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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**MONTENEGRO**

**REVISED DRAFT LAW**

**ON AMENDMENTS TO THE LAW  
ON RIGHTS AND FREEDOMS OF MINORITIES**

**REVISED DRAFT LAW ON AMENDMENTS TO THE LAW  
ON THE RIGHTS AND FREEDOMS OF MINORITIES**

**Article 1**

In the Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro, No. 31/06, 51/06 and 38/07 and Official Gazette of Montenegro, No. 2/11 and 8/11), in Article 7, paragraph 3, after the word „activities“ the coma shall be replaced with a full stop, and the words: "as well as the better integration of Roma into the social and political life of Montenegro" shall be deleted.

**Article 2**

After Article 7, a new Article shall be added, reading as follows:

**„Article 7a**

All expressions used in this Law for natural persons shall refer equally to men and women.

**Article 3**

After Article 8, a new article shall be added, reading as follows:

**„Article 8a**

In order to promote and protect minority rights, encourage preservation, development and expression of minority nations and other national minority communities' culture in Montenegro and with a view to promoting the spirit of tolerance and multicultural dialogues 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 organ of state administration responsible for human and minority rights."

**Article 4**

In Article 11, paragraph 2 the words: "significant part" shall be replaced with the words "at least 5%", and the words "last census" shall be replaced with "the last two consecutive censuses."

**Article 5**

In Article 19, the words "University of Montenegro" shall be replaced with the words "higher education from Montenegro", and the words "with an act of the University" shall be replaced with "with an act of higher education institution in Montenegro".

**Article 6**

In Article 28, after paragraph 1 the following paragraph is added, reading as follows:

"In local government units in which the majority or at least 5% of the population consists of minority nations and other national minority communities, the Government of Montenegro shall involve the local population, through the councils of minority nations and other national minority communities into the preparation, implementation and evaluation of national and regional development plans and programmes which may directly affect them, as well as in the development of studies to assess the possible impact of projected development activities on the local population in order to create a better environment for entrepreneurship, economic development and a better life."

### **Article 7**

After Article 32, a new Article is inserted, reading as follows:

#### **„ Article 32a**

Organ of state administration competent for human and minority rights shall establish the Council for Minority Nations and Other National Minority Communities with a view to preserving, improving and protecting national, ethnic, religious, linguistic and cultural peculiarities of members of minority nations and other national minority communities and also for the purpose of exercising their rights.

The composition and the competences of the Council for Minority Nations and Other National Minority Communities shall be determined by the Organ of state administration competent for human and minority rights.

By way of exception to paragraph 2 of this Article, the Council for Minority Nations and Other National Minority Communities shall also comprise representatives of the councils of minority nations and other national minority communities."

### **Article 8**

In Article 33, paragraph 9 after the word „Article" a full stop is inserted and the words: „and members of political parties" are deleted.

In paragraph 10 the words: "The organ of state administration responsible for minority rights" shall be replaced with the words: "the organ of state administration competent for human and minority rights".

In paragraph 13 after the word „Statute" a comma is to be inserted and the following words added: "yearly work plan".

In paragraph 14 after the words: "shall be provided" the following shall be inserted: "in the amount of at least **0.05%** of the total budget minus budget for state funds and capital

### **Article 9**

In Article 35, paragraph 1, item 6 the words „University of Montenegro" shall be replaced with the words „institutions for higher education in Montenegro;".

### **Article 10**

After Article 35, a new Article is added, reading as follows:

#### **„Article 35a**

The mandate of the Council members shall be terminated:

- at the end of mandate by virtue of which s/he became a member of the Council;
- if s/he performs activities of a member of the Council in a negligent manner;
- if s/he permanently loses capacity for performing activities for the Council;
- if s/he gets convicted to unconditional prison sentence or for an offence that makes him/her unworthy of performing activities of the Council's member;
- if a member of the Council fails to excuse his/her absence at the session of the Council for at least three times in a calendar year; and
- at personal request."

### **Article 11**

After Article 35a, a new chapter is added with the following wording:

## **IIa THE FUND FOR THE PROTECTION AND EXERCISE OF MINORITY RIGHTS“.**

### **Article 12**

In Article 36, paragraphs 2 and 3 are amended and they read as follows:

„The Fund has the status of a legal person.

The founding act of the Fund shall prescribe in detail the competencies and manner of decision making of its bodies as well as other issues prescribed by this Law.“

### **Article 13**

Article 36a is amended and it reads as follows:

„The Fund has its Management board and the Director.“

### **Article 14**

After Article 36a, 20 new articles are added and they read:

#### **„Article 36b**

The Managing board is the body that manages the Fund.

The Management board is composed of:

- three representatives of the Parliament of Montenegro, where at least one member represents a political party of national minority and other minority national community;
- one representative of the Ministry;
- one representative of an institution of higher education;
- one representative each of the councils or minority nations and other minority national communities;
- one independent expert in human rights and minority rights; and
- one representative of the government organ competent for media.

The members of the Management board of the Fund are elected to a four year mandate and the same person cannot be re-elected for a member of the Management board more than two consecutive times.

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

#### **Article 36c**

Eligible candidate for a member of the Fund's Management board is anyone who has three years of experience in field of minority rights and freedoms and in drafting, implementing or evaluation of the projects in field of human rights and freedoms.

#### **Article 36č**

Nominations for members of the Management Board of the Fund are given by:

- a working body of the Parliament of Montenegro competent for human and minority rights for the members of the Management board from Article 36b, paragraph 2, items 1, 3 and 5 of this Law;
- Ministry - for a member of the Management body from Article 36b, paragraph 2, item 2 of this Law;
- Councils of national minorities and other minority communities – for a member of the Management board from Article 36b, paragraph 2, item 4 of this Law;

- Organ of state administration competent for media – for a member of the Management body from Article 36b, paragraph 2, item 6 of this Law;

A member of the Management board from Article 36b, paragraph 2, item 3 and 5 of this Law is elected after an open call for application administered by the nominating body from paragraph 1, item 1 of this Article.

The contents and the manner in which the open call for applications from the paragraph 2 of this Article are to be conducted and the procedure for shortlisting nominees are to be prescribed by an act from the Article 36, paragraph 3 of this Law.

#### **Article 36c**

The Management body 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 yearly activity 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 this Law;
- acts as the second instance organ for appeals against decisions of the Director of the Fund;
- adopts the Act on Internal Organisation and Systematization of the Fund;
- decides about other matters in accordance with the law and the Fund's founding act.

The Management board can make decisions provided that its meeting is attended by more than half of all its members.

The Management board makes decisions by majority of votes of all its members.

#### **Article 36d**

A member of the Management board of the Fund may be dismissed before the expiry of his/her mandate if s/he:

- permanently loses capacity to perform that function;
- gets convicted to unconditional prison sentence or s/he is convicted for a criminal offence or other act that makes him/her unworthy of office; and
- requests so.

In case a member of the Management board of the fund ceases to be a member by virtue of his/her dismissal, the nominators from Article 36c, paragraph 1 of this Law whose member has been dismissed, shall nominate a new member to the Management board in a manner prescribed by the Law.

The manner in which the reasons for dismissal of a member of the Management board of the Fund is to be deliberated and reported thereupon to the Parliament of Montenegro shall be stipulated by an act from Article 36, paragraph 3 of this Law.

#### **Article 36dž**

The Director of the Fund is elected after an open call for applications.

The Director of the Fund is elected to a four-year mandate and the same person may be elected for a Director of the Fund for a maximum of two consecutive terms.

Eligible candidates for the position of the Director of the Fund are persons who have VII1 level of higher education qualification and three years of work experience in field of minority rights and freedoms or experience in drafting, realization or evaluation of the projects in field of minority rights and freedoms.

#### **Article 36đ**

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, program and work 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 to the Management board of the Fund;
- takes responsibility for the operations and legality of work of the Fund;
- decides on the allocation of funds for project funding to support the activities referred to in Article 36 paragraph 1 of this Law;
- provides for the (Fund) staff's regular professional training in project monitoring skills for at least five days per year;
- carries out monitoring and evaluation of the projects funded for the purpose of supporting the activities from Article 36, paragraph 1 of the Law;
- submits to the Fund's Management board the annual report of the Fund and its reports on the monitoring and evaluation of the projects funded in support of the activities referred to in Article 36 paragraph 1 of this Law;
- conducts a public opinion survey about the Fund's work and on activities important for the preservation and development of national or ethnic specifics of minority nations and other minority national communities;
- performs other duties in accordance with the Statute and the Founding Act of the Fund.

#### **Article 36e**

The Members of the Managing Board of the Fund and its Director shall not be engaged themselves in the projects supporting the activities referred to in Article 36, paragraph 1 of this Law, funded from the budget of the Fund.

#### **Article 36f**

The Statute of the Fund regulates in detail the organization and manner of the operation of the Fund

The Parliament of Montenegro approves the Statute of the Fund.

### **Article 36g**

The Fund is financed from the budget of Montenegro and other sources in accordance with the law. The allocation of at least 0.15% of the total Budget minus the budget for other state funds and the Capital Budget shall be made for the purposes referred to in paragraph 1 of this Article.

### **Article 36h**

The public competition for the allocation of the project funding to support the activities referred to in Article 36 paragraph 1 of this Law shall be announced by the Fund.

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

Participants in the public competition may submit the projects to support the activities referred to in Article 36 paragraph 1 of this Law directly to the Fund or by mail.

The Fund shall deliver the projects to the Commission referred to in Article 36J of this Law, within eight days as of the expiry of the date for the submission of the projects referred to in paragraph 1 of this Article.

### **Article 36i**

The funds referred to in Article 36g of this Law are distributed as follows:

- operational funds for the Fund; and up to 30%
- project funds to support the activities referred to in Article 36 paragraph 1 of this Law At least in the amount of 70%.

The decision on distribution of the operational funds for the Fund and project funds for to support the activities referred to in Article 36 paragraph 1 of this Law in percentages shall be adopted by the Management board of the Fund, based on the working program and plans of the Fund, with the prior opinion of councils of minority nations or other minority national communities.

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

- preservation and development of national, religious and ethnic identity of every minority or minority national community;
- compatibility of the project with strategic documents of the Government;
- contribution of the project to intercultural cooperation and narrowing of the ethnic distance;
- promotion of the spirit of tolerance, intercultural dialogue and mutual respect and understanding;
- transparency and controllability of the project's implementation; and
- expertise and technical capacities of the project applicant.

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

Non-governmental organizations and other legal and natural persons whose two projects or one project in the amount of 5% of the total allocated funds for financing projects to support the activities referred to in Article 36 paragraph 1 of this Law, are financed during a calendar year by the decision of the Fund, shall not participate at the public competition for the allocation of funds referred to in paragraph 1 item 2 of this Article.

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

Project evaluation by the criteria referred to in paragraph 3 of this Article is made on a prescribed form.

The manner in which project evaluation by the criteria referred to in paragraph 3 of this Article is to be conducted as well as the layout and the content of the forms and required documentation referred to in paragraphs 6 and 7 of this Article are prescribed by the Ministry.

#### **Article 36j**

The Parliament of Montenegro appoints a Commission (hereinafter referred to as the Project Evaluation Commission) to evaluate the projects received under the public competition for the allocation of project funds to support the activities referred to in Article 36 paragraph 1 of this Law, based on the criteria referred to in Article 36i paragraph 3 of this Law.

Project Evaluation Commission consists of seven members.

The members of the Project Evaluation Commission are elected after an open call for applications, to a term of four years and the same person may be elected for the member of the commission for maximum of two consecutive terms.

The Fund shall performs administrative and technical tasks for the Project Evaluation Commission.

#### **Article 36k**

An eligible candidate for a member of the Project Evaluation Commission is a person who has VIII level of higher education qualifications and at least three years of working experience in the area of minority rights and freedoms as well as experience in the preparation, implementation or evaluation of projects in the area of human rights and freedoms.

A candidate for a member of the Project Evaluation Commission has to declare in writing that s/he has no conflict of interest.

A member of the Project Evaluation Commission can be dismissed before the end of mandate if s/he:

- permanently loses ability to perform the function of a member of the Project Evaluation Commission;
- gets an unconditional prison sentence or conviction for a criminal offence or any other offence that makes him/her unworthy of working as a member of the Project Evaluation Commission; and
- at his/her own request.

A member of the Project Evaluation Commission can neither apply nor personally engage in the implementation of the project supported by the funds for activities from Article 36, paragraph 1 of this Law.

#### **Article 36i**

The open call for applications from Article 36j, paragraph 3 of this Law shall be published by the Parliament of Montenegro on its internet page or in at least one printed medium based in Montenegro.

The open call for applications from Article 36j, paragraph 3 of this Law shall specify the number of members sought for the Project Evaluation Commission, qualifications that candidates should meet in compliance with Article 36k of this Law and proof of that as well as the deadline for the submission of applications.

Candidates submit their applications to the open call from paragraph 1 of this Article to the Parliament of Montenegro either directly or by mail within 15 days from the announcement of the call for application thereof.

A working body of the Parliament of Montenegro in charge of human and minority rights makes a list of candidates for the Project Evaluation Commission.

#### **Article 36lj**

The Project Evaluation Commission:

- determines if the conditions from Article 36i, paragraphs 3 and 4 of this Law have been met;
- makes the project evaluation by the criteria from Article 36i, paragraphs 3 of this Law;
- makes a rank list of evaluated projects; and
- determines the amount to be allocated for projects supporting the activities from Article 36, paragraph 1 of this Law.

#### **Article 36m**

A member of the Project Evaluation Commission cannot be engaged in the realization of the supported projects supporting the activities from Article 36, paragraph 1 of this Law.

#### **Article 36n**

On the basis of the proposal from Article 36lj, paragraph 1, item 4 of this law, the Director of the Fund renders a decision on the allocation of the funds to support of the activities from Article 36, paragraph 1 of this Law.

The Director of the Fund can decide not to accept the proposal from Article 36lj, paragraph 1, item 4 of this Law if s/he thinks that the conditions from Article 36i, paragraph 4 and 5 of this Law have not been met or that project evaluation has not been made in compliance with the criteria spelled out in the Article 36i, paragraph 3 of this Law.

The Director shall return a reasoned decision on non-acceptance of the proposal from paragraph 2 of this Article to the Project Evaluation Commission within 8 days as of the day when s/he refused to accept it.

The Project Evaluation Commission has to consider again the decision on non-acceptance of the proposal from paragraph 3 of this Article and to reconsider its proposal within 8 days as of the day of its receipt, giving consideration to the reasons that the Director stated in his/her decision from paragraph 2 of this Law, and after that to send a new proposal on

allocation of funds for projects in support to the activities from Article 36, paragraph 1 of this Law. Once s/he receives the proposal from paragraph 4 of this article, the Director of the Fund has to render a decision on allocation of the funds for projects supporting the activities from Article 36, paragraph 1 of thus Law.

The applicant can appeal the decision referred to in paragraphs 1 and 5 of this Article before the Management board of the Fund within eight days from the receipt of the decision.

The Management board has to render a decision about the petition thereof within 15 days as of the expiry of the deadline for appeal.

If the Management Board of the Fund, within 15 days from the receipt of the appeal fails to comply with the same, the decision of the Director of the Fund on allocation of the funds for projects supporting the activities from Article 36, paragraph 1 of thus Law is final.

Decisions referred to in paragraphs 1 and 5 of this Article, shall be published on the website of the Fund and in at least one printed media based in Montenegro, within three days as of the day when the final decision was rendered.

#### **Article 36nj**

Professional and administrative work for the Fund is done by the administrative service of the Fund.

The legislation on civil servants and employees applies to the employees in the administrative service of the Fund.

#### **Article 36o**

In addition to the budget control as prescribed by the law, the Fund provides, through an authorized employee in the administrative service, the internal control and audit of both open and completed projects from the aspect of rational and lawful use of the funds, in accordance with the law governing the area of finance.

#### **Article 36p**

The Fund shall submit annual report on the Fund's operation to the Parliament of Montenegro no later than 31 March of the current year for the previous year.

The Parliament of Montenegro may request from the Fund to make a special report on any of the matters from its jurisdiction if that is a matter important for the exercise of minority rights and freedoms or for the implementation of policy of minority rights in Montenegro."

#### **Article 15**

After Article 42b, two new articles are added, reading as follows:

#### **“Article 42c**

The secondary legislation from Article 36i, paragraph 8 of this Law shall be adopted within 90 days as of the day of entering into force of this Law.

#### **Article 42č**

The decision on the establishment of the Center for the Preservation and Development of Minority Culture („Official Gazette of Montenegro”, No. 38/01 and 27/07 and „Official Gazette of Montenegro”, No. 3/10) shall be brought in compliance with this Law within 90 days as of the day when this Law enters into force."

#### **Article 16**

After Article 44, five new articles are added, reading as follows:

#### **„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 brought in compliance with this Law within 90 days of its entering into force.

**Article 44b**

In compliance with this Law, the appointment of the Managing board of the Fund shall be made within 90 days as of the day when the acts from Article 44a of this Law are brought in compliance.

**Article 44c**

The Director of the Fund shall be elected within 90 days as of the appointment of the Managing board of the Fund.

**Article 44č**

The Managing board and the Director of the Fund elected before this Law entered into force continue their work until the new board and the Director of the Fund are appointed in compliance with this Law.

**Article 44ć**

The members of the Project Evaluation Commission shall be elected within 90 days after the appointment of the Managing Board of the Fund. "

**Article 17**

This law shall become effective on eighth day after its publication in the "Official Gazette".

## STATEMENT OF EXPLANATION

### 1 CONSTITUTIONAL BASIS FOR ADOPTING THE LAW

Constitutional basis for adopting this Law is contained in Article 16 paragraph 1 item 2 of the Constitution of Montenegro, which provides that laws regulate the manner of exercising special minority rights, in accordance with the Constitution.

### 2 REASONS TO ADOPT THE LAW

The Law on Minority Rights and Freedoms was adopted in 2006, in order to regulate the area of special (minority) rights and freedoms. In the meantime, relevant circumstances related to social changes and change of the constitutional status of Montenegro resulted in the adoption of a new constitutional act and in an exhaustive definition of special rights and freedoms of minority nations and other national minority communities and their members (Articles 79 and 80 of the Constitution of Montenegro).

Before the entry into force of the Constitution of Montenegro, the decision of the Constitutional Court of Montenegro U.br.53/06 dated 11 July 2006 repealed provisions of Art. 23 and 24 of this Law on the grounds that these provisions prejudice the principle of equality in the exercise of minority rights and freedoms, and of the principle of equality in the exercise of voting right, as one of the fundamental human rights and freedoms. Under the most recent amendments to the electoral legislation this area is regulated by a separate law, just like some other areas regulated by separate laws.

Hierarchically speaking, the existing Law on Minority Rights and Freedoms has the same legal force as other legislative acts (it is not a law of a higher legal force), hence it can not derogate the provisions of separate laws governing the rights and obligations of the citizens of Montenegro, including those vested in minority nations and other national minority communities.

Due to such a normative constraint, the main reasons for the adoption of this Law are intervention in terms of institutional support to the exercise of minority rights and freedoms, transparency and efficiency of procedures used to allocate funds for implementation of projects intended for the activities which are important for the preservation and development of national and ethnic particularities of minority nations and other national minority communities and their members in the fields of ethnic, cultural, linguistic and religious identity, and specifying the status of the Council in relation to the principles of supervision of its work as a *sui generis* body which has the status of a legal entity and autonomy in its work.

The main directions of reforms regarding the Fund for the Protection and Exercise of Minority Rights are focused on preventing the objectively possible conflict of interest, introducing two instances in decision-making on projects to be funded from the Fund and separating the control from the managing function in the Fund itself. This approach is based on certain shortcomings that were noticed by the state institutions that control the spending of budgetary funds (State Audit Institution), as well as shortcomings in terms of reporting on certain aspects of the Fund's operations.

In addition to the afore-mentioned, the status of the councils of minority nations and other national minority communities as separate budgetary spending units resulted in the need to separate the responsibility and supervision over their work, as they perform a special social function based on the parliamentary legislative regulation, self-organization, activities, mode of operation and responsibility for legitimate operations, as all other legal entities in accordance with law.

This commitment resulted in several alternatives in this proposed law, aiming to also use the public debate to reach an appropriate and acceptable model, which would serve the exercise of minority rights and freedoms, while protecting all participants in the project application and selection for their funding process in terms of objectivity and prevention of conflicts of interest.

### **3 COMPLIANCE WITH THE EU ACQUIS AND RATIFIED INTERNATIONAL CONVENTIONS**

The Proposed Law on the Amendments to the Law on Minority Rights and Freedoms complies with the ratified international treaties and other documents adopted under the auspices of the United Nations and Council of Europe, especially with:

- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights (1966);
- International Covenant on Economic, Social and Cultural Rights (1966);
- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and Protocol No. 12 to the Convention (2000); and
- Council of Europe's Framework Convention for the Protection of Minority nations (1995).

Moreover, the principles underlying this Law are aimed at implementing the principle of non-discrimination contained in Article 21 of the EU Statute of Fundamental Rights, which prohibits any discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, affiliation to a national minority, material status, birth, disability, age or sexual orientation.

### **4 EXPLANATION OF THE BASIC LEGAL PRINCIPLES**

Article 1 of 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 8/11) provided for inserting a full stop in Article 7, paragraph 3 after the word "activities" and for deleting the words "as well as greater integration of Roma into social and political life of Montenegro".

Article 2 of the proposed law inserts a new Article 7a that stipulates that the expressions used in this Law for natural persons in the masculine gender include the same terms in the feminine gender.

Article 3 of the proposed law inserts a new Article "Article 8a" which stipulates that in order to promote the preservation, development and expression of the culture of minority nations and other national minority communities' culture in Montenegro, the Government may establish a public institution in a manner and under conditions prescribed in the law governing cultural institutions.

Article 4 of the proposed law provides for replacing the words: "significant part" in Article 11 paragraph 2 by the words "at least 5%" and the words "of the last census" will be replaced by the words "the last two consecutive censuses".

Article 5 of the proposed law provides for replacing the words "University of Montenegro" in Article 19 by the words "higher education institutions in Montenegro," and the words: "with an act of the University." will be replaced by the words: "with an act of a higher education institution in Montenegro".

Article 6 of the proposed law provides for inserting a new paragraph in Article 28 after paragraph 1 worded as follows:

"In local government units in which the majority or at least 5% of the population consists of minority nations and other national minority communities, the Government of Montenegro shall involve the local population, through the councils of minority nations and other national minority communities into the preparation, implementation and evaluation of national and regional development plans and programmes which may directly affect them, as well as in the development of studies to assess the possible impact of projected development activities on the local population in order to create a better environment for entrepreneurship, economic development and a better life."

Article 7 of the proposed law provides for inserting a new Article after Article 32 worded as follows:

#### **"Article 32a**

The Government of Montenegro shall establish the Council for Minority Nations and Other National Minority Communities with a view to preserving, improving and protecting national, ethnic, religious, linguistic and cultural peculiarities of members of minority nations and other national minority communities and also for the purpose of exercising their rights.

The composition and the competences of the Council for Minority Nations and Other National Minority Communities shall be determined by the Government of Montenegro.

By way of exception to para. 2 of this Article, the Council for Minority Nations and Other National Minority Communities shall also comprise representatives of the councils of minority nations and other national minority communities."

Article 8 of the proposed law provided for placing a full stop in Article 33 paragraph 9 after the word "Article" and the words: "and members of bodies of political parties." shall be deleted.

In paragraph 10 the words: „the organ of state administration responsible for minority rights" shall be replaced by the words: "the organ of state administration competent for human and minority rights ".

A comma shall be placed in paragraph 13 after the word "Statute", and the words "yearly work plan" shall be inserted.

In paragraph 14 after the words: "shall be provided" the following shall be inserted: "in the amount of 0.10% of the total budget minus budget for state funds and capital budget."

Article 9 of the proposed law provided for replacing the words "University of Montenegro" in Article 35 paragraph 1 indent 6 by the words "institutions for higher education in Montenegro;".

Article 10 of the proposed law provides for inserting a new Article after Article 35 worded as follows:

#### **"Article 35a**

The mandate of the Council members shall be terminated:

- at the end of mandate by virtue of which he became a member of the Council;
- if he performs activities of a member of the Council in a negligent manner;
- if he permanently loses capacity for performing activities for the Council;
- if he gets convicted to unconditional prison sentence or for an offence that makes him unworthy of performing activities of the Council's member;
- if a member of the Council fails to excuse his absence at the session of the Council for at least three times in a calendar year; and
- at his personal request."

Article 11 of the proposed law provided for inserting, after Article 35a, a new chapter reading as follows:

**"IIa THE FUND FOR PROTECTION AND EXERCISE OF MINORITY RIGHTS".**

Article 12 of the proposed law provided for amending Article 36 paragraphs 2 and 3 to read as follows:

"The Fund has the status of a legal person.

The founding act of the Fund shall prescribe in detail the competencies and manner of decision making of its bodies as well as other issues prescribed by this Law.

Article 13 of the proposed law provided for amending Article 36a to read as follows:

" The Fund has its Management board and the Director."

Article 14 of the proposed law provided for inserting 20 new Articles after Article 36a: Article 36b, Article 36c, Article 36č, Article 36ć, Article 36d, Article 36dž, Article 36đ, Article 36e, Article 36f, Article 36g, Article 36h, Article 36i, Article 36j, Article 36k, Article 36l, Article 36lj, Article 36m, Article 36n, Article 36nj, Article 36o and Article 36p which regulate in great detail the functioning and the operation of the Fund for Protection and Exercise of Minority Rights, competences of the Management Board, of the Director and project evaluating commission, manner and procedure of evaluation and allocation of funds for project funding and submission of activity reports.

Article 15 of the proposed law provided for inserting two new Articles after Article 42b: Articles 42c and 42č respectively stipulating the deadlines to align secondary legislation.

Article 16 of the proposed law provided for inserting five new Articles after Article 44: Article 44a, Article 44b, Article 44c, Article 44č and Article 44ć stipulating respectively the deadlines to render decision on the establishment of the Fund for Protection and Exercise of Minority Rights, appointment of the Management board, Director and the Project Evaluation Commission.

Article 17 of the proposed law stipulates that this law shall become effective on eighth day after its publication in the Official Gazette of Montenegro.

**5 ESTIMATED FUNDS NEEDED TO IMPLEMENT THE LAW**

Special funds do not need to be secured in the Budget for the implementation needs of the Law Amending the Law on Minority Rights and Freedoms.

**6 REASONS TO ADOPT THE LAW THROUGH AN ABRIDGED PROCEDURE**

Action Plan for negotiating chapter 19 - Social Protection and Employment and Action Plan for negotiating chapter 23 – Judiciary and Fundamental Rights provided for adoption of the proposed Law Amending the Law on Minority Rights and Freedoms by the end of the fourth trimester of 2016.

Keeping in mind the obligation to meet the deadlines from the afore-mentioned action plans and the needs to align the said proposed law with the *acquis* and international treaties and conventions, it is necessary to adopt this law through an abridged procedure.