REPUBLIC OF MONTENEGRO
LABOUR LAW

I BASIC PROVISIONS

Article 1
The labour-based rights and obligations of employees, the method and the procedure of their implementation are subject to this Law, collective agreement and labour agreements, in compliance with international conventions.

Article 2
(1) The Collective Agreement and labour agreements shall not define lower rights or less favorable work conditions than those set by the Law.

(2) The Collective Agreement and labour agreements may envisage other rights or expand the scope of rights or define more favorable employees' work conditions than those defined by this Law.

(3) The labour-based rights and obligations of employees are established as of the day of employee's beginning to work with the employer, in compliance with the labour agreement.

Article 3
(1) Employees are equally treated in achieving their labour-based rights, regardless of their nationality, race, gender, language, religion, political or other orientation, as well as education, social background, wealth or other individual attributes.

(2) An employer is obliged to respect employee's rights, provide an equal treatment in protection of those rights and the privacy and dignity of any employee.

Article 4
(1) Employees working at the employer with more than 20 employees have the right to form the council of employees.

(2) In case that less than 20 employees work with one employer, the role of the council of employees is assumed by an authorized representative of employees.

(3) The council of employees provides its opinion on: relevant decisions and decrees of employer's departments that affect the employees' status in accordance with the collective agreement; promotion of a professional rehabilitation; working conditions for elderly employees, disabled persons, women and employed juveniles; as well as decisions on providing for employees that become redundant.

(4) The mandate, the number and the method of electing Council of Employees members / employee representatives within an employer is defined in the employer's collective agreement.

Article 5
Employees are entitled to form and join a union on voluntary basis, without an obligation of obtaining previous approval of the employer, provided the statutory conditions or union rules are met.

Article 6
(1) The employer is obliged to create conditions for the union representative, the representative of the council of employees or an authorized representative of employees to participate in the process of defining rights, obligations and responsibilities of employees under the law and the collective agreement.

(2) The union representative or the representative of the Council shall not be called to account nor brought to less favorable position as a result of activities assumed in performing the referred duty nor can his labour agreement be terminated on that basis, unless his / her actions present violation of the law and the collective agreement.

Article 7
The provisions of this Law shall also apply to employees working in public administration bodies or local government units, unless otherwise prescribed by a correspondent law.

Article 8
The expressions in the sense of this Law have the following meaning:

1) "Employer" is a legal or physical entity engaged in economic activities, an institution, a bank, an insurance company, an association, an agency, a cooperative or other legal and physical entity entering into a labour agreement with an employee;

2) "Employee" is an individual engaged with an employer having labour-based and labour-originated rights and obligations, based on a labour agreement;

3) "Trainee" is a high-school graduate or individual with the first or the second university degree diploma that is employed for the first time with the purpose of professional qualifying for independent work, in accordance with the level of obtained education;

4) "Work Experience" is time spent on the working position correspondent to the level of education required in certain business;

5) "Systematization Act" is a document defining positions, job descriptions, the type and the level of education, skills and experience required, as well as other special requirements of the position.

II LABOUR AGREEMENT

l Conditions Governing Conclusion of a Labour Agreement

Article 9

(1) "Labour-Based Relation" is a relation between an employee and employer that is established by labour agreement, in accordance with the law and collective agreement.

(2) An employer shall conclude a labour agreement with the employee before the latter starts working.

(3) The labour-based rights and obligations arise at the moment of employee's beginning to work with an employer on the basis of a labour agreement.

Article 10

(1) A labour agreement can be entered into by an individual fulfilling general conditions envisaged by this Law, as well as specific conditions envisaged by this Law, other regulations and the employer's systematization act.

(2) A labour agreement can be negotiated by an individual over 15 years of age and having a general ability.

(3) A labour agreement can be concluded by a disabled person whose general health condition allows professional engagement on corresponding positions.

Article 11

Any foreign citizen or an individual without a citizenship may conclude a labour agreement under conditions determined by a special law and international conventions.

Article l2

From the moment of concluding a labour agreement, an individual assuming the role of a general manager or an executive manager becomes entitled to achieve labour-based and labour-related rights in accordance with the labour agreement signed with the competent body of the employer.

2 Types and Duration of Labour Agreements

Article 13

(1) A labour agreement may be negotiated for a defined period of time or as an open-ended labour agreement.

(2) An employee that entered into a labour agreement for a defined period of time has the same labour-based and labour-originated rights, obligations and responsibilities as an employee that conducted an open-ended agreement.

Article 14
A labour agreement for a defined period of time can be negotiated for in case of:

Seasonal work for a period not exceeding 9 consequent months;
Increased volume of work for a defined period not exceeding 9 consequent months;
A need for replacement of temporarily absent employee until his return;
Performing certain activities in theatre, radio and television, film making, musical, musical-scenic and other activities – until the termination of the referred activities;
Preparation of a certain project – until its termination, but not longer than 5 years;
Teaching in kindergarten, primary or secondary school, but only through the end of a school year;
Performing preparatory activities with employers in founding process, in establishing new programs, technology and other technical and technological improvements of a work process / employee training, but not beyond the limits set for expiration of the project / employee training;
Performing activities in relation to ships in sea shipping, but only by the return in of a ship in departing port;
Specialization - during the process; and
Performing public activities organized in accordance with the Law.

Article 15
An employer may enter into an open-ended labour agreement with an employee referred to in article 14 paragraph 1 item 2 and 3 of this Law that meets the requirements of the Law and systematization act for the required activities, any time when temporarily increased scope of activities becomes permanent, as well as on the day of termination of a replaced employee's engagement or in case a temporarily absent employee is transferred to another position.
The temporarily increased scope of work, in the sense of paragraph 1 of this Article, shall be considered as permanent if an employee performs related activities in a period exceeding nine consequent months.

3 Contents of a Labour Agreement
Article 16
A labour agreement is concluded in a written form;
A labour agreement basically includes:

1) Employer data (title and head office);
2) Employee data (first and last name, qualification, permanent address / temporary residence etc.);
3) Date of beginning the professional engagement with the employer;
4) The position of the newly employed individual and the place of work, followed by data on the number of working hours and the time schedule;
5) Data on labour-based earnings and other compensations of employee;

6) Extent of an annual leave;
7) Agreement duration, in case it is conducted for a defined period of time;
8) Terms for termination of the open-ended labour agreement;
9) Description of activities to be performed in special work conditions, if any;
10) Obligations and responsibilities of an employee at work and in relation to work, and
11) Other information employer and employee may find important in regard of regulating labour relations.

Article 17

(1) A labour agreement is considered to be conducted as of the moment it's signed by employer or individual authorized by employer and individual being employed.

(2) If an individual that contracted a labour agreement fails to begin work engagement on the day envisioned by the labour agreement due to reasons defined in the collective agreement, the employer is obliged to enable him to start working upon cessation of the referred reasons.

(3) An employer is obliged to register individual with whom he entered into a labour agreement or the agreement referred to in Article 141 and 142 of this Law to health insurance, pension and disability insurance and insurance of unemployment in accordance with the law.

4 Public Announcements

Article 18

(1) An employer is obliged to advise the Employment Fund of the Republic of Montenegro (hereinafter referred to as: the Employment Fund) on the available position and the related working conditions.
(2) The Employment Fund shall publicly advertise the available position and the related conditions in a way and under terms accordant to the law.

(3) Funds intended for public announcing of an available position are provided by the Employment Fund.

(4) The Employer may as well advise any other legal person officially registered as a mediator in the employment process on the vacant post and related conditions.

Article 19

An employer shall take a decision not later than 30 days from expiration of the application period and advise in written form all applicants and the Employment Fund.

Article 20

(1) An employer may enter a labour agreement without previous public announcement:

1) With individual receiving employer's scholarship or loan;

2) Based on an agreement on assumption of employee, with employee's consent;

3) With an individual professionally trained, retrained or additionally trained for working on a certain position, based on an agreement between the employer and the Employment Fund;

4) With employee classified as disabled in accordance with regulations on pension and disability insurance that has been professionally trained by the employer for performing activities required by a certain position, provided the Employment Fund acts as a mediator;

5) If task urgency eliminates possibility of a public announcement, but not longer than 30 days;

6) For performing professional activities in accordance with the business-technical agreement between the employer and a foreign partner, for production cooperation, technology transfer and / or foreign investments;

7) With an individual declared as redundant by another employer, due to technological, economic or organizational changes, by mutual agreement between the two employers;

8) With an individual that ceased working engagement due to bankruptcy, reorganization or individual management in the process of employer's bankruptcy or liquidation;

9) For performing activities of a family housekeeper or a nurse.

(2) The employer shall advise the Employment Fund on execution of labour agreements referred to in paragraph 1 of this Article, with exception of cases described in paragraph 1, items 2, 3 and 4 of this Article.

5 Precedent Working Ability Testing

Article 21

(1) Precedent working ability testing, as a special condition for employment, is defined in systematization act.

(2) Precedent working ability testing of a candidate is performed in accordance with employer's Collective agreement.

6 Probation Period

Article 22

(1) The probation period, as a special condition for employment, is defined by the systematization act, if not prescribed differently by a special law.

(2) The probation period shall not exceed six months, except in case of crew member of merchant marine long voyages where a probation period may be negotiated for longer period, i.e. until the return of the ship into the main harbor.

(3) The extent of the probation period is defined by a labour agreement, while the method of its organizing and result assessment is defined by employer's collective agreement.

Article 23

(1) During the probation period, an employee has all rights arising from labour-based relation, in accordance with tasks of the position the employee is covering.

(2) The employment of an employee that fails to satisfy requirements of the position in the probation period shall cease with expiration of the term defined by agreement on probation period.

7 Trainees

Article 24

(1) An employer may enter into agreement with a trainee.

(2) Trainee status shall not last less than six months or longer than one year, if not prescribed differently by a special law.

(3) Upon expiration of a trainee status, the trainee shall take a professional examination.

(4) The method of professional training, the extent of a trainee status and the modality of taking the professional examination is defined by employer's Collective agreement.

(5) The trainee status shall be extended if case of trainee's absence from work due to: temporary working inability envisaged in regulation on community health and health insurance, maturity leave and reporting upon a state authority or military requests.

Article 25

(1) A labour agreement with a trainee is concluded for a defined period.

(2) Upon expiration of a trainee period and completion of a professional examination, employer's body in charge may decide to enter into open-ended labour agreement with trainee, if not prescribed differently by a special law.

8 Education and Training

Article 26

(1) An employer can delegate employee to attend certain professional training and specialization, in accordance with requirements and needs of the position of employee's deployment, especially when it comes to implementation and applying new methods in work organization and technology.

(2) An employee is obliged to obtain professional training and specialization, depending on his capabilities and requirements of the work process.

9 Transfer of a Labour Agreement to a New Employer

Article 27

(1) If the change of employer or employer owner occurs, rights and obligations defined by labour agreement shall be transferred to the new employer, provided employee's compliance is obtained.

(2) The new employer and an employee can enter into a labour agreement in a way and within the deadlines established by labour agreement between the employee and preceding employer.

10 Special Case of Organizing Work – Work at Home

Article 28

(1) An employer may organize work at home if allowed by the nature of work.

(2) The tasks feasible at home are those that are a part of employer's activity scope or are in close relation to that activity.

(3) Employer's collective agreement defines requirements and methods of working at home, as well as modality of achieving rights and meeting obligations of an employee engaged at home.

(4) In case of work at home, criteria for establishing working hours can be previously defined by the quantity of work per time unit.

Article 29

(1) An employer is obliged to keep records on work at home and advise the competent inspection body about it.

The competent inspection body may prohibit work at home in particular employer whenever treat for a life of employees or for the environment is present.

Article 30

(1) A labour agreement on position of a housekeeper or a nurse cannot be conducted between members of an immediate family.

(2) A member of an immediate family, in the context of paragraph 1 of this Article, is: spouse, children, (legitimate, illegitimate, adopted children or stepchildren) and parents.

III EMPLOYEES' RIGHTS

1 Employees' Deployment

Article 31

(1) An employee is assigned to a position defined in the labour agreement entered with the employer.

(2) If required by the work process and organization, another position correspondent to the level and type of employee's qualification, experience and capabilities can be assigned to the employee, in compliance with the labour agreement.

(3) An employee can be transferred from one position to another within the same employer under the labour agreement in cases envisaged by the employer's collective agreement.

(4) A position out of the employee's permanent or temporary residence cannot be assigned to an employed woman during her pregnancy, employed mother of a child under the age of five, single parent of a child under the age of seven, an employed parent of a child with severe development disturbances, employee under 18 nor disabled employee.

Article 32

(1) An employee can be temporarily transferred to a position that requires a degree of qualification inferior to the one he / she possesses in case of a vise major occurred or impending (an earthquake, fire or other elementary emergencies) or due to a need for replacement of an absent employee, as well as in other cases envisaged in the Collective agreement.

(2) An employee shall perform tasks referred to in paragraph 1 of this Article as long as the exceptional circumstances prevail or, in case of replacement of an absent employee, not longer than 30 working days.

(3) An employee transferred to a position referred to in paragraph 1 of this Article is entitled to earnings equivalent to earnings he would have had if he had worked on his original position, if that is more favorable for him.

Article 33

(1) An employee can be temporarily transferred, with his consent, to a position within another employer on the basis of an agreement between two employers, to a position correspondent with employee's qualification in certain profession, in the following cases:

1) It has been ascertained that the need for employee's work has seized;

2) The temporary work discontinuation or reduction occurred; or

3) The business premises or working assets were temporarily rented to another employer.

(2) A labour agreement shall be entered into by the temporary employer and the employee.

(3) The rights and obligations of a temporary transferred employee in his / her pre-transfer employer, in the sense of paragraph 1 of this Article, shall be temporarily suspended.

(4) The employee referred to in paragraph 1 item 1 of this Article has the right to return to the work position within his original employer or to exercise one of the rights defined by the law.

(5) The employee referred to in paragraph 1 item 2 and 3 of this Article, upon expiration of the period of his / her temporary deployment to another position, has the right to return to the original employer at the same or alternate position correspondent to his / her professional qualification.

Article 34

(1) If an employee fails to demonstrate the knowledge and skills required for performing tasks of a position he was deployed to or fails to produce the required work results in a period not shorter than three and not longer than six months, an immediate supervisor can place a request for initiating a procedure of expertise and skills' verification or verification of work results of the referred employee.

(2) The request for initiating the procedure shall be submitted to the general manager or executive manager, who is obliged to form a commission to investigate justification of the immediate supervisor's request.

(3) The Commission referred to in paragraph 2 of this Article is consisted of commissionaires of at least the same qualification in certain profession as the employee being evaluated.

(4) If the Commission, in manner prescribed by the collective agreement, finds immediate supervisor's request justified, the referred employee can be transferred to another position that requires expertise and skills correspondent to those obtained by that employee. If such position is not available, the employee's engagement / the labour agreement with the employer shall be ceased.

(5) The decision in sense of paragraph 4 of this Article is made by the general / executive manager and the referred decision is final.

2 The Working Hours

a) Full Time Engagement

Article 35

(1) Full time engagement consists of 40 hours in a workweek.

(2) Work between 10 pm and 6 am next morning is considered to be a night work.

(3) Night work is considered as the position special requirement.

Article 36

(1) An employee can negotiate labour agreements with several employers within the scope of 40-hours work week and in that way achieve full time engagement.

(2) Modalities of achieving rights and obligations and the work schedule of employees that negotiated labour agreements in the sense of paragraph 1 of this Article are defined by inter-employer agreements.

Article 37

(1) An employer that has implemented the shift system is obliged to provide shift change and in that way prevent the situation of having one employee working during the night (a night shift) continuously for more than one workweek.

(2) An employer operating in specific conditions shall schedule the shift system and attendance of employees in accordance with the collective agreement.

b) Additional Work

Article 38

An employee, with consent of employer that provides the full time based engagement, can negotiate an agreement on additional work with another employer, provided no other candidate meeting the required conditions has applied to employer's advertisement.

v) Part Time Engagement

Article 39

(1) A labour agreement can be negotiated on part time based engagement, but not less than 1/ 4 (10 hours) of a full time engagement.

(2) The positions under part time based labour agreement are defined by systematization act, depending on the nature of work and organization type.

(3) The employee referred to in paragraph 1 of this Article can exercise labour-based rights proportionally to the time spent on work.

g) Short Time Engagement

Article 40

(1) An employee working on a position extremely difficult, arduous and detrimental to health shall be given a short time engagement, proportionally to the detrimental effect to employee's health or working ability.

(2) The work positions refereed to in paragraph 1 of this Article are defined by the systematization act, in accordance with the collective agreement.

(3) An employee working on a short time basis shall have the same labour-based rights as an employee working on full time basis.

(4) An employee working on positions referred to in paragraph 1 of this Article shall not work over time on such tasks nor can negotiate a labour agreement on the same type of activities with another employer.

Article 41

(1) In accordance with the employer's collective agreement, an employer can introduce working hours of less than 40 hours in a workweek if, due to the technology and organizational improvements and implementation of a shift system, it becomes possible to operate successfully even with shortened business hours.

(2) An employee working less than 40 hours in a workweek in sense of paragraph 1 of this Article shall have the same labour-based rights as an employee working on full-time basis.

d) Working beyond the Full Time Engagement (Extra Hours)

Article 42

(1) Work engagement of an employee may last beyond the full time engagement (extra hours) provided an unexpectedly increased scope of work cannot be overcame by neither correspondent organization of work nor the work time scheduling.

(2) Extra hours cannot exceed the time required for eliminating the cause of its introduction.

Article 43

(1) An employee is obliged to work extra hours in case of:

1) Elementary disasters (earthquakes, floods, etc.);

2) Fire, explosions, ionizing radiation and significant sudden damage of facilities, equipment and installation;

3) Epidemics or diseases threatening human life or health or endangering livestock or herbal stock or other tangible assets;

4) Larger volume pollution of water, groceries and other items for human and livestock alimentation;

5) Traffic or other accidents that endangered human life or health or tangible assets to a larger extent;

6) The need to immediately provide urgent medical help or other immediate medical service;

7) The need to perform proposed veterinary intervention, and

8) In other cases envisaged by the collective agreement.

Article 44
A health care institution can introduce extra hours (attendance) if additional recruitment, introducing a shift system or work rescheduling cannot provide constant hospital and off-hospital care.

Article 45
(1) An employer shall advise the Labour Inspector on introducing extra hours not later than three days from enactment of a decree on introducing the referred type of work schedule.

(2) The Labour Inspector shall prohibit extra hours in case the introduction of the referred schedule was against provisions of Article 42, 43 and 44 of this Law.

e) Work Schedule

Article 46
(1) The decision on the work schedule, rescheduling, short time work and introducing extra hours shall be enacted by a competent body of an employer.

(2) The schedule and starting and closing work hours for specific operating areas and for specific positions are defined by the decision of a competent state body or local government body.

Article 47
(1) The rescheduling can be performed whenever required by the nature of activity, work organization, the need for more efficient usage of capital assets and more rational distribution of work hours and execution of certain activities in defined time limits.

(2) The work rescheduling in cases described in paragraph 1 of this Article is performed in such way that the total full time engagement of an employee does not exceed, in average, annual full time work.

Article 48
An employee whose work engagement ceased before the expiration of the rescheduling time shall have the right to a calculation of extra hours into the full time employment in the total annual working hours fund and to be acknowledged as a extent of service, and the remaining working hours to be calculated as an extra hour work.

3 Vacations and Absence

a) Day Break; Daily and Weekly Recess

Article 49

(1) An employee is entitled to a 30-minute day break, which cannot be used at the beginning or at the end of working hours.

(2) The day break is defined in a way that provides continuation of a working process in case of working with clients and if the nature of work demands continuity.

(3) The break time referred to in paragraph 1 of this Article shall be added to the regular working hours.

Article 50

(1) An employee is entitled to a recess of at least 12 successive hours between two consequent working days.

(2) During the seasonal engagement, an employee shall have the right to a recess of not less than 10 successive hours and in case of an employee under the age of 18, the recess shall last not less than 12 successive hours.

Article 51

(1) An employee shall have the right to a weekly recess of not less than 24 successive hours. In case an employee has to work during his weekly recess, the employer shall allow him one day of a leave during the following week.

(2) An employee cannot be deprived from his day break or from his daily / weekly recess.

Article 52

(1) If an employee works beyond the regular working hours during a certain period in the calendar year and on short-time basis in the other period, the employee's right to use daily and weekly recess can be defined in another way and in another period, provided the daily and weekly recesses in accordance with this Law were put at his disposal.

b) Annual Leave

Article 53

(1) An employee shall have the right to an annual leave of at least 18 work days.

(2) An annual leave in case of employee under 18 years shall not be less than 24 work days.

(3) An employee working on short-time basis in the sense of Article 40 of this Law shall have the right to at least 30 working days of an annual leave.

(4) An employee that has not completed a year of working in a calendar year, as well as an employee recruited for the first time, shall have the right to 1/12 of a minimum annual leave defined in paragraph 1, 2 and 3 of this Article per each completed month of engagement (proportional part of the annual leave).

(5) A temporary working disability due to illness, paid leave, maturity leave, recess during official and religious holidays and absence due to responding to requests of state or military entities shall be considered as time spent at work for the purpose of achieving the right to an annual leave.

Article 54

(1) The extent of an annual leave shall be defined on the basis of: contribution to work / complexity of certain position tasks, working conditions, experience, invalidity, general health condition and other criteria defined by the collective agreement and labour agreement.

(2) For the purpose of calculating an annual leave, a working week is counted as five working days.

Article 55

(1) An annual leave of teachers, expert-associates and educators in schools and other educational and teaching institutions shall be entitled to an annual leave during the summer vacation that would end before the beginning of a new school year.

In case teachers and educators are obliged to attend courses for professional improvement or performing other activities related to the beginning of a school year or performing educational and teaching activities organized by the school / educational institution during the summer vacation, the extent of an annual leave shall be determined in accordance with this Law and the collective agreement.

Article 56

(1) The timetable for annual leaves' exercising is determined by the employer.

(2) An employer may take into account justified requests and preferences of employees in the process of preparation of a timetable for annual leaves' exercising.

(3) An employee is advised in writing on the schedule and the number of approved vacation days not later than 30 days before the starting date of an annual leave.

Article 57

The times spent on sickness leave, military exercise, acting upon the request of state bodies and paid leave and free time exercised during religious and official holidays under the provisions of regulations on community health and health insurance are not accounted as annual leave and exercising of a right to an annual leave is accordingly terminated.

Article 58
(1) An annual leave can be availed in two portions.

(2) If an employee uses an annual leave in two portions, the first part of the referred leave is to be used in portion of at least 10 concessive days during the calendar year and the second portion has to be utilized before June 30th of the following year.

Article 59
A ship crew member, as well as employees engaged abroad, may in current year spend the whole of an annual leave accumulated in the last calendar year.

Article 60
(1) An employee whose engagement / labour agreement has been terminated due to a migration to another employer shall exercise the right to an annual leave for the referred calendar year with the employer from whom the right to an annual leave originates, if not differently negotiated by an agreement between the employee and employer.

(2) The employer that had provided the previous work engagement to an employee is obliged to issue a certificate on usage of an annual leave.

An employer is obliged to provide usage of an annual leave to an employee whose work engagement / labour agreement has ceased due to the retirement before termination of work engagement / labour agreement.

Article 61
(1) An employee cannot relinquish his right to an annual leave nor can he be deprived of the referred right.

(2) An employee that did not use the right to an annual leave or used it partially due to employer's fault is entitled to compensation for damage.

(3) The compensation referred to in paragraph 2 of this Article, depending on the number of unused days off, shall be defined on the basis of employee's remuneration for the month damage compensation reimbursement.

v) Absence from Work

Article 62
(1) An employee shall have the right to paid absence during the calendar year up to seven business days in case of: matrimony, moving, delivery of a immediate family member, passing a professional examination and in other cases defined in the collective agreement.

(2) Aside the cases of absence from paragraph 1 of this Article, an employee shall have the right to seven days of paid absence in case of death of an immediate family member.

(3) An immediate family member in the sense of paragraph 1 and 2 of this Article is spouse, children (legitimate, illegitimate, adopted children and stepchildren) and parents.

(4) An employee has the right to an unpaid leave during the advanced professional training during working hours, under the program of professional training for a certain position or during the Union education, in a way and under the procedure defined in the collective agreement.

Article 63

(1) An employee has the right of an unpaid leave for the period and in circumstances defined by the collective agreement.

(2) During the absence in the sense of paragraph 1 of this Article, an employee has the right to a health protection, while other labour-based and labour-originated rights and obligations are suspended.

(3) The contribution for health protection referred to in paragraph 2 of this Article shall be paid by the employer.

g) Suspension of Labour-Based Rights

Article 64

(1) Labour-based and labour-originated rights and obligations of an absent employee are suspended in case of:

1) Serving or completing military service;

2) Delegating employee to another country for engagement under international technical or culturally – educational cooperation, delegating to diplomatic, consular or other mission and appointing for specialization or professional education, with employer's consent;

3) Appointing or delegating an employee for the position in public body or for other public position requesting temporary termination of work engagement with the employer;

4) Detention, meeting security of educational or security provisions up to six months.

(2) A spouse of an employee sent abroad in the sense of paragraph 1 item 2 of this Article also has a right to suspension of the employment status.

(3) An employed individual and his / her spouse have the right to return to work with the same employer not later than 30 days upon cessation of reasons for the suspension of labour-based and labour-originated rights, to the same position or to other position correspondent to the level and type of their education.

4 Earnings, Compensations and other Allowances

a) Earnings

Article 65

(1) An employee has the right to earnings defined under the provisions of this Law and the collective agreement.

(2) Earnings, in sense of this Law, are earnings accumulated by an employee as a result of the work contribution and the time spent at work, incremented earnings, earnings compensation and other allowances defined by the collective agreement paid in amount that exceeds earnings prescribed by the General COLLECTIVE Agreement.

(3) Earnings increase in accordance with the collective agreement due to: extra hours; overnight work; working during official and religious holidays defined by law as non-working days; extent of service and in other cases defined by the collective agreement.

Article 66

(1) Earnings are calculated on the basis of the wage rate of the related position, the contribution to work and the time spent at work in accordance with the law and the General Collective Agreement.

(2) The work rate and other elements for calculation of the level of earnings are defined by the labour agreement, in accordance with this Law and the collective agreement.

Article 67

(1) Earnings shall be paid in terms and in the manner defined by the collective agreement at least once a month.

(2) The employer shall deliver a calculation of earnings to the employee simultaneously with the disbursement of earnings.

(3) An employer that was not able to disburse earnings in total or executed the referred obligation partially on due date is obliged to deliver the calculation of the due earnings to the employee by the end of the due month.

(4) The calculation of earnings referred to in paragraph 3 of this Article has the validity of a credible executive document.

(5) An employee's earnings or earnings compensation shall be coercively suspended to the extent of maximum one half of the earnings in case of mandatory alimentation adjudicated by confirmed court sentence or to the maximum extent of one third of earnings or earnings compensation in other cases.

b) Guaranteed Earnings

Article 68

(1) An employee has the right to a guaranteed earnings amounting to the minimal wage rate defined in accordance with the need of employee and his family, general level of wages in the Republic of Montenegro (hereinafter referred to as: the Republic), cost of living, economic factors and the productivity level.

(2) The minimal wage rate is determined in away and under the method defined in the General Collective Agreement.

(3) Tan employee shall be paid guaranteed earnings for full time engagement or the equivalent time or, in case of short time engagement, the part of the guaranteed earnings in proportion to the time spent at work or working performance based on norms, standards and other criteria.

Article 69

(1) The employer shall provide funds for disbursement of guaranteed earnings to employees in case of disturbances in employer's operating, but not exceeding the amount of three monthly guaranteed earnings in a calendar year.

(2) The decision on disbursement of guaranteed earnings, in the sense of paragraph 1 of this Article, shall be enacted by an employer's management body, based on the proposal of the general or executive manager, provided the judgment of a union and the council of employees or authorized representative of employees is obtained.

(3) If a management body in the employer has not been formed, the decree referred to in paragraph 2 of this Article shall be enacted by a general or executive manager, provided the judgment of a union and the council of employees or authorized representative of employees is obtained.

(4) The decree from paragraph 2 of this Article includes rationale on the disturbances in employer's operating that had significant influence on employer's inability to disburse correspondent earnings in accordance with the law and the collective agreement.

(5) An employer is obliged to disburse the difference between the guaranteed earnings and earnings that would have been accumulated by an employee in accordance with the collective agreement at latest with preparation of an annual statement.

v) Earnings Compensation and other Allowances

Article 70

(1) An employee has the right to earnings compensation in amount defined by the collective agreement during: official and religious holidays; annual leave; paid absence in accordance with the law and the collective agreement; military training and acting upon the request of state bodies; professional training and education on employer's request; temporary working disability due to illness; interruption of work occurring aside employee's fault; employee's objection to work while the prescribed precautions were not taken; absence form work due to participation in employer's bodies and union bodies; pending for migration to

other position; pending for new professional training or additional professional training in accordance with regulations on social security and during the professional training and in other cases envisaged by the law and the collective agreement.

Article 71
An employee shall have the right to other labour-based allowances defined by the General Collective Agreement.

IV PROTECTION OF EMPLOYEES

1 General Protection

Article 72
An employee has the right to a protection at work in accordance with the law and the collective agreement.

Article 73
If a body in charge of assessment of employees' health condition specifies that a certain type of work may damage the health of an employee, the employee shall not be deployed to the referred position nor be requested to work overtime or overnight.

The position carrying an increased level of endangerment by invalidity, professional or other disorder can be covered by an employee meeting the health and psychophysical requirements and age requirements, in addition to the requirements outlined in the systematization act.

2 Protection of Women, Juveniles and Disabled persons

Article 74
An employed women or employees under the age of 18 or disabled employees have the right to a special protection under the provisions of this Law.

Article 75
An employed woman and employees under the age of 18 cannot engaged on a position that requires extremely difficult manual work, underground or underwater activities nor on a position that bear high level of risk of damaging the condition and life of the referred employees.

Article 76
(1) An overnight work cannot be assigned to an employed woman working in the Industry Sector or the Construction Sector unless she has previously exercised the right to a minimum of 12 hours of daily recess.

(2) The limitation referred to in paragraph 1 of this Article shall not be applied to an employed woman engaged in a management position or an employed woman performing activities of health care or social and other protection.

(3) As an exception of the provision in paragraph 1 of this Article, an overnight work can be assigned to an employed woman in case of a need for continuation of activities interrupted by natural disaster or in case of a need for preventing damage to the raw and other material.

Article 77

(1) An overtime or overnight work cannot be assigned to an employee under the age of 18.

(2) The working schedule based on short time engagement can be defined by an employee's collective agreement for the employee referred to in paragraph 1 of this Article.

(3) As an exception of the provision defined in paragraph 1 of this Article, an overnight work can be assigned to an employee under the age of 18 in case of the need for continuation of activities interrupted by natural disaster or in case of a need for preventing damage to the raw and other material.

Article 78

An employer shall deploy an employed disabled worker or an employee liable to a risk of invalidity, in the sense of special regulations, to an adequate position and provide other rights in accordance with the law and the collective agreement.

Article 79

(1) An employer cannot refuse to enter into an agreement with a pregnant woman, nor terminate the labour agreement due to her pregnancy or her absence due to the maturity leave.

(2) An employer cannot terminate labour agreement with an employed woman engaged half of the full time due to attending a child with severe development difficulties, with a single parent of a child under seven, with a single parent of a highly disabled child, nor with an individual exercising one of the mentioned rights.

(3) An employee referred to in paragraph 2 of this Article cannot be proclaimed as a redundant due to implementation of technological, economic or structural changes, in accordance with this Law.

(4) The conditions from paragraph 1 and 2 of this Article are of no influence to cessation of a work engagement.

Article 80

(1) Based on findings and recommendations of the competent medical doctor, a pregnant or nursing woman can temporarily be deployed to another position if it is on the best interest of protection of her or her child's health.

(2) If an employer is not in a position to provide another position to a woman, in the sense of paragraph 1 of this Article, the woman is entitled to a leave and earnings compensation, in accordance with the collective agreement. The referred compensation shall not be less than

earnings that would have been accumulated if the woman continued working on the same position.

Article 81

(1) A woman employed during her pregnancy and an employed mother of a child under the age of three cannot be assigned to work overtime or overnight.

(2) In an exception from paragraph 1 of this Article, an employed woman with a child older than two can be assigned to work overnight in case the employer was provided with her written consent.

(3) One of the parents of a severely disabled child and a single parent of a child under the age of seven can be assigned to work overtime or overnight only if a written consent of such employee has been provided.

3 Maternity Protection and Rights of Child Guarding Employees

Article 82

(1) During her pregnancy, child delivery and baby nourishment, an employed woman has the right to a maternity leave of 365 years from the beginning of exercising the referred right.

(2) Based on a finding of a competent health institution, an employed woman can begin to exercise the right to a maternity leave 45 days before the delivery, but not later than 28 days before the childbirth.

(3) An employed woman may cease her maternity leave before its expiration, but not before expiration of 45 days upon the delivery.

(4) If an employed woman ceases the maturity leave in the sense of paragraph 3 of this Article, she has the right to utilize additional 60-minute break for baby nourishment in addition to the defined day break.

(5) In the case from paragraph 3 of this Article, an employed woman has no right to continue the utilization of an interrupted maternity leave.

(6) During the maternity leave, an employed woman has the right to an earnings compensation, in accordance with the Law.

Article 83

If an employed woman gives birth to a still-born or the infant passes away before the expiration of a maturity leave, she is entitled to extend her maternity leave for the period of time which is, by the opinion of an competent medical doctor, required for her to recover from the delivery and the physical trauma caused by the loss of a child, but not less than 45 days during which she will be entitled to exercise all rights comprised by maternity leave.

Article 84

(1) Upon expiration of a maturity leave, one of the employed parents has the right to work half of the full time engagement by the time the child turns three, in case the child is in need for an additional care.

(2) A right to work referred to in paragraph 1 of this Article has an employee adopting a child or individual entrusted with child custody and nursing by the competent custodial body.

Article 85

(1) A biological parent, adopting parent or individual entrusted with child custody and nursing by the competent custodial body or an individual nursing a patient suffering from: cerebral palsy, child palsy, certain type of plegia or suffering from dystrophy or other muscular or neuromuscular or other severe illnesses has the right to work only half of the full time.

(2) Working hours referred to in paragraph 1 of this Article and Article 84 of this Law shall be considered as a full time engagement for the purpose of achieving labour-based and labour-originated rights.

Article 86

(1) The way ant the method of executing rights referred to in Article 84 and 85 of this Law shall be defined by the ministry in charge of social and child welfare activities.

(2) During the absence from work referred to in Article 84 and 85 of this Law, an employee shall have the right to earnings compensation as prescribed by the law.

(3) The right referred to in Article 84 and 85 of this Law cannot be exercised during patient's accommodation with social or health care institution.

Article 87

The right referred to in Article 82 paragraph 1 of this Law can be exercised by an employed woman or employed father of a child.

Article 88

One of adopters of a child under the age of eight has a right to absent in continuous period of one year starting from the day of adoption and shall have the right to earnings compensation in accordance with the Law.

Article 89

(1) An employee intending to use a right to maturity leave or leave due to adoption is obligated to advise the employer on the intention in written form, before expiration of one month from the beginning date of exercising the referred right.

(2) An employee can terminate benefiting from the right referred to in paragraph 1 of this Article and employer is obliged to accept his / her return and provide deployment to the correspondent position within the period of one month from receiving the employee's notification on cessation of benefiting from the referred right.

(3) An employee that exercised the right referred to in paragraph 1 of this Article ha a right to an additional professional training, if the employer introduced certain changes of technological, economic or structural nature or changes in the method of operating.

Article 90

One of the parents has a right to absent work until the time the child turns three, and if the parent terminates utilization of this right before its expiration, the referred right shall be suspended.

During the absence from work in sense of paragraph 1 of this Article, an employee has the right to a health insurance and retirement and pension insurance, while other rights and obligations rest.

Funds for the health insurance and retirement and invalidity insurance referred to in paragraph 2 of this Article shall be provided from funds of health and retirement and invalidity insurance reserves.

An employee is not entitled to earnings compensation during the absence from work referred to in paragraph 1 of this Article.

V EMPLOYEES' RESPONSIBILITIES

Article 91

(1) An employee and the general manager or executive manager shall observe labour-based obligations prescribed by the law, the collective agreement and the labour agreement.

(2) An employee that fails to meet the work obligation due to his fault or fails to act upon decisions of the employer shall be responsible for the violation of a labour-based obligation in accordance with the law, the collective agreement and the labour agreement.

(3) A criminal charges or responsibility of a felony of violation does not exclude employee's responsibility of complying with the labour-based obligations if the referred violation constitutes a breach of a labour-based obligation.

An employee is responsible for violation of a labour-based obligation that was legally defined or regulated by the collective agreement or labour agreement at the time of execution.

The procedure of initiating and conducting a process of identifying violation of a labour-originated obligation and other issues of importance for the work discipline are regulated in more detail by the General Collective Agreement.

Article 92

(1) The responsibility of a general manager or an executive manager shall be assessed by the body that delegated or appointed him / her to the position.

(2) A labour inspector or union representative may place a request for validation of general manager's or executive manager's responsibility in case, if assesses that the authorizations have been exceeded regarding the rights envisaged by this Law.

1 Violations of Labour-originated Obligations

Article 93

If an employee violates a labour-based obligation, one of the following sanctions may be applied:

1) Penal sum;

2) Termination of the work engagement / labour agreement.

Article 94

(1) An employer shall apply the penal sum in one of the following cases of violation of labour-based obligations:

1) An employee unreasonably fails to advise the employer on the working inhibition in period of three days from occurring;

2) An employee arrives to work after than the time defined as the beginning hour leaving before the end of the end of a working day;

3) An employee arrives to work inebriated, drinks during the work or takes narcotics;

4) An employee presents incorrect information of importance for enactment of a competent body's decision;

5) An employee thoughtlessly or irresponsibly treats an official data;

6) An employee avoids wearing an overall or other clothing for safety at work or individual nametags when prescribed; or

7) An employee causes disorder or participates in fighting in employer's premises.

(2) A penal sum shall be applied in other cases of violation of labour-based obligations defined by the collective agreement.

(3) A penal sum cannot exceed 40% of advanced monthly earnings of employee for the period between one and six months.

(4) The earnings of the employee accumulated during the month of enactment of the penalty shall be used as the basis for establishing the penal sum.

Article 95

Violations of labour-based obligations that may result in termination of an employee's engagement / labour agreement by the employer are as follows:

1) Refusing to perform labour-based obligations defined by the labour agreement;

2) Untimely, unconscionable or irresponsible performing labour-based obligations;

3) Illegitimate disposal of the working assets;

4) Failing to accomplish anticipated outputs due to unjustified reasons in the period of three months;

5) Violation of regulations on firefighting, explosions, natural disasters and damaging influence of venomous and other endangering materials, as well as violation of other regulations and failing to assume measures of protection of employees, work assets and work environment;

6) Abuse of position, authorization exceeding and disclosing a business, official or other secret defined by the law or the collective agreement of the employer;

7) Disturbing one or several employees in working process that particularly complicate performing labour-based obligations;

8) Other violations of labour-based obligations defined by the collective agreement.

2 Bodies and Procedure of Investigating Violations of Labour-Based Obligations

Article 96

(1) The action under the provisions of Article 93 of this Law shall be taken by a general manager or executive manager.

(2) The general manager or executive manager can delegate to another employee his authorization for conducting an investigation for identifying violations of labour-based obligations and action taking.

(3) If an employer has a management board or board of directors to consider employees' demurrers on decisions of employer to terminate employee's engagement / labour agreement, a secondary instance in the decision-making process is the management board / board of directors.

(4) If an employer does not have a management board or board of directors to consider employees' demurrers on decisions of employer to terminate employee's engagement / labour agreement, the competent body is the one referred to in paragraph 1 of this Article.

(5) The demurrer referred to in paragraph 3 or the request from paragraph 4 of this Article shall be submitted at latest 15 days upon reception of the decision.

(6) If violation of labour-based obligation caused certain damage, the body in charge of investigating violations of labour-based obligations shall either enact a decision on the recovery of damage or initiate launching of a procedure of establishment of damage recovery by a competent body.

(7) The demurrer referred to in paragraph 3 or the request from paragraph 4 of this Article suspends execution of the decision on termination of an employee's engagement / labour agreement.

Article 97

(1) An employee may initiate litigation with the competent court against the executive decision on enacting provisions from Article 93 of this Law at latest 15 days upon receiving the referred decision.

(2) The litigation referred to in paragraph 1 of this Article shall not reprieve execution of the referred decision.

Article 98

(1) The statute of limitations shall be applied to initiation of a procedure of investigating violations of labour-based obligations within three months from cognition on the violation and the violator or within six months from the violation itself.

(2) The statute of limitations shall be applied within six months from learning about the violation and the violator or upon expiration of term legally envisaged for applying statute of limitations for the correspondent criminal act, if violation of a labour-based obligation possesses criminal elements.

The statute of limitations shall be applied to the procedure of investigating violations of labour-based obligations within three months from its initiation or within six months from the violation itself.

Article 99

(1) The action under the provisions of Article 93 of this Law cannot be imposed upon expiration of 30 days from the day the referred decision became legally-binding.

(2) The employer shall keep record on actions undertaken in case of violation of labour-based obligations.

(3) If an employee does not violate a labour-based obligation within two years from the day the decision on applying penal sum became legally-binding, the imposed action shall be deleted from records.

3 Temporary Exclusion of an Employee (Suspension)

Article 100

An employee can be temporarily appointed to another position in case of:

1) Abuse of authorizations in material and financial operating;

The employee's engagement on the correspondent position locking out or aggravating other employee's work.

Article 101

A temporary exclusion of an employee can be imposed:

1) If an employee has been found while violating a labour obligation and the termination of an engagement / labour agreement was envisaged for the referred violation;

2) If an employee was convicted to a detention, starting from the first day of sentence serving throughout the end;

3) If a criminal investigation on a criminal act related to work or work engagement was initiated against the employee.

Article 102

(1) An employee that has been temporarily excluded due to circumstances from envisaged by Article 100 of this Law shall be deployed to another position correspondent to his / her education, experience and skills; if the referred position does not exist, the employee shall be temporary deployed to a position demanding the closest level of education to the one obtained by the employee.

(2) The employee referred to in paragraph 1 of this Article shall have the right to earnings defined for the position of deployment.

(3) An employee can be temporary excluded from his position or from work until the decision on establishing responsibility for violation of labour obligation becomes legally-binding or until expiration of the statute of limitations of initiating and carrying a procedure of investigating violation of labour-based obligations.

Article 103

(1) An employee shall be temporary suspended from the position or work by a written instruction of the employer's general manager / executive manager, followed by decision on temporary exclusion and its rationale.

(2) If the decision referred to in paragraph 1 of this Article is not enacted within three days from suspension of an employee from position or work, it is considered that the decision was not enacted at all.

Article 104

(1) While temporary suspended from a position, an employee has the right to earnings compensation amounting to one third of his / her monthly earnings for the month preceding the month of temporary suspension or to one half of the referred earnings if the employee supports a family.

(2) The earnings compensation for the period of detention shall be disbursed on the account of body that imposed the custody.

(3) The body referred to in paragraph 2 of this Article shall have a duty to advise the employer at latest three days upon enactment of the decision on arrest.

(4) The request to refund earnings compensation for the period of employee's detention, as well as taxes and contributions included in the referred earnings shall be submitted by an employer to a body that enacted decision on the arrest.

(5) While temporary suspended from a position, an employee is entitled to a difference between the compensation received under paragraph 1 of this Article and the amount of full earnings received for the month prior to the month of temporary suspension increased by the average increase of employees' earnings in the employer, for the period the compensation was due, especially:

1) If the criminal procedure is terminated due to an executive decision or if employee is absolved from criminal charges by an executive decision or the charge against the employee is overruled for other reasons than the lack of competence, and

2) If the employee is absolved from criminal charges or if the procedure of investigating violations of labour-based obligations is terminated.

4 Financial Responsibility

Article 105

(1) An employee is responsible for the damage at work or for work-related damage caused to the employer by the employee intentionally or due to an extreme negligence.

(2) If the damage is caused by more than one employee, each of the employees is responsible for a proportional part of the damage he participated in.

(3) If the proportion of the damage caused by the employee referred to in paragraph 2 of this Article is not determinable, all employees shall be considered as equally responsible and shall be obliged to recover the damage in equal portions.

(4) If the damage is caused by premeditated criminal act of more than one employee, they shall be called to a joint account.

Article 106

(1) If an employee is injured or suffered damage at work or in regard to work, the damage shall be recovered by the employer.

(2) A special commission, formed by the general manager or executive manager, shall be responsible for investigating weather the damage occurred or not and defining, the level of damage caused, circumstances in which it occurred and individual liable for the damage and method of its recovery.

(3) If the damage is not recovered in accordance with the provision of paragraph 2 of this Article, the decision concerning the damage shall be taken by the court in charge.

(4) An employee that caused damage at work or work-related damage to a third individual deliberately or due to an extreme negligence and the referred damage was covered by the employer shall be obliged to compensate the amount paid by the employer.

5 Prohibition of Competing Against the Employer

Article 107

An employee engaged by employer or an employee that entered into full-time based labour agreement with an employer cannot negotiate or perform activities from employer's area of operating on his or other individual's account without employer's consent.

VI TERMINATION OF ENGAGEMENT

L Termination of Work Engagement – Labour Agreement

Article 108

(1) An employee's work engagement / labour agreement shall be terminated (by operational law):

1) Upon completing 65 years of age and at least 15 years of contributing to employment insurance as of the day of receiving the executive decision;

2) If the procedure envisaged by the law determined the lost of working ability of a employee – as of the day of delivering executive decision on identifying the lost of working ability;

3) If the employee was forbidden to perform certain operations related to the position by provisions of the law or by an executive decision of the court or other competent body and, at the same time, the employee cannot be deployed to another position - as of the day of receiving the executive decision;

4) If the employee has to be absent for more than six months, due to a detention – as of the day of beginning of detention;

5) If the employee was prescribed a safety measure or educational measure or measure of protection for more than six months and has to be absent from work – as of the day of applying the referred measure, and

6) Due to the bankruptcy process, reorganization, individual management in bankruptcy process or liquidation, as well as due to all other cases of termination of employer operating in accordance with the law.

Article 109

(1) An employee can continue to work after the age of 65 if required for performing certain activities, based on the decision of the general manager or executive manager.

(2) An employee can continue to work after the age of 65 if the retirement condition of 15 years of contributing to employment insurance, until the referred condition is met.

(3) An employee engaged in educational and teaching activities in schools and other educational institutions or educational and teaching activities in collegiate institution, that met the condition for termination of the work engagement in regard to the legally envisaged age, can continue work engagement by the end of the school year, based on the decision of the employer's body in charge.

Article 110

(1) A labour agreement shall be terminated by mutual agreement of employee and employer.

(2) Labour agreement can be cancelled by either employer or employee.

(3) The employee is obliged to deliver cancellation of the labour agreement to the employer in written.

Article 111

(1) An employer can terminate employee's labour agreement:

1) If employee was unjustifiably absent for five consequent business days or seven work days in an interrupted period of three months;

2) With expiration of the period defined by a labour agreement for a defined period of time or with expiration or with expiration of the labour agreement for the defined period of time;

3) If the employee fails to achieve envisaged results during the probation period;

4) If the employee refuses to work on the position he was deployed to in accordance with the labour agreement;

5) If the employee accomplishes one of the rights referred to in Article 116 paragraph 1 of this Law;

6) If the employee refuses to exercise one of the redundancy rights offered by the employer;

7) If the severance pay in the sense of Article 117 of this Law was paid to the employee;

8) If the employee misses to return to work within 30 days in sense of Article 64 paragraph 3 of this Law;

9) If the employee, at the time of starting the engagement or entering the labour agreement, presented inexact data significant for performing activities that were the basis for the engagement in the first place;

10) If a penalty sum for violation of labour-based obligations was imposed consequently twice or more;

11) If employee is engaged with another employer without consent of the employer of original full-time based engagement;

12) If employee in his / her behalf or in behalf of the third individual negotiates activities from the area of employer's operating, without the consent of the employer (unfair competition).

(2) The decision on canceling e labour agreement, with its rationale, shall be enacted by the general or executive manager.

(3) The decree referred to in paragraph 2 of this Article is final.

Article 112

(1) A work engagement ceases as of the day of submission of a decision on engagement termination or as of the day of cancellation of a labour agreement, as of the day of expiration of period of notice, if not otherwise prescribed by this Law.

(2) Cancellation of a labour agreement or the decision of work engagement termination shall be delivered to an employee in written form and shall state: the basis for termination of work engagement, rationale and precept on legal remedy.

Article 113

The general manager or executive manager which is not reelected after expiration of the mandate or the general manager relieved of duty before the end of the mandate shall be deployed to a position correspondent to his / her level of education, and in case such position is not present, his / her engagement / labour agreement shall be terminated.

Article 114

(1) An employee has the right and obligation to remain employed at least one month upon receiving the notification on cancellation of the labour agreement or decision on work engagement termination (notification period), in cases envisaged by collective agreement and labour agreement.

(2) If mutual agreement between an employer and employee has been reached, the employee can cease his engagement before expiration of the notification period and shall receive earnings compensation for the referred period in amount defined by the collective agreement and labour agreement.

(3) Employee that ceases engagement at demand of employer before expiration of notification period has the right to earnings compensation and other labour-based and labour-originated rights as if he / she worked throughout the notification period.

(4) During the notification period an employee is entitled to at least four hours of absence with the purpose of seeking engagement.

(5) If an employee was called to a military exercise or military service for less than three months or if an employee became temporarily disabled during the period he / she was obliged to keep working, at his / her request, the march of time referred to in paragraph 1 of this Article shall be terminated and continued upon return from military exercise or military service or upon termination of the temporary work disability.

VII CESSATION OF A NEED FOR EMPLOYEES' WORK ENGAGEMENT

Redundant Labour

Article 115

(1) An employer reducing the number of employees in accordance with the program of Introducing technological, economic and restructuring changes, in a year following the year of Program implementation, enact a program of honoring rights of employees that were proclaimed redundant.

(2) Exceptionally from the paragraph 1 of this Article, an employer intending to cancel labour agreements of less than five employees shall have the duty of enacting a program of honoring rights of employees that were proclaimed redundant.

(3) An employer shall advise Union and the Employment Fund on reasons for termination of employment or cancellation of labour agreement, number and categories of employees and the term intended for termination of employment / cancellation of labour agreement, not later than one month upon enactment of the program.

(4) An employer is obliged to advise the Employment Fund, the Union and employees that were proclaimed redundant on timely basis and at least three months before termination of employment or cancellation of labour agreement, as well as on the data on the age structure, type and the level of education of redundant employees and the proposal of measures for honoring rights prescribed by this Law.

Article 116

(1) The program referred to in Article 115 of this Law includes data on employees proclaimed redundant, activities performed by them, qualification structure, age and provisions for achieving their rights as follows: reallocation to other positions at same employer, within an employee's level of education, on full time or short time basis; transfer of employees to other employee , within an employee's level of education, on full time or short time basis; professional training, extra training or additional training for working on another position with the same or with another employer; as well as other provisions accordant to the collective agreement and labour agreement.

(2) During the assessment of employees that were proclaimed redundant, an employee shall determine the quality of performed activities and work contribution of the employee being assessed, in accordance with employer's collective agreement.

Article 117

(1) An employee proclaimed redundant that was not allowed to exercise any of the rights envisaged by the program referred to in Article 116 paragraph 1 of this Law, as well as an employee engaged with employer canceling labour agreements of less than five employees due to termination of a need for their services, an employer is obliged to disburse severance pay in value of minimum six average wages in the Republic.

(2) The wage, in sense of paragraph 1 of this Article, is average wage in the Republic in the month precedent to the month of termination of employee's engagement or cancellation of labour agreement.

(3) A disabled employee's engagement shall not be terminated nor shall his labour agreement be cancelled without his consent to exercising one of the rights referred to in Article 116, paragraph 1 of this Law or before the referred employee becomes eligible for retirement.

Article 118

(1) The employment or labour agreement of an employee that become eligible for receiving a severance pay in sense of Article 117 paragraph 1 of this Law, shall be terminated as of the day of severance pay disbursement.

(2) An employee whose work engagement has been terminated or an employee whose labour agreement has been cancelled in sense of paragraph 1 this Article has the right to receive cash compensation and pension and invalidity insurance and health care, in accordance with existing law.

Article 119

(1) An employee can engage employee for performing activities correspondent to employee's level of qualification, until exercising of one of the rights envisaged by this Law is enabled.

(2) An employee unengaged in sense of paragraph 1of this Article can be temporarily transferred to another employer, until exercising of one of the rights envisaged by Article 116 paragraph 1 of this Law is enabled.

VIII PROTECTION OF EMPLOYEES' RIGHTS

Article 120

(1) The general manager or executive manager or other authorized individual is entitled to enact decisions on labour-based and labour-originated rights and obligations of employees, in accordance with the law and collective agreement.

(2) An employee which is in belief that the employer violated his / her labour-based or labour-originated right is entitled to submit a request to the employer, asking to be enabled to exercise the right in question.

(3) An employee is obliged to decide on the employee's request not later than 15 days from the date of receiving request.

(4) The decision from paragraph 3 of this Article is final, unless otherwise prescribed by law.

(5) The decision from paragraph 3 of this Article shall be delivered to the employee in written form, with rationale and precept on legal remedy.

Article 121

(1) An employee that finds decision referred to in Article 120 of this Law unsatisfactory has the right to begin litigation with the competent court with the purpose of seeking protection of defined rights, not later than 15 days from the date of the decision receipt.

(2) An employer is obliged to carry out the executive court decision not later than 15 days upon its receipt, unless otherwise prescribed by the law.

Article 122

(1) The employer and employee (disputed parties) can request arbitration for the labour-based and labour-originated dispute (hereinafter referred to as: the labour dispute).

(2) Arbitration referred to in paragraph 1 of this Article is represented through mediation and assisting to resolving the labour dispute arisen under the decision of a competent body on particular right, obligation or responsibility of an employee.

Composition, procedure and method of arbitration shall be defined by the employer's collective agreement.

Article 123

(1) The employee and employer can place a request for initiating an arbitration procedure within eight days upon receipt of the final decision.

(2) Arbitration is considered as an emergency procedure.

(3) Arbitration referred to in paragraph 1 of this Article is obliged to initiate arbitration procedure within eight days upon receipt of the request, while reaching an agreement on the disputed issue cannot take place upon expiration of 30 days from the date of request receipt.

(4) Parties in the labour dispute can agree that execution of the disputed decision or other disputed act cannot take place before finalization of arbitration procedure.

(5) During the procedure of arbitration, the terms envisaged for initiating litigation with a competent court are dormant.

(6) The decision on agreement reached in front of the Arbitration has to be accompanied by rationale and has the legal validity of a court settlement.

Article 124

(1) Resolution of disputes arisen during the processes of contracting, implementing, amending and complementing collective agreements shall be subjected to arbitration.

(2) The composition, method and the procedure in front of the Arbitration shall be defined by the collective agreement.

(3) The decision taken by the Arbitration is final.

Article 125

(1) An employee has the right to seek protection of rights with the competent labour inspector, independently of the procedure of protection of rights initiated with the employer or in front of the competent court or Arbitration.

(2) If an employee begun a procedure for protection of rights in front of the competent court, the labour inspector can suspend execution of an act or activity of the employer if the right of the employee was apparently violated, until enactment of a court decision on the disputed issue.

Article 126

If employer simultaneously receives requests for protection of labour-based or labour-originated rights from 10 employees or from at least 10% of total number of employees, the employer is obliged to seek and take into consideration an opinion of the Employees Council or, if such body does not figure, the position of the Union's opinion.

IX COLLECTIVE AGREEMENTS

Article 127

(1) A collective agreement defines work-related rights and obligations of employee and employer, as well as mutual relations between participants of the collective agreement, in accordance with the law.

(2) Agreements referred to in paragraph 1 of this Article can be negotiated as general, branch-level agreement and the employer collective agreement.

(3) Collective Agreements shall be applied directly.

Article 128

(1) General Collective Agreement shall be negotiated for the territory of the Republic and shall apply to employees and employers in general.

(2) Branch-Level Agreement shall be negotiated at the level of branches of economy, operational groups or subgroups at the territory of the Republic and shall apply to employees and employers in certain branches of economy, operational groups or subgroups.

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(3) Employer Collective Agreement shall apply to employees of the employer. If Employer Collective Agreement is not negotiated, the correspondent Branch-Level Collective Agreement shall apply directly if negotiated and if not, the General Collective Agreement shall be applied.

(4) Labour-based and labour-originated rights and obligations of individuals self-employed in art or other cultural activity (free-lance artists) shall be defined in accordance with the Branch-Level Collective Agreement negotiated between the Free-Lance Artists Union and the ministry in charge of cultural activities.

Article 129

(1) The General Collective Agreement shall establish basic elements for defining minimal wage rate to be used as the basis for calculating employees' earnings, earnings compensation, other allowances of employees and other labour-based and labour-originated rights and obligations, in accordance with the law.

(2) A Branch-Level Collective Agreement shall establish minimal wage rate in correspondent branch for the rudimentary work, the wage rate for standard working positions, basic elements for defining employees' earnings and other labour-based rights and obligations of employees, in accordance with the law and General Collective Agreement.

(3) The Employer Collective Agreement shall establish minimal wage rate for rudimentary work, the wage rate for specific working positions, basic elements for defining employees' earnings and other labour-based rights, obligations and responsibilities of employees, in accordance with the law and collective agreements.

Article 130

Rights and obligations of employees and employer engaged with an employer that has not formed a Union shall be defined by labour agreement, in accordance with the law and General or Branch-Level Collective Agreement.

Article 131

(1) General Collective Agreement shall be signed between a competent body of an authorized organization of Republic Union, a competent body of Chamber of Commerce of Republic of Montenegro (hereinafter referred to as: the Chamber of Commerce) and the Government of Republic of Montenegro (hereinafter referred to as: the Government).

(2) A Branch-Level Collective Agreement shall be signed between:

1) for employer - a competent body of the Union and the competent body of the Chamber of Commerce;

2) for public companies and other public services founded by the State, authorized Union organization and the Government, or authorized Union organization, the founder and a competent body of Chamber of Commerce - for other public institutions;

3) for public institutions whose earnings are financed by the Budget of the Republic – an authorized Union organization and the Government, or an authorized Union organization and the founder - for other public institutions;

4) for organizations of mandatory social insurance - an authorized Union organization, management board / board of directors of those organizations and the Government;

5) for public institutions and organizations and local governments - an authorized Union organization and the Government;

6) for political and union institutions and non-governmental organizations - an authorized Union organization and the competent body of the Chamber of Commerce;

7) for foreign legal and physical entities (embassies, diplomatic-consular mission, foreign companies' regional offices etc.), an authorized Union organization and a competent body of the Chamber of Commerce.

(3) Employer Collective Agreement shall be signed between a competent body of the employer and authorized Union organization.

(4) Collective Agreement of employer in public sector, institution or other public entity founded by the State shall be signed between an authorized Union organization, general manager / executive manager and the Government, or by an authorized Union organization, general manager / executive manager and the founder – for other public organizations and institutions.

Article l32
An authorized Union organization, in sense of this Law, is a union organization that has the largest number of members and that is, as such, registered with the ministry in charge of labour-originated activities.

Article 133
(1) A collective agreement shall be considered negotiated as of the moment of its signing by authorized representatives of all parties.

(2) General Collective Agreement and Branch-Level Collective Agreement shall be registered in the ministry in charge of labour-originated and published in "Official Gazette of the Republic of Montenegro".

(3) The modality of employer collective agreements' publishing shall be envisaged by that agreement.

(4) The modality and method of registering collective agreements referred to in paragraph 1 of this Article shall be defined by the ministry in charge of labour-originated activities.

Article 134
(1) Collective Agreements shall be negotiated both as definite and open-ended.

(2) Open-Ended Collective Agreement can cease by mutual understanding of all participants or by its cancellation, in a way envisaged by that Agreement.

(3) The validity of a definite collective agreement negotiated for a defined period shall cease with expiration of the defined period.

(4) A Definite Collective Agreement can be extended by a mutual agreement of all parties, not later than 30 days before its expiration.

Article 135
If an employer is being restructured, the application of a collective agreement applied before the process of restructuring shall continue up to negotiation of a new collective agreement.

X UNION OPEARTING CONDITIONS

Article 136
(1) A Union Organization shall be registered in the registry of union organizations maintained by a ministry in charge of labour-originated activities.

(2) The procedure of registration in the registry referred to in paragraph 1 of this Article shall be prescribed by a ministry in charge of labour-originated activities.

Article l37

(1) The union organization is independent in enacting decisions on the method of its representation in employer.

(2) The union Organization can appoint or elect one union representative which would represent the Union.

(3) An employer shall have a duty to provide Union representative with a timely exercising of rights, in sense of paragraph 2 of this Article, as well as access to data required for exercising the referred right.

(4) A Union representative is obliged to perform union activities in a way which would not efficiency of employer's operating.

(5) The union organization is obliged to advise the employer on appointment of a union representative.

Article 138

(1) An employer shall, at least once a year, advise union organization on:

1) Business results;

2) Development plans and their prospective effects on employees' status and trends and changes in earnings' policies;

3) Provisions for improvement of work conditions, occupational health and protection and other issues of importance for wealth and social status of employees.

(2) An employer shall coordinate with an union organization on:

1) Provisions aimed for occupational health and protection;

2) Introducing new technology and organizational changes;

3) The work schedule, overnight and overtime engagement;

4) Enactment of technological, economic or restructuring changes, as well as program for providing rights' exercising for employees proclaimed redundant;

5) The schedule and a method of earnings disbursement.

(3) An employer shall have the duty to timely notify union organization and provide it with documentation required for participation in meetings of employer's bodies for consideration of employer's initiatives and proposals.

(4) A union representative has the right to participate in the discussion with employer's bodies in charge.

Article 139
An employer shall have the duty to provide freely exercising of employees' rights.

An employer is obliged to provide union organization with conditions for efficient performing of all union-related activities on protection of employees' rights and interests, in accordance with the collective agreement.

A representative of the Union has the right to an earnings compensation while absent from work due to performing activities organized by the Union, in accordance with the collective agreement.

The employer has to be advised on absence of a member of Union in cases referred to in paragraph 3 of this Article at least three days before the absence.

The collective agreement defines conditions, modality and method of professionalizing engagement of Union representative, in the best interest of Union rights.

Article 140
(1) The representative of Union and representative of employees, during performing Union activities and six months upon their termination, cannot be called to account, proclaimed redundant, deployed to another position in same or other employer, nor put in a less favorable position in any other way, provided the referred employee acts in accordance with he law and collective agreement.

(2) An employer cannot put Union representative or employees' representative in more or less favorable position due to their participation in Union or performing union activities.

XI SPECIAL TYPES OF LABOUR AGREEMENTS

1 Temporary and Occasional Work
Article l41
In case of a need for performing certain activities that do not require particular knowledge and skills and, by their nature, re not likely to last for more than 90 days in a calendar year (temporary and occasional activities), an employer can enter into a special labour agreement with correspondent individual registered in records of the Employment Fund.

2 Performing Activities outside Employer's Premises
Article 142
An employer is entitled to enter into a special labour agreement on making certain items or providing services from its sphere of activity outside its premises (cottage industry, collection of secondary raw materials, selling books, brochures, newspaper, providing computer services etc.).

Article 143

Agreement referred in Article 141 and 142 of this Law contains provisions on: the activity which is the basis for the agreement, terms for beginning and finishing work, conditions and modality of work performing, as well as the amount, schedule and method of disbursement compensation for work to be performed.

Article 144

(1) The individual that entered into agreement with the employer, in sense of Article 141 and 142 of this Law, has the right to: health, pension and disability insurance, as well as employment insurance, in accordance with the law.

(2) Employer is obliged to keep records on agreements from Article 141 and 142 of this Law.

XII EMPLOYMENT RECORD CARD

Article 145

(1) An employee obtains an Employment Record Card.

(2) An Employment Record Card is a public identification document.

(3) The content of an Employment Record Card the procedure of its issuance, modality of data entry, method for substituting and issuing new employment record cards, the method maintaining the registry of issued employment record cards and the format of an employment record card shall be defined by a ministry in charge of labour-originated activities.

(4) An Employment Record Card shall be issued by an authorized body of the local government.

Article 146

(1) An employee shall deliver his / her Employment Record Card to the employer on the day of engagement beginning.

(2) Entering negative data regarding an employee's work into an Employment Record Card is forbidden.

(3) On the day of termination of employee's engagement, the employer is obliged to hand employee a neatly filled Employment Record Card.

XIII SUPERVISION

Article 147

(1) Supervision over applying of this Law, other labour regulations and provisions of collective agreements, systematization acts and labour agreements or agreements form Article 141 and 142 of this Law that define rights, obligations and responsibilities of employees shall be performed by a ministry in charge of labour activities, through a labour inspection department.

(2) An employer is obliged to obtain approval of a competent body for doing business in its premises or place of work, signed labour agreement or agreement referred to in Article 141 and 142 of this Law with each employee, as well as mandatory social insurance return.

(3) Authorities of a labour inspector in performing supervision are defined by law.

XIV PENALTY PROVISIONS

Article 148

(1) A cash penalty amounting to a 50-fold to 200-fold minimal wages in the Republic shall be applied to an employer with status of a legal entity if the referred employer:

1) Violates rights or equal treatment of each employee in protection of employee's rights, as well as his privacy and dignity (Article 3 paragraph 2);

2) Prevents representative of Union or representative of council of employees or authorized representative of employees to participate in the procedure of defining rights, obligations and responsibilities of employees (Article 6 paragraph 1);

3) Calls to account and put in less favorable position representative of the Union or representative of council of employees or authorized representatives of employees, due to their engagement in union, or if cancels labour agreements of those representatives (Article 6 paragraph 2);

4) Fails to enter into labour agreement with individual to be engaged before the work engagement begins (Article 9 paragraph 2);

5) Enters into a labour agreement with an individual that does not meet general of specific conditions (Article 10);

6) Fails to enter into labour agreement with foreign resident or individual without a citizenship in accordance to provision of Article 11 of this Law;

7) Fails to provide an employee he entered a labour agreement with with labour-based and labour-originated rights of full time engaged employee (Article 13 paragraph 2);

8) Enters into labour agreement for a defined period of time aside cases or terms defined by provision of Article 14 of this Law;

9) Violates a right of an employee that signed a labour agreement to return to work upon cessation of reasons referred to in Article 17 paragraph 2 of this Law;

10) Fails to register an individual he entered into labour agreement or agreement referred to in Article 141 and 142 for health insurance, retirement and disability insurance and unemployment insurance (Article 17 paragraph 3);

11) Fails to publicly announce vacant positions and correspondent conditions (Article l8 paragraph 1);

12) Fails to enact a decision on selecting among candidates in a prescribed term or fails to advise participants and Employment Fund on the results of advertisement (Article 19);

13) Enters into labour agreement without prior public announcement aside situations envisaged by Article 20 of this Law;

14) Fails to advise the Employment Fund on labour agreement entered into with an individual, in cases defined in Article 20 paragraph 1 items 1, 5, 6, 8 and 9 (Article 20 paragraph 2);

15) Re-negotiate labour agreement in contrast with provisions of Article 20 paragraph 1 item 5 of this Law;

16) Fails to keep records on work at home or fails to advise the competent labour inspection body on cases of employees' working at home (Article 29 paragraph 1);

17) Enters into labour agreement with an immediate family member for performing activities of a house-keeper or a nurse (Article 30 paragraph 1);

18) Fails to deploy an employee to a position that was defined by the correspondent labour agreement or during engagement transfers an employee to another position inconsistent to employee's level of education (Article 31, paragraph 1 and 2);

19) Deploys employees referred to in Article 31, paragraph 4 of this Law to positions outside their residence or habitat;

20) Fails to provide change of shifts (Article 37, paragraph 1);

21) Fails to provide an employee engaged based on short-time engagement in sense of Article 40 paragraph 1 and 2 of this Law with a right to exercise labour-based rights equivalent to those exercised by a full time engaged employee;

22) Introduces working beyond full time engagement that lasts beyond the time required for eliminating conditions which caused the extension of official working hours (Article 42 paragraph 2);

23) Introduces working beyond full time engagement aside situations envisaged by the provisions of Article 43 of this Law;

24) Fails to advise a labour inspector on introducing working beyond full time engagement within three days from enactment of the correspondent decision (Article 45 paragraph 1);

25) Fails to provide conditions for an employee to exercise the right to a day break or daily or weekly recess (Article 51 paragraph 2);

26) Fails to provide conditions for an employee to exercise the right to an annual leave before termination of work engagement or expiration of a labour agreement (Article 60 paragraph 3);

27) Prevents an employee from exercising a right to an annual leave (Article 61 paragraph 1);

28) Fails to disburse employee's earnings al least once a month (Article 67 paragraph 1);

29) Fails to provide an employee with Earnings Calculation Form (Article 67 paragraph 2 and 3);

30) Fails to disburse guaranteed earnings to employees (Article 69 paragraph 1);

31) Fails to disburse the difference between regular and guaranteed earnings at latest with preparation of the Annual Statement (Article 69 paragraph 5);

32) Fails to provide conditions for employees' exercising the rights in accordance with provisions of Article 73 to 81 of this Law;

33) Fails to provide conditions for a pregnant employed woman during pregnancy and delivery, single parent, child's father, foster parent or a guardian to exercise their rights in accordance with provisions of Article 82 to 90 of this Law;

34) Fails to keep record on actions undertaken in case of violation of labour-based obligations (Article 99 paragraph 2);

35) Allows an employee to continue working after the age of 65, but fails to enact a decision (Article 109 paragraph 1);

36) Fails to deliver cancellation of a labour agreement or the decision of work engagement termination to an employee in written form (Article 112 paragraph 2);

37) Fails to prepare a program of honoring rights of employees that were proclaimed redundant (Article 115 paragraph 1);

38) Fails to advise Union and the Employment Fund on reasons for termination of employment or cancellation of labour agreement, number and categories of employees and the term intended for termination of employment / cancellation of labour agreement within one month upon enactment of the program, or if the employer fails to advise the Employment Fund, the Union and employees that were proclaimed redundant at least three months before

termination of employment or cancellation of labour agreement, with additional submission of the prescribed data (Article 115 paragraphs 3 and 4);

39) Fails to disburse severance pay in sense of Article 117 paragraph 1 of this Law;

40) Terminates engagement of a disabled employee contrary to the Article 117 paragraph 3 of this Law;

41) Fails to decide on the employee's request not later than 15 days from the date of receiving request (Article 120 paragraph 3);

42) Fails to carry out the executive court decision within the term defined in the referred court decision (Article 121 paragraph 2);

43) Fails to advise the union on issues referred to in Article 138 paragraph 1 of this Law at least once a year;

44) Fails to timely notify union organization and provide it with documentation required for participation in meetings of employer's bodies for consideration of employer's initiatives and proposals (Article 138 paragraph 3);

45) Fails to provide freely exercising of employees' rights or fails obliged to provide union organization with conditions for efficient performing of all union-related activities (Article 139, paragraphs 1 and 2);

46) Fails to keep records on labour agreements referred to in Article 141 and 142 of this Law;

47) Fails to hand employee a neatly filled Employment Record Card on the day of termination of employee's engagement (Article 146 paragraph 3).

48) Fails to obtain an approval of a competent body for doing business in its premises or place of work, signed labour agreement or agreement referred to in Article 141 and 142 of this Law with each employee, as well as mandatory social insurance return (Article 147 paragraph 2).

(2) In addition to a cash penalty applied to an employer in accordance to paragraph 1 of this Article, the cash penalty amounting to 10-fold to 20-fold minimal wages in the Republic shall be applied to the employer's liaison person.

(3) A cash penalty amounting to 30-fold to 200-fold minimal wages in the Republic shall be applied to physical entity-employer engaged in economic activities, as well as any other individual for a case of violation referred to in paragraph 1 of this Article.

Article 149

(1) On-site cash penalty amounting to triple minimal wages in the Republic shall be applied to employer's liaison person or a physical entity engaged in economic activities in case of violation referred to in Article 148, paragraph 1, items 11, 12, 15, 21, 24, 29, 35, 36, 47 and 48 of this Law.

The cash penalty from paragraph 1 of this Article shall be delivered by a labour inspector.

XV TRANSITIONAL AND CLOSING PROVISIONS

Article 150
Employees engaged before the day of effectiveness of this Law shall not be obliged to negotiate labour agreements.

Article 151
An employee proclaimed redundant under regulations that were effective before the day of effectiveness of this Law which had not exercised any of the rights envisaged in those regulations shall exercise redundancy-based rights in accordance with the provisions of this Law.

Article 152
An employee exercising the right to a maturity leave under regulations that were effective before the day of effectiveness of this of this Law shall continue to exercise the referred rights in accordance to those regulations
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Article 153
The procedures for achieving and protection of employees' rights whose exercising begun before the day of effectiveness of this Law shall be ceased under provisions of this Law.

Article 154
(1) The General Collective Agreement shall be reconciled with this Law within three months upon the day of effectiveness of this Law.

(2) The Branch-Level Collective Agreements and Employer Collective Agreements shall be reconciled with this Law within six months upon the day of effectiveness of this Law.

(3) The current collective agreements shall be applied before the final reconciliation in sense of paragraphs 1 and 2 of this Article.

Article 155
(1) The ministry in charge of labour issues shall enact regulations for implementation of this Law within six months upon the day of effectiveness of this Law.

(2) Until the regulations referred to in paragraph 1 of this Article are enacted, regulations enacted pursuant to the Law on Labour Relations ("Official Gazette of SFRMN", No 29/90, 42/90 and 28/91, and "Official Gazette of ROMN" No 16/95) shall be applied.

Article 156

As of the day of effectiveness of this Law, The Law on Labour Relations ("Official Gazette of SFRMN", No 29/90, 42/90 and 28/91, and "Official Gazette of ROMN" No 16/95) and Article 71 paragraph 3 and Article 76 of the Law on Social and Child Protection ("Official Gazette of ROMN", No 45/93, 16/95 and 44/01 shall cease to effect.

Article 157

This Law shall come into force on the eight day from its publishing in "Official Gazette of ROMN"

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R A T I O N A L E

I CONSTITUTIONAL BASIS FOR PROCLAMATION OF THE LAW

Constitutional basis for proclamation of this Law is stated in article 12 paragraph 1 tem 4 in regard to Article 52 and 53 of the Constitution of Republic of Montenegro, which envisaged defining right to work, a right to freely select an occupation and a right to be deployed to a equitable and humanly conditioned position, a right to correspondent earnings and other labour-based rights.

II REASONS FOR PROCLAMATION OF THE LAW AND EXPECTED ACHIEVEMENTS

The new constitutional solutions in regard to the market economy require reconciliation of the current Law on Labour Relations that was based on the former socialistic system with new principles of a market economy.

1. The Draft Law concept stresses the need for essential amendments to the currently used regulations. For that reason, an enactment of a new Labour Law has been proposed, which would introduce a brand new approach to the nature of relations in the area of labour legislation, i.e. the Draft Law envisages an overall approach to establishing the system of labour relations.

Apart from the above stated, the intention is to finally break off with the old, so far used system, where labour relations were mostly left over to a self-management regulative. For those reasons, the concept of this Law is in defining specific work and legal institutes that shall be adjusted to proprietary changes and structural adjustment of the economy in general. The draft of the Law created a frame for more complete reconciliation of rights, obligations and responsibilities of employees from one side and proprietary interests from another side of the Labour Market.

Certain provisions of the Draft Law are based on international standards in field of labour relations, assumed by our country through ratification of large number of conventions and recommendations Of International Labour Organization, as well as the Labour Chapter enacted by European Union, especially in regard to: basic requirements employment (general and specific); creation of safe working conditions with the purpose of improving occupational health of employed individuals, special protection of women, juvenility and the disabled; freedom of unionizing and protection of rights of union activists; limitation on working hours; establishing a right to earnings; establishing a right to a paid annual leave and other absences; establishing employees' rights and employer's obligation to a peaceful resolution of labour disputes, in case of termination of a labour engagement at employer's initiative; collective negotiation with the purpose of entering into collective agreements etc.

2. The basic aim of proposed solutions is to provide:

Same labour-originated rights, obligations and responsibilities for all employees and employers in all forms of work organizing, regardless of the proprietary relations;

Transformation of labour relation to a contractual labour agreement between an employee and employer, correspondent to work requirements in different proprietary forms as well as needs of a market economy;
Legal prepositions for higher mobility of labour force accordant to needs of a work process and eliminating monopoly over a work position;
Accordant to an amended role of general manager in work process organizing, as well as his high responsibility for a successful operating , a higher authorizations have been given to general manager in regard of deciding on particular rights, obligations and responsibilities of employees and termination of a labour relation through cancellation of a labour agreement by employee as well as by employer;
More efficient process of making decisions on rights, obligations and responsibilities of employees and their protection;
Resolution of disputes between an employee and the employer in a peaceful way or with arbitration, as well as more efficient collective decision-making etc.

III RATIONALE ON BASIC LEGAL INSTITUTES

1 BASIC PROVISIONS (Article 1 to 8)

Provisions of Basic Provisions Chapter define labour-based rights and obligations, with emphasis that the modality and method of their exercising fall under the scope of this Law, the Collective Agreement and Labour Agreement, pursuant to international conventions.

It is envisaged that provisions of this Law should, as general provisions, apply to labour engagement of employees of public administration and local governments, unless otherwise prescribed by a separate law. Basic Provisions include the principal provision that a collective agreement or individual labour agreement cannot define narrower diapason of rights nor less favorable working conditions than rights and obligations set by the Law, and that it is not possible negotiate wider scope of rights or more favorable working conditions for employees than those envisaged by the Law. The Law defines equality of employees in exercising labour-based rights, regardless of their nationality, race, sex, language, confession, political or other orientation, education, social background or other individual attribute. This chapter of the Draft defines the role of Union in protection of employees' rights, in a way that an union representative, representative of a council and authorized representative of employees cannot be called to account for performing union-related activities nor put in less favorable position than other employees nor their labour agreements can be cancelled for the referred activities, unless their actions are in conflict with the Law or Collective Agreement or labour agreement. Also, an employee engaged with the employer with more than 20 employees, has the right to found a council of employees, while an authorized representative of employees assumes that duty in case of employer operating with less than 20 employees. The scope of activities of the council of employees has been defined, while the definition on the mandate, number and modality of electing members of council of employees or employees' authorized representatives was left in the scope of the Collective Agreement. The meaning of certain expressions in sense of this Law was also defined, with the purpose of reliving the wording of robust and unclear formulations in certain provisions that might have led to unclear interpretations in application.

2 LABOUR AGREEMENT (Article 9 to 30)

An individual being employed founds a labour relation by entering into a labour agreement or other type of special labour agreements (Article 141 and 142) with an employer in written form, prior to the beginning of engagement. Labour-originated rights and obligations arise as of the day when an employee, pursuant to the agreement entered into with an employer, begins the engagement. Loan agreement can be entered into by any individual meeting general requirements defined by the Law and special requirements of the correspondent position defined by the Law and / or systematization act of the employer.

General requirements for starting an engagement are a minimum of 15 years of age and a general ability. A minimum of 15 years of age as a requirement was defined in accordance to the Convention Number 138 and Recommendation Number 146 of an International Labour Organization. The general ability is proven by medical report issued by a competent medical institution. The general ability is an attribute of the disabled as well, in case of a partial working disability that has been recognized as sufficient for performing activities required by a certain position under regulations on pension and disability insurance. The general ability is an attribute of a woman during pregnancy as well.

Special requirements for starting an engagement are defined by the Law and a general systematization act of an employee, defining the work description, type and level of required qualifications, required skills, knowledge and work experience, and other special conditions required for entering into a labour agreement for the correspondent positions (precedent working ability testing, probation period, psychophysical abilities etc).

It is also envisaged that a labour agreement can be entered into with a foreign citizen or individual without citizenship pursuant to Article 11 of the Draft Law, provided conditions defined by current law and international conventions are met.

The Draft Law envisages that a labour agreement can be negotiated as definite or open-ended and that employees that had already entered into a definite labour agreement have the same labour-based rights, obligations and responsibilities as employees that negotiated open-ended labour agreements. Solutions of this type are assessed to provide possibilities for employment of larger number of individuals, based on actual work process requirements.

A labour agreement shall be signed in a written form and shall contain data on: employer, employee, employment beginning date, the position that is subject to employment, work place, work schedule, earnings, the extent of engagement and other data on rights and obligations of employer and employee. A labour agreement cannot contain fewer rights and working conditions less favorable than those defined by the law and the collective agreement. An obligation of an employer to register employee for health, pension, disability and unemployment insurance is also defined.
The Draft Law envisaged that general / executive manager enters into labour relation by decision of electing, through a labour agreement entered into with a body that elected him / her for the referred position. An employer shall register individual that entered into a labour agreement / other special labour agreement from Article 141 and 142 of this Law, for health, pension, disability and unemployment insurance in accordance to the Law.

The principal to be used is to have available positions publicly announced in media. The Employment Fund shall also be informed on available positions and correspondent requirements by an employer. The Employment Fund shall, also, publicly advertise the available positions in modality and terms envisaged by the Employment Law.

Nevertheless, the Draft Law defined special cases of negotiating open-ended or definite labour agreement that do not require public announcements. In reference to this institute, we are stressing that in case the same individual appears both as the founder and the general manager, the referred individual may enter into labour engagement in his own company by registering for mandatory social insurance, provided this possibility was envisaged by employer's founding act.

The employer can define precedent working ability testing or probation period as a special requirement of certain positions envisaged in employer's Systematization Act. Precedent Working Ability Testing shall occur before entering into a labour relation. Thus, the announcement should stress that candidates, among other, are subject to precedent working ability testing. If the advertisement did not include this condition, the general manager would not be able to decide to perform the testing additionally.

However, unlike the precedent working ability testing, the Probation Period is not a general requirement of entering into a labour engagement, but is a condition for an employee to remain employed upon expiration of the probation period. The Probation Period shall not exceed six months, except in case of crew member of merchant marine long voyages that may last longer, i.e. until the return of the ship into the main harbor. The professional and working ability testing through a probation period can be established only for more complex activities that require special knowledge and skills. A probation period cannot be established for trainee.

Trainee in sense of the Draft Law is an individual employed for the first time for a defined period of time, in a position of the educational level correspondent to the one of newly engaged. A trainee status cannot last less than six months or longer than one year, if not prescribed differently by a special law, and the trainee can take a professional examination upon expiration of the referred period. The trainee status can be extended if case of trainee's absence from work (sick leave, maturity leave and reporting upon a state authority or military requests).

It is also defined that a trainee may receive an open-ended agreement if the position is still present upon expiration of a trainee status.

Having in mind the transformation of economy in general and the need for employees of a new profile, the Draft Law envisaged that employer can, if in a position and in accordance to need of the work process, provide schooling, education, training and specialization of employee, and employee is obliged to accept the referred offer.

Additional novelty introduced by the Draft Law is transfer of a labour agreement to other employer or employer's owner, provided the employee's consent was provided. This means that a new employer and employee can cancel labour agreement in a way and in terms defined by the labour agreement negotiated with the previous employer (Article 27 of the Draft).

The Draft envisaged employer's right to organize working at home provided the nature of work allows so. Activities performed at home need to be part of employer's activity scope or in close relation to that activity. Methods of working at home, as well as modality of achieving rights and meeting obligations of the employee engaged at home, shall be defined by Employer Collective Agreement.

3 EMPLOYEES' RIGHTS

Deployment (Art. 31 to 34)

An employee shall be assigned to a position defined in the labour agreement entered with the employer. However, since the engagement does not start by decision of a competent body but by entering a labour agreement, an employee accepts engagement on the position defined in the labour agreement by signing the referred agreement. By entering into a labour agreement (starting an engagement) an employee accepts to be deployed to another position while engaged, in accordance to the Law and collective agreement.

While engaged, an employee can be temporarily transferred: to a position that requires a correspondent level of qualification; temporarily or permanently to another geographic territory; temporarily to another employer, provided employee's consent has been obtained; temporarily to a position that requires a degree of qualification inferior to the one he / she possesses.

The proposed provision of Article 31 does not emphasize the difference between temporary and permanent deployment, thus an employee can be transferred to any position correspondent to his / her level of education, knowledge and skills in certain profession during the engagement, provided it is needed by the working process. The work process needs are determined based on the area of employer's activity and the nature of work, and can be a result of introduction of a new technology, changes in conditions of operating, changes in organization and the process of work, decrease in the scope of work etc. An employee shall be deployed (transferred) to another position without his / her consent, provided the targeted position corresponds to his / her level of education and it is required by the work process needs.

An employee can be transferred to a position out of the employee's permanent or temporary residence even without his / her consent in cases defined by the collective agreement, even though the transfer of employee to another place in general requires employee's consent. The Draft introduced that, exceptionally from this type of deployment, a position out of the employee's permanent or temporary residence cannot be assigned to an employed woman during her pregnancy, employed mother of an under five year old child, single parent of a child under the age of seven, an employed parent of a child with severe development disturbances, employee under 18 nor disabled employee. However, in cases of inevitable need for work with purpose of preventing circumstances that may cause damage to employer, an employee can be transferred to a position that requires a degree of qualification inferior to the one he / she possesses, provided that such deployment ceases with cessation of circumstances that caused it at the first place, except in cases of replacing an employee absent for less than 30 days, with employer's guarantee that the transferred employee shall be disbursed earnings correspondent to his / her level of qualification.

An employee, while engaged, is expected to produce results required for a successful accomplishment of tasks related to the position of his / her deployment. However, if the employee fails to demonstrate required capabilities and skills or fails to produce expected results within period of three to six consequent months, an immediate supervisor shall enact a request for a procedure of expertise and skills' verification or verification of work results of the referred employee and submit it to the general or executive manager. The general / executive manager shall immediately act upon a request and form a commission with a task of defining employee's capability to work at the position of his / her deployment. Upon the prescribed work of the commission for defining working capability, if defined that the referred employee does not possess the skills required for performing activities at the position of his / her deployment, the employee can be transferred to other position if present, and if not, the engagement shall be terminated.

The decision on employee deployment is made by the general manager or an executive manager, is final and has to contain reasons for the deployment.

Working Hours (Article 35 to 48)

The Constitution of ROMN (Article 53 paragraph 2) established a guaranteed right of employees to a limited number of work hours. The working hours represent time an employee needs to spend at work. Working hours can be based on full time, part time or short time engagement, as well as extra hours or additional work.

Full Time Engagement amounts to 40 hours in a single work week and an employee can accomplish it by working with one or more employers. The practice showed that sometimes an employee, within full time engagement, has to spend certain number of hours working with one or more additional employers, due to demands of a work process, even though the employee entered a labour agreement with one employer. In situation as described, employee's labour-based rights and obligations shall be exercised in each of the employers, proportionally to the time spent at work with each of them. The modality of exercising the referred rights shall be defined in the agreement between the participating employers.

The Draft defined employee's right to sign labour agreement with employer other than the employer with whom he / she signed the original full-time based labour-agreement, provided that consent of original employer was obtained – additional work, provided no other candidate meeting the required conditions had applied to the advertisement of the employer.

If an employer, due to decreased volume of work, is not in a need for the full time engagement, the employer can define positions with part time engagement that cannot be less between 1 / 4 of a full time engagement over workweek. This is a result of a provision of this Law that established a possibility that an employee achieves full time engagement by entering into labour agreements with more than one employer (flexible engagement).

Depending of work arduousness, effort and circumstances that may endanger an employee's health, an employer is obliged to introduce short time engagement. The positions and the extent of a short time engagement shall be defined by a systematization act and in accordance to the collective agreement. An employer is obliged to enact a program of introducing measures for defining such type of engagement before its implementation, with specification of positions that would be subject to such regime.

An employer may introduce engagement for less than 40 hour a week as a result of possibility of successful performing activities by technological and organizational improvements and implementation of a shift system. In both of the mentioned cases employee has the same labour-based rights and obligations as employees working under a full time engaged regime.

Working Beyond the Full Time Engagement (Extra Hours) can be introduced if a new work organization and schedule cannot be used as an efficient tool for performing certain activities in time that could have been predicted, and can last only by the expiration of a period required for eliminating the reasons for its introduction.

An employee is obliged to work in prescribed working hours. However, if employer is threatened by a possible damage (natural disasters, equipment malfunctioning etc.), employee is obliged to work overtime due for the need of a threat elimination, as long as the referred circumstances last.

A health care institution can, as well, impose overtime (attendance) if additional recruitment, introducing a shift system or work rescheduling cannot provide constant hospital and off-hospital care.

During the seasonal engagement and in other cases requesting work rationalization, an employer can reschedule working hours in such way that a full time engagement in certain periods of a calendar year amounts to more than 40 hours a week and less than 40 hours a week in the second part of the same year and thus achieve an annual average of not more than 40 hour a week. Also, an employer is obliged to schedule a shift system in economy branches that require working in shifts. It is also stressed that a overnight work requires higher efforts than working during the day (working between 10 pm and 6 am of the following day) and represents a special requirement of a position in sense of defining employees' labour-based and labour-originated rights; thus, it is obligation of an employer to provide weekly change of shifts of employees engaged over night.

The decision on the work time scheduling, beginning, ending and rescheduling within total annual working time and short time, as well as on defining overtime, shall be enacted by a general / executive manager. The time schedule, beginning and end of working hours of an employer engaged in retail business, hospitality, agriculture and forestry shall be defined by a decision of a competent body of the local government unit.

Vacations and Absence (Article 49 to 64)

A right to vacations and absence is constitutionally and legally established right; in that sense, the Draft Law established a right to: day break, daily and weekly recess, annual leave, paid and unpaid absence and suspension of labour relation in case of temporary termination of an employee's engagement with an employer in legally defined situations.

A Right to a Day Break of at least 30 minutes cannot be exercised at the beginning or at the end of the working hours. The referred recess needs to be organized in such way that the work itself is not interrupted, especially in case of working with clients and if the nature of work demands continuity. The time spent on a day break shall be considered as time spent at work during regular working hours.

Daily Recess is a recess used continuously between two consequent workdays and lasts at least for 12 successive hours.

Weekly Recess is defined as a recess of not less than 24 successive. This was a result of reconciling to ILO Convention No 14 and 106 and Recommendation No l8 on a Weekly Recess. It is generally accepted as a rule that a weekly recess is to be used on Sunday, in case a workweek consists of 6 workdays, or Saturday and Sunday, in case of five-day workweek. The digression of the rule to use Sunday / Saturday and Sunday for weekly recess shall occur in situation of a need to have employee working on a day of his / her weekly recess. In the described situation, the employer is obliged to provide employee with a day during a week as compensation to the work-spent recess day.

Annual Leave is constitutionally and legally established right pursuant to ILO Convention No 52 and 132 on Paid Annual Leave. Thus the Draft Law introduced as a general rule a right of any employee to an annual leave, which an employee cannot be deprived of nor can abandon. This was introduced to allow employees to protect themselves of health damages and to have a successful relaxation from work during the year. Additionally, it is defined that an employee that failed to exercise or partially exercised a right to an annual leave due to employer's fault has a right to compensation proportional to the number of annual leave days that weren't used and calculated on the basis of earnings accumulated by the employee in a month of the compensation disbursement.

The extent of an annual leave depends on the extent of service, working conditions, contribution to work etc. The Draft Law introduced employees' right to a guaranteed annual leave of minimum 18 workdays for each year of uninterrupted engagement. An employee that has not accomplished a full year working in the calendar year in which he started the engagement is entitled to a proportional part of annual leave. The basis for calculating proportional part of an annual leave is 1/12 of annual leave for each completed month. An annual leave can be exercised in two parts, depending on needs of a work process. If an annual leave cannot be exercised in the current year due to objective reasons, the current annual leave has to be exercised before June 30th of the year to follow. However, a ship crew member, as well as employees engaged abroad, may spend the whole of an annual leave accumulated in the last calendar year during the current year. This Chapter also prescribed that an annual leave in case of employee under 18 shall not be less than 24, as well as that an employee working on short-time basis due to difficult working conditions shall have the right to at least 30 working days of annual leave.
Absence from Work under the Draft Law can be paid or unpaid. The Draft Law prescribed that other cases of absence can be established in a way and under the conditions established by collective agreements. While exercising a right to a paid absence, after the first 30-day period employer shall cover only the cost of employee's health, while other labour-based and labour-originated rights and obligations are suspended.

The Draft Law prescribed that labour-based and labour-originated rights and obligations can be suspended in the following cases: serving or completing military service; delegating employee to work abroad with employer's consent; employee's appointment or delegating to a position in public body or for other public position requesting temporary termination of work engagement with the employer; detention, meeting security of educational or security provisions up to six months, as well as that employee absent due to one of the previously

listed reasons has the right to return to work with the same employer not later than 30 days upon ceasing of reasons for suspension of labour-based and labour-originated rights, to the same position or to other position correspondent to the level and type of their education. The same right is guaranteed for a spouse of the employee sent to work abroad.

Earnings, Compensations and other Allowances (Article 65 to 71)

This Chapter of the Draft Law defined an employee's right to earnings, as the basic labour-based right and rights to incremented earnings, guaranteed earnings based on the minimal work rate as a protective and starting basis of a existential, earnings compensation and other allowances defined by the General Collective Agreement. This Chapter also defines employees' earnings as the basis for tax and social security contributions collection. Earnings, in sense of this Draft, include other allowances envisaged by General Collective Agreement as well, disbursed in amount exceeding the one defined by the referred Agreement.

A Right to Earnings is a basic labour-based right of an employee; it is a constitutional and legal right and cannot be reprieved. The Draft defined an employee's obligation to perform activities related to the position of his / her deployment, and employer's obligation to disburse earnings not less than once a month in amount based on the wage rate defined by law, collective agreement and labour-agreement. An employer is obliged to deliver a calculation of earnings to the employee simultaneously with the disbursement of earnings. Similarly, even if not in a position to disburse earnings on due date in whole or partially, an employer is obliged deliver a calculation of earnings to the employee, which would have the validity of a credible executive document. This was introduced in the Draft wording since the court practice found recognition of a valid earnings' calculation during litigation, if initiated, extremely difficult.

Pursuant to the ILO' s Convention No 131 and Recommendation No 136 on Minimal Wages Defining, accepted by our country, a minimal wage rate defined in accordance with the need of employee and his family, general level of wages in the Republic cost of living, economic factors and the productivity level.

Under the current law, an existential minimum of an employee consists of guaranteed earnings in amount of 65% of a rudimentary work minimal wage as the basis for defining employees' earnings depending on the level of education required of the correspondent positions. Since the guaranteed earnings in the above sense significantly differ from international standards defined in the referred Convention, the provision of Article 68 of the Draft Law is intended to establish guaranteed and minimal earnings that, under the current law, were institutionally and legally recognized as two categories, as a single category. By this way, the newly recognized category would be used as a basis for defining earnings during periods of regular operating. However, in case of interruption of employer's operating, this category would be disbursed to all employees in the same amount defined by the collective agreement and under the same schedule. The disbursement of guaranteed earnings would have a priority over any other obligation. This proposal would to some extent provide a minimum of financial and social existence of employees in case justified interruption of employer's operating.

The decision on interruption of operating that was the reason for employer's usability to disburse contractual earnings to employees shall be enacted by a management body on the basis of general / executive manager's proposal, upon obtained opinion of the Union, followed

by a decision rationale. The guaranteed earnings in sense of this Draft can be disbursed for maximum three months in a calendar year and an employer would be obliged to disburse the difference between the guaranteed earnings and earnings that would have been accumulated by an employee in accordance with the collective agreement at latest with preparation of the Annual Statement.

An employee has the right to earnings compensation in amount defined by the collective agreement in certain occasions (sick leave, state and religious holidays etc.), as well as a right to other labour-based allowances defined by employer's collective agreement.

4 PROTECTION OF EMPLOYEES (Article 72 to 90)

The Draft Law established general protection for all employees, particularly protection of women, juvenility and the disabled. The total protection of employees is defined by a specific Law on Protection at Work that was reconciled to numerous ILO conventions, for example Convention No 32 on protection of ship loading / unlading dockers from accidents at work, the Convention No 136 on protection from benzene poisoning, the Convention No 119 on protection from machinery, the Convention No 148 on protection from professional risks in work environment etc.

The rights and obligations of employers in a general work protection system are defined in rather general manner. The Draft Law defined that, if a body in charge of assessment of health condition of employees specifies that certain type of work may damage the health of an employee, the employee shall not be deployed to the referred position nor be requested to work overtime or overnight. Similarly, an employee cannot be deployed to a position carrying an increased level of endangerment by invalidity, professional or other disorders. Such positions can be covered by an employee that, beside meeting the requirements outlined in the systematization act, meet additional health and psychophysical requirements and age requirements.

Definition of specific protection of certain categories of employees is based on numerous conventions of the International Labour Organization. An employed woman and employees under the age of 18 cannot engaged on a position that requires extremely difficult manual work, underground or underwater activities nor on a position that bear high level of risk of damaging the condition and life of the referred employees. A pregnant woman cannot be deployed to a position of high risk for the pregnancy nor assigned to work overnight without her consent. The prohibition of overnight assignment in this sense does not refer to woman engaged in a management position or to a woman engaged in activities for health, social or other type of employees' protection.

An employee under the age of l8 can not be assigned to extra hours or overnight if engaged in industry, architecture or traffic, except if it's required to continue work terminated by natural disasters, to prevent additional damage of raw and other materials.
An employed woman has the right to a maternity leave of 365 years from the beginning of exercising the referred right during the pregnancy, a child delivery and baby nourishment. The maternity leave can be exercised by employed father of an infant

A right to a maternity leave can be exercised by an employed father if a better financial position of the family is achieved in that way. It is also defined that, upon expiration of

maturity leave, an employed woman with a child in a need of a special care due to the child's health condition or a woman whose child is heavily disabled, on the basis of a decision of the competent body for health condition assessment has the right to absent from work or work half time. The referred engagement carries equal labour-based rights as the full time engagement. This right refers to the second parent, foster parent, guardian or individual taking care of the child. If an employed woman gives birth to a still-born or the infant passes away before the expiration of a maturity leave, she is entitled to extend her maternity leave for the period of time which is, by the opinion of an competent medical doctor, required for her to recover from the delivery and the physical trauma caused by the loss of a child, but not less than 45 days during which she will be entitled to exercise all rights comprised by maternity leave.

Given the working conditions of employees engaged in certain branches of economy (architecture, mining, forestry, heavy industry, etc.) the disability of employees often occurs, despite the usage of a modern protective gear. For that reason, the Draft prescribes an employee that become disabled during work to be transferred to a position correspondent to the remaining working ability or to be additionally trained or re-trained for the correspondent position. Having in mind the increased level of disability in the referred branches, employers are often incapable to provide corresponding positions for transfer of employees that became disabled due to work and that was the reason for defining certain special rights for this category of employees pursuant to a special law.

The Draft Law also envisaged that an employer cannot refuse to engage a pregnant woman due to her pregnancy nor can request personally or through anybody else data on her pregnancy. During the pregnancy or exercising the right to a maturity leave or exercising the right to half of the full time engagement with the purpose of nursing a child with special needs, an employer cannot cancel the labour agreement with an expectant mother or with an individual exercising one of the above stated rights or proclaim the referred employee redundant. It is important to stress that the listed circumstances cannot impact labour agreement signed for a definite period of engagement either.

The Draft Law defined a right of one of foster parents of a child under eight has a right to absent work in continuous period of one year starting from the day of adoption and shall have the right to earnings compensation.

An employee intending to use a right to maturity leave or leave due to adoption is obligated to advise the employer on the intention. An employee that exercised the intended right has a right to an additional professional training, if the employer introduced certain changes of technological, economic or structural nature or changes in the method of operating.

5 EMPLOYEES' RESPONSIBILITIES (Article 91 to 107)

The Draft Law envisaged that an employee assumes labour-based and labour-originated rights and obligations as defined by the Law and the Collective Agreement as of the day of beginning the work engagement. It should be considered that a violation of a labour-based obligation occurred only in case of violating obligations defined by the Law and the Collective Agreement. Thus, the main criterion regarding the institute of a responsibility is that the guilt

of an employee makes the basis for his responsibility for violating a labour obligation, and a financial responsibility for the damage caused to the employer.

During the procedure of investigating violation of labour-based obligations an employee can be sentenced to one of the following measures: penalty sum and cessation of the engagement or cancellation of the labour agreement, depending on the weight of violation. A body in charge of delivering the verdict on the above mentioned measures is the competent body of the employer, depending on the employer's organization system (general / executive manager).

Initiating and carrying out the violation investigating procedure, as well as other issues referred to the violation of a working discipline, shall be closely defined by the General Collective Agreement.

The procedure referred to in the paragraph above includes two-instanced decision-making process in case that the measure of canceling the labour agreement was proclaimed by the management board / board of directors, or, in case the management board / board of directors is not a part of the employer, the first-instance verdict for violation of labour-based obligations shall be reconsidered upon request by a competent body of the employer (general / executive manager).

The Draft Law defined the statute of limitations: the term for initiating the procedure and the term for carrying the procedure of investigating violations of labour-based obligations. The statute of limitations can be relative and absolute. The relative statute of limitations for initiating the of investigating violations of labour-based obligations is three months upon the cognition of the violation and the violator, while the absolute statute of limitations is six months from the violation.

The verdict can not be affected upon expiration of 30 days from the day when the decision on the verdict became executive, i.e. the statute of limitations automatically applies to the enacted decision upon expiration of the referred period. The Draft Law also envisaged that the employer should keep mandatory records on enacted verdicts for violating labour-based obligations. If an employee does not repeat violation of labour-based obligation within two years from the day when the decision on the verdict became executive or form the day of paying the penalty sum, the record on the referred verdict shall be deleted.

The Draft Law also envisaged suspension form work or working position. The suspension can appear as facultative or mandatory. A facultative suspension from work or working position shall be applied in cases defined by the Law and the Collective Agreement. An employee can be suspended until enactment of an executive decision on the violation of labour-based obligations or until the statute of limitations is applied to initiating and carrying the procedure of investigating violations of labour-based obligations. In other words, the general / executive manager has a duty to initiate a procedure of investigating liability for the violation of labour-based obligation immediately upon enactment of the decision on suspension.

The general / executive manager of the employer shall have the duty to enact a decision on employee's suspension within three days, and if the employer fails to do so, it will be considered as if the suspension order was never enacted. The body in charge that decided on detention is obliged to advise the employer on the subject in short notice. While temporary

suspended, an employee has the right to earnings compensation pursuant to this Law and the Collective Agreement.

An employee is responsible for the damage at work or related to work caused to the employer by his / her deliberate actions or an extreme negligence. The deliberate action or extreme negligence in each particular case should be investigated by a special commission formed by the general / executive manager of the employer. If the damage is not recovered this way, the competent court shall decide on the subject.

This section of the Draft Law established prohibition of competing against the employer, by defining that an employee engaged by employer or an employee that entered into full-time based labour agreement with an employer cannot negotiate or perform activities from employer's area of operating on his or other individual's account without consent of employer's competent body.

6 TERMINATION OF ENGAGEMENT (Article 108 to 114)

The Draft Law defines an employee's work engagement / labour agreement to be terminated by operational law or by mutual agreement of employer and employee or by cancellation of a labour agreement by either employer or employee. An employee shall provide employer with cancellation of a labour agreement in written form. In any event of engagement / labour agreement termination, employer is obliged to enact a decision in written form, with its rationale and precept on legal remedy, which has to be delivered to the employee. In comparison to previous legislative, the cancellation of a labour agreement either by an employee or employer is a new modality of termination of a work engagement.

An employee's work engagement ceases as of the day of submission of a labour agreement cancellation or as of the day of submission of a decision on engagement termination, unless the employee is obliged to remain engaged throughout the notification period, which covers at least the period of one month. Cancellation of a labour agreement or decision on engagement termination is final and employee has no right to make an appeal to the second instance body within the employer.

The Draft Law also envisaged that a general / executive manager which is not reelected after expiration of the mandate or is relieved of duty before the end of the mandate shall be deployed to a position correspondent to his / her level of education and in case such position is not present, his / her engagement / labour agreement shall be terminated.

7 CESSATION OF A NEED FOR EMPLOYEES' WORK ENGAGEMENT (Article 115 to 119)

The Draft Law defines main principle of determining employees to be declared as redundant due to technological, economic and restructuring changes regarding the collective or individual discharge.

An employer intending to cancel labour agreements of more than five employees out of a total number of employees within a following year (collective discharge) due to technological,

economic and restructuring changes is obliged to enact program of honoring rights of redundant employees. The referred program must contain data on redundant employees, activities performed by the redundant employees, qualification structure, age, provisions for creating conditions for their new employment and the notification period. An employer shall advise Union and the Employment Fund on reasons for termination of employment or cancellation of labour agreement, number and categories of employees and the term intended for termination of employment / cancellation of labour agreement, not later than one month upon enactment of the program. Similarly, the employer is obliged to advise the Employment Fund, the Union and employees that were proclaimed redundant at least three months before termination of employment or cancellation of labour agreement, as well as on the data on the age structure, type and the level of education of redundant employees and the proposal of measures for honoring rights prescribed by this Law.

An employee proclaimed redundant that was not allowed to exercise any of the rights envisaged by the program shall be disbursed a severance pay in value of minimum six average wages in the Republic. The basis for referred compensation is average wage in the Republic in the month precedent to the month of termination of employee's engagement or cancellation of labour agreement.

However, if an employer intends to discharge less than five employees (individual discharging) shall not have the duty of enacting a program of honoring rights of employees that were proclaimed redundant, but shall be obliged to provide redundant employee with the severance pay in amount defined for the collective discharging.

A protection of disabled workers is also defined in such way that the corresponding labour agreement cannot be cancelled before exercising one of the redundancy rights is not available or before the referred becomes eligible for retirement.

The employer is obliged to provide funds for exercising rights by redundant employees'. However, if employee is not in a possession or is in deficit of the funds required for exercising rights by redundant employees, the funds provided from other sources pursuant to the Employment Law shall be used for the referred purpose.

8 PROTECTION OF EMPLOYEES' RIGHTS (Article 120 to 126)

The section dedicated to protection of employees' rights defined an employee's right to initiate a litigation with the competent court with the purpose of seeking protection of defined rights in case the employee disputes decision of a general / executive manager, as well as the right to request arbitration for individual and collective labour-based disputes for mediation and assisting in reaching an agreement on the disputed subject. The Draft also defined an employee's right to addressing inspection and other bodies.

The general / executive manager has the right to decide on employees' rights, obligations and responsibilities. The general / executive manager enacts an individual written document on employees' rights, obligations and responsibilities within 15 days from receipt of the request. The referred decision is a formal written document and shall contain: legal basis for enactment of the decision, the dictum, rationale and precept on legal remedy and is, by its nature, constitutive or declarative. A constitutive act defines rights or obligations (exercising a right

to an annual leave, paid vacation etc.), while the declarative act simply acknowledges occurring of circumstances envisaged by the Law or the Collective Agreement which resulted in certain situations (termination of an engagement or cancellation of a labour agreement by operational law etc.).

The general / executive manager's decision is final and is not subject to objection to a second-instance body of the employer, except in case of procedure of investigating violations of labour-based obligations when termination of the engagement or cancellation of a labour agreement was imposed. An employee unsatisfied with the final decision can initiate litigation with the competent court within l5 days upon receipt of the referred decision. The executive court decision shall be executed by the competent body of the employer within 15 days from the receipt of the decision, in case the referred decision did not impose different term for its execution. It is also envisaged that if employer's competent body fails to administer the court decision, which is not a rare situation, the referred action shall be considered a s a severe violation of a labour duty.

The protection of employees' rights includes arbitration as a type of calmly dispute resolution, both individual and collective.

Introducing arbitration in the system of employees' rights protection for individual labour disputes is an institute recently acknowledged by our labour legislative, even though the institute itself was present in the law on labour-based relations, and is intended to achieve off-court resolution of disputes between employees and employers and to allow employees to achieve more efficient protection of their rights, since the court procedure is by its nature highly time-consuming. Pursuant to the Draft law, the composition, procedure and the method of arbitration is defined by an Employer Collective Agreement. The request for initiating the arbitration procedure in case of labour-based disputes can be placed both by employee and employer within 8 days from the day of receipt of the final decision on the disputed issue. The arbitration is considered as an emergency procedure and the dispute must be resolved within 30 days from the request submission date. If arbitration does not result in resolution of the dispute, an employee can initiate litigation with the competent court, since the terms envisaged for initiating litigation with a competent court are dormant during the arbitration procedure. However, if the disputed parties reach an understanding on the disputed issue, Arbitration shall enact a decision and the decision shall have the power of an executive force in the employer. In other words, the disputed issue cannot be a subject of a competent court's litigation.

Resolution of disputes arisen under the process of negotiating, amending and applying a collective agreement can also be addressed to arbitration. The composition, procedure and the method of arbitration is defined by the Collective Agreement.

9 COLLECTIVE AGREEMENTS (Article 127 to 135)

Honoring the recommendation of International Labour Organization Number 91, the Draft Law envisaged introducing collective agreements to our legal system as mandatory legal acts with the purpose of defining labour-based rights, obligations and responsibilities. The area of collective negotiations includes resolution of the following issues: the varieties of collective agreements, the content of collective agreements, negotiating parties, procedure of negotiating

and the validity of collective agreements. It is accepted as a general rule that the negotiations at the collective level cannot contain provisions establishing lower rights or less favorable working conditions than those defined by the law. If collective agreements establish such provisions, the referred provisions are vacuous and the correspondent provisions of the Law shall be applied instead.

The type of the collective agreement is determined by the level they are negotiated for, and they are as follows: General Collective Agreement negotiated for the territory of the Republic and applied to all employees and employers. The General Collective Agreement is negotiated between the competent body of the authorized organization of the Republic Union, competent body of the Chamber of Commerce and the Government of the Republic of Montenegro.

Branch-Level Collective Agreements, negotiated for branches, groups or subgroups on the territory of Republic and are applied to all employees and employers.

Employer Collective Agreement defines rights, obligations and responsibilities of employees engaged with the employer, as well as mutual relations of signing parties of the Agreement. This type of collective agreement is signed by an employer's authorized body and authorized union organization. .

10 UNION OPEARTING CONDITIONS (Article l36 to l40)

Pursuant to the Law and the General Collective Agreement, employees have the right to form unions with the purpose of protecting their labour-based rights. An employer cannot prevent employees from unionization. An employer is obliged to provide union trustee with conditions required for union activities and to provide him with the conditions required for performing such activities. A union trustee cannot be called to account for the reason of performing union-related activities nor can his labour agreement be cancelled if the referred employee acts in accordance with he law and collective agreement. An employer is obliged to consult with union and inform the union on certain issues of importance for employees and, in certain cases, is obliged to obtain union's opinion on the issue in matter.

11 SPECIAL TYPES OF LABOUR AGREEMENTS (Article 141 to l44)

A general rule is that no employee can begin engagement before establishing a work engagement with the employer. However, current labour relation legislative established exceptions to the general rule, thus an individual can be engaged by an employer even before work engagement establishing in case of: voluntarily engagement, occasional and temporary work, performing activities outside of employer's premises and under a civil contract. Basis characteristics of this type of work are as follows: an individual engaged with an employer does not establish a work engagement; mutual rights and obligations are defined by a separate agreement; these types of agreements does not contain elements of agreements establishing labour relation; the insurance for individual engaged under this type of labour agreement covers only professional injuries or illnesses; and an employer is obliged to keep records on these types of labour agreements.

Having in mind the reformative character of the transformation of system of labour regulations, it became necessary to place all types of working engagements under a unique regime of labour relation through the Draft Law, by establishing an employer's obligation to register any employee to all types of social insurance (pension, disability and unemployment insurance). The above described obligation assists in improving legalization of a "black market" employment and widens the basis for collection of corresponding taxes and contributions under earnings–based personal income of employees.

Due to the reasons mentioned in paragraph above, the agreement on voluntarily work (arrangement for working without establishing a labour relation with the purpose of obtaining professional experience) in labour legislative becomes superfluous due to existence of the institute of trainee (training for independent work using the obtained level of education), which was the reason for elimination of this institute from the Draft Law.

The section of the draft Law dealing with special types of labour agreements establishes an employer's right to enter into a special labour agreement with an individual in case certain conditions are met, with the purpose of performing occasional and temporal activities or working outside of employer's premises. Thus, the new labour legislative acknowledges working arrangement under a special type of labour agreement as a labour relation, provided certain conditions are met, in a way that the signing of this type of agreement is followed by mandatory registration for health, pension and disability and unemployment insurance of the individual that entered a special labour agreement with the employer, in accordance with the Law. The employer is also obliged to maintain records on agreements referred to in Article 141 and 142 of the Labour Law.

12 EMPLOYMENT RECORD CARD (Article 145 and 146)

An employee with an intention of establishing a labour relation and an engaged individual are obliged to maintain an Employment Record Card. The competent body of a local government shall issue an Employment Record Card using the criterion of submitter's residence or employer's headquarters location. An Employment Record Card is a public identification issued in prescribed form; data recorded in the Card shall be taken as plausible, until proven otherwise by a competent court procedure.
An Employment Record Card shall be maintained by the employer during the engagement. On the day of termination of employee's engagement, the employer is obliged to hand employee a neatly filled Employment Record Card, regardless of the reason for termination of engagement.

13 SUPERVISION (Article 147)

The Draft Law defines that a labour inspector is authorized to supervise employer's implementation of the Law, collective agreement and other regulations from the scope of labour legislative in any point of time, provided the employer is acquainted with inspector's presence due to performing supervision. An employer is obliged to obtain license for operating in the business premises / the place of performing work, issued by a competent body, a signed labour agreement / other agreement on working engagement aside from employment and mandatory social insurance return for each employee. An employer that

keeps the referred documents outside the business premises / the place of performing work and is not in a position to deliver them upon a request of the inspector shall be responsible for a violation defined in this Law. An inspector's authorizations in performing supervision are defined by a special law.

14 PENALTY PROVISIONS (Article 148 and 149)

Penalty provisions established by this Law established more strict punitive policy and established penalty-charged responsibility of employer and employer's liaison person in case their actions represent violations of this Law and / or the collective agreement.

15 TRANSITIONAL AND CLOSING PROVISIONS (Article 150 to 158)

The Transitional and Closing Provisions chapter prescribed that individuals engaged before the validity date of the Draft Law are not liable to enter into a labour agreement.

This chapter also defines situations regarding exercising rights under regulations that are to be put out of force by the Draft Law validity date. Thus, employees proclaimed redundant under regulations that were effective before the day of effectiveness of this Law which had not exercised any of the rights envisaged in those regulations shall exercise redundancy-based rights in accordance with the provisions of this Law.

It is important to emphasize that this Drat prescribed that an employee exercising the right to a maturity leave under regulations that were effective before the day of effectiveness of this of this Law shall continue to exercise the referred rights in accordance to those regulations.

The term for negotiating new collective agreements and other sublegal regulations was also defined by the Draft Law The General Collective Agreement shall be reconciled with this Law within three months upon the day of effectiveness of this Law. The Branch-Level Collective Agreements and Employer Collective Agreements, as well as other sublegal regulations in jurisdiction of the Ministry of Labour and Social Welfare, shall be reconciled with this Law within six months upon the day of effectiveness of this Law.

Both employers and unions are obliged to negotiate new collective agreements immediately upon enactment of this Law. Since this Law was founded on new bases for labour relations establishing, it is required to negotiate new collective agreements, instead of amending and complementing those currently existing.

IV BUDGETARY FUNDS FOR IMPLEMENTATION OF THE LAW

The implementation of this Law does not require special appropriation of funds of the Republic Budget.

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