 item 1 and Article 156 paragraphs 1 and 6 of the Constitution of Montenegro, the Parliament of Montenegro – 25th Parliamentary Term, at the 12th sitting of the first ordinary (spring) session in 2013, held on 31 July 2013 adopted

AMENDMENTS I TO XVI TO THE CONSTITUTION OF MONTENEGRO

Amendments I to XVI make an integrated part of the Constitution of Montenegro and shall enter into force as of the day of their promulgation.

AMENDMENT I

No one may be punished for an act which, prior to being committed, was not stipulated by law or a regulation based on the law as a punishable act, or pronounced a punishment that was not stipulated for such act.

Criminal acts and criminal sanctions may be prescribed solely by a law.

This Amendment shall replace Article 33 of the Constitution of Montenegro.

AMENDMENT II

More lenient regulation

Criminal and other punishable acts shall be established and relevant penalties imposed in accordance with the law or regulation valid at the time when the act is committed, unless the new law or regulation is more lenient for the perpetrator.

This Amendment shall replace the title of Article 34 and Article 34 of the Constitution of Montenegro.

AMENDMENT III

13) elect and release from duty the judges of the Constitutional Court, Supreme State Prosecutor and four members of the Judicial Council out of reputable lawyers;

14) appoint and release from duty: the Protector of Human Rights and Liberties; the Governor of the Central Bank and members of the Council of the

Central Bank of Montenegro; president and members of the Senate of the State Audit Institution and other officials as defined by the law;

This amendment replaces items 13 and 14 of Article 82 of the Constitution of Montenegro.

AMENDMENT IV

With majority vote of all its Members, the Parliament shall adopt laws regulating the following: manner of exercising liberties and rights of citizens, Montenegrin citizenship, referendum, material responsibilities of citizens, state symbols and use and application of state symbols, defence and security, army; founding, merger and abolition of municipalities; and shall proclaim state of war and state of emergency; adopt spatial plans; pass the Rules of Procedure of the Parliament; make decisions regarding the calling for state referendum; make decisions on reducing terms of office; make decisions on releasing the president of Montenegro from duty; elect and release Prime Minister and members of the Government from duty and make decisions on confidence in the Government; appoint and release the Protector of Human Rights and Liberties from duty.

The Parliament shall elect and release from duty the judges of the Constitutional Court, the Supreme State Prosecutor and four members of the Judicial Council from among reputable lawyers by two-third majority vote in the first voting and by three-fifth majority in the second voting of all the Members of the Parliament no sooner than a month.

In the first voting the Parliament shall elect the Supreme State Prosecutor at proposal of the Prosecution Council. If the proposed candidate is not supported by the required majority, in the second voting the Parliament shall elect the Supreme State Prosecutor from among all the candidates that meet the legal requirements.

This Amendment shall replace Article 91 paragraph 2 and supplement Article 91 of the Constitution of Montenegro.

AMENDMENT V

5) propose to the Parliament: the Prime Minister-Designate for composition of the Government after the completion of the discussions with the representatives of political parties represented in the Parliament; two judges of the Constitutional Court and the Protector of Human rights and Liberties;

This Amendment replaces Article 95 item 5 of the Constitution of Montenegro.

AMENDMENT VI

5. JUDICIARY

This Amendment replaces the title of the section 5. "COURT" in Part 3 – Regulation of authorities

AMENDMENT VII

Supreme Court shall ensure uniform application of laws by courts and perform other activities prescribed by law.

The President of the Supreme Court shall be elected and released from duty by two-third majority of the Judicial Council, at proposal of the Supreme Court General Bench.

The President of the Supreme Court shall be elected for the period of five years.

The same person may be elected the president of the Supreme Court no more than two times.

This Amendment replaces Article 124 paragraphs 2, 3 and 4 and supplements Article 124 of the Constitution of Montenegro.

AMENDMENT VIII

The Judicial Council shall have a president and nine members.

The members of the Judicial Council shall be:

- 1) president of the Supreme Court;
- 2) four judges to be elected and released from duty by the Conference of Judges, taking into account equal representation of courts and judges;
- 3) four reputable lawyers that are elected and released from duty by the Parliament at proposal of the competent working body of the Parliament upon announced public invitation;
- 4) Minister in charge of judicial affairs.

The President of the Judicial Council shall be elected by the Judicial Council from among its members who do not perform judicial functions, by two-third majority vote of the members of the Judicial Council.

The Minister in charge of judicial affairs may not be elected the president of the Judicial Council.

The vote of the President of the Judicial Council shall be decisive in case of equal number of votes.

The composition of the Judicial Council shall be proclaimed by the President of Montenegro.

The term of office of the Judicial Council shall be four years.

This Amendment shall replace the Article 127 of the Constitution of Montenegro.

AMENDMENT IX

The Judicial Council shall:

- 1) elect and release from duty the president of the Supreme Court;
- 2) elect and release from duty the president of the Judicial Council;
- 3) submit the Report on the Performance of the Judicial Council and the Overall Judicial Situation to the Parliament;

- 4) elect and release from duty the judge, the president of the court and the lay judge;
- 5) deliberate on the report on the court activities, applications and complaints regarding the work of the court and take a standpoint with regard to them;
- 6) establish the cessation of the judicial duty;
- 7) establish the number of judges and lay judges;
- 8) propose to the Government the amount of funds required for the work of courts;
- 9) perform other duties as stipulated by the law.

The Judicial Council shall make decisions by majority vote of all its members except in the cases prescribed by the Constitution.

The Minister in charge of judicial affairs shall not vote in the disciplinary proceedings related to accountability of judges.

This Amendment shall replace the Article 128 of the Constitution of Montenegro.

AMENDMENT X

The affairs of the State Prosecution shall be carried out by the heads of the state prosecution offices and state prosecutors.

The Supreme State Prosecutor shall be elected and released from duty by the Parliament of Montenegro after the hearing with the competent working body of the Parliament, at proposal of the Prosecution Council, upon the announced public invitation.

The Supreme State Prosecutor and the heads of state prosecution offices shall be elected for the period of five years.

The function of the state prosecutor is permanent. Exceptionally, the person that is elected the state prosecutor for the first time shall be elected for the period of four years.

The term of office of the head of the state prosecution office and the state prosecutor shall cease or the same shall be released from duty in the cases and according to the procedure as defined by the law.

The head of the state prosecution office and the state prosecutor shall be released from duty if they are convicted to effective prison term by the final and binding judgment.

This Amendment shall replace the Article 135 of the Constitution of Montenegro.

AMENDMENT XI

The Prosecution Council shall ensure the autonomy of the state prosecution.

The Supreme State Prosecutor shall chair the Prosecution Council except in a disciplinary proceeding.

The composition, election, mandate, organisation and manner of work of the Prosecution Council shall be regulated by law.

The Prosecution Council shall:

- 1) establish the proposal for the election of the Supreme State Prosecutor;
- 2) elect and release from the duty the heads of the state prosecution offices and state prosecutors;
- 3) establish the termination of the function of the heads of state prosecution offices and state prosecutors;
- 4) propose to the Government the amount of funds for the work of the state prosecution;
- 5) submit the Report on Performance of the State Prosecution to the Parliament;
- 6) perform other activities as defined by the law.

The Prosecution Council shall make decisions by majority vote of all its members.

This Amendment shall replace the Article 136 of the Constitution of Montenegro.

AMENDMENT XII

The head of the state prosecution office and the state prosecutor shall enjoy functional immunity and may not be invited to account for an opinion given or a decision made in performing their duties, except in the case of a criminal act.

This Amendment shall replace the Article 137 of the Constitution of Montenegro.

AMENDMENT XIII

The head of the state prosecution office and the state prosecutor may not perform the duty of a Member of the Parliament or other public duty or professionally be engaged in any other activity.

This Amendment shall replace the Article 138 of the Constitution of Montenegro.

AMENDMENT XIV

The President and members of the Senate of the State Audit Institution shall enjoy functional immunity and may not be invited to account for an opinion given or a decision made in performing their duties, except in the case of a criminal act.

This Amendment supplements Article 144 of the Constitution of Montenegro.

AMENDMENT XV

The Constitutional Court shall decide in respect of a constitutional appeal by a council consisting of three judges. The Council may make only unanimous decisions by all its members. If the Council may not achieve a unanimous decision, the constitutional appeal shall be decided upon by the Constitutional Court in accordance with paragraph 1 of this Article.

This Amendment supplements Article 151 of the Constitution of Montenegro.

AMENDMENT XVI

The Constitutional Court shall have seven judges.

The Judge of the Constitutional Court shall be elected for the period of 12 years.

The judges of the Constitutional Court shall be elected and released from duty by the Parliament, as follows: two judges at proposal of the President of Montenegro and five judges at proposal of the competent working body of the Parliament upon the announced public invitation carried out by the proposing parties.

The judge of the Constitutional Court shall be elected from among reputable lawyers who have turned at least 40 years of age and have 15 years of service in the legal profession.

Judges of the Constitutional Court shall elect from among their composition the president of the Constitutional Court for the period of three years.

The same person may be elected the president or judge of the Constitutional Court only once.

The president and judge of the Constitutional Court may not perform the duty of a Member of the Parliament or other public duty or professionally be engaged in any other activity.

This Amendment shall replace Article 153 of the Constitution of Montenegro.

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Podgorica, 31 July 2013

P A R L I A M E N T O F M O N T E N E G R O – 25TH PARLIAMENTARY TERM

PRESIDENT

Ranko Krivokapić

Based on Article 82 paragraph 1 item 2 and Article 158 of the Constitution of Montenegro, the Parliament of Montenegro, 25th Parliamentary Term, at the 12th sitting of the first regular (spring) session in 2013, held on 31 July 2013 adopted

CONSTITUTIONAL LAW ON IMPLEMENTATION OF AMENDMENTS I TO XVI TO THE CONSTITUTION OF MONTENEGRO

Article 1

Amendments to the Constitution of Montenegro (hereinafter referred to as Amendments) shall be applied as of the day they are promulgated by the Parliament of Montenegro, unless otherwise determined by this Law in respect of application of specific amendments.

Article 2

The Law on Judicial Council shall be harmonised with the Amendments within 45 days from the day this Law enters into force.

Public invitation for election of all the members of the Judicial Council shall be announced within 30 days from the day of harmonisation of the regulations referred to in paragraph 1 of this Article.

The election of the President of the Supreme Court shall be carried out within 30 days from the day of constituting the Judiciary Council.

Article 3

The Law on Courts shall be harmonised with the Amendments within 45 days from the day this Law enters into force.

Article 4

The Law on State Prosecution shall be harmonised with the Amendments within 45 days from the day this Law enters into force.

Public invitation for election of the Supreme State Prosecutor shall be announced within 30 days from the day of harmonising the regulation referred to in paragraph 1 of

this Article, and proposal for election of the Supreme State Prosecutor shall be delivered to the Parliament within 10 days from the day the validity term of public invitation expires.

Article 5

The Law on Constitutional Court of Montenegro shall be harmonised with the Amendments within 45 days from the day this Law enters into force.

The public invitation for election of all judges of the Constitutional Court shall be announced within 30 days from the day of harmonising of the regulation referred to in paragraph 1 of this Article.

Article 6

Other laws and regulations shall be harmonised with the Amendments within 90 days from the day this Law enters into force, and regulations for enforcement of the laws within the deadlines established by such laws.

Article 7

The laws and other regulations shall remain in force until they have been harmonised with the Amendments within the deadlines specified by this Law.

Article 8

The laws that are to be harmonised with the Amendments shall incorporate a provision on proportional representation of the members of minority national communities in courts, the State Prosecution and the Constitutional Court, in accordance with the law.

Article 9

This Law shall enter into force on the day of its promulgation.

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Podgorica, 31 July 2013

PARLIAMENT OF MONTENEGRO - 25TH PARLIAMENTARY TERM

PRESIDENT

Ranko Krivokapić