

Law on the Protector of Human Rights and Freedoms of Montenegro with Amendments from 2014 (Integral Text)

I. GENERAL PROVISIONS

Article 1

This law shall regulate the competency, authorizations and manner of working and procedure of the Protector of Human Rights and Freedoms of Montenegro (hereinafter referred to as: the Protector) regarding the protection of human rights and freedoms guaranteed by the Constitution, law, ratified international human rights treaties and generally accepted rules of international law, as well as other issues of relevance to the work of the Protector.

Article 2

The Protector shall autonomously and independently, on the principles of justice and fairness, take measures to protect human rights and freedoms, when they are violated by the act, action or failure to act of state bodies, state administration bodies, bodies of the local self-administration and local administration, public services and other holders of public powers (hereinafter referred to as: authorities) as well as measures to prevent torture and other forms of inhuman or degrading treatment or punishment and measures for protection from discrimination.

The Protector does not have authority over the work of courts, except in cases determined by this Law

Article 3

The Protector can be addressed by anyone who believes that an act, action or failure to act of the authorities violated his/her rights or freedoms.

The Protector shall, as well, act on his/her own initiative.

Proceeding before the Protector shall be free of charge.

Article 4

The work of the Protector shall be public, unless otherwise specified by the law.

Publicity of the work of the Protector is provided through submission and publication of annual and special reports and in other ways, in accordance with the law.

Article 5

The seat of the Protector shall be in Podgorica.

The Protector may organize the Protector's Days out of his/her seat.

Article 6

The resources necessary for the effective and efficient implementation of the functions of the Protector shall be provided in the budget of Montenegro.

II. APPOINTMENT AND CESSATION OF FUNCTION

Article 7

The Protector shall be appointed in accordance with the Constitution.

In the process of establishing a proposal for a candidate for the Protector, the President of Montenegro shall carry out consultations with academic and professional institutions and non-governmental organizations whose main activity is the protection of human rights and freedoms.

The process for the appointment of the Protector shall begin at least 60 days before the expiry of the mandate of the Protector.

Article 8

~~For the Protector may be appointed a person who is citizen of Montenegro, possessing university degree and at least 15 years of working experience with high personal and professional authority.~~

~~The Protector, based on internal arrangement of tasks, provides specialization, above all, for the protection of persons deprived of their liberty in order to prevent torture and other forms of inhuman or degrading treatment or punishment, protection from discrimination, protection of minority rights, protection of the rights from the area of labour and employment, child protection, protection of persons with disability and gender equality.~~

~~For the Deputy may be appointed a person who is a citizen of Montenegro, possessing university degree and at least 10 years of working experience with high personal and professional authority.~~

For the Protector may be appointed a person who is Montenegrin citizen, has at least VIII level of educational qualifications and a minimum of 15 years of working experience of which at least seven years of experience in the field of human rights and freedoms, who was not sentenced for a criminal offence which makes him/her unworthy to perform the function and against whom there is no criminal proceeding in course for a criminal offense subject to ex officio prosecution, and who has a high personal and professional authority.

For the Deputy Protector may be appointed a person who is Montenegrin, has at least VIII level of educational qualifications and a minimum of 10 years of working experience of which at least five years of experience in the field of human rights and freedoms, who was not sentenced for a criminal offence which makes him/her unworthy to perform the function and against whom there is no criminal proceeding in course for a criminal offense subject to ex officio prosecution, and who has a high personal and professional authority.

Article 9

The Protector shall have one or more Deputies.

~~The Deputy shall perform duties within the competency of the Protector.~~

~~One of the Deputies shall also deal with the protection from discrimination.~~

~~Decision about the number of Deputies of the Protector shall be brought by the Parliament of Montenegro (hereinafter referred to as: the Parliament), on recommendation of the Protector.~~

The Deputy shall perform duties within the competency of the Protector according to the internal division of work which shall provide specialization, and especially the protection of rights of persons deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, protection of the rights of members of minority nations and other minority national communities, the protection and promotion of children's rights, protection of the rights of persons with disabilities, gender equality and protection from discrimination.

The Deputy shall report to the Protector and the Parliament of Montenegro (hereinafter referred to as: the Parliament).

The decision on the number of the Deputies of the Protector shall be made by the Parliament on the proposal of the Protector.

Article 10

The Deputy Protectors (hereinafter referred to as: the Deputy) shall be appointed by the Parliament on the proposal of the Protector.

The Deputy shall be appointed for a period of six years and may be re-appointed.

Article 11

~~The Protector and the Deputy before taking function shall take an oath that reads: "I swear to protect human rights and freedoms in accordance with the Constitution and law, and abide by the principles of justice and fairness."~~

Prior to entry into function, the Protector and Deputy Protector shall take an oath that says:

„I swear to protect human rights and freedoms in accordance with the Constitution and the law, as well as ratified international treaties in the field of human rights and abide by the principles of justice and fairness.“

The Protector shall take the oath before the Parliament, and the Deputy Protector before the President of the Parliament.

Article 12

~~The Protector cannot be held responsible for the opinion or recommendation he/she provided in performing his function.~~

The Protector, Deputy Protector, Chief Advisor to the Protector and Adviser to the Protector cannot be held responsible for an opinion or recommendation given during the exercise of their functions, or for acting in accordance with the competencies and powers stipulated by this Law during the term of office, or during the course of employment.

Article 13

The Protector or Deputy may not hold any other public function, nor perform any professional activity.

Protector or Deputy may not be a member of a political organization, or participate in political activities.

The restriction referred to in paragraph 1 of this Article shall not apply to scientific, educational or artistic activities, or activities protected with copyright.

Article 14

The Protector, in the case of his/her absence or impediment to perform function, shall be replaced by the Deputy designated by the Protector.

In the event of cessation of function of the Protector, his/her duties shall be performed by the longest performing Deputy on this function.

Article 15

The function of the Protector or the Deputy shall cease before the expiration of the time for which he/she is appointed by:

- 1) resignation;
- 2) loss of citizenship;
- 3) meeting the conditions for retirement;

4) dismissal.

The Protector or the Deputy shall be dismissed from the function if he/she:

- 1) is convicted of a non-suspended prison sentence for the offense that makes him/her unworthy of performing the function;
- 2) is deprived of his/her legal capacity by a final decision;
- 3) becomes a member of a political organization;
- 4) is performing other public function or professionally is engaged in other activity.

About the reasons for cessation of function or dismissal, the Parliament shall be informed by the Protector, the Deputy or competent working body.

Article 16

The Protector and the Deputy shall have an identity document.

~~The form and content of the identity document shall be determined by the protector.~~

The form and content of the identity document referred to in paragraph 1 of this Article shall be determined by the state administration body in charge for human and minority rights.

III. COMPETENCY AND AUTHORIZATIONS

Article 17

The Protector is authorized to act upon complaints relating to the work of courts in case of delay in the proceedings, abuse of procedural authorizations or failure to execute court decisions.

Article 18

The Protector may initiate the adoption of laws, other regulations and general acts for the reason of harmonization with internationally recognized standards in the area of human rights and freedoms.

The authority to which has been submitted the initiative referred to in paragraph 1 of this Article shall be obliged to make a statement about this initiative.

If he/she deems it necessary for the protection and promotion of human rights and freedoms, the Protector shall give opinion on proposal of the law, other regulation or general act.

Article 19

The Protector may initiate a proceeding before the Constitutional Court of Montenegro for the assessment of conformity of laws with the Constitution and confirmed and published international treaties or the conformity of other regulations and general acts with the Constitution and law.

Article 20

The Protector in the exercise of his/her function acts in a way that: points, warns, criticizes, proposes or recommends.

At the request of the authorities the Protector may give an opinion on the protection and promotion of human rights and freedoms.

Article 21

The Protector deals with general issues of importance for the protection and promotion of human rights and freedoms and cooperates with organizations and institutions dealing with human rights and freedoms.

Article 22

The Protector is not authorized to alter, suspend or annul the acts of the authorities.
Protector cannot represent the party in the proceedings, or file on its behalf legal remedies, except in the case referred to in Article 27 paragraph 2 of this Law.

Article 23

The President of Montenegro, the President of the Parliament, the President and the members of the Government of Montenegro (hereinafter referred to as: the Government), the President of a Municipality, the Mayor of the Capital City, ~~and~~ the Mayor of the Old Royal Capital ~~and the other heads of authorities~~ shall receive the Protector on his/her request, without delay.

IV. SPECIAL AUTHORIZATIONS

Article 24

The Protector, the Deputy as well as the ~~employee~~ Chief Advisor to the Protector and Advisor to the Protector authorized by the Protector has the right to:

- Without prior notice, inspect the premises in the authorities, organizations, institutions and other places where a person deprived of liberty is or may be held;
- Without prior notice and authorisation, visit a person deprived of liberty and verify the respect of its rights;
- Without the presence of official or other person, either personally or through an interpreter, talk to a person deprived of liberty, as well as with other person for who he/she thinks it can provide the necessary information.

Article 25

The Protector shall ~~be~~ perform the duties of the National Preventative Mechanism for the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment (hereafter referred to as: the duties of prevention of torture), in accordance with this Law and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In order to perform certain duties of prevention of torture requiring special professional knowledge, the Protector shall form a working body consisting of experts in relevant fields.

The Act on establishing working body referred to in paragraph 2 of this Article shall define tasks and manner of work of this body.

~~The Protector shall take measures to prevent torture and other forms of inhuman or degrading treatment or punishment in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.~~

~~In order to examine the current situation in the authorities, organizations and institutions where are held persons deprived of liberty or persons whose movement is restricted and in order to provide expert opinion, the Protector shall create an advisory body composed of experts in relevant fields.~~

~~In the act on creation of the advisory body, referred to in paragraph 2 of this Article, shall be determined its tasks and authorizations.~~

~~The Head, or the person managing the authority, organization or institution referred to in paragraph 2 of this Article shall be obliged to allow to the members of the advisory body the unrestricted access to the premises where are held persons deprived of liberty or persons whose movement is restricted, unrestricted conversation with these persons, as well as to make available the necessary documentation.~~

~~The authority, organization or institution referred to in paragraph 2 of this Article, shall be obliged to, without delay, that is, within the provided deadline, implement the recommendations of the Protector for the prevention of torture and other inhuman or degrading treatment or punishment.~~

Article 25a

Members of the working body referred to in Article 25 paragraph 2 of this Law shall be elected by the Protector based on a public call.

Number, composition, criteria and manner of election of members of the working body referred to in paragraph 1 of this Article, shall be determined in the Rules of Procedure of the Protector.

Article 25b

The duties of prevention of torture include the following:

- Visiting authorities, institutions or organizations where are or could be placed persons deprived of their liberty or persons with restricted movement, in order to increase the level of their protection from torture and other cruel, inhuman or degrading treatment or punishment;
- Giving recommendations to the competent authorities, institutions and organizations in order to improve the treatment of persons deprived of their liberty and the conditions in which they are staying, or the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- Giving opinions on proposal laws and other regulations for the protection and promotion of human rights and freedoms of persons deprived of their liberty and persons with restricted movement;
- Cooperation with the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as: the Subcommittee for the Prevention of Torture).

Persons deprived of their liberty within the meaning of this Law are considered to be persons under any kind of retention, detention, imprisonment or placement under the supervision of an authority, which are not permitted to abandon such place at their own will.

Article 25c

In the performance of the duties of prevention of torture, the Protector and the Deputy Protector, shall have the right to:

- without prior notice, visit authorities, institutions and organizations, and inspect premises where are placed or could be placed persons deprived of their liberty;
- access freely to information on: authorities, institutions and organizations in which are placed persons deprived of their liberty; number of persons deprived of their liberty in the authority, institution, or organization they are visiting and on the treatment of persons deprived of their liberty;
- without the presence of an official person, talk with persons who are deprived of their liberty and other persons who can provide adequate information regarding the suspicion on violation of human rights in the authority, institution or organization they are visiting.

The Head, or the person who is managing the authority, institution and organization referred to in paragraph 1 of this Article shall be required to allow or make available to the Protector and Deputy Protector as well as to the Advisor to the Protector and member of the working body referred to in Article 25 paragraph 2 of this Law, authorized by the Protector, the following:

- unimpeded visit and inspection of the premises where are placed or could be placed persons deprived of their liberty, as well as a conversation with persons who are deprived of their liberty and other persons who can provide adequate information regarding the suspicion on violation of human rights, without the presence of an official person;
- make available the information referred to in paragraph 1 item 2 of this Article and provide direct access to official records and documents containing such information.

No one can be sanctioned or suffer adverse consequences because of acting in compliance with paragraph 2 of this Article.

Article 25d

Members of the working body referred to in Article 25 paragraphs 2 of this Law shall be entitled to adequate remuneration for performed work.

The decision on the amount of remuneration referred to in paragraph 1 of this Article shall be issued by the Protector, in accordance with the regulation of the Government.

Article 26

The Protector shall directly cooperate with the ~~United Nations Subcommittee for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment~~.

Article 27

The Protector shall be the Institutional Mechanism for protection from discrimination.

The Protector, with the approval of discriminated person, shall act and take measures for protection from discrimination, in accordance with this Law and specific Law governing the prohibition of discrimination.

~~When deems necessary, the Protector shall initiate a court proceeding for the protection from discrimination or shall join a discriminated person in that proceeding as an intervener.~~

In acting of the Protector in cases of discrimination by natural or legal persons, the provisions of this Law shall apply.

V. PROCEDURE

Article 28

The procedure of examination of violations of human rights and freedoms shall be initiated following a complaint or by the initiative of the Protector.

Protector shall examine violations of human rights and freedoms by his/her own initiative after he/she finds out that the act, action or failure to act of authorities violated human rights and freedoms.

In order for Protector to act by his/her own initiative is required the consent of the victim.

Article 29

The procedure before the Protector is confidential.

A person who files a complaint or participates in the procedure cannot therefore be held liable or brought in an unfavourable position.

Article 30

The complaint can be filed by anyone who believes that his/her rights and freedoms are violated.

In the case of violation of the right of a child, the complaint may be filed by its parent or guardian or legal representative.

If the right of a child is violated by a person referred to in paragraph 2 of this Article, the complaint may be filed by the organization or authority that deals with the protection of child rights.

The complaint may be filed through a Member of Parliament, as well as organization dealing with human rights and freedoms.

The complaint may be filed orally on the record.

A person deprived of liberty shall have the right to file a complaint in a sealed envelope.

The authorized person from authority, organization or institution in which reside a person deprived of liberty, is required to immediately submit to the Protector unopened and unread complaint or other writing of such person.

Article 31

The complaint shall contain the name of the authority on whose work it refers, description of the violation of human rights and freedoms, the facts and evidence supporting the complaint, information about exhausted legal remedies, name and address of the complainant and an indication of whether the complainant agrees his/her name to be revealed in the procedure.

If the complaint does not contain all the necessary information or is incomprehensible, the Protector may request from the complainant to amend it within specified period of time.

Article 32

The complaint is to be filed within six months as of the day of cognition about the violation of human rights and freedoms, or within one year as of the day of violation.

Exceptionally, the Protector may act even after the expiration of the deadline referred to in paragraph 1 of this Article, if he considers that the importance of the case so requires.

Article 33

The Protector may, during the examination procedure, instruct the complainant to exhaust other legal remedies to remedy the violation he/she is indicating if he/she considers that the violation can be remedied only by these remedies, or the remedy of the violation would be more efficient.

Article 34

The Protector shall not act upon the complaint if:

- 1) he/she is not competent;
- 2) the complaint is anonymous, unless he/she considers that there are grounds for acting on his/her own initiative in accordance with Article 28, paragraph 2 of this Law;
- 3) it is submitted after the expiry of the prescribed deadline;
- 4) it does not contain the necessary information, and the complainant fails to amend it within the prescribed deadline;

- 5) the complainant withdraws the complaint before initiating the procedure;
- 6) the complainant fails to act in accordance with Article 33 of this Law;
- 7) the complaint is repeated, and new evidences are not submitted;
- 8) it is an obvious abuse of the right to file a complaint.

The Protector shall notify the complainant about the reasons for not taking the action upon the complaint and shall indicate the possibility for potential achievement of the protection of his/her rights before other authority.

Article 35

The Protector shall inform about the complaint and its content the Head or the person managing the authority on whose act, action or failure to act the complaint refers to, for the purpose of taking a statement and shall set a deadline **for submitting the statement and required documentation**, that cannot be shorter than eight days.

The Head or the person managing the authority shall be obliged to ~~give the statement about the allegations in the complaint~~ **submit the statement and documentation referred to in the paragraph 1 of this Article**, within the deadline set by the Protector.

~~If the statement does not contain all the necessary information and documents, the Protector may request the amendment of the statement referred to in paragraph 2 of this Article~~ **does not contain all the required information or if required documentation is not submitted, the Head or the person managing the authority is required to on the request of the Protector submit amended statement and required documentation.**

Article 36

~~The Head or the person managing the authority shall be obliged to make available to the Protector all data from the jurisdiction of the authority he/she is managing, regardless of the degree of confidentiality as well as to provide to him/her unrestricted access to all premises, in accordance with the regulations governing the data confidentiality and protection of personal data, and handling of the official files and documents.~~

At the request of the Protector, the Head or the person managing the authority shall:

- **give access to all information under the competency of the authority he/she is managing, regardless of the degree of their confidentiality;**
- **provide direct access to official records, documents and data, and submit to him/her copies of requested records and documents, regardless of the degree of their confidentiality;**

provide to him/her free access to all premises.

Article 37

If the Head or to the person managing the authority fails to comply with the request within a specified period of time, he/she shall be obliged to, without delay, inform the Protector about the reasons.

Failure to comply with the request is considered obstruction of the work of the Protector, who can notify about that the immediate superior authority or the Parliament or inform the public.

Article 38

The Authorities shall be obliged to cooperate with the Protector, and provide him/her the assistance.

Article 39

Protector shall stop the proceeding if:

- 1) finds that after filing a complaint was initiated the court proceeding;
 - 2) the complainant is not cooperating in the procedure;
 - 3) the complainant withdrew the complaint;
 - 4) the authority, meanwhile, remedies the violation;
 - 5) the complainant dies, unless the heirs request that the procedure continue.
- About stopping the procedure the Protector shall notify the complainant.

Article 40

For the purpose of examining the violation of human rights and freedoms, the Protector may invite any person as a witness or hire an expert from the relevant field.

The persons referred to in paragraph 1 of this Article, shall be required to respond to the invitation and are entitled to remuneration or reimbursement of expenses in accordance with regulations governing the remuneration and reimbursement in judicial proceedings, which are paid from the funds of the Protector.

Article 41

Upon completion of examining the violation of human rights and freedoms, the Protector shall issue an opinion on whether, how and to what extent the violation of human rights and freedoms occurred.

When the Protector finds that the violation of human rights and freedoms occurred, the opinion shall also contain a recommendation on what needs to be done to remedy the violation, as well as the deadline for its remedy.

Article 42

The Head or the person managing the authority on whose work refers the recommendation, shall be obliged to, within the provided deadline, submit the report on actions taken to carry out the recommendations.

If the Head or the person managing the authority fails to comply with the recommendation within a specified deadline, the Protector may inform the immediate superior authority, submit a special report or inform the public.

Article 43

About the results of the examination of the violation of human rights and freedoms, the Protector shall notify the complainant by submitting the opinion.

Article 43a

On the performed visit referred to in Article 25b, paragraph 1, item 1 of this Law, shall be prepared minutes which shall be signed by persons who participated in the visit and the representative of the authority, institution and organization in which the visit was carried out.

Based on the minutes referred to in paragraph 1 of this Article, the Protector shall write a report on his findings, and shall submit it to the authority, institution or organization where the visit was carried out.

When the Ombudsman finds that torture or other cruel, inhuman or degrading treatment or punishment occurred, the report shall also contain the opinion with the recommendation(s) or warning(s) to the authority, institution or organization where the violation was found.

The report with the opinion and recommendation(s) or warning(s) referred to in paragraph 3 of this Article, the Protector shall also submit to the authority or body responsible for supervising the authority, institution or organization where the visit was carried out.

The Head of the authority, institution or organization to which the recommendation or the warning referred to in paragraph 4 of this Article is submitted, shall be required to within a specified deadline set by the Act of the Protector, take measures regarding the warning or recommendation of the Protector and inform the Protector about taken measures without delay.

After receiving the information referred to in paragraph 5 of this Article the Protector shall carry out a follow up visit to the authority, institution or organization, where the case of torture or other cruel, inhuman or degrading treatment or punishment was found.

Article 44

The Protector may submit to the competent authority the initiative for opening a disciplinary procedure or procedure for the dismissal of the person whose work or failure to act resulted in violation of human rights and freedoms.

For misdemeanours prescribed by this Law and the Law on Prohibition of Discrimination, the Protector may submit a request for initiation of misdemeanour proceeding.

Article 45

~~The Protector and the Deputy, as well as employees of the Protector, shall be obligated to keep confidential and personal information they have gained during the work in accordance with the law.~~

~~The obligation referred to in paragraph 1 of this Article shall be also valid after the cessation of function or employment.~~

The Protector, the Deputy Protector, as well as the Advisor to the Protector and the member of the working body referred to in Article 25, paragraph 2 of this Law are required to keep personal data they have obtained in the performance of their work, in accordance with the law governing the protection of personal data.

The obligation referred to in paragraph 1 of this Article, shall also apply after the termination of office, employment or membership in the working body.

Article 46

Detailed manner of working and procedure shall be established in the Rules of Procedure of the Protector.

Rules of Procedure of the Protector shall be published in the Official Gazette of Montenegro.

VI. REPORT

Article 47

The Protector shall submit the Annual Work Report to the Parliament.

The Annual Work Report shall include in particular: general statistical overview of the cases in which he acted, the statistical overview by the areas of work, evaluation of the situation in the area of human rights and freedoms in Montenegro, recommendations and measures proposed by the Protector for improvement of the human rights and elimination of perceived shortcomings.

A special part of the Report with which the Protector informs the Parliament about the perceived phenomenon of discrimination shall include: assessment of the situation in the field of protection from discrimination, which includes evaluation of the work of authorities,

service providers and other persons, perceived shortcomings and recommendations for their removal, analysis of the law.

The Annual Work Report for the previous year shall be submitted not later than 31 March of the current year.

Upon request of the Parliament, the Government is obliged to give its statement about the Annual Work Report of the Protector.

The Annual Work Report shall be made accessible to the public.

Article 48

The Protector may submit to the Parliament a special report, if he/she deems that to be necessary for the protection of human rights and freedoms.

The special report shall be available to the public.

VII. SALARIES AND RIGHTS

Article 49

The Protector and the Deputy are entitled to salary and other income, and to achieve other rights arising from the exercise of function, in accordance with the legislation governing those rights for public functionaries.

The fixed part of the salary of the Protector shall be determined by applying the coefficient of 12.98.

The fixed part of the salary of the Deputy shall be determined by applying the coefficient of 11.50.

The value of the coefficient shall be determined by the competent working body of the Parliament.

The Protector and the Deputy shall have the right to allowances based on the exercise of function in the amount of 30% from the fixed part of the salary.

Article 50

The decision on the salary, allowances, and other incomes and rights of the Protector and the Deputy shall be delivered by the competent working body of the Parliament.

VIII. ~~ADMINISTRATIVE AND PROFESSIONAL SERVICE~~ THE SERVICE OF THE PROTECTOR

Article 51

~~In order to perform professional and administrative tasks, the Protector shall establish the Administrative and Professional Service.~~

~~The Administrative and Professional Service is managed by the Secretary.~~

~~The Secretary shall be appointed and dismissed by the Protector.~~

~~The Secretary shall be entitled on the salary established for management staff in the ministry, in accordance with regulations on salaries of civil servants and state employees. The Act on internal organization and systematization of the Administrative and Professional Service shall be delivered by the Protector, with the prior opinion of the competent working body of the Parliament.~~

For the performance of professional and other activities, the Protector shall form the Service of the Protector (hereinafter referred to as: the Service).

Work of the Service shall be organized and coordinated by the Secretary General.

The Secretary General shall take care and be responsible for the implementation of the acts of the Protector, prepare proposal for the allocation in the Budget for the work of the Protector, take care of professional development, as well as of organization and realization of cooperation of the Protector with the authorities and organizations in the country and abroad and perform other duties as assigned to him/her by the Protector.

Article 51a

The Secretary General shall be appointed by the Protector for a period of five years based on a public call.

The fixed part of the salary of the Secretary General shall be determined using the coefficient of 10.39.

For his/her work the Secretary General shall report to the Protector.

Article 51b

Professional activities from the competency of the Protector shall be performed by the Advisors to the Protector.

The titles of the Advisors to the Protector shall be: the Chief Advisor to the Protector who will be allocated to the salary grade three and the Advisor to the Protector who will be allocated to the salary grade four.

The Chief Advisor to the Protector may be a person who, in addition to the general requirements for the work in the state authorities, has at least VIII level of educational qualifications and a minimum of 10 years of work experience of which at least three years of experience in the field of human rights and freedoms.

The Advisor to the Protector may be a person who, in addition to the general requirements for the work in the state authorities, has at least VIII level of educational qualifications and a minimum of five years of work experience of which at least one year of experience in the field of human rights and freedoms.

The Act on internal organization and systematization of the Service shall be brought by the Protector, with the previous opinion of the competent working body of the Parliament.

Article 51c

The Protector shall decide on employment, rights, obligations and responsibilities of employees in the Service, in accordance with the law governing the rights, duties and responsibilities of civil servants and state employees, as well as in accordance with the approved budget resources.

Notwithstanding paragraph 1 of this Article in occasion of deciding on employment of a Chief Advisor to the Protector and Advisor to the Protector, the Protector shall not be required to obtain a certificate on provided financial resources from the Minister responsible for the budget affairs

Article 51d

To carry out the duties referred to in Articles 24, 25c, 27 and 36 of this Law the Protector shall issue official identity document to the Advisors to the Protector.

The form and content of the official identity document referred to in paragraph 1 of this Article shall be established by the Act referred to in Article 16 paragraph 2 of this Law.

Article 52

~~On employees in the Administrative and Professional Service shall apply the regulations on civil servants and state employees.~~

On the rights, obligations and responsibilities of the employees in the Service, which are not regulated by this Law, shall apply the regulations on civil servants and state employees.

IX. FINANCING

Article 53

Financial resources for the work of the Protector shall be provided in the separate allocation of the Budget of Montenegro.

The proposal for allocation of budgetary resources to the Protector shall be submitted by the working body of the Parliament responsible for human rights and freedoms, on the proposal of the Protector.

The Protector shall have the right to participate in the work of the competent working bodies and sessions of the Parliament in occasions when the budget proposal is discussed.

On management of financial resources referred to in paragraph 1 of this Article the Protector shall decide independently, according to the dynamics defined in accordance with the Law on Budget.

X. PENALTY PROVISIONS

Article 54

A fine amounting from 500 Euros to 2000 Euros shall be imposed for misdemeanour on:

- 1) the responsible person in the authority who do not comply with the request of the Protector within provided deadline (Article 35, paragraph 2);
- 2) the person who fails to appear before the Protector (Article 40, paragraph 2).

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 55

The procedures of examining the human rights and freedoms initiated before the day of entering into force of this Law shall continue in accordance with this Law.

Article 56

The Rules of Procedure of the Protector and the Act on internal organization and systematization of the Administrative and Professional Service shall be delivered within three months as of the day of entering into force of this Law.

Article 56a

The Rules of Procedure of the Protector shall be harmonized with this Law within three months from the date of entry into force of this Law.

The Acts referred to in Article 16, paragraph 2 and Article 51b, paragraph 5 of this Law shall be adopted within three months from the date of entry into force of this Law.

Article 57

The Protector and the Deputy appointed, that is, elected before the entry into force of this Law shall continue to perform the function until the expiry of the time he/she is elected for.

Article 57a

The appointment of the Secretary General shall be completed within three months from the date of entry into force of this Law.

Until the decision on the appointment of the Secretary General is brought, the duties of the Secretary General shall be carried out by the current Secretary.

Article 58

On the day of entering into force of this Law, the Law on Protector of Human Rights and Freedoms ("Official Gazette of the Republic of Montenegro", No. 41/03) shall cease to have effect.

Article 59

This Law shall enter into force eight days as of the day of its publication in the "Official Gazette of Montenegro".