THE LAW ON CIVIL SERVANTS AND STATE EMPLOYEES

I BASIC PROVISIONS

Subject of the Law

Article 1

This law regulates issues of the position of civil servants and state employees relating to: entering employment, titles, rights and obligations, liability, transfer, appraisal, promotion and establishment of capability, expert training, termination of employment, right protection, human resources management, and control of the enforcement of the law.

Civil Servant and State Employee

Article 2

A Civil Servant, i.e. State Employee is a person employed in a State Authority.
A Civil Servant, in terms of this law, with respect to the realization of certain rights, duties and responsibilities, is a head of a state authority and a person that has been employed by appointment, i.e. nomination in a state authority.
A Civil Servant, in terms of this law, is not a Member of Parliament, or a person that is elected or appointed by the Parliament of RoM.
A State Authority, in terms of this law, is a state administration authority, other state authority and services of the President of RoM, the Parliament of RoM, the Government of RoM and the Constitutional Court of RoM.

Civil Servants and State Employees' Tasks

Article 3

A Civil Servant performs administrative, professional and other affairs for realization of competences of the state authority determined by the Constitution, law and other regulation.
A State Employee performs administrative, accounting – financial and ancillary - technical affairs necessary for timely and quality performance of affairs from the competence of a state authority.

General Labor Legislation

Article 4

General labor regulations as to rights, obligations and responsibilities, which are not otherwise regulated by this law or other regulation, shall apply to Civil Servants, i.e. State Employees.

Political Neutrality and Impartiality

Article 5

Civil Servant, i.e. State Employees, shall perform their tasks politically neutral and impartially, in accordance with the public interest.

Civil Servants' Ethics

Article 6

A Civil Servant, i.e. State Employee, in performing his/her duties, shall observe the Code of Ethics of Civil Servants and State Employees.
The Code of Ethics of Civil Servants and State Employees shall be determined by the ministry competent for administrative affairs, upon obtained opinion of Civil Servants and State Employees.
In performing his/her duties, a Civil Servant, i.e. State Employee, shall not put his/her private interest before the public interest nor abuse the performance of his/her duties for the achievement of material or immaterial avail.
A Civil Servant, i.e. State Employee shall be obliged to avoid conflict of interest.

Legality and Liability

Article 7

A Civil Servant, i.e. State Employee, shall perform his/her duties according to the Constitution, the law, other regulations and general acts.
A Civil Servant, i.e. State Employee, shall be liable for the lawfulness, professionalism and efficiency of his/her work.
A Civil Servant, i.e. State Employee, shall be liable for lawful, efficient and rational utilization of public funds he/she administers, or uses in work.
In compliance with the law, Civil Servant, i.e. State Employee shall be liable for damage caused to the state authority or third party by his/her unlawful or erroneous work.

Equal Access

Article 8

On the occasion of employment of Civil Servants and State Em- ployees, the candidates shall have equal access to all posts under equal conditions.
A Civil Servant, i.e. State Employee shall enter employment on the basis of a public announcement of the vacancy.

Promotion

Article 9

A Civil Servant, i.e. State Employee, shall have the right to promotion.
The promotion shall depend on the professional and working capacity, quality of work and achieved results of work.

Protection of Rights of Civil Servants and State Employees

Article 10

A Civil Servant, i.e. State Employee, shall have rights stipulated by the law and other regulations.
Nobody shall exert any kind of pressure on the Civil Servant, i.e. State Employee, in order that he/she do or omit to do something contrary to the regulations.
In the process of decision-making on rights and obligations, Civil Servant, i.e. State Employee shall have the right to protection of his/her rights.

Privileges or Deprivation

Article 11

A privilege or deprivation of a Civil Servant, i.e. State Employee, in his/her rights shall be prohibited, especially on the basis of political, national affiliation, race or religious affiliation, gender, or due to some other reason that is in opposition with the rights and freedoms guaranteed by the Constitution and the law.

Violation of an Official Duty

Article 12

A violation of an official duty shall be stipulated by the law and other regulations.
The procedure upon violation of an official obligation and the authorities competent for proceeding shall be prescribed by the law.

Transfer

Article 13

A Civil Servant, i.e. State Employee, may be transferred to another post, under conditions stipulated by the law.

Advanced Training

Article 14

A Civil Servant, i.e. State Employee, has the right and the duty to undergo expert training.
The head of a state authority shall provide for the conditions for expert training of the Civil Servant, i.e. State Employee.

Trade Unions

Article 15

Civil Servants and State Employees have the right to trade union organizing, in accordance with general labor regulations.

II EMLPOYMENT

General Requirements

Article 16

A person may enter employment in a state authority provided
that he/she:
- is a citizen of Montenegro
- is of legal age
- is in a good health condition
- has the required qualification
- has not been convicted for a criminal act that makes him/her unsuitable for work in the State Administration
- meets other conditions stipulated by the law and other regulations.

A foreign national or an individual without citizenship may enter an employment in a state authority under conditions stipulated by a special law and international conventions.

Entering Employment

Article 17

A decision on entering employment may be adopted if:
- the post is specified in the act on internal organization and systematization
- the post is vacant;
- the state authority has provided necessary financial resources for this purpose.

Internal Resources

Article 18

A vacant post in a state authority can be filled by way of transfer of a Civil Servant, i.e. a State Employee from within the same state authority.
If a vacant post was not filled in the manner set forth in paragraph 1 of this Article, it may be filled by way of transfer of a Civil Servant or State Employee from another state authority through an internal announcement.
The requirements and procedure for the internal announcement shall be defined by the Government of the Republic of Montenegro (hereinafter: Government), on the basis of a proposal of the ministry competent for administrative affairs.

Public Announcement

Article 19

If the vacant post was not filled in the manner set forth in Article 18 of this law, a procedure of a public announcement shall be carried out.
Exceptionally, the procedure of a public announcement is not carried out when the person to be employed , according to public announcement, was on a schollarship of State Authority.
A public announcement shall be carried out by an Administrative Authority competent for Human Resources Management (hereinafter: HRM Authority)

Publication of the Public Announcement

Article 20

A public announcement shall be published in accordance with the general labor legislation.
The deadline for submission of applications on the basis of an announcement shall not be shorter than eight or longer than fifteen days from the day of publication of the public announcement.

Contents of the Public Announcement

Article 21

The public announcement must contain the following:
- the name of the state authority and the place of the performance of affairs
- the vacant post
- requirements for employment
- supporting documents which the candidate has to enclose in the application
- the application deadline and the address for information about the application

- the name of the person authorized to issue information during the public announcement procedure.

List of Candidates

Article 22

On the basis of the applications, the HRM Authority shall make a list of candidates who meet the requirements stipulated in the public announcement.

Procedure of Obligatory Assessment of Qualification

Article 23

Persons from the list of candidates are subject to the obligatory assessment of capacity for performance of activities within the respective post (hereinafter: assessment of qualification).

The procedure of assessment of qualification may be carried out in several phases, in which the number of candidates is gradually reduced. The procedure of the assessment of qualification may be carried out through a written test, an interview or in another appropriate manner.
The form and method of the assessment of qualification shall be defined by the HRM Authority.

The Selection List

Article 24

The HRM Authority shall make a selection list consisting of candidates who achieved satisfactory results in the qualification assessment procedure.

When, during the qualification assessment procedure, it is established that no candidate gave satisfactory results, the public announcement may be repeated.

Decision on the Selection of a Civil Servant and State Employee

Article 25

The selection list shall be submitted to the head of a state authority.
The selection of a Civil Servant, i.e. State Employee shall be decided on by the head of a state authority.
If the head of a state authority fails to make a selection among candidates from the selection list, he/she shall inform the HRM Authority of his/her reasons for such a decision. In that case the public announcement shall be repeated.
The head of a state authority is obliged to bring the decision from par. 2 of this article and to deliver it to the HRM Authority in the period of 30 days from the day of receiving the selecton list.

Decision on the Employment

Article 26

A Civil Servant, i.e. State Employee shall enter employment by a decision on employment.

Right to Insight

Article 27

A candidate who applied according to the public announcement shall have the right to insight into the documentation of the public announcement.

Probationary work

Article 28

Probationary work may be stipulated in the act on internal organization and systematization as a special condition for performance of particular affairs.
The act from paragraph 1 of this Article shall determine the duration of the probationary work.

Appraisal of Probationary Work

Article 29

During the probationary work, a Civil Servant, i.e. State Employee shall be appraised in a manner and according to the procedure defined by the Government at the proposal of the ministry competent for administrative affairs.
The appraisal mark of the probationary work shall be given by the head of a state authority, no later than within eight days from the day of expiration of the probationary work.
If the appraisal mark of the probationary work is not satisfactory, the employment of the Civil Servant, i.e. State Employee, shall be terminated by force of law.

Duration of Employment

Article 30

A Civil Servant, i.e. State Employee enters employment for an unlimited term.
Temporary employment is established in the following cases:
- replacement of a temporarily absent Civil Servant, i.e. State Employee – for the period of absence of the Civil Servant, i.e. State Employee;
- performance of project tasks with a limited duration – for the period of duration of the project;
- performance of temporarily increased workload, which is not possible to be completed with the existing number of Civil Servants, i.e. State Employees – for the period of duration of temporary increase of the workload;
- performance of on-the-job training – for the duration of the on-the-job training period;

Temporary employment in cases from paragraph 2, items 2, 3 and 4 of this Article may be established only in case that necessary financial means are provided.

III POSTS OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Managing Posts

2. *Managing persons*

Article 31

Managing persons are:
- in a ministry: Secretary to the Ministry and Assistant Minister,
- in an administration authority: Assistant to the Head of an administration authority,
- in a service established by the Government: Assistant to the Head of a service.
Managing persons in other state authorities and services shall be defined by the regulation on establishment of an authority, i.e. on the organization of a service.

Requirements for Managing Persons

Article 32

A managing person shall possess university degree, minimum 5 years of working experience and completed professional exam.
Other conditions for managing persons shall be stipulated in the act on internal organization and systematization.

Appointment, i.e. Nomination Procedure

Article 33

A managing person shall enter employment on the basis of a public vacancy notice.
The HRM Authority shall make a list of candidates who meet the requirements stipulated in the public vacancy notice, on the basis of the submitted applications.

A qualification assessment shall be carried out by way of an interview, in the obligatory presence of the head of a state authority in which a vacancy is to be filled.
A list of candidates shall be submitted to the head of a state authority for the purpose of making proposals for appointment, i.e. nomination.
If the head of a state authority fails to propose for appointment, i.e. nomination a candidate from the list of candidates, he/she shall inform the HRM Authority on his/her reasons for not doing so. In that case the public vacancy notice shall be repeated.
Provisions of this law that regulate the issue of public vacancy notice shall apply to the procedure of implementation of the public vacancy notice.

Appointment and Nomination

Article 34

The decision on the appointment, nomination and release of a managing person in a state administration authority and a service established by the Government, shall be passed by the Government on the basis of the proposal by the head of the state administration authority, i.e. service.
The decision on appointment, nomination and release of a managing person in another state authority shall be made by the authority, i.e. person authorized by the act on establishment of an authority, i.e. act on organization of a service.
A managing person shall be appointed, i.e. nominated to a period of up to five years, and after the expiry of that period he/she may be reappointed, i.e. nominated again.

Release of Managing Persons

Article 35

A managing person shall be released:
- on his/her own request,
- if, in accordance with this law, he/she is given the appraisal mark “nonsatisfactory” two times during the mandate,

- on expiry of his/her mandate, and
- with the termination of employment.

The person specified in paragraph 1 of this Article may be transferred to an appropriate post in the same or another state authority, corresponding to his/her qualification and skills, except in case of termination of employment. In cases when the transfer is not possible within one year as of the day of release from the managing post, managing person shall have the right to receive, during that period, a compensation in the amount of the salary for the last month of performance of his/her duties, with appropriate adjustment. Exceptionally, the right to compensation may be extended up to additional one year, if the dismissed person should attain the right to retirement within that period.

3. Titles of Civil Servants and State Employees

Tasks of Civil Servants and State Employees

Article 36

A Civil Servant, i.e. State Employee shall perform tasks with a specific title.
Tasks performed by the Civil Servant, i.e. State Employee with a specific title in the state administration authority are determined by the Government.

Manner of Acquisition of a Title

Article 37

A Civil Servant, i.e. State Employee shall acquire a title by entering employment or by assignment to a specific post.

Civil Servants' Titles and Requirements

Article 38

Titles of Civil Servants shall be arranged in three grades as follows:

1) First grade:

- Advisor to the Head of an authority, Chief Inspector and Chief authorized official – university degree and minimum 7 years of working experience
- Independent Advisor I, Inspector I and Authorized official I - university degree and minimum five years of working experience
- Independent Advisor II, Inspector II and Authorized official II - university degree and minimum 3 years of working experience
- Independent Advisor III, Inspector III and Authorized official III - university degree and minimum 1 year of working experience

2) Second grade:

- Senior Advisor I - university degree and minimum 3 years of working experience
- Senior Advisor II - university degree and minimum 2 years of working experience
- Senior Advisor III - university degree and minimum 1 year of working experience

3) Third grade:

- Advisor I – post-secondary education and minimum 3 years of working

experience
- Advisor II - post-secondary education and minimum 2 years of working experience
- Advisor III - post-secondary education and minimum 1 year of working experience

The head of a state authority nominates a Civil Servant to the title of Inspector for a term of four years. The head of a state authority shall nominate Chief Inspector, with the consent of the Government, for a term of four years.

Special Titles

Article 39

Exceptionally, titles of Civil Servants in judicial authorities, authorities that perform affairs of diplomacy, police, security of detained and convicted persons, customs and other affairs with special authority and responsibilities may be stipulated by the law or other regulation when defined so in the law.

Exceptionally, act on establishment of a service may also stipulate other titles, when necessary due to the nature of business.

State Employees' Titles and Requirements

Article 40

Titles of State Employees shall be arranged in five grades, as follows:

1) First grade:
- Independent State Employee I - university degree and minimum 5 years of working experience
- Independent State Employee II - university degree and minimum 3 years of working experience
- Independent State Employee III - university degree and minimum 1 year of working experience

2) Second grade:
- Senior State Employee I - university degree and minimum 3 years of working experience
- Senior State Employee II - university degree and minimum 2 years of working experience
- Senior State Employee III - university degree and minimum 1 year of working experience

3) Third grade:
- State Employee I - post-secondary education and minimum 5 years of working experience
- State Employee II - post-secondary education and minimum 3 years of working experience
- State Employee III - post-secondary education and minimum 1 year of working experience

4**) Fourth grade**:
- State Employee IV - secondary education and minimum 3 years of working experience
- State Employee V - secondary education and minimum 2 years of working experience
- State Employee VI - secondary education and minimum 1 year of working experience

5) Fifth grade:

- State Employee - elementary education.

Special requirements for titles

Article 41

Special requirements for titles are the knowledge of a foreign language, work on a computer and other professional trainings and skills.

Special conditions , acording to paragraph 1 of this article,are confirmed by the act of internal organisation and systematization of state authority.

Professional Exam for the Work in a State Authority

Article 42

For the acquisition of a title and performance of affairs, Civil Servant, i.e. State Employee, except the State Employees with elementary education, must pass a professional exam for the work in state authority.
Exceptionally, a Civil Servant, i.e. State Employee may acquire a title without passed professional exam, on condition that he/she will pass the exam no later than within one year from the day of entering employment, i.e. from the day of the assignment to a specific post.
The program and manner of taking the exam as of Paragraph 1 of this Article shall be determined by the Government, at the proposal of the ministry competent for administrative affairs.

Other Professional Exam

Article 43

The law or other regulation may also prescribe the completion of other adequate exams as a condition for the performance of activity in a state authority.
The program and manner of taking the exam as of Paragraph 1 of this Article shall be determined by the ministry competent for administrative affairs, at the proposal of the state authority for which the exam was prescribed as a precondition to perform activity in it.

Termination of the Title

Article 44

A Civil Servant's, i.e. State Employee's title terminates:
- with the transfer to another title,
- with the termination of employment,
- in case of established inability, and
- in other cases determined by the law.

IV RIGHTS AND OBLIGATIONS

Performance of Affairs

Article 45

A Civil Servant, i.e. State Employee shall perform affairs conscientiously, observing the law, other regulations and rules of his/her profession.
A Civil Servant shall observe regulations on official duty and respect the rules of service.

Superior Officer

Article 46

A Civil Servant, i.e. State Employee who manages an internal organizational unit in a State Authority (hereinafter: superior), beside the responsibility for his/her own work, is responsible for the work of civil servants, i.e. state employees that he/she coordinates, regardless of their personal liability.

Instructions and Orders

Article 47

At performing his/her tasks, a Civil Servant, i.e. State Employee, shall observe the instructions and orders of the superior.
A Civil Servant, i.e. State Employee, has the right to demand a written instruction or order, if he/she believes that the purports of the oral instruction or order are not clear, or if he/she believes that the performance of the oral order or instruction might imply an illicit action. The Civil Servant, i.e. State Employee, shall perform the task according to the written instruction, i.e. order, except in the case when the performance of the task would represent a criminal act.
A Civil Servant, i.e. State Employee, shall be acquitted from material and disciplinary liability, if he/she caused damage or committed a disciplinary offence on the grounds of a written order of his/her superior.

Obligation of Performance of Affairs

Article 48

A Civil Servant, i.e. State Employee shall perform affairs outside his/her job description and working hours, if these affairs correspond to his/her qualification.
A Civil Servant, i.e. State Employee shall perform affairs in a working group within the authority, in another authority or in an inter-sectoral working group.

Extraordinary Situations and Circumstances

Article 49

A Civil Servant, i.e. State Employee, shall, in the case of force major, natural disasters and other adversities, temporary increase of the workload, and in other extraordinary situations and circumstances, perform affairs that do not correspond to his/her qualification, while such situations and circumstances require so.
While performing affairs as of paragraph 1 of this Article, the Civil Servant, i.e. State Employee shall have the same rights as in the performance of regular affairs.

Conflict of Interest

Article 50

A Civil Servant, i.e. State Employee, shall not perform affairs:
- than can cause a conflict between the public duties and his/her private interests;
- that affect the impartiality in performing his/her affairs;

- during the performance of which the abuse of information which are not open to the public might be possible;
- that derogate the reputation of the state authority.

A Civil Servant, i.e. State Employee,may after working hours, on previous acknowledge of the head of Authority, perform the work if there are not any disturbance from paragraph 1 of this article.

A Civil Servant, i.e. State Employee, may, without special permission from paragraph 2 of this article, perform scientific research and pedagogical work, publishing activities, as well as affairs for cultural - artistic, sports, humanitarian and other similar organizations.

A Civil Servant, i.e. State Employee, in performing his/her tasks shall not receive money, presents of a great value,except appropriate present of small value, nor any other favour forhimself/herself or other persons.

Observance of Working Hours

Article 51

A Civil servant, i.e. State Employee shall observe the working hours and be present at his/her post during the working hours. In case of emergency reasons, he/she shall explain his/her absence immediately upon return.

In the case of impossibility to come to work, a Civil Servant, i.e. State Employee shall inform his/her superior about the reasons of his/her absence at latest within 24 hours from their occurence, except if that is impossible to do for objective reasons.

Official Secret

Article 52

A Civil Servant, i.e. State Employee shall keep an official secret stipulated by the law or other regulation, regardless of the manner in which he/she has learned about it.

The obligation to keep an official secret shall last even after the termination of employment, but no longer than five years from the day of the termination of office.

Exceptionally, the obligation to keep an official secret may last even longer, when this is stipulated by the law.

The head of a state authority may release a Civil Servant, i.e. State Employee, from the obligation to keep an official secret during a court or administrative procedure, if it relates to data without which the establishment of facts and making of a legal decision would not be possible.

Protection of Civil Servants and State Employees

Article 53

A Civil Servant, i.e. State Employee, in conscientious performing of affairs, is entitled to a protection from threats, attacks and other forms of endangering.

The head of a state authority shall undertake measures for protection of a Civil Servant, i.e. State Employee, immediately after he/she finds out about the endangering.

On request of a Civil Servant, i.e. State Employee or a trade union, the head of a state authority shall inform them on the undertaken measures.

Protection of Civil Servants and State Employees who are declaring their doubts about corruption

Article 54

A Civil Servant, i.e. State Employee who denounces a criminal act to the Head of State Authority and which has characteristics of corruption or he/she has given the written statement about it cannot be removed from the work on this ground.
Persons from paragraph 1 of this article are guaranteed the protection of not revealing the identity to unauthorized persons and protection from abasement, denying or limitations of the rights established by this law.
When there is a fear that a Civil Servant, i.e. State Employee who denounces his/her doubts about corruption, can be exposed to real and serious threat for his/her life, health, physical integrity, freedom or belongings of bigger volume, there is protection provided in accordance to special provisions for protection of a witness.
Abasement of the rights about acknowledging the doubts on corruption or giving malicious statement about it is serious disciplinary offence.

Salary, Allowances and Other Incomes

Article 55

A Civil Servant, i.e. State Employee, is entitled to a salary and has a right to allowance and other incomes in accordance with a specific law.

Vacation and Leave of Absence

Article 56

A Civil Servant, i.e. State Employee, is entitled to annual vacation.
Annual vacation is determined depending on the length of service,
As follows:
- from 1 to 3 years 18 days,
- from 3 to 7 years 19 days,
- from 7 to 10 years 20 days,
- from 10 to 15 years 21 days,
- from 15 to 20 years 22 days,
- from 20 to 30 years 24 days,
- more than 30 years 26 days.

A Civil Servant, i.e. State Employee has a right to leave of absence
in accordance with the general labor legislations.

V LIABILITY OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Disciplinary Liability

Grounds for Disciplinary Liability

Article 57

A Civil Servant, i.e. State Employee is disciplinary liable for performance of affairs which can be minor or serious disciplinary offences.
Issues of disciplinary liability for certain Civil Servants and State Employees may be regulated differently by the law.

Minor Disciplinary Offences

Article 58

Minor disciplinary offences are:
1. non-appearance at work in the determined time and leaving work before the end of the working hours
2. irregular keeping of official acts and data
3. unexcused absence from work for one day
4. not wearing of official attire, i.e. indication with the personal name
5. failure to inform about omissions related to the protection at work
6. violation of working duties prescribed by regulations, i.e. by the Code of Ethics of Civil Servants and State Employees, as a minor disciplinary offence.
7. other offences stipulated under law or other regulation as minor disciplinary offence.

Serious disciplinary offences are:

Article 59

Serious disciplinary offences are:
1. non-executing or, unconscientious, untimely or negligent performance of official duties;
2. refusal of the Civil Servant or State Employee to execute working duties and obligations;
3. unlawful management of funds;
4. abuse of official position or exceeding the authorities;
5. revealing business, official or other secret stipulated by the law or other regulation;
6. unexcused absence from work for 2 up to 4 days in a row
7. giving away official, state or other kind of secret stipulated by the law or other regulations
8. expression of political opinions in the performance of duties;
9. violent or insulting conduct towards clients or colleagues at work;
10. appearance at work in a drunk condition, drinking during working hours, or using narcotics
11. giving incorrect data that affect making of decisions;
12. repeated minor disciplinary offences;
13. violation of duties, which entails serious consequences for clients or the state authority;
14. violation of regulations governing the conflict of interests
15. abusement , limitation or prohibition of the rights of Civil Servants and State Employees stipulated by the law who denounce the criminal act with corruption characteristics or give the written statement about it
16. violation of working duties prescribed by regulations as a serious disciplinary offence

Disciplinary Measures

Article 60

The disciplinary measure for a minor disciplinary offence is a fine in the amount of up to 15% of a salary paid in the month in which the offence was committed.

Disciplinary measures for serious disciplinary offences are the following:
- a fine in the amount of 20 to 30% of a salary paid in the month in which the offence was committed;
- termination of employment.
.

Starting of a Disciplinary Procedure

Article 61

A disciplinary procedure shall be started by the head of a state authority upon a proposal of superior.
A disciplinary procedure shall be introduced by a conclusion, which shall be handed to the Civil Servant, i.e. State Employee, whose disciplinary liability is to be established. Appeal against such a conclusion is not permitted.
A Civil Servant, i.e. State Employee, has the right to file an initiative for the starting of a disciplinary procedure and to justify it, while the initiative shall be justified, i.e. the assertions shall be proved plausible.

Disciplinary Committee

Article 62

A disciplinary procedure against Civil Servants, i.e. State Employees, shall be conducted and decisions recommended by a Disciplinary Committee.
Members of the Disciplinary Committee shall be nominated by the head of a state authority.
The members of the disciplinary comittee are aproved by decision of the Head of a state authority and are consist of the president and two members.
A disciplinary procedure shall be completed within 60 days from the day of the introduction thereof.

Pronouncement of Disciplinary Measures

Article 63

Disciplinary measures against a Civil Servant, i.e. State Employee, shall be pronounced by the head of a state authority at the proposal of the Disciplinary Committee.

Disciplinary Procedure against Managing Persons

Article 64

A disciplinary procedure against a managing person shall be conducted and disciplinary measures pronounced by a committee, which shall be formed by the authority competent for the appointment, i.e. nomination thereof.
The head of a state authority is obliged to intoduce the disciplinary procedure against serious offence of duties against managing persons in front of committe from paragraph 1 of this article who act contrary to article 54 paragraph 2 of this law.

The Disciplinary Procedure

Article 65

During a disciplinary procedure it is required to hold a hearing, in which a Civil Servant, i.e. State Employee, shall have the right to defense. A Civil Servant, i.e. State Employee, may defend himself/herself, or through his/her attorney, proxy, or representative of a trade union.
For all issues as to the conducting of a disciplinary procedure, which are not determined by this law, the appropriate provisions of the law regulating general administrative procedure shall be applied.

The Selection of a Disciplinary Measure

Article 66

At selecting the disciplinary measure, regard shall be given to facts concerning earlier disciplinary liability of the Civil Servant, i.e. State Employee.

Expiry

Article 67

The introduction of a disciplinary procedure for a minor disciplinary offence shall expire within one month from the day the offence was discovered; i.e. within two months from the day the offence had been committed.
The introduction of a disciplinary procedure for a serious disciplinary offence shall expire within 3 months from the day the offence was discovered; i.e. within six months from the day the offence had been committed.
In the case stipulated in Article 59 paragraph 1, item 12 of this law, the introduction of a disciplinary procedure shall expire within six months from the day when the last disciplinary conclusion had become final.
The execution of a disciplinary measure shall expire within two months from the day when the disciplinary conclusion became final.
The expiry period shall not run during the period when it is not possible to introduce, i.e. conduct a disciplinary procedure.
The conducting of a disciplinary procedure shall expire when three times as much time has passed as it is required by the law for the expiry of introduction of a disciplinary procedure, and in any case, expiry shall set in after one year from the day the disciplinary offence was discovered.
If the disciplinary offence has the character of a criminal act, the provisions of the law governing criminal liability shall be applied for absolute terms of expiry.

Entry and Deletion of the Disciplinary Measure

Article 68

Disciplinary measure shall be entered into the Central personnel record.
If a Civil Servant, i.e. State Employee, within a year from the day of entering into effect of the pronounced disciplinary measure for a minor disciplinary offence, i.e. within two years from the day of entering into effect of the disciplinary measure for a serious disciplinary offence, should not commit another disciplinary offence, the entered disciplinary offence shall be deleted from the Central personnel record and it shall be considered that the Civil Servant, i.e. State Employee, has not been penalized disciplinary.

2. Temporary Removal from the Position (suspension)

Grounds for Temporary Removal

Article 69

A Civil Servant, i.e. State Employee, against whom a disciplinary procedure for a serious disciplinary offence has been introduced, may be removed from his/her position pending the conclusion of the disciplinary procedure, if his/her presence might harm the interest of the state authority, or if it might impede the course of the disciplinary procedure.
Temporary removal from the position shall be carried out in the manner that the Civil Servant, i.e. State Employee be:
- limited in or deprived of the given authority,
- determined the measure of temporary transfer to another post,
- prohibited to perform duties within the state authority.

Of all the manners of temporary removal from the position as of paragraph 2 of this Article, the manner which most efficiently provides for the interest of a state authority, shall be selected.

Deciding on the Temporary Removal

Article 70

The head of a state authority shall decide on the temporary removal from the position.

Rights in the Case of Temporary Removal

Article 71

During the prohibition to perform affairs from Article 69, paragraph 2, item 3 of this law, a Civil Servant, i.e. State Employee shall be paid the amount of 60% of the salary paid in the previous month.
A Civil Servant, i.e. State Employee, shall be indemnified the unpaid part of the salary together with compound interest, if by a final conclusion:
- the disciplinary procedure has been suspended,
- the procedure has been expired or
- it was established during the disciplinary procedure that the Civil Servant, i.e. State Employee, has not committed a disciplinary offence, for which he/she was pronounced the disciplinary measure of removal from the position.

3. Material Liability of Civil Servants and State Employees

Material Liability

Article 72

A Civil Servant, i.e. State Employee shall be materially liable for damage caused at work, or in relation with work, unlawfully, deliberately or out of utter negligence, to a state authority.
The Republic of Montenegro shall be liable for the damage a Civil Servant, i.e. State Employee, causes at work, or in relation with work, to a third person. A third person may claim damages also from the one who caused the damage, if the damage had been caused deliberately.

The Procedure of Realization of Material Liability

Article 73

During a decision-making procedure on material liability of the Civil Servant, i.e. State Employee for damage, the provisions of this law governing the disciplinary procedure shall be applied.
The compensation of damage may also be decided on in a disciplinary procedure, if the damage was caused due to a disciplinary offence.

Compensation of Damage through the Court

Article 74

In case when it is found that a Civil Servant, i.e. State Employee is materially liable for damage, and he/she does not recompense the damage, the state authority may realize its rights at the competent basic court.

Written Agreement and Flat-Rate Compensation of Damage

Article 75

A written agreement on the amount and method of compensation of damage may be concluded between the head of a state authority and a Civil Servant, i.e. State Employee.
A written agreement from paragraph 1 of this Article represents an executive document.
If the determination of the extent of damage should cause dispro- portionate expenses, the compensation may be assessed in a flat rate amount, if the cases of adverse acts and the amounts of the flat rate compensation are defined by regulations.

Acquittal of Damage Compensation

Article 76

If a Civil Servant, i.e. State Employee, is acquitted of the liability for damage pursuant to Article 47, paragraph 3 of this law, the liability for damage shall be borne by the superior who had issued the order, i.e. instruction.

Damage Caused to Third Person

Article 77

For paid compensation for damage that a Civil Servant, i.e. State Employee, caused at work or in connection with work, deliberately, to a third person, the Republic is entitled to a retrogressive claim towards the Civil Servant, i.e. State Employee, in the amount of the total compensation paid.
For paid compensation for damage that a Civil Servant, i.e. State Employee, caused at work or in connection with work, to a third person, out of utter negligence, the Republic is entitled to a retrogressive claim towards the Civil Servant, i.e. State Employee, in the total amount or a part of the compensation paid.
For the effectuation of a retrogressive claim, the provisions of Articles 73 through 76 of this law shall be applied.

Liability of the Republic Montenegro

Article 78

The Republic Montenegro shall be liable for damage caused to a Civil Servant, i.e. State Employee, at work or in connection with work, pursuant to general provisions of the civil law.

The liability for damage shall also relate to damage that the Republic Montenegro causes to a Civil Servant, i.e. State Employee, by violating his/her rights arising from employment.
The amount and manner of damage compensation may be arranged by a written agreement between the head of a state authority and a Civil Servant, i.e. State Employee that the damage had been caused to. A written agreement represents an executive document.

VI TRANSFER OF CIVIL SERVANTS AND STATE EMPLOYEES

Requirements of the Service

Article 79

A Civil Servant, i.e. State Employee, may be transferred to another appropriate post that corresponds to his/her qualification, without his/her consent or upon his/her own request, if the state authority requires so.
Exceptionally, a Civil Servant may be transferred to a State Employee's post, with his/her consent, whereby the Civil Servant retains the acquired title, while the period of performance of affairs on a State Employee's post shall be considered as a condition for promotion.
Transfer from paragraphs 1 and 2 of this Article may be permanent or temporary. Temporary transfer shall last for minimum one month, and at the longest for one year.

Transfer to another Authority

Article 80

A Civil Servant, i.e. State Employee may be transferred to another state authority in order to eliminate the consequences of force major or for performance of increased workload, as long as the reasons for his/her transfer persist, but not longer than three months.
A Civil Servant, i.e. State Employee from the paragraph 1 of this Article realizes rights and obligations in the state authority from which he/she was transferred.

Transfer Restrictions

Article 81

Transfer of a Civil Servant, i.e. State Employee, shall not be permissible during temporary work incapability due to illness, during pregnancy or maternity leave.

VII APPRAISAL, PROMOTION AND ESTABLISHMENT OF CAPABILITY

1. Performance Appraisal

Working and Professional Qualities

Article 82

The appraisal of work of Civil Servants, i.e. State Employee shall be performed with the aim of monitoring of his/her work and correct decision-making on his/her promotion.
Work of a Civil Servant, i.e. State Employee shall be appraised with regard to:
1. work results;

2. independence and creativity in the performance of affairs;
3. achieved cooperation with clients and colleagues;
4. quality of organization of work in the performance of affairs;
5. other abilities, skills and quality in the performance of affairs.

Appraisal Marks

Article 83

The appraisal marks for a Civil Servant, i.e. State Employee, are:
- “excellent”;
- “good”;
- “satisfactory” and
- “unsatisfactory”.

The appraisal shall be made once a year, but not later than January 31st for the previous year.
The appraisal, concerning the paragraph 2 of this article , can be performed for shorter period but not shorter than 6 months.

Appraisal Procedure

Article 84

The appraisal mark of a Civil Servant, i.e. State Employee shall be determined by the head of a state authority upon justified proposal of the superior.

Superior Civil Servant, before delivering the suggestion on appraisal mark, is obliged to conduct an unterview with a Civil Servant, i.e. State Employee.

The manner and appraisal procedure of a Civil Servant, i.e. State Employee is determined by Goverment, on suggestion of Ministry authorized for administation.

Notification on the Appraisal Mark

Article 85

A Civil Servant, i.e. State Employee shall be acquainted with the appraisal mark.
A Civil Servant, i.e. State Employee who does not agree with the appraisal mark may claim a reconsideration of the appraisal mark, within eight days from the day of notification on the appraisal mark. The request shall be submitted in writing and justified.
Reconsideration of the appraisal mark shall be performed by a commission. Head of a state authority shall form the Commission which shall consist of the superior and two Civil Servants, i.e. State Employees, who have the same educational degree as the Civil Servant, i.e. State Employee whose appraisal marks is to be reconsidered. The Civil Servant, i.e. State Employee has the right to participate in the appraisal mark reconsideration procedure.
Head of the state authority gives an appraisal mark of the work of the Civil Servant, i.e. State Employee, upon proposal of the Commission.
The appraisal mark shall be entered into the Central personnel record.

Appraisal of Managing Persons

Article 86

Appraisal mark of the work of the managing person is determined by the head of the state authority, in accordance with the criteria defined by the Government from article 84 paragraph 3 of this law.

Appraisal marks for the managing persons are as follows:
- “Satisfactory” and
- “Unsatisfactory”.
In case when the managing person gets an appraisal mark “unsatisfactory” two times during the mandate, head of the state authority initiates the procedure for his/her release from duty. In the procedure of release from duty, opinion of the managing person shall be obtained.

2. Promotion

Promotion

Article 87

A Civil Servant, i.e. State Employee, may be promoted to a higher title within the same grade, and only exceptionally to the initial title within a higher grade, under conditions determined by this law.
A Civil Servant, i.e. State Employee, shall be promoted to a higher salary grade under the conditions stipulated by this law.

Promotion to a Higher Title

Article 88

A Civil Servant, i.e. State Employee may be promoted provided:
1. he/she meets the requirements stipulated for a higher title,
2. he/she has been appraised with an appropriate appraisal mark.
A Civil Servant, i.e. State Employee may be promoted to the initial title within the higher grade if he/she meets the requirements stipulated in paragraph 1 of this Article, and if the tasks of his/her post may be performed within that title.

Promotion Period and Appraisal Mark Stipulated for Promotion

Article 89

A Civil Servant, i.e. State Employee shall be promoted to a one degree higher title within the same grade if he/she, during the period of five years, achieves five times at least the appraisal mark of “good”, or if he/she achieves three consecutive times the appraisal mark “excellent”.
A Civil Servant, i.e. State Employee shall be promoted to an initial title within the higher grade if he/she, during the period of five years, achieves five times the appraisal mark “excellent”.

Promotion into a Higher Salary Grade

Article 90

A Civil Servant, i.e. State Employee shall be promoted to a higher salary grade if he/she during the period of three years achieves three times the appraisal mark “good” or two times the appraisal mark “excellent”.

Decision-making Procedure

Article 91

The decision on promotion of a Civil Servant, i.e. State Employee shall be issued by the head of a state authority upon a proposal of the superior.
The decision from paragraph 1 of this Article shall be issued no later than within 30 days from the day when the proposal was submitted.
Data on promotion of a Civil Servant, i.e. State Employee shall be entered in the Central personnel record.

Rewards

Article 92

A Civil Servant, i.e. State Employee may be awarded recognition for extraordinary achievements, i.e. for particularly successful achievements in the work of the state authority.
Types of rewards and the procedure for the awarding thereof shall be determined by the Government.
Data on awarded recognition to a Civil Servant, i.e. State Employee shall be entered in the Central personnel record.

3. Establishment of Competence

Capability for Performance of Affairs

Article 93

A Civil Servant, i.e. State Employee, who had been appraised with the appraisal mark ''unsatisfactory'' shall be directed to a procedure for establishment of capability for performance of affairs.
The procedure for the establishment of capability of a Civil Servant, i.e. State Employee for performance of affairs shall be initiated on the basis of a conclusion, which shall be delivered to the Civil Servant, i.e. State Employee, whose capability is to be established.

Establishment of Competence

Article 94

Facts proving the capability of a Civil Servant, i.e. State Employee shall be established by a commission, which shall be appointed by the head of a state authority.
The commission from paragraph 1 of this Article shall be constituted only by Civil Servants, i.e. State Employees, who possess at least equal level and type of qualifications as the Civil Servant, i.e. State Employee, whose capability is to be established, and minimum five years of work experience in such or similar duties. Civil Servants, i.e. State Employees, from another state authority may also be nominated in the commission, and if the Civil
Servant, i.e. State Employee whose capability is to be established requires so, a representative of the trade union may also be in the commission.
Upon the proposal of the commission, Head of the state authority shall decide whether a Civil Servant, i.e. State Employee, is competent for the performance of duties and tasks of his/her post.

Termination of Employment due to Incompetence

Article 95

The employment of a Civil Servant, i.e. State Employee, who had been established incompetent for the performance of affairs, shall be terminated, if it is not possible to transfer him/her to another post within a state authority, for which he/she meets the requirements.
The procedure for establishment of capability of a Civil Servant, i.e. State Employee shall be determined by the Government, at the proposal of the ministry competent for administrative affairs.

VIII EXPERT TRAINING OF CIVIL SERVANTS AND STATE EMPLOYEES

1. Training

Training Program

Article 96

A Civil Servant, i.e. State Employee, shall develop his/her professional knowledge in accordance with the expert training program.
The HRM Authority shall determine the expert training program.

The program from paragraph 2 of this Article shall particularly determine the content of expert training, as well as the amount of resources necessary for the realization of the program.
The expenses of expert training of Civil Servants, i.e. State Employees shall be borne by the state authority.

Special Training

Article 97

A Civil Servant, i.e. State Employee, shall be entitled to application for special training, when this is of importance for the work of the state authority.
The expenses of the special training shall be borne by the state authority. The rights and obligations of a Civil Servant, i.e. State Employee, who has been selected for special training, shall be regulated by a contract between the head of a state authority and the Civil Servant, i.e. State Employee.
After the completed special training, A Civil Servant, i.e. State Employee who has signed the contract on special training, may not resign before the period of two times the period he/she spent in special training has expired.Otherwise the state authority may claim from the Civil Servant, i.e. State Employee the restitution of the expenses of his/her special training.

2. Trainees

The Trainee

Article 98

A trainee is a person who enters employment in a state authority for the first time, for the purpose of training for independent performance of duties.
The training period for Civil Servants, i.e. State Employees with university degree or post-secondary (higher) education shall last for minimum 12 months, and for Civil Servants, i.e. State Employees with secondary education it shall last for maximum 12 months.

A trainee shall be trained according to the program determined by the HRM Authority.

3. Scholarships

Awarding of Scholarships

Article 99

A state authority may, on the basis of a public announcement, conclude a contract on awarding a scholarship, when it assumes that this is necessary and if financial means for that purpose are provided.

IX TERMINATION OF EMPLOYMENT

Termination of Employment on a Temporary Basis

Article 100

Employment on a temporary basis of a Civil Servant, i.e. State Employee, shall be terminated by expiration of time for which it was entered, or by completion of tasks for the performance of which he/she entered employment on a temporary basis.

Termination of Employment by Agreement

Article 101

Employment may be terminated on the basis of a written agreement concluded between a Civil Servant, i.e. State Employee and the head of a state authority.
The agreement shall specify the day of termination of employment.

Termination of Employment by Resignation

Article 102

Employment may be terminated by resignation of a Civil Servant, i.e. State Employee, which can not be filed during temporary removal from position, i.e. during a disciplinary procedure.
A notice of resignation shall be given in written form.
Employment may also be terminated by a dismissal by the head of a state authority, in accordance with general labor regulations.

Termination of Employment due to the Professional Exam

Article 103

Employment of a Civil servant, i.e. State Employee shall be terminated if he/she fails to pass the professional exam in the given deadline, which was a condition for entering the employment.
In the case stipulated in paragraph 1 of this Article, the employment of a Civil servant, i.e. State Employee shall be terminated with the expiration of the deadline in which he/she was obliged to pass the professional exam.

Termination of Employment by Force of Law

Article 104

Employment of a Civil servant, i.e. State Employee shall be terminated by force of law, beside the cases stipulated in general labor regulations, when he/she should be appointed or nominated to a duty which, according to regulations, is incompatible with civil service and in other cases stipulated by this law.

Act on Termination of Employment

Article 105

The decision on termination of employment stipulated by this law shall be issued in a form of the decision.

X ABOLITION OF AN AUTHORITY, I.E. TASKS AND REORGANIZATION

Abolition of an Authority, i.e. Tasks

Article 106

In the case of abolition of a state authority, i.e. part of affairs, the state authority, in whose scope the affairs are relocated, shall accept the Civil Servants, i.e. State Employees, who used to discharge these affairs, according to that state authority's needs.

Civil Servants, i.e. State Employees, who can not be assigned in the sense of the paragraph 1 of this Article, shall have the rights and obligations as those employees, whose work has become redundant due to technological, economic and restructural changes in enterprises and other forms of economic organizations, which are set forth by general labor regulations.

In the case of abolition of a state authority or parts of affairs not assumed by another state authority, the Civil Servant, i.e. State Employee, who used to work in this state authority, i.e. who performed the abolished affairs, shall have the rights from paragraph 3 of this Article.

Resources for realization of rights stipulated in paragraphs 3 and 4 of this Article shall be provided in the Budget of the Republic of Montenegro.

Reorganization of State Authority

Article 107

A Civil Servant's, i.e. State Employee's, employment may be terminated or he/she may be transferred to a post that does not correspond to his/her title, i.e. qualification, in the case of decrease of the scope of affairs, and for organizational reasons, public finance and other alike reasons and changes (hereinafter: reorganization).

The basis for establishment of reasons specified in paragraph 1 of this Article shall be the change of the Act on Internal Organization and Systematization of Posts.

A Civil Servant, i.e. State Employee whose employment had terminated in the sense of paragraph 1 of this Article, shall have the rights from paragraph 3 of Article 106 of this law.

Reorganization Program

Article 108

To carry out reorganization, the head of a state authority shall prepare a special program of reorganization.

The program specified in paragraph 1 of this Article shall particularly include the following:
- data on Civil Servant, i.e. State Employee, whose work in the state authority has become redundant
- data on Civil Servant, i.e. State Employee, who is foreseen for transfer to a post which is discharged within a lower title, i.e. to a post requiring a lesser degree of qualification.
The program of reorganization shall be sent to the HRM Authority.

The HRM Authority shall keep the record on Civil Servants and State Employees who are included in the reorganization for the needs of the internal labor market and determine the possibilities for their appropriate working engagement.

XI PROTECTION OF RIGHTS OF CIVIL SERVANTS, i.e. STATE EMPLOYEES AND HUMAN RESOURCES MANAGEMENT

1. Protection of Rights of Civil Servants and State Employees

Decision – Making on Rights and Obligations

Article 109

Rights and obligations of a Civil Servant, i.e. State Employee related to work and deriving from work, shall be decided on by the head of a state authority.
Appeal against the decision specified in paragraph 1 of this Article and the decision on selection of a Civil Servant or State Employee, on the grounds of violation of the selection procedure, may be filed in accordance with this law.

Delegation of Authority

Article 110

The head of a state authority may authorize a managing person to decide on the rights and obligations of a Civil Servant, i.e. State Employee related to work and deriving from work. Irrespective of the delegated authority, the head of a state authority shall always have the right to decide on the rights and obligations of a Civil Servant, i.e. State Employee related to work and deriving from work.
The authority from paragraph 1 of this Article may be conferred to only one person in the state authority. The authority may be limited with regard to time and contents and it should be given in written form.

Trade Union

Article 111

In the procedure of exercise of rights related to work and deriving from work, Civil Servant, i.e. State Employee shall have the right to protection provided by the trade union.
In the case from Paragraph 1 of this Article, the trade union may ask from the head of the state authority to state the views on the manner of exercise of the rights for which protection by the trade union is required.
The head of the state authority is obliged to give views with regard to the request of the trade union.

2. The Appeals Commission

Competence of the Commission

Article 112

Appeal against a decision on rights and obligations related to work and deriving from work of a Civil Servant, i.e. State Employee, shall be decided on by the Appeals Commission.
The complaint shall be filed within eight days from the date of receipt of the decision.

Appointment and Release of the Commission

Article 113

The Appeals Commission shall consist of a Chairman and six members, whereas one among them shall be a representative of the trade union.
The chairman and members of the Appeals Commission shall be appointed and released by the Government, at the proposal of the ministry competent for administrative affairs.
Appointment to chairman and member of the Appeals Commission may be granted to a graduated lawyer with minimum five years work experience.
The chairman and members of the Appeals Commission shall be appointed for a period of four years and may not be reappointed.
The chairman or a member of the Appeals Commission may be released before the end of the mandate upon their own request, or if they fail to perform their tasks regularly and conscientiously.
The manner of work of the Appeals Commission shall be regulated by the rules of procedure of the Commission.
The Appeals Commission shall once a year submit to the Government an activity report. The report shall also be submitted to the ministry competent for state administration affairs.

Work of the Commission

Article 114

At deciding on appeals, the Commission shall apply the provisions of the Law on General Administrative Procedure, if not otherwise prescribed by this law.
The Appeals Commission shall decide on the appeal no later than within 30 days from the day of submission of the appeal.
The Appeals Commission shall decide on the appeal against the conclusion (decision) on temporary removal from work within five days from the day of receipt of the appeal.

Court Protection

Article 115

A Civil Servant, i.e. State Employee may initiate an administrative dispute against the decision of the Appeals Commission within 30 days from the date of delivery of the decision.
A filed appeal shall not defer the execution of the decision of the Appeals Commission, except in the case of dispute related to the establishment of employment.
The procedure upon an appeal shall be urgent.

A Civil Servant, i.e. State Employee does not have the right to court protection against the decision of the Appeals Commission on the basis of the appeal against the conclusion on temporary removal from work.
A Civil Servant, i.e. State Employee may initiate a dispute before the competent first-instance court against the Appeals Commission's decision upon appeal against the conclusion on compensation of damage.

Arbitrary Resolution of a Dispute

Article 116

A dispute originated in relation with work or deriving from work may be settled through arbitration, in accordance with general labor legislation.
The composition, procedure and manner of work of the arbitration shall be determined by the ministry competent for administrative affairs and the trade union.

3. Human Resources Management

HRM Authority

Article 117

The HRM Authority shall particularly perform the following affairs:
- monitoring of the enforcement of this law and other regulations on Civil Servants and State Employees
- giving opinions on organization and systematization of a state authority
- conducting internal and public announcements and public vacancy
- notices for state authorities and services keeping record and other affairs related to the internal labor market
- relating to reorganization of the state administration
- preparing proposals for appropriate expert training programs, and other programs for human resources development
- professional assistance to the Government related to human resources management
- assistance to state authorities in the realization of the HRM policy, training and development of capacities of the personnel
- other affairs in the field of human resources management and development, in accordance with the law.

The HRM Authority shall inform the Government on its activities once a year.

Central Personnel Record

Article 118

The HRM Authority shall maintain a Central Personnel Record for all Civil Servants and State Employees.
The Central Personnel Record shall particularly include data on the following:
- person - name and surname, address and unique citizen's number, etc.
- employment - type of employment and the date of its commencement
- the current post and transfers within the service
- appointment, promotion and the current title
- the degree of qualification, functional and special titles, expert training and exams,
- years of work experience (length of employment), length of employment calculated for retirement benefits, and privileged length of employment (calculated in a special way for very difficult and highly dangerous jobs)

- special functions and participation in project tasks and groups, and in special activities significant for the state authority
- appraisal marks of the performance quality
- recognition
- disciplinary and material liability

- termination of employment
- authorization for access to confidential data
- personal incomes and allowances
- other data in accordance with the law.

Internal Labor Market Record

Article 119

The Internal Labor Market record shall particularly contain data on:
- Vacant posts in state authorities;
- Civil Servants and State Employees who desire transfer to another post;
- Trainees in the state authorities.

Delivery and Utilization of Data

Article 120

The head of a state authority shall pass to the HRM Authority the data designated for entry in the Central Personnel Records no later than within eight days from the occurrence or change in the circumstances to be recorded.
The data from the Central Personnel Records shall be available to the heads of state authorities, i.e. other authority who decides on rights and obligations of Civil Servants, i.e. State Employees.
The data from the Central Personnel Records may also be available to the trade union in case when it participates in the procedure of protection of right of the Civil Servant, i.e. State Employee.

XII SUPERVISION OVER THE ENFORCEMENT OF THE LAW

The Supervisory Authority

Article 121

Supervision over the enforcement of this law and other regulations on Civil Servants and State Employees shall be performed by the ministry competent for administrative affairs, through administrative inspectors.

The Administrative Inspector

Article 122

An administrative inspector, in the supervision of the execution of this law, shall have the right to insight into the entire documentation and records about Civil Servants, i.e. State Employees.
An administrative inspector shall particularly control:
- the regularity and timeliness of the delivery of data to the Central Personnel Record and of the maintenance of the reference collection of documents related to the personnel records;

- the timeliness of issuance of individual acts;
- the employment procedure;
- the public announcement procedure;
- the procedures for the appraisal of work and professional quality, as well as promotion and transfer procedures;
- the conducting of the reorganization procedures
- the procedures for establishment of capability of Civil Servants and State Employees
- other issues related to the rights and obligations of Civil Servants, i.e. State Employees.

Measures of an Administrative Inspector

Article 123

An administrative inspector shall take into processing every petition or initiative in matters that are in his/her competency, and shall inform the submitter on the result of the procedure in that regard.
If the administrative inspector should establish illegalities and irregularities during the inspection control, he/she shall take measures stipulated in regulations on inspection control.
The administrative inspector shall inform the Appeals Commission and the HRM Authority about the established illegalities and irregularities.

XIII PUNITIVE MEASURES

Violations

Article 124

The head of a state authority shall be fined for a violation in the amount from ten up to three hundred minimum wages in the Republic, if he/she:
1.privileges or deprives a Civil Servant, i.e. State Employee, of his/her rights (Article 25.paragraph 4);
2. issues a decision on employment on temporary basis, contrary to (Article 30, Paragraphs 2 and 3 of this law);
3. proposes the appointment of a managing person, contrary to Article 32 - 34 of this law;
4.issues a decision on employment, contrary to Article 16 through 27 of this law;
5. fails to determine the title to a Civil servant, i.e. State Employee in accordance with the defined requirements (Article 37-44);
6. fails to protect a Civil Servant, i.e. State Employee (Article 53 par.3);
7.fails to issue a decision on the length of annual vacation in accordance with Article 56 of this law;
8. transfers a Civil Servant, i.e. State Employee contrary to Articles 79 through 81 of this law;
9. promotes a Civil servant, i.e. State Employee contrary to Articles 87 through 91 of this law;
10.fails to issue a decision on the termination of employment (Article 108);
11.fails to determine the program of reorganization (Article 111);
12.fails to submit the data necessary for the Central Personnel Record, or if he/she gives data from the Central Personnel Record to unauthorized persons (Article 120).

XIV TRANSITORY AND FINAL PROVISIONS

Article 125

Regulations for the implementation of this law shall be passed within one year as of the day of entering into force of this law.
Until bringing up the regulations from paragraph 1 of this article the regulations shall be applied which were in force before until the day of of entering into force of this law , in case that they are not contradictory to this law.

Article 126

Act about internal organisation and systematizatiion of state authority shall be harmonized with this law within the period of one year from the day of of entering into force of this law.

Article 127

Managing persons, who had been appointed, i.e. nominated in accordance with current legislation, shall continue with work on those positions until the expiration of the period of their appointment, i.e. nomination.

Article 128

A decision-making procedure on rights and obligations of a Civil Servant, which has not been concluded in a legally binding manner until the day of application of this law, shall be concluded in accordance with this law, if this is more favorable for the Civil Servant.

Article 129

A managing person, i.e. a Civil Servant who acquired certain rights deriving from employment according to the Law on Civil Servants ("Official Journal of the Republic of Montenegro" no: 27/04 and 31/05) and other regulations passed on the basis of that law, shall continue to use these rights until the expiration of the period determined on the basis of those regulations.

Article 130

A Civil servant, i.e. State Employee who has at least 15 years of working experience in state authority on a day of of entering into force of this law, and didnot pass the State Exam, continues the work in that state authority without obligation of passing State Exam.

Article 131

A Civil servant, i.e. State Employee who has not got the required degree of education for position where he/she was assigned on a day of of entering into force of this law, continues the work at same position.
A Civil servant, i.e. State Employee from paragraph 1 of this article is obliged to, in the period of three years from the day of entering into force of this law, to acquire appropriate education level.
If a Civil servant, i.e. State Employee, during the deadline from paragraph 2 of this article, does not acquire appropriate education level, he/she will be transfered to a working post appropriate for the education level achieved.

Article 132

Special laws governing the issues of the status and official titles of Civil Servants, i.e. State Employees shall be harmonized with the provisions of this law within nine months as of the day of entry into force of this law.

Article 133

With the day of enforcement of this law, the Law on Civil Servants (Official Journal of the Republic of Montenegro, No. 27/04 and 31/05) cease to be in force.

Article 134

This law shall enter into force on the eighth day as of its publication in the “Official Journal of the Republic of Montenegro”.

Podgorica, 29 July 2008.

PARLIAMENT OF MONTENEGRO

PRESIDENT

Ranko Krivokapic