

Pursuant to Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**DECREE PROMULGATING THE LAW ON RESTITUTION OF PROPERTY RIGHTS AND  
COMPENSATION**

**(Official Gazette of the Republic of Montenegro, No 21/04 dated 31 March 2004, 49/07 dated 10 August 2007, and 60/07 dated 9 October 2007; Official Gazette of Montenegro, No 12/07 dated 14 December 2007)**

I hereby promulgate the Law on Restitution of Property Rights and Compensation, adopted by the Parliament of the Republic of Montenegro at the first sitting of the first regular session in 2004, on 23 March 2004.

Number: 01-458/2  
Podgorica, 29 March 2004

The President of the Republic of Montenegro  
Filip Vujanović, m.p.

## **The Law on restitution of property rights and compensation**

### **Contents of the Law Article 1**

This Law shall govern the conditions, manner, and procedure for restitution of ownership rights and other property rights and compensation of former owners for the rights taken away from them for the benefit of public, state, social, or cooperative ownership.

### **Definitions Article 2**

The following terms, as used in this Law, shall have the following meanings:

- Restitution shall mean the return of taken away property and rights to the former owner in accordance with this Law and enabling regulations adopted for the implementation of this Law;
- Compensation shall mean the compensation to former owners in lieu of the restitution of taken away property and rights in accordance with this Law and enabling regulations adopted in accordance with this Law;
- Former owner shall mean a natural person or legal entity who was the owner of property or holder of right at the time the property was transferred to public, social, state, or cooperative ownership and his/her legal heir or legal successor;
- Taken away property rights shall mean property and rights that were transferred from former owners to the public, state, social, or cooperative property, without fair or market compensation;
- Immovable property shall mean land and buildings, apartments and business premises, as well as separate parts of buildings;
- Undeveloped buildable land shall mean urban parcels that do not have permanent intended-use as envisaged by an urban development plan,

- Developed buildable land shall mean urban parcels or parts of such parcels on which structures were constructed in accordance with the plan;
- Owner shall mean a natural person or legal entity that acquired an ownership right in accordance with law;
- Non-commercial legal entities shall mean non-profit legal entities.

### **Right to Submit the Request for Restitution or Compensation**

#### **Article 3**

Former owners shall be entitled to request restitution or compensation in accordance with this Law, if their property rights were taken away for the benefit of public, state, social, or cooperative property, except in the cases referred to in Article 7 of this Law.

Former owners who restored their taken away property rights based on a legal transaction with compensation before the entry into force of this Law shall also be entitled to compensation.

### **Application of other Laws**

#### **Article 4**

Provisions of laws governing ownership rights, obligations, inheritance, enforcement procedure and other laws, shall apply in resolving the matters subject to this Law, unless they are contrary to this Law.

The Law on General Administrative Procedure shall apply to procedures for exercising the rights under this Law, unless otherwise prescribed by this Law.

### **Tax Holiday**

#### **Article 5**

The acquisition of ownership right on immovable property and other property rights or monetary compensation obtained under this Law shall not be subject to tax payment.

### **Former Owners Entitled to Restitution or Compensation**

#### **Article 6**

Former owners-natural persons shall be entitled to restitution or compensation in accordance with this Law.

Legal entities referred to in Article 8 of this Law shall also be entitled to restitution or compensation under the provisions of this Law.

### **Persons Not Entitled to Restitution or Compensation**

#### **Article 7**

Former owners, to whom a compensation in cash or in other property or rights is determined for taken away property rights, upon the entry into force of the Law on Amendments to the Law on Expropriation (Official Gazette of the SFRY, No 5/68), shall not be entitled to restitution or compensation in accordance with this Law.

A person whose property or right was taken away based on a final and binding criminal judgements for crimes representing, in accordance with international conventions, a war crime, shall also not be entitled to the right referred to in paragraph 1 of this Article, if the property or right was acquired by execution of such a crime.

Former owners who received or had the right to receive compensation for taken away property and right from another state shall not be entitled to restitution or compensation, unless otherwise stipulated by this Law.

A former owner who transferred the property rights into public, state, social, or cooperative ownership by a legal transaction or unilateral document, shall not be entitled to restitution or compensation.

## **Non-Commercial Legal Entities**

### **Article 8**

Pious endowments and other non-commercial legal entities shall also have the right to restitution or compensation, under this Law. .

A special law shall regulate the conditions, manner and procedure for restitution of the taken away property rights to religious organizations.

### **Article 8a**

Churches and religious organizations may submit the application for recording the property that was taken away on the territory of the Republic of Montenegro for the benefit of public, state, social, or cooperative ownership without fair or market compensation.

The application referred to in paragraph 1 of this Article with evidences (copies) significant for the identification of former owners or their successors, the taken away property and grounds for taking away shall be submitted to the Ministry of Finance within three months as of the day of entry into force of this Law.

The application referred to in paragraph 2 of this Article shall not represent the request for exercising the right based on which restitution or compensation of the taken away property can be performed.

### **Article 8b**

Persons or their legal heirs, whose property was taken away on the basis of the Law on Crimes against the People and the State (Official Gazette of the FPRY, No 59/46), Law on Confiscation and Confiscation Enforcement (Official Gazette of the DFY, No 40/45 and 70/45) and the Law on Confirming and Amendments to the Law on Confiscation and Confiscation Enforcement (Official Gazette of the FPRY, No 61/46), and the taking away thereof was the consequence of political and ideological reasons, shall also be entitled to restitution and compensation.

## **Obligors of Restitution**

### **Article 9**

Obligors of the restitution of property and rights shall be natural persons or legal entities owning them, at the time of the entry into force of this Law, unless such persons have acquired the ownership right in accordance with law.

### **Obligors of Compensation Article 10**

The Republic of Montenegro shall be the obligor of compensation of former owners, which will provide the funds in the Compensation Fund, unless otherwise prescribed by this Law.

### **Restitution of the Taken Away Property or Compensation Article 11**

A former owner shall have the right to demand restitution of the taken away property and rights, unless otherwise stipulated under this Law.

A former owner shall be entitled to compensation in the case when taken away property and rights, under Article 12 of this Law, are not subject to restitution.

If restitution of the taken away property has become impossible due to force majeure, the former owner shall not be entitled to compensation in accordance with this Law.

In the cases referred to in paragraph 2 of this Article, the restitution request of the former owner shall be considered as the compensation request.

### **Property Rights and Property Not Subject to Restitution Article 12**

The following property rights and property shall not be subject to restitution:

- 1) Excluded from legal transactions or if the ownership right cannot be acquired on them;
- 2) Destroyed, disappeared or damaged to the extent that the cost of restoration to the previous condition would exceed the value of the property itself;
- 3) Used for performing activities of state authorities, or authorities of local self-government units (business buildings; business premises);
- 4) Used as hospitality industry facilities categorized in the first and second category of special importance to the Republic;
- 5) Used for official hospitality purposes of state authorities, or local self-government units;
- 6) Used for performing the activities in the area of healthcare, education, culture and science or other public services;
- 7) Functionally or de-facto integral part of a network of structures and devices of public utility companies in the area of energy, telecommunications, communal infrastructure (city cemeteries and chapels), transportation (roads, streets, parks, monuments and similar);
- 8) Buildable and town buildable land that has permanent intended-use in accordance with law and relevant urban development plan;
- 9) When restitution would cause damage or costs exceeding the value of the property subject to restitution;
- 10) On which a natural person or legal entity acquired the ownership right in accordance with law;
- 11) Movable property proclaimed by law as a national treasure;

- 12) Property privatised in accordance with law, or property owned by business organisations that are privatised in accordance with law.

### **Movable Property Article 13**

Taken away movable property, not proclaimed by law as national treasure, shall be returned to a former owner.

### **Immovable Property Article 14**

Immovable property shall be returned to former owners in accordance with this Law.

### **Olive Groves, Forests and Forestland Article 15**

Taken away olive-groves, forests and forestland shall be returned to the former owner, unless otherwise prescribed by this Law.

### **Residential Buildings, Apartments, Business Buildings and Business Premises Article 16**

Residential building or apartment, business building and business premise shall be returned to the former owner, unless otherwise prescribed by this Law.

In case there is a lease or similar type of arrangement for the immovable property referred to in paragraph 1 of this Article, by way of restitution a former owner shall act as a lessor, so that rights and obligations arising from the lease shall be between him/her and lessee.

Obligor of compensation shall be obliged to provide persons who have acquired a tenancy right in the building of the former owners with ownership rights on another adequate apartment, under the same purchasing terms that were applicable to holders of tenancy rights on apartments in state ownership, within 10 years as of the day of entry into force of this Law, provided that these persons do not have another apartment in their ownership.

Former owner shall be obliged to enable these persons to exercise smoothly rights on the apartment until their housing problem is resolved, and the obligor of compensation shall pay him/her an adequate rent during the entire such period.

### **Undeveloped Buildable Land Article 17**

Undeveloped buildable land that was transferred to social or state ownership (hereinafter referred to as: nationalised) shall be returned to the former owner, unless otherwise prescribed by this Law.

Nationalised undeveloped buildable land, which was transferred to a local self-government unit or someone else, in accordance with law, to be developed in line with intended-use in accordance with a planning document, shall be returned to the former owner, in the manner

and under the procedure prescribed by the Law on Expropriation, unless the value of executed works exceeds at least one third of the total value of planned works, at the time of submission of the restitution request.

### **Developed Buildable Land Article 18**

Nationalised developed buildable land shall not be subject to restitution, unless in a case the building on the land existed which shall be returned to a former owner in accordance with this Law.

Nationalised developed buildable land whereon a structure is located, that existed on the land at the time when the land was taken away, but since then has significantly increased in value due to the investments in the building, shall be the subject to restitution only if the former owner pays the amount of the increase in value of the property resulting from investments, and if such building is not in ownership of natural persons or legal entities whose founder is not the state.

The former owner shall pay the amount referred to in paragraph 2 of this Article to the Compensation Fund.

If the former owner refuses to pay the amount of the investment referred to in paragraph 2 of this Article, he/she shall become the co-owner for the level of his/her share in the value of the immovable property.

The former owner who is not entitled to restitution in the cases referred to in paragraph 2 of this Article shall be entitled to compensation.

### **Permanent Right to Use (Right to Use) Article 19**

On the state-owned buildable land where present owner of the building, constructed in accordance with law and applicable urban development document, has permanent right to use, the ownership right shall be established to his benefit, if he/she requests so. In such cases, the former owner shall be entitled to compensation and not to restitution.

A holder of the permanent right to use shall compensate the Compensation Fund for a market value of the land reduced by the value previously paid for a permanent use of land.

### **Third Party Rights Article 20**

Restitution of property shall not influence a lease-based and similar contractual relations thereof established through legal transactions with compensation, unless otherwise prescribed by a legal transaction or law.

Notwithstanding paragraph 1 of this Article, the lease-based and similar relations thereof, the duration of which is determined or contracted for the period exceeding five years, shall last at the most five years from the day of finality of the decision on the restitution of ownership right, unless otherwise agreed upon by the former owner and lessee.

Mortgage and other encumbrances, created after the transfer of an immovable property into state-social ownership until the entry into force of this Law, shall cease on the day a decision on restitution of immovable property becomes final and binding.

Claims secured with the encumbrances referred to in paragraph 3 of this Article shall be satisfied from the residual estate of the debtor, and if such estate would not be enough to satisfy the claims, the Compensation Fund shall guarantee for the shortage of funds.

The Compensation Fund shall have the right to claim reimbursement from a borrower for the amounts paid from the property of the Compensation Fund.

Real easements shall not cease to exist with the restitution of the taken away immovable property.

The owner of the servient estate may request the real easement to cease when it becomes unnecessary for the use of dominant estate or when other reason, for which it was created, ceases to exist.

After establishment of the ownership right, personal easements shall cease, unless created or determined by a court ruling or settlement signed before the court, regardless whether registered into one of the public registries.

Personal easement shall also cease if acquired based on a legal transaction without compensation in return with a person considered to be an owner of a property.

## **Companies Article 21**

Former owners of taken away companies shall have the right to restitution of shares of such companies, if the property of the nationalized company is still the ownership of such companies.

If restitution is not possible in accordance with this Law due to the protection of the rights of owners, the former owner shall have the right to compensation.

## **Compensation Article 22**

A former owner not entitled to restitution of taken away property rights, in accordance with this Law, can exercise the right to compensation in form of:

- monetary funds paid out of the Compensation Fund to claimants, on a pro rata basis of the claim relative to the aggregate of claims against the Compensation Fund;
- Bonds, in accordance with this Law.

The amount of total compensation paid to the former owners annually cannot exceed 0.5% of the gross domestic product (GDP) realized in the previous year, for which is officially known based on the data of the institution competent for statistics.

The total amount of compensation under this Law cannot exceed 10% of the GDP for the period of application of this Law.

The compensation referred to in paragraph 1, indent 1 of this Article shall be paid to the claimants in one-year instalments, the payment of which is done on 15<sup>th</sup> July every year,

based on the final decisions submitted to the Compensation Fund until 31<sup>st</sup> December of the previous year, depending on the availability of funds in the Compensation Fund, until their final payment.

The Government of the Republic of Montenegro (hereinafter referred to as: the Government) shall set forth the compensation payment schedule referred to in paragraph 4 of this Article.

The Compensation Fund may offer to former owners, if so possible, movable or immovable property in ownership of the Compensation Fund, as the compensation for taken away property rights.

The Compensation Fund may also offer to former owners the debt redemption arising from the compensation under the conditions determined by the Government.

### **Establishing of the Value of Taken Away Property Article 23**

The value of taken away property or rights shall be established in accordance with the condition of the property at the time of taking away, and pursuant to the Decree on Appraising the Value and Determining Compensation for Taken Away Property.

### **Objection to Appraised Value Article 24**

Parties to the procedure may lodge an objection to the amount of appraised property with the Commission for Restitution and Compensation (hereinafter referred to as: the Commission) within eight days as of the day of submission of the minutes.

The Commission shall be obliged to consider the objection within eight days and if grounded to make an appropriate change of data, and issue a decision and inform the parties thereon.

In the case the objection is not adopted, the Commission shall adopt a decision on rejecting the objection and submit it to the person who has lodged the objection.

### **Bond Issue Article 25**

For the purpose of compensation payment, the Compensation Fund shall issue bonds denominated in euro, in an estimated amount representing a sum of all submitted requests of former owners, whereat these bonds will not bear an interest rate.

The Commission shall be obliged to submit, at the request of the Compensation Fund, the report on estimated approximate value of property the restitution of which is being requested, for the purpose of issuing bonds.

The Compensation Fund shall issue new series of bonds, if the first issue would not be enough to meet the claims of former owners.

The Commission shall submit the final decision on compensation to the Compensation Fund that in turn shall issue a certificate for acquiring the bonds, referred to in Article 22 of this Law, from the Central Depository Agency.

Bonds issued in accordance with Article 22, paragraph 1, indent 2 of this Law may be used for purchasing shares, ownership interests and other property of the Republic of Montenegro and state-owned funds, for which the Government determines that can be purchased with bonds of the Compensation Fund, as well as for payment of tax liabilities (revenue of the Republic) of former owners or their heirs (all other acquirers of bonds are excluded from this right).

All issued series of bonds shall have validity of 10 years as of the day of entry into force of this Law.

Upon expiration of the 36-month deadline as of the day of acquiring the bonds, the owner of bonds (former owner or buyer of bonds on the market) shall be entitled to return the bonds to the Compensation Fund and request for the right to be compensated in monetary funds equivalent to the amount of returned bonds to be re-established, in accordance with Article 22, paragraph 1, indent 1 of this Law.

Upon expiry of the validity of bonds referred to in paragraph 7 of this Article, unused bonds shall be withdrawn and annulled.

Within 30 days as of the expiry of the deadline for bond validity, the Central Depository Agency shall submit to the Compensation Fund a list of bondholders who did not use the right to purchase the property of the Republic of Montenegro and state-owned funds within the given deadline.

The Compensation Fund shall, at the request of bondholders, adopt decisions re-establishing the right to be compensated, and so for monetary amount equivalent to unused bonds.

The bondholder (former owner or buyer of bonds on the market) shall have the right to submit a request to the Compensation Fund to be compensated in cash for the amount of unused bonds, within six months as of the expiry of the validity of bonds, in the manner set forth in Article 22, paragraph 1 indent 1 of this Law.

### **Other Rules on Restitution and Compensation** **Article 26**

A former owner who exercised the right to restitution shall be obliged to return the revaluated compensation received for the taken away property or rights in the amount determined under the decision on restitution, within two years as of the day such decision becomes final and binding.

In the case of exercising the right to compensation, the amount of determined compensation shall be reduced by the amount of compensation that was received by the former owner at the time when the properties or rights were taken away.

The Ministry of Finance shall determine the manner and procedure for revaluation of the amount of debt, as well as the manner of payment.

The former owner shall not have the right to request from the obligor of restitution the compensation for the value of the fruits and products created from the use of specific property, compensation of costs and damage compensation.

## **Initiating the Procedure Article 27**

A former owner shall initiate the procedure for restitution of property right or compensation by submitting a request to the Commission at the latest within 18 months as of the day of the establishment of the Commission in a municipality where the property is located.

If the co-ownership or joint ownership existed on the same property, the procedure for restitution or compensation may be initiated by submission of the request by any of the former owners.

The procedure for restitution or compensation may be initiated by a competent state authority when it determines that there is a public interest to do so.

## **Commission for Restitution and Compensation Article 28**

The Commission for Restitution and Compensation shall continue the procedures initiated upon requests of former owners, and so as follows:

- 1) Commission for Restitution and Compensation in Podgorica for the territory of municipalities of Podgorica, Danilovgrad, Nikšić, Šavnik, Plužine, and Cetinje;
- 2) Commission for Restitution and Compensation in Bar for the territory of municipalities of Budva, Herceg Novi, Tivat, Kotor, Bar, and Ulcinj; and
- 3) Commission for Restitution and Compensation in Bijelo Polje for the territory of municipalities of Bijelo Polje, Berane, Kolašin, Andrijevica, Plav, Rožaje, Mojkovac, Pljevlja, and Žabljak.

The Commissions referred to in paragraph 1 of this Article shall have three members each, appointed by the Minister of Finance, within 60 days as of the day of entry into force of this Law.

A graduated jurist who passed a bar examination and has five years of working experience shall be appointed as a chairperson of the Commission, and a graduated jurist and one person with a geodetic or civil engineering and economic background shall be appointed as members.

Members of the Commission shall have the status of officials and shall be authorized to conduct the procedure and perform other activities as part of the procedure.

The Commission referred to in paragraph 1 shall takeover the documentation from the chief administrators of municipalities from the territories of municipalities that it is established for, within 30 days as of the day of adoption of the decision on its appointment, with the status as of the day of entry into force of this Law, along with the minutes on taking over the documentation.

The Ministry of Finance shall provide for the performance of technical and administrative activities for the needs of the commissions referred to in paragraph 1 of this Article.

Former owners, in municipalities where the deadline for submission of requests has not expired, may submit the requests to the Ministry of Finance until the establishment of the Commission referred to in paragraph 1 of this Article.

## **Contents of the Request**

### **Article 29**

A request for restitution or compensation shall include the following:

- Data on the taken away property, including the address and number of a property certificate, location and area;
- Legal basis, manner and time of nationalisation;
- Legal basis of the request for restitution or compensation, including any evidence establishing that the person submitting the request is a former owner under this Law;
- Subject-matter of the restitution or compensation;
- Information on heirs or other persons who may have rights on the taken away property rights, and who are known to the person submitting the request.

The person submitting the request may attach to the request any other evidence he/she deems as relevant to the proceedings.

## **Settlement by Mutual Agreement**

### **Article 30**

Before or after submission of the request, the former owner shall be authorized to propose a settlement by mutual agreement (settlement) to the obligor of restitution.

The settlement may include all property rights or only some of them.

The settlement shall be performed before the Commission.

## **Parties to the Procedure**

### **Article 31**

The parties to the procedure for restitution or compensation shall include the former owner, the obligor of restitution, the obligor of compensation, the Compensation Fund, as well as other legal entity or natural person, who, in order to protect proper rights or legal interests, has the right to participate in the procedure.

## **Cadastre Note of "Restitution"**

### **Article 32**

When the Commission determines that the request is submitted in accordance with this Law, it shall forthwith inform a regional authority of the Directorate for Immovable Property for the purpose of registering the cadastre note of "restitution" for the immovable property the restitution of which is begin requested.

The effect of the cadastre note registration of "restitution" shall be such that the legal and binding, and enforceable decision on restitution can also be directly enforced against each subsequent owner of the immovable property.

At the proposal of a former owner who submitted the request for restitution of taken away property rights, the court may adopt a temporary measure prohibiting the disposition of the property, undeveloped buildable land, prohibiting the logging of forests and the use of wood processing products, semi-products and raw materials, if the former owner makes the existence of claim probable and if there is a danger of divesting of the property or due to other justifiable reasons.

The registration of the cadastral note of "restitution" shall be deleted at the proposal of the current owner of the immovable property, if the restitution request is rejected.

Legal transactions dealing with taken away property rights that are concluded after the day this Law entered into force shall be null and void, except if the acquirers of the property are the actual owners.

### **Statements of Parties Article 33**

All interested parties shall give the statement regarding the request for restitution or compensation, within the deadline determined by the Commission, on which it shall be obliged to inform them in a timely and an appropriate manner.

All interested parties shall have the right to submit evidence at the hearing.

Obligors of restitution and third parties shall be obliged to allow the former owners or their proxies the access to the documents and data important for establishment of the right for restitution and compensation and submission of the request.

The authorities having the data and keeping official records (Cadastre of Immovable Property, the Archive, and similar) shall be obliged to urgently respond to the request of the obligor, former owner and the authority conducting the procedure.

### **Decision of the Commission Article 34**

Within 30 days following the completion of the hearing, the Commission shall adopt a first-instance decision on the request for restitution or compensation.

The decision shall be in writing and shall contain the following data on:

- former owner whose property rights were taken away,
- persons entitled to restitution or compensation;
- obligor of restitution or compensation;
- property rights which were taken away, as well as the basis, or the document on taking away such property rights;
- scope and value of the property right to be returned, as well as other data on such a right, with identification marks according to the condition on the day of adoption of the decision;
- amount of compensation;
- deadline for transfer into possession the property to be returned or the deadline for compensation;
- legal rationale of the decision citing the relevant provisions of this Law and other regulations.

If a former owner is deceased, the decision on restitution of the property rights or compensation shall be to the benefit of his/her unnamed heirs, being the holders of the right under this Law.

In the case referred to in paragraph 3 of this Article, the objects of property rights shall be consigned to temporary custody, by way of a decision, to a Custodian for special cases, and other measures for protection of inheritance in accordance with law shall be undertaken.

In the decision on restitution of property rights, the Commission shall order to the authorized authorities to enforce the decision, as well as possible deletion of encumbrances, and it shall decide on costs of the procedure.

A final decision shall be submitted ex officio to an authority competent for the immovable property cadastre.

### **Submission of a Decision Article 35**

The decision on restitution of property rights or compensation shall be submitted to parties to the procedure within 15 days as of the day of its adoption.

A first instance and second instance authority shall submit the decision to the State Prosecutor of the Republic of Montenegro within 15 days as of the day of its adoption.

The State Prosecutor shall be obliged to submit an appeal for cancellation of the decision adopted contrary to regulations.

### **Appeal against the Decision**

#### **Article 36**

Any party may lodge an appeal against the decision on restitution and compensation to the Appellate Commission within 15 days as of the day of receiving the decision.

#### **Article 36a**

The Appellate Commission shall have three members.

The Government shall appoint and revoke a chairperson and members of the Appellate Commission, at the proposal of the Ministry of Finance.

The Government shall appoint the Commission referred to in paragraph 2 of this Article within 60 days as the day of entry into force of this Law.

A person who is a graduated jurist with a passed bar examination and having at least five years of working experience may be appointed as the chairperson of the Appellate Commission.

A person who is a graduated jurist, graduated economist, graduated engineer of geodesy or graduated civil engineer may be appointed as a member of the Appellate Commission.

The chairperson and members of the Appellate Commission shall be appointed for the period of four years, with the possibility to be re-appointed.

The chairperson and member of the Appellate Commission may be revoked prior to expiration of their term of office, at a personal request or if they fail to perform their duties in a proper and conscientious manner.

The rules of procedure adopted by the Commission shall regulate the manner of work of the Appellate Commission.

A party may initiate administrative dispute against the decision of the Appellate Commission within 30 days as of the day of receiving the decision.

The Commission referred to in paragraph 1 shall take over the documentation from the Ministry of Finance, as the second-instance authority, within 30 days as of the day of adopting the decision on its appointment, with the status as of the day of entry into force of this Law, by way of the minutes on executed transfer of the documentation.

### **Article 36b**

The Commissions referred to in Article 28 shall adopt a decision upon obtaining the consent from the Commission for Standardizing of Procedure.

The Minister of Finance shall appoint the Commission for Standardizing of Procedure, within 60 days as of the day of entry into force of this Law.

If the Commission referred to in paragraph 2 of this Article does not give its prior consent to the decision of the Commission referred to in Article 28 of this Law, it shall be obliged to explain the reasons for denying the consent, in writing, with the instruction on how to proceed, and the first-instance commission shall be obliged to comply with such instruction.

The Ministry of Finance shall perform the technical and administrative activities for the Commission referred to in paragraph 1 of this Article.

The Commission referred to in paragraph 1 of this Article shall have three members, out of which one is a Rapporteur of the Commission.

## **Execution of the Decision**

### **Article 37**

The administrative authority competent for cadastre affairs shall execute a final decision on restitution of immovable property.

The Compensation Fund shall execute a final decision on compensation.

The State of Montenegro, Development Fund of the Republic of Montenegro, Republic's Pension and Disability Insurance Fund and Employment Bureau, shall execute a final decision on compensation in shares, under Article 21 of this Law, in accordance with law.

The Fund shall execute the decision referred to in paragraph 2 of this Article in the cases referred to in Article 40 of this Law based on the final and binding decision of the competent court on distribution of the subsequently found property.

## **Fees and Costs of the Procedure**

### **Article 38**

Parties to the procedure for restitution of property rights or compensation under this Law shall not be subject to payment of fees.

A competent authority shall decide on costs of the procedure in accordance with the regulations applied before such authority.

### **Article 39**

Deleted (Official Gazette of the Republic of Montenegro, No 49/07)

### **Probate Proceeding Article 40**

An inheritance request regarding the property of the former owner in the case referred to in Article 34 paragraph 3 of this Law, shall be decided upon before a competent court as inheritance requests regarding subsequently found property in accordance with the provisions of the Law on Non-Adversarial Procedure.

Property rights of the former owner to be decided upon during the proceeding referred to in paragraph 1 of this Article shall be passed on to his/her heirs on the day of validity of the decision on restitution of the property rights.

The deadlines that, in accordance with regulations on inheritance, start to run as of the day of decease of the testator shall run from the day the decision becomes final and binding in the procedure for restitution of property rights.

If regulations of a foreign state are being applied to inheritance, in accordance with applicable regulations, the substantive provisions prescribed by this Law shall also be taken into consideration.

The court of the Republic of Montenegro shall have exclusive competency to hear the probate-related matters under this Law.

### **Deciding upon Requests of Other Parties Article 41**

The parties obliged to sustain the return of the rights, such as the right to return the paid compensation (recourse claims) and other rights prescribed by this Law, as well as parties having some other property or obligation right on the property or rights whose restitution is requested, may also submit the request during the procedure.

### **Article 42**

Deleted (Official Gazette of the Republic of Montenegro, No 49/07)

### **Article 43**

Deleted (Official Gazette of the Republic of Montenegro, No 49/07)

### **The Compensation Fund Article 44**

In order to provide the funds for compensation, the Government shall establish the Compensation Fund.

The Compensation Fund shall have the status of a legal entity.

The registered office of the Compensation Fund shall be in Podgorica.

Sources of funds for the Compensation Fund shall include:

- Shares which were allocated, in accordance with the regulations on privatisation of economy, for compensation of former owners;
- Bonds of the Republic of Montenegro;
- deleted (*Note of the Publisher*: Pursuant to the Law on Amendments to the Law on Budget (Official Gazette of Montenegro, No 12/07 of 14 December 2007) provisions of Article 44, indents 3 and 8 have ceased to have effect);
- Funds from loans and other funds allocated for this purpose by international organizations;
- 10% of the proceeds from the sale of state property;
- 10% of the sold shares of state funds;
- 7% of the funds from companies or parts of companies that are being privatized
- 7% of the revenues from concession fees;
- deleted (*Note of the Publisher*: Pursuant to the Law on Amendments to the Law on Budget (Official Gazette of Montenegro, No 12/07 of 14 December 2007) provisions of Article 44, indents 3 and 8 have ceased to have effect);
- Revenues generated on the basis of collection of revalued amount, paid by former owners on the basis of provisions of this Law;
- Proceeds from the sale of state-owned property transferred to the Compensation Fund, in which case the Compensation Fund shall decide whether the sale of the Compensation Fund's property shall be open only to holders of bonds issued in accordance with this Law, or to all persons;
- Other sources.

During the period from the day of entry into force of this Law to the establishment of the Fund, funds generated from the sources referred to in paragraph 4 of this Article shall be deposited in a special account. Upon the establishment of the Fund, those funds shall belong to the Fund.

Organization and manner of the work of the Compensation Fund shall be regulated by way of Government regulation, at the proposal of the Ministry of Finance, within 90 days as of the day of entry into force this Law.

## **Fund's Plan and Reports**

### **Article 45**

Within 60 days from the day of the establishment, the Compensation Fund shall adopt the plan based on which it will allocate raised monetary funds and available shares intended for compensation of former owners, to all municipalities, in proportion to the value of property the restitution of which is being requested.

The Compensation Fund shall keep the records on adopted decisions on payment of monetary funds, issued certificates for acquiring bonds, sold bonds, as well as on executed payments.

The Compensation Fund shall, at least once a year, submit to the Government the report on raised funds, available shares and issued bonds, and propose the issuance of bonds according to adopted requests.

### **Article 45a**

The Commissions referred to in Article 28 of this Law shall keep the records on submitted requests and legal and binding decisions on restitution and compensation.

The records referred to in paragraph 1 of this Article shall contain the data on: date of receiving the request, reference number of the decision, name and family name of the former owner or the heir, type (movable, immovable) and the area of returned property, revaluation amount, compensation amount, type and area of the property being compensated.

The Commission shall submit to the Ministry of Finance the monthly report based on the data from the records referred to under paragraphs 1 and 2 of this Article.

#### **Article 45b**

The records referred to in Articles 45 and 45a of this Law shall be kept in electronic form.

### **Enabling Regulations**

#### **Article 46**

Enabling regulations for implementation of this Law defining financial compensation shall be adopted within nine months, whereas other enabling regulations within 90 days as of the day of entry into force of this Law.

### **Procedures Completed by Final and Binding Decision**

#### **Article 47**

Submission of requests and decision-making on the issues referred to in this Law shall be allowed, regardless whether the court or another state authority was deciding in a form of final and binding decision on restitution or compensation request and the request of the former owner was not met until the day of entry into force of this Law.

### **Superseding**

#### **Article 48**

On the day of entry into force of this Law, the Law on Fair Restitution (Official Gazette of the Republic of Montenegro, No 34/02) shall cease to have effect.

### **Entry into Force**

#### **Article 49**

This Law shall enter into force on the eighth day of its publication in the Official Gazette of Republic of Montenegro.

### **NOTE OF THE PUBLISHER:**

The consolidated text of this Law does not contain the provisions of Articles 30-34 of the Law on Amendments to the Law on Restitution of Property Rights and Compensation (Official Gazette of the Republic of Montenegro, No 49/07), stating the following:

#### **“Article 30**

Municipal commissions shall cease to operate on the day of entry into force of this Law.

On the day of ceasing to operate, the Commissions referred to in paragraph 1 of this Article shall be obliged to transfer the documentation to the Chief Administrator of a municipality, and prepare the minutes on the transfer.

### **Article 31**

Provisions of this Law shall apply to cases initiated prior to the day of entry into force of this Law, unless the procedure is finally concluded.

### **Article 32**

By entry into force of this Law, obligations towards former owners determined by the existing payment schedule of the Compensation Fund, which are due by no later than 31 December 2007, shall be paid on 15 July 2008, pursuant to Article 22 of this Law.

### **Article 33**

The decree referred to in Article 10 of this Law shall be adopted within 90 days as of the day of entry into force of this Law.

### **Article 34**

This Law shall enter into force on the eighth day of its publication in the Official Gazette of the Republic of Montenegro.”

SU-SK Number 01-132/39

Podgorica

25 July 2007

The Constituent Parliament of the Republic of Montenegro

The Speaker

Ranko Krivokapić, m.p.