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Pursuant to Article 88, item 3 of the Constitution of Montenegro, I hereby pass the

## **DECREE PROMULGATING THE LAW ON STATE PROPERTY**

I hereby promulgate the Law on State Property adopted by the Parliament of Montenegro at the sitting of the second extraordinary session in 2009 on 26 February 2009.

No: 01-1000/2

Podgorica, 16 March 2009

President of Montenegro

Filip Vujanović, m.p.

### **LAW ON STATE PROPERTY**

#### **I BASIC PROVISIONS**

##### **Contents of Law**

##### **Article 1**

This Law shall regulate the use, management, and disposal of things and other goods belonging to Montenegro or a local self-government (hereinafter referred to as: the state property).

##### **Concept of the State Property**

##### **Article 2**

State property, within the meaning of this Law, shall consist of the: state ownership right on movable and immovable things, funds, securities, and other property rights which belong to Montenegro or a local self-government.

Intended use of things and other goods in the state property shall be determined by a law or decision of a competent authority, in accordance with law.

A law or decision of a competent authority, in accordance with law, shall determine intended use of things and other goods in the state property.

##### **Exercising Property Rights**

##### **Article 3**

Property rights on things and other goods in the state property shall be exercised in accordance with this Law and in the manner that provides transparency.

Competent authorities shall manage things and other goods of the state property as good hosts and shall be responsible for that.

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## **State Ownership Entities**

### **Article 4**

Montenegro shall be the owner of things in the state ownership.

Municipalities shall exercise certain ownership authorisations on things of the state ownership in the manner provided by this Law.

Other entities shall also exercise ownership authorizations on things of the state ownership: state authorities, authorities of local self-government and public services established by Montenegro or a local self-government, and other authorities and organisations using budget funds or managing the state property, in accordance with law and other regulation adopted on the basis of the law.

## **Dominium and Imperium**

### **Article 5**

In civil law relations, the State shall be the owner of things as well as other legal entities (dominium).

The state, through competent authorities and organisations, shall manage and dispose in public interest with natural wealth and goods in general use, in accordance with law (imperium).

## **Competent Authority for Disposal with the State Property of Montenegro**

### **Article 6**

The Government of Montenegro (hereinafter referred to as the: Government) shall exercise property rights and authorisations regarding state property, or the authority of the local self-government unit as defined by the Law and the Statute of a municipality, or the Parliament of Montenegro exceeding certain value, in accordance with requirements and in the manner determined by this Law, unless otherwise provided by a special law.

Competent authorities of public service shall exercise property rights and authorisations regarding state property devolved to them in accordance with requirements and in the manner determined by this Law, unless otherwise provided by a special law.

## **Application of General Rules**

### **Article 7**

General rules shall be applied to acquisition and termination of property rights and other property rights from the state property, unless otherwise provided by this Law.

## **Intended Use of Things and Other Goods in the State Property**

### **Article 8**

Things and other goods in the state property shall be used for exercising functions of Montenegro, local self-government, state authorities, and local self-government authorities, and for performing activities of public services established by the Montenegro or local self-government.

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Things and other goods referred to in paragraph 1 of this Article may also be used for performing activities to generate income, or gain, in accordance with law.

## **Transactions of Rights in the State Property**

### **Article 9**

Property rights on things and other goods in the state property shall be subject to transactions, unless otherwise provided by law.

Natural wealth and goods in general use may not be privately owned.

Property rights on things and other goods in the state property may be devolved to private property on the basis of a decision of a competent authority, transactions or otherwise, in accordance with law.

## **Meaning of Certain Terms**

### **Article 10**

Certain terms used in this Law shall have following meanings:

- 1) State authorities are: the Parliament of Montenegro, President of Montenegro, Government, Constitutional Court of Montenegro, the Ombudsman, State Prosecution Office, ministries and other administration bodies, courts, the Central Bank of Montenegro, State Audit Institution, and other services established by Montenegro;
- 2) Local self-government is municipality, Capital and Historic Royal Capital (hereinafter referred to as: the Municipality);
- 3) Municipal authorities are: Municipal Assembly, Assembly of the Capital and Historic Royal Capital, President of Municipality, Mayor of Capital and Historic Royal Capital, local administration and other bodies and services established by the municipality;
- 4) Public services are :the University of Montenegro, public enterprises, public institutions, state funds, and other bodies and organizations performing public authorizations whose founder is Montenegro or municipality;
- 5) Property of social and political organisations is the property in disposition of former social and political organisations: League of Communists, Socialist Alliance of Working People, and League of Socialist Youth;
- 6) Budget users are users of funds of the Budget of Montenegro, budget of municipality, and other users that use public revenue funds on any ground;
- 7) Public revenues are revenues of the budget of Montenegro, revenues of the budget of municipality, and revenues of public services achieved on the basis of contributions, revenues from activities and other revenues introduced by law;
- 8) Goods of general interest are natural wealth, goods in general use, and other goods of general interest (cultural goods, buildable land, agricultural land, forests and forestland, coastal commons, specially protected reserves and habitats of endangered or protected animal and plant species, and other goods in accordance with law);
- 9) Public goods are natural wealth and goods in general use;
- 10) Goods in general use are goods accessible to everyone under equal conditions and their use shall be done without special permit or approvals of competent bodies (roads, squares, watercourses, ports, airports, city parks, and other);
- 11) Natural wealth are goods created in natural manner that, due to their features have special economic importance, promulgated as natural wealth by law (ore, water, game animals, sand, gravel, stone and other goods created in natural manner);
- 12) Disposition is transfer of all or some of the property authorisations to third parties: alienation (sale, exchange, gift), assigning for management, giving to use, lease, servitude rights,

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- pledge of movable and immovable things (pledge, mortgage, and fiduciary transfer, concession etc);
- 13) Managing property is decision-making regarding keeping, maintenance, renewal, profit generation, insurance and improvement, as well as other matters important for achievement of the intended use of things;
  - 14) Use of things in state ownership is the use of things and collection of revenues in accordance with the nature and intended use of things, as defined by law or act of competent state body;
  - 15) Things and other goods of greater value are movable and immovable things which individual value exceeds 3,000 euro;
  - 16) Official buildings and business premises are immovables used by state bodies, authorities of municipality and public service for performance of functions in the country and abroad;
  - 17) Immovable things for special purpose are: land, buildings, underground and aboveground structures with supporting infrastructure, and other immovables used by the ministries competent for defence and internal affairs and authorities competent for police and security affairs, for defence and national security needs of Montenegro, as well as land, buildings and other immovables used for accommodation of foreign citizens and persons without citizenship;
  - 18) Equipment shall consist of: computer systems, system and application software, means of communications, office furniture, office equipment and other things used by a state body, municipal bodies or public service to perform their functions, whose useful life under normal usage conditions is longer than one year, unless otherwise provided by law;
  - 19) Means of transport are: motor vehicles, watercrafts, aircrafts, and other means of transport used to meet the needs of state authorities or municipal authorities;
  - 20) Movable for special purposes are: means of transport, armament, supplies and equipment of combat having intended use for defence and security of Montenegro, as well as other movables for the defence and security needs;
  - 21) Funds are funds acquired from public revenues provided in the budget of Montenegro, municipal budget, state funds and balance sheets of other bodies and organisations using public revenue funds, as well as funds and means of payment acquired by the state bodies, Montenegro, municipality and public service on other basis;
  - 22) Securities are securities issued or acquired by Montenegro, municipality and public services (bonds, treasury bills, bills of exchange, shares, and other);
  - 23) Objects of historical and documentary, artistic and cultural value are: paintings, icons, sculptures, objects made of precious metals, tapestries, charters, and other fine art and applied art objects, as well as other objects and works having historical, artistic and cultural importance, acquired by Montenegro or municipality, or other bodies and organisations using public revenues funds;
  - 24) Apartment for official needs is an apartment intended for accommodation of elected and appointed persons during the performance of their functions and duties;
  - 25) Other property rights are: real, intellectual rights (right to patent, right to license, model, sample and trademark, right to use technical documentation) and obligations rights.

## **II THINGS AND OTHER GOODS IN DISPOSITION OF MONTENEGRO**

### **Goods of General Interest**

#### **Natural Wealth**

#### **Article 11**

Natural wealth at disposal of Montenegro shall be:

- Ore, oil, gas, and other natural wealth as provided by law;
- Sources of mineral and thermal waters;
- Frequencies and numeration;

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- Natural lakes and other water reservoirs and living and non-living resources within that are not in private property in accordance with regulations;
  - Internal seawaters and territorial sea, see floor, off-shore, and subsoil, living and non-living resources within;
  - Shoals, river sandbars, slipways, levees, swimming areas, cliffs, lemans, reefs, submarine springs, sources and springs;
  - Shores and channels in state ownership;
  - Watercourses and groundwater having importance for Montenegro, in accordance with law;
  - Other natural wealth having importance for Montenegro as provided by law.

## **Goods in General Use**

### **Article 12**

Goods in general at disposal of Montenegro shall be:

- Air space;
- Roads (highways, arterial and regional roads) and appertained structures;
- Airports with associated infrastructure;
- Railways infrastructure in accordance with law;
- Sea ports, breakwaters, and dams;
- Infrastructure objects of importance for Montenegro;
- Objects extracted during archaeological excavations;
- Corridors and satellite orbits.

## **Other Goods of General Interest**

### **Article 13**

Other goods of general interest at disposal of Montenegro shall be:

- Forests, forestland and forest roads being the ownership of Montenegro covered by a special management master plan;
- State ownership in protected parts of nature – national parks;
- Buildable and other land, as well as structures in ownership of Montenegro in the zone of coastal commons;
- Thermal power plants with associated structures;
- Structures for electric power transmission (long transmission lines and substations);
- Elevation points and corridors for electronic, telecommunication and radio broadcasting systems in ownership of Montenegro;
- Telecommunication structures owned by Montenegro;
- Radio-broadcasting structures owned by Montenegro;
- Shelters owned by Montenegro;
- Buildable land owned by Montenegro;
- Agricultural land owned by Montenegro;
- Floodplain of importance for Montenegro owned by Montenegro;
- Structures for education, science, healthcare and social protection with associated land owned by Montenegro;
- Monuments of culture owned by Montenegro;
- Structures for sport and physical culture with associated land owned by Montenegro;
- Flora and fauna;
- Other goods in accordance with law.

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## **Other Goods in the State Property**

### **Article 14**

Other goods in the state property at disposal of Montenegro shall be:

- funds acquired on the basis of public and other revenues belonging to Montenegro;
- Property acquired or that shall be acquired, in accordance with law, by state bodies and public services established by Montenegro;
- Things constructed or acquired from public revenues on the basis of investments of state bodies and public services established by Montenegro;
- Property of former League of Communists and other social and political organizations;
- Property acquired on the basis of distribution of the property of the Socialist Federal Republic of Yugoslavia, Federal Republic of Yugoslavia, and State Union of Serbia and Montenegro;
- Movable and immovable things of the former dynasty Petrović Njegoš;
- Movable and immovable things of foreign diplomatic and consular representative offices of the Kingdom of Montenegro;
- Military fortifications;
- Immovable and movable things considered abandoned in accordance with the Law on Ownership Rights;
- Property acquired as a gift to Montenegro;
- Property acquired on the basis of investments of Montenegro in business organizations and public enterprises;
- Property acquired on the basis of purchase, exchange, expropriation or foreclosure of security interests (pledge, fiduciary, and other) in movable and immovable property, as well as rights property;
- Things owned by Montenegro used for the exercise of functions of state bodies, public services in country and abroad established by Montenegro;
- Property rights and securities being property of Montenegro;
- Property acquired by construction in accordance with BOT system and concessions;
- Equipment and devices in state property;
- Other property acquired in accordance with law.

## **III THINGS AND OTHER GOODS IN DISPOSITION OF THE MUNICIPALITY**

### **Local Goods of General Interest**

#### **Natural Wealth**

### **Article 15**

Natural wealth in disposition of Municipality shall be:

- Water sources and small watercourses (with headwaters and end of the streams on the territory of municipality) of local importance, in accordance with law;
- Mineral resources (gravel, sand and stone) unless concerned exploitation in accordance with law;
- River and lake shores within a general urban development plan, detailed urban development plan, urban development project and local location study being property of the Municipality, and which were adopted before the entry into force of this Law;
- Other natural wealth of local importance as provided by law.

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## **Local Goods in General Use**

### **Article 16**

Local goods in general use in disposition of Municipality shall be:

- Water supply and sewerage infrastructure of local importance
- Municipal roads (local and unclassified) and associated structures;
- Streets in settlements and squares;
- Public lighting;
- Public and green areas and city parks;
- Cemeteries;
- Underground and over-ground passageways.

## **Other Local Goods of General Interest**

### **Article 17**

Other local goods of general interest in disposition of the Municipality shall be:

- Forestland and forests not covered by a special forest master plan (pastures, meadows, underbrush, and other), and which are covered by a general urban development plan, detailed urban development plan, urban development project and local location study which are the property of the Municipality, and which were adopted before the entry into force of this Law;
- Buildable land being property of the Municipality;
- Agricultural land being property of the Municipality within a general urban development plan, detailed urban development plan, urban development project and local location study, and which were adopted before the entry into force of this Law;
- Floodplains of local importance being property of the Municipality;
- Elevation points and corridors for electronic, telecommunication and radio broadcasting systems of local importance;
- Recreational areas;
- District heating pipelines of local importance;
- Monuments of culture being property of the Municipality;
- Sports and physical culture structures with associated land being property of the Municipality;
- Parking areas;
- Markets;
- Public garages;
- Archaeological sites of local importance, in accordance with law;
- Structures property of the Municipality in the coastal commons zone;
- Other goods of general interest, in accordance with law.

## **Other Things and Goods in Disposition of the Municipality**

### **Article 18**

Other state property in disposition of Municipality shall be:

- funds acquired on the basis of public revenues, belonging to Municipality;
- Property of the Municipality used for the performance of functions of authorities and public services in the country and abroad established by the Municipality;

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- Property acquired on the basis of investments of authorities of municipality and public services established by the Municipality;
  - Property acquired on the basis of a gift to a municipality by natural persons and legal persons;
  - Property of former social and political organizations;
  - Property transferred by state authorities into the property of municipality ;
  - Property acquired by purchase, exchange, expropriation, or foreclosure of security interest in movable and immovable things, as well as rights;
  - Property rights and securities being property of the Municipality;
  - Other property that is, in accordance with law, in the property of the Municipality.

### **Disputable Rights**

#### **Article 19**

If there is a doubt whether things or goods are owned by Montenegro or property of the Municipality, it shall be considered to be in disposition of Montenegro.

### **IV MANAGEMENT AND USE**

#### **Authority Competent for Management**

#### **Article 20**

An administration authority competent for property affairs shall manage the state property of Montenegro unless otherwise provided by a special law.

Authority referred to in paragraph 1 of this Article shall also perform following affairs:

- Keep unified records and registry of the state property;
- Ensure the intended use of the state property;
- Take care about property which becomes the state ownership *ex lege*;
- responsible for affairs of entry into cadastre, dividing up of land, delineation, exchange, preparation of draft contracts and monitoring of their implementation, collection of rent and other affairs regarding state property;
- Provide conditions for protection of property;
- Perform other affairs as well, as instructed by the Government and the Ministry of Finance.

A municipal authority determined by the charter of the Municipality shall perform affairs referred to in Paragraphs 1 and 2 of this Article for the needs of the Municipality.

A body determined by law or founding act, shall perform affairs referred to in paragraphs 1 and 2 of this Article for the needs of public service.

#### **The Manner of Management and Use**

#### **Article 21**

The competent authority shall manage and use things and other goods in state property in a legal and cost-effective manner in accordance with their nature and intended use.



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## **Responsibility**

### **Article 22**

A head who manages a state authority, authority of municipality and person who manages a public service shall be responsible for legal and cost- effective management and use of the state property.

Employees in state authorities, authorities of municipality and public services shall be responsible for conscientious and purposeful use of the property which they use while performing duties, in the manner provided by law and general act.

## **Use of Assets**

### **Article 23**

Assets received through sale of the state property shall be used for carrying out structural reforms, opening new jobs, investments in infrastructure and other capital investments of interest for Montenegro, or local importance, pursuant to a decision of competent authority.

In case of sale or long-term lease of the land referred to in Article 64, paragraphs 2 and 3 of this Law by Montenegro, 30% of realized value shall belong to a municipality on which territory is located for the construction of infrastructural facilities.

The payment shall be made after selection of prescribed amount for compensation needs of former owners.

## **Right to Use Public Good**

### **Article 24**

Special use rights (concessions, BOT, lease and other public-private partnership type arrangement) may be acquired on public goods under conditions provided by law.

## **Giving to Use**

### **Article 25**

The Government, at the proposal of the Ministry of Finance (hereinafter referred to as: the Ministry), shall decide on conditions regarding giving to use the immovable property of greater value used by state authorities to perform their activities.

A competent municipal authority determined by the statute shall decide on giving to use immovable and movable property used by authorities of municipality to perform their activities.

A founder shall decide on use, allocation and termination of use of immovable property used by public service to perform its activity.

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## **Notification about Occurred Changes**

### **Article 26**

If a state authority, municipal authority or person who manages the public service, due to the change of responsibilities, reduction of the scope of work or other circumstances terminates to use the property or its part, it shall notify the Government or the competent municipal authority about that within 15 days from the day of occurred change.

The Government or competent municipal authority shall decide on further intended use of the property referred to in paragraph 1 of this Article.

## **Confiscation of Things**

### **Article 27**

When state authorities or municipal authorities and public services established by Montenegro or municipality do not maintain properly immovable property and use it contrary to the nature and purpose or do not use it at all, thus causing a danger of occurrence of a substantial damage, the Government or competent municipal authority shall confiscate such immovable property from the user, at the proposal of the Ministry, or competent municipal authority.

## **Special Rules for Use of Certain Things**

### **Article 28**

The Government or competent municipal authority shall provide conditions and the manner of use by special regulation for:

- Official buildings and business premises;
- Structures for representational use;
- Apartments for official needs;
- Immovable things for special purposes;
- Means of transport;
- Movable things for special purposes;
- Objects of artistic and cultural value.

## **V DISPOSITION WITH THE STATE PROPERTY**

### **Authority Competent for Disposition**

#### **Article 29**

The Government shall dispose with immovable and movable things and other goods owned by the state on which Montenegro exercises ownership authorizations, unless provided otherwise by this Law.

Competent municipal authority, in accordance with this Law and statute, shall dispose with immovable and movable things and other goods owned by the State on which municipality exercises certain ownership authorizations.

The Parliament of Montenegro, at the proposal of the Government, shall decide on disposition of things and other goods in state property above the value exceeding 150,000,000 EUR.

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## **Disposition with Things of Smaller Value**

### **Article 30**

A head who manages the state authority, authority determined by the statute of municipality, or person who manages the public service that uses such a property shall decide on disposition and use of movable things and other goods of smaller value, except for giving gifts.

### **Exchange**

#### **Article 31**

Things and other goods that Montenegro or municipality dispose with may be exchanged mutually applying principles of equal values of mutual giving, if it is in interest of performance of activities of state authorities and municipal authorities and public service.

If subject of exchange are things and other goods that public services manage and use those may be exchanged with the approval of a founder who decides on property disposition.

### **Conclusion of a Contract**

#### **Article 32**

A written contract on disposition and exchange of things and other goods being property of Montenegro, property of municipality and public service shall be concluded.

The contract referred to in paragraph 1 of this Article shall be concluded by a head of state authority determined by the Government, for a municipality the head of authority determined by the statute, and for the public service the manager of service.

### **Concession of Things**

#### **Article 33**

The Government, upon the request of a municipality, may decide to concede immovable and movable things and other goods owned by Montenegro to a municipality for temporary management and use, with or without compensation if not used by state authorities or public services established by Montenegro.

A municipality, upon the request of the Government, may decide to concede immovable and movable things from the property of municipality to the Government for temporary management and use, with or without compensation if not used by authorities of municipality or public service established by the municipality.

### **Exercising Property Rights of the Municipality**

#### **Article 34**

A municipality shall decide on acquisition and disposition of associated rights in accordance with this Law.

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Notwithstanding the paragraph 1 of this Article, municipality may dispose with property rights in border area, within 5km from the borderline, with prior approval provided by the Government.

The Government shall give prior approval on alienation of property rights on immovables owned by municipality.

### **Immovable Needed for Achievement of Public Interest**

#### **Article 35**

If a certain immovable, in disposition of municipality, is required for achieving public interest of Montenegro, the municipality shall return such immovable property to disposition to Montenegro, upon the request of the Government, without compensation.

If a certain immovable, in disposition of the Government, is required for achievement of a public interest of municipality, the Government may give such immovable property to use or disposition to municipality, upon the request of the municipality, without compensation.

### **Property Rights of Public Services**

#### **Article 36**

Public services shall exercise property rights on state property acquired or that are to be acquired from public revenues funds and other revenues they generate in accordance with law.

A competent authority of public service shall decide on disposition and management of property rights referred to in Paragraph 1 of this Article, in accordance with law or founding act, according to prior provided approval of the Government or competent authority of municipality.

### **Gifts**

#### **Article 37**

State authorities or municipal authorities, or their representatives – heads may receive or give gifts in accordance with law.

The Government or competent municipal authority shall prescribe conditions and manner of giving gifts to national and foreign legal and natural persons from the state property, as well as disposition with a gift received by a representative of Montenegro or competent authority of municipality and public service regarding the performance of their function.

### **Limitations on Goods in General Use**

#### **Article 38**

On goods in general use may not be established servitude and other burdens that would make impossible or significantly aggravate their regular use.

No compensation shall be paid to the other party for diagnosis of servitude on the land in state property necessary for construction of infrastructural facilities of interest for Montenegro and of local importance for municipality.

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**Lease**  
**Article 39**

Things and other goods in state property may be leased.

Official buildings, business premises, means of transport and other movable and immovable things may be leased for a period up to five years with a possibility for prolongation.

Goods owned by Montenegro or property owned by municipality may be leased by contract for a period up to 30 years by decision of the Government, or competent authority of the municipality, and for a period up to 90 years by decision of the Parliament at the proposal of the Government.

When the subject of lease is land where construction of the hotel tourism complex is envisaged, lessor may give approval to a lessee-investor to alienate structures constructed on such land in accordance with planned documentation and contract.

When the subject of lease is land where construction of villas is envisaged, ownership right on leased land under the structure with the property on the structure may also be devolved to lessee-investor and is required for its everyday use, in accordance with planned documentation and contract, and paid market compensation.

A lease contract shall regulate conditions, lease term, compensation, manner of use and disposition, keeping, protection and maintenance of things let on lease.

Things and other goods in state property may not be let on sublease without approval of the lessor.

**Public Auction**  
**Article 40**

Sale and lease of things and other goods in state property shall be done through public auction or on the basis of collected bids, notwithstanding direct agreement.

The sale of things and other goods in the state property may be performed by direct agreement in the following cases:

- 1) Transfer of land for construction of structures for the needs of state authorities and organisations, authorities and organisations of local self-government units and organisations performing public services, operating with assets in the state property, as well as other structures in state property;
- 2) Agreed transfer of land to former owner in the name of compensation for expropriated or excluded land;
- 3) When the owner of cadastral parcel is obliged to bear changes of borders of urban parcel pursuant to dividing up of land plan (rounding up of an urban parcel);
- 4) Transfer of land where the structure was constructed without a building permit and which was incorporated into the planned document (legalisation of structure);
- 5) Application of Article 39, paragraph 5 of this Law.

In case lease fails even after three consecutive invitations for public auction or collection of bids, lease of things and other goods owned by the state in direct agreement may be performed.

The Government shall regulate the manner, procedure, conclusion of the contract, terms of sale and lease of state ownership.

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**VI RECORDS, EVALUATION, PROTECTION AND SUPERVISION OF THE STATE  
PROPERTY**

**Records**

**Article 41**

Records of the state property shall be conducted in accordance with international accounting standards.

**Keeping Unified Records**

**Article 42**

Unified records of state property shall be kept separately for movable, separately for immovable things, and separately for other goods, except for special purpose things.

**Authority Competent for Evaluation of Property**

**Article 43**

Administration authority competent for cadastre affairs shall evaluate the value of immovable property owned by Montenegro.

A competent municipal authority determined by the Statute shall evaluate the value of municipal immovable owned by Municipality, whereas the value of property of public services shall be evaluated by a competent authority determined by that service, with the approval of a founder.

The Government, municipality and public service may also determine another competent authority or institution for evaluation of the value of immovable property of Montenegro.

**Keeping Separate Records**

**Article 44**

Records of immovable and movable things which Montenegro exercises ownership rights and authorizations on and used by state authorities to perform functions of state authorities shall be kept by authorities using such things.

Records of immovable and movable things which municipality exercises ownership rights and authorizations on shall be kept by municipal authorities using such things.

Records of immovable and movable things of public services shall be kept by services using such things.

Authorities and services referred to in Paragraphs 1, 2 and 3 of this Article shall take inventory of the property they use.

**Records of Property Used by Several Authorities**

**Article 45**

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Administration authority competent for property affairs or competent authority of municipality and public service shall keep records of things used by several state authorities (official buildings and premises).

Administration authority competent for property affairs or competent authority of municipality and public service shall take inventory, evaluation and record of immovable things used by several state authorities, authorities of municipality, or public services.

## **Registry of Immovables**

### **Article 46**

Immovable things in state property shall be recorded in the Registry of Immovable kept by an administration authority competent for property affairs.

The Registry of Immovables referred to in paragraph 1 of this Article shall be single electronic public database.

## **Contents of the Registry**

### **Article 47**

The Registry of Immovables shall contain:

- Data on immovable thing (settlement, street, number, cadastral municipality, cadastral parcel, certificate of title, land area, structure area, servitude, burden and limitations);
- Grounds for acquiring right;
- Value of immovable property at the moment of recording, evaluated by the administration authority competent for real estate or another authorized authority and other data important for keeping records.

Data from the Registry of Immovables must be in accordance with data from the Cadastre of Immovables.

## **Records of Movable Things and Other Goods**

### **Article 48**

Records of movable things and other goods shall be kept in books of property users based on inventory taken, with the status on December 31<sup>st</sup> of the year the inventory is taken for, in accordance with the accounting value.

## **Special Rules for Keeping Records and Taking Inventory**

### **Article 49**

The Government shall adopt detailed regulations on the manner of keeping records of movable and immovable things and taking inventory of things being in the state property.

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## **Submission of Data**

### **Article 50**

Authorities referred to in Articles 44, 45, and 46 of this Law shall submit data on movable and immovable things to the administration authority competent for property affairs in electronic form for the purpose of keeping the Registry of Immovables, or accounting records of movable things.

Authorities shall submit data referred to in paragraph 1 of this Article until the end of February of the current year for the previous year.

Authorities shall submit all changes related to movable things occurred during the year to the administration authority competent for property affairs.

## **Authorities Obligations for Property Affairs**

### **Article 51**

Administration authority competent for property affairs shall, in accordance with the international accounting standards and other regulations, submit data on immovable and movable things being property of Montenegro to the Ministry until the end of March of the current year for the previous year.

## **Property Protection**

### **Article 52**

Protection of ownership right and other property rights related to state property shall be carried out in accordance with general regulations.

## **Protector of Property-Based Interests of Montenegro**

### **Article 53**

Protector of property-based interests of Montenegro (hereinafter referred to as: the Protector) shall represent Montenegro, its authorities and public services established by the state without capacity of a legal person before courts and other state authorities.

Protection of the property-based interests shall be performed by an authority determined by the municipality.

Performing functions referred to in paragraphs 1 and 2 of this Article protector or competent municipal authority shall have the status of the legal agent of the legal person.

## **Notification of the Government**

### **Article 54**

In cases of property-based disputes of particular importance for the state or disputes regarding things and other goods of the market value above 30,000 EUR, requiring withdrawal of claim, recognition of request of other party, finalization of settlement or withdrawal from remedy, without delay, protector, or competent municipal authority shall, inform the Government and proceed in accordance with its position.



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## **Settlement of Dispute by Mutual Consent**

### **Article 55**

The protector or competent municipal authority, before initiating proceedings, may take required actions due to settlement of dispute by mutual consent, if the nature of dispute allows so.

## **Opinion about Legal Transactions**

### **Article 56**

The protector or competent authority of the municipality shall give legal opinion relating conclusion of the contract and opinion about other property based matters, to authorities whose rights and interests represent, upon their request.

## **Submission of Data**

### **Article 57**

All authorities shall submit requested information and documents to the Protector or competent municipal authority, upon their request.

## **Appointment of the Protector**

### **Article 58**

The Government, at the proposal of the Minister of Finance, shall appoint and remove the protector from the office.

The protector shall have one or more deputies.

The Government, at the proposal of the Protector, shall appoint and remove Deputy Protector from the office.

The Government shall appoint persons referred to paragraphs 1 and 3 of this Article to a period of five years.

A person graduated from law faculty, passed bar examination, and has at least eight years of working experience in the field, in addition to the general requirements needed for work in state administration authorities, may be appointed as the Protector or Deputy Protector.

The Government shall provide a salary to the Protector and Deputy Protector by a special act.

The Protector or Deputy Protector shall exercise other rights arising from employment and on the basis of the employment pursuant to regulations on civil servants and state employees.

## **Supervision and Report of Work**

### **Article 59**

The Ministry shall perform supervision over the work of the Protector.

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The Protector shall prepare an annual report on work and submit it to the Ministry. The report shall be submitted to the Government for adoption after being considered and evaluated.

## **Administrative and Professional Service**

### **Article 60**

Protector shall form administrative and professional service for performance of professional and administrative affairs.

Protector shall adopt the act on internal organisation and job descriptions, with prior approval of the Government.

Regulations on civil servants and state employees shall apply to employees in administrative and professional service.

## **Submission of Contracts**

### **Article 61**

Concluded contracts on acquiring and disposing with immovable and movables and other goods of greater value owned by the state shall be submitted to the Protector, the State Prosecution Office of Montenegro and State Audit Institution, within 15 days from official recognition.

Contracts referred to in paragraph 1 of this Article shall also be submitted to the administration authority competent for property affairs within 15 days from the day of official recognition, for the purpose of keeping records in accordance with law.

## **Supervision**

### **Article 62**

The Ministry shall perform supervision over the application of provisions of this Law.

Inspection control activities referred to in paragraph 1 of this Article shall be performed by an inspection for state property, in accordance with law.

## **VII PENALTY PROVISIONS**

### **Fines for Misdemeanour**

#### **Article 63**

State authority, authority of municipality and public services shall be fined by tenfold to three hundredfold of the minimal salary in Montenegro if:

- 1) disposes property in border area without the Government approval (Article 34, paragraph 2);
- 2) disposes state ownership without obtaining a prior approval of the Government, or competent municipal authority (Article 36, paragraph 2);
- 3) disposes property of Montenegro, property of municipality or public service, without public auction or collection of bids (Article 40, paragraph 1);
- 4) fails to use assets generated by sale of the state property in accordance with this Law (Article 23);

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- 5) exchanges immovable without approval of an authority in charge of disposal of immovable things (Article 31, paragraph 2);
  - 6) fails to dispose of and fails to use the state property in a legal and cost-efficient manner, and in accordance with law (Article 22, paragraphs 1 and 2);
  - 7) fails to conclude a contract on disposal and exchange of immovable property of Montenegro, property of municipality or public service (Article 32);
  - 8) due to the change of responsibility, reduction of the scope of work or other circumstances terminates to use the property or its part, and fails to inform the Government or competent municipal authority, within 15 days from the day of occurred change (Article 26, paragraph 1);
  - 9) fails to keep accounting records on movable things given for use (Article 48);
  - 10) fails to submit data on immovable and movable things to the Ministry until the end of March of the current year for the previous year (Article 51);
  - 11) fails to submit a contract, within 15 days from the day of its conclusion, to the Protector, the State Prosecution Office of Montenegro, State Audit Institution and administration authority competent for property affairs (Article 61, paragraph 1);
  - 12) fails to submit data on immovable things they use or which is within their competence to the administration authority competent for property affairs, for the purpose of keeping unified records on the state property (Articles 66 and 67);
  - 13) fails to submit the request to the administration authority competent for cadastral affairs within 60 days (Article 71, paragraph 1);
  - 14) Fails to register in cadastre for immovable property within 60 days (Article 71, paragraph 2).

For a misdemeanour referred to in paragraph 1 of this Article responsible person in the state authority and municipal authority shall be fine by twofold to twentyfold of the minimal salary in Montenegro.

## **VIII TRANSITIONAL AND FINAL PROVISIONS**

### **Transformation of the Right to Use to the Ownership Right**

#### **Article 64**

The right to use, or the right to permanent use on the land in state ownership, which is, within the general urban development plan and detailed urban development plans, urban development project and local location study registered by the name of Montenegro, municipality, public service established by Montenegro or municipality, shall become the state property of Montenegro or municipality or public service on the day this Law enters into force, by which shall not infringe rights of natural persons and business organisations in the process of transformation of social ownership rights given in provisions of the Law on Ownership Rights.

Notwithstanding paragraph 1 of this Article, the land-cadastral parcels with constructed buildings of state administration authorities, public services established by Montenegro and institutions in domain of education, science, healthcare and social protection, sports and physical culture owned by the State shall be registered as the property of Montenegro.

Land not covered by the general urban development plan, detailed urban development plan, urban-development project and local location study, which authorities and services referred to in paragraph 1 of this Article have the right to use, or the right to permanent use, shall become owned by Montenegro, unless they have acquired such land in valid legal transaction (purchase-sale, gift and other).

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## **Dispute Resolution Related to Belonging of Things**

### **Article 65**

Administrative and court proceedings conducted related to belonging of things from this Law shall be finished pursuant to this Law.

## **Obligations of Authorities and Public Services**

### **Article 66**

State authorities and public services established by Montenegro, or authorities of municipality and public service established by the municipality shall take inventory, evaluation and record of immovable things under their competence within one year from the day this Law enters into force, and submit data on property to the administration authority competent for property affairs.

## **Inventory of Evaluations and Records**

### **Article 67**

State authorities and public services established by Montenegro, or authorities of municipality and public service established by the municipality shall take inventory, evaluate and record immovable and movable things they use, within six months from the day of entering this law.

Notwithstanding provisions of paragraph 1 of this Article, evaluation of movable things shall not be done for the property having an established book value.

## **Deadline for Appointment of the Protector**

### **Article 68**

The Government shall appoint the Protector within 90 days from the day this Law enters into force.

The Protector shall begin work within 90 days from the day of appointment.

The Supreme State Prosecutor shall perform authorisations established by this Law until the expiration of the period referred to in paragraph 2 of this Article.

## **Establishment of the Administration Authority Competent for the Property**

### **Article 69**

The Government shall establish administration authority competent for property affairs within 60 days from the day this Law enters into force, in accordance with this Law.

Until the day of establishment of the administration authority competent for property affairs, activities within its competence shall be performed by the Administration for General Administrative Matters of State Authorities.

## **Establishment of Unified Records**

### **Article 70**

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The administration authority competent for property affairs shall establish unified records of immovable things in the state property within 90 days from the day of expiration referred to in Articles 66 and 67 of this Law.

### **Registration of Rights in the Cadastre**

#### **Article 71**

Administration authority competent for property affairs shall, on the basis of the data referred to in Articles 65 and 66 of this Law, submit the request to the administration authority competent for cadastre activities, in order to register the state ownership right or some other property right on immovable owned by the state and registered in the cadastre of immovables, within 90 days from the day of submission, in accordance with law.

The administration authority competent for cadastre activities shall register the state ownership or some other property rights referred to in paragraph 1 of this Article as the state ownership of Montenegro, or property of the municipality within 60 days, marked as legal entity with right of disposition in accordance with this law.

### **Registration of Co-Ownership**

#### **Article 72**

Rights on immovables, confirmed to be acquired through common investment by the public revenues of Montenegro, or public revenues of municipality, shall be registered in the cadastre of immovable property in the name of Montenegro, or municipality, proportionate to the investments done, except for the structures in the field of science, education, healthcare and social protection, sports and physical culture which shall be registered as the state ownership of Montenegro.

### **Property of Former Social and Political Organizations**

#### **Article 73**

The administration authority competent for property affairs or competent municipal authority shall take inventory of property of former social and political organizations, within 90 days from the day of the establishment of the administration authority competent for property affairs and within 30 days shall submit a request for its registration into the cadastre of immovables.

The administration authority competent for cadastre activities shall register the property referred to in paragraph 1 of this Article in the cadastre of immovables, in accordance with law, within 60 days from the day of submission of the request.

### **Submission of Contracts to the Administration Authority Competent for Property Affairs**

#### **Article 74**

Competent authorities shall submit lease contracts or contracts on temporary use of property concluded until the entry into force of this Law to the administration authority competent for property affairs within three months from the day this Law enters into force.

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## **Secondary Legislation**

### **Article 75**

Regulations for implementation of this Law referred to in Articles 28 and 37 shall be adopted within one year, whereas regulations referred to Articles 40 and 49 within six months from the day this Law enters into force.

## **Termination of Law Validity**

### **Article 76**

Entering into force of this Law, the Law on Property of the Republic of Montenegro (Official Gazette of the Republic of Montenegro, No 44/99), Law on Trade in Immovable Property (Official Gazette of the Socialist Republic of Montenegro, No 27/75, 35/75, 29/89, 39/89, 7/91, 48/91, 2/92, 4/92 and 27/94), Article 15a of the General Law on Education (Official Gazette of the Republic of Montenegro, No 64/02, 31/05 and 49/07), Article 53, paragraph 6 of the Law on Tourism (Official Gazette of the Republic of Montenegro, No 32/02, 41/02 and 45/02), Article 4 of the Law on Coastal Commons (Official Gazette of the Republic of Montenegro, No 14/92), Article 2, paragraph 3 of the Law on Roads (Official Gazette of the Republic of Montenegro, No 42/07) and Article 70 of the Law on Protection of Nature (Official Gazette of Montenegro, No 51/08) shall cease to be in force.

## **Entry into Force**

### **Article 77**

This Law shall enter into force on the eight day following that of its publication in the Official Gazette of Montenegro.

SU-SK No. 01-59/30

Podgorica, 26 February 2009

Parliament of Montenegro

Speaker,

Ranko Krivokapić, m.p.