

LAW ON THE CENTRAL BANK OF MONTENEGRO
(Official Gazette of RM, nos. 52/00, 53/00, 47/01 and 04/05)

I GENERAL PROVISIONS

Article 1

This Law establishes the Central Bank of Montenegro (hereinafter: the Central Bank).

The Central Bank is an independent organization of the Republic of Montenegro (hereinafter: the Republic) and it is solely responsible for monetary policy, establishing and maintaining a sound banking system and efficient payment system in the Republic.

The monetary policy of the Central Bank is based on the DEM as the monetary unit, as the means of payment and as the reserves currency, until the introduction of the Euro.

Article 2

The Central Bank acts independently within the limits of its authorities established by this Law.

Article 3

The Central Bank may not issue money.

The Central Bank may not grant loans to the Government of the Republic of Montenegro (hereinafter: the Government) or to other legal and natural persons, except under the conditions prescribed by this Law.

Article 4

The Central Bank is a legal person.

The head office of the Central Bank is in Podgorica.

Article 5

The Central Bank shall use and dispose of its property in the manner specified by this Law.

Article 6

The Central Bank shall be released from taxes, all duties and levies, in accordance with the Law.

Article 7

The Republic shall not guarantee for the Central Bank's obligations nor shall the Central Bank guarantee for the Republic's obligations.

Article 8

The Central Bank shall submit the report of its operations to the Parliament of the Republic of Montenegro (hereinafter: the Parliament) as needed, but at least annually.

Article 9

The Central Bank has its own seal that contains the title: "The Central Bank of Montenegro Podgorica" and the coat of arms of the Republic.

Article 10

The Central Bank shall have its Bylaws.

The Bylaws of the Central Bank shall be published in "The Official Gazette of the Republic of Montenegro".

Article 11

In the performance of its functions determined in Article 1 above, the Central Bank shall have following authorities:

- 1) issue and revoke licenses for operation of banks and financial institutions, regulate and supervise their operations and carry out the bankruptcy and liquidation proceedings of banks and financial institutions in the Republic;
- 2) grant loans from its reserves to banks licensed to operate in the Republic, under the conditions stipulated by this Law;
- 3) prescribe and perform measures, regulate and supervise payment system, settlement and inter-bank clearing in the Republic;
- 4) perform and supervise domestic and foreign payment operations;
- 5) act as a banker, adviser and fiscal agent of bodies and organizations of the Republic;
- 6) purchase and sell currencies and precious metals for its own account or for the account of the Republic;
- 6a) buy and sell securities, at the secondary market, issued by the Republic, a European Union member-state, or other state designated in a regulation of the Central Bank of Montenegro;
- 7) perform regular macroeconomic analyses, including monetary, fiscal, financial and balance of payments' analyses of the economy of the Republic, and give recommendations to the Government in the field of economic policy;
- 8) draft and participate in the drafting of laws and other regulations in the sphere of the monetary, foreign exchange and banking system, in accordance with international standards, including establishing reserves for different types of deposits;

- 9) provide banking services on behalf of foreign governments, foreign central banks, as well as on behalf of international organizations and other international institutions in which the Central Bank or the Republic participate;
- 10) accept deposits from banks, state bodies and organizations;
- 11) open and maintain accounts for the needs of state bodies and organizations, domestic and foreign banks, international financial institutions and donor organizations;
- 12) prescribe the manner of performing activities of dealers and banks in foreign exchange transactions, determine limits on foreign currency positions of dealers and banks and supervise them;
- 13) may own and manage one or more payment systems including one system of Real-Time Gross Settlement of large payments;
- 14) may manage a system of net settlement of low value payments;
- 15) ensure an adequate supply of banknotes and coins for the settlement of financial transactions;
- 16) perform other operations determined by this and other laws.

Article 12

Individual terms used in this Law shall have following meanings:

- 1) "bank" means a legal persons, the activity of which is the acceptance of deposits of legal and natural persons and the use of such funds, whether wholly or partially, for granting loans or investing for its own account and risk;
- 2) "deposits" means money deposited in a bank which should be paid on demand (at sight or otherwise), with or without interest, which results in a debtor-creditor relationship that is not based on the sale of goods or the provision of services;
- 3) "credit" means a loan or a commitment to lend money or renew the loan, a guarantee for payment of debt, as well as an activity aimed at acquiring the right to collection of a certain amount of money: the term "credit" shall not include deposits in banks and purchase of bonds and other similar (debt) securities at the secondary market;
- 4) "security" means a company share, bond, certificate of financial obligation, including Government' s certificates of its financial obligations, as well as other investment or commercial papers accepted at developed capital markets (as well as derivatives of those securities) that are sold either at the stock exchange or over-the-counter and regardless of whether they are in paper or non-materialized (electronic) form;
- 5) "financial institution" means a legal entity engaged primarily in granting loans or investing for its own account and on its own risk or rendering other financial services;
- 6) "fiscal agent" means a function of the Central Bank whereby it acts as a depository and performs activities related to the allocation of public revenue funds and shall make payments of principal and interest by order of agencies and organizations of the Republic and perform administrative operations related to the public debt;
- 7) "recommendation" means an unbinding instruction or statement of policies established and published by the Central Bank for the purpose of notifying banks, financial institutions and other entities;

- 8) "International Accounting Standards" mean the latest international accounting standards issued by the International Accounting Standards Board (IASB);
- 9) "order" means a binding instruction for action that the Central Bank issues in order to provide enforcement of the provisions of this Law and/or regulations enacted on the basis of this Law;
- 10) "clearing house" performs activities of Real-Time Gross Settlement (RTGS) of large payments and/or activities of net settlement of low value payments;
- 11) "Real-Time Gross Settlement (RTGS) of large payments" means a payment system whereby the final payment is conditioned by the provision of coverage on the account of a participating bank;
- 12) "net settlement of low value payments" means a payment system with settlement deferred in time;
- 13) "intra-day credit" means a credit provided by the Central Bank to a commercial bank, that must be repaid by the end of the same working day when it was provided and must be fully secured by a pledge.

II MANAGEMENT OF THE CENTRAL BANK

Article 13

The Central Bank shall be managed by Council of the Central Bank (hereinafter: the Council).

Article 14

The Council shall have seven members.

Members of the Council shall be: President of the Council, Director General and two deputies of the Director General, who are executive officers of the Central Bank and are nominated by a working body of the Parliament competent for appointments and elections, and three members nominated by the Government.

The members of the Council shall be appointed by the Parliament.

Article 15

A member of the Council must have special professional knowledge in the area of monetary, credit and foreign exchange systems.

An officer or an employee of a bank that operates in the Republic or a person that owes more than 5% of shares of any bank may not be a member of the Council.

A member of the Council must have moral qualities and cannot be elected if he/she was convicted for criminal offences and/or if legal proceedings have been instituted against him/her for criminal offences that would render him/her ineligible for performing the functions of member of the Council.

A member of the Council must be a person with recognized integrity who shall perform his/her duties in the Central Bank in such a manner that his/her personal interests or interests of related parties will not be placed ahead of the interests of the Central Bank and its clients.

A member of the Council shall, at least once annually, submit a report on the implementation of his/her direct and indirect financial interests, as well as interests of his/her related parties, to the Central Bank, in a manner prescribed by the Central Bank.

Article 16

A member of the Council is appointed for the period of six years and may be appointed no more than twice.

Article 17

The Council shall have authorities to:

- 1) establish policies in accordance with provisions of Article 11 above;
- 2) enact regulations, recommendations and orders issued by the Central Bank;
- 3) approve reports and recommendations that the Central Bank delivers to the Parliament or Government;
- 4) decide on the Central Bank's presence in international organizations;
- 5) enact the Central Bank's Bylaws and determine general guidelines for the Central Bank's operations;
- 6) adopt the financial plan and annual financial statements of the Central Bank;
- 7) decide upon applications for granting and revoking licenses of banks, financial institutions and payment systems.

Other activities, manner of operation and other issues related to the operation of the Council shall be laid down in the Central Bank's Bylaws and the Council's Rules of Procedure.

Decisions of the Council that have the character of general acts shall be published in the "Official Gazette of the Republic of Montenegro".

Article 18

President of the Council shall preside at meetings of the Council, represent the Central Bank and take care of the enforcement of decisions made by the Council.

If the President of the Council considers that an act of the Council is contrary to the Law, the Central Bank's Bylaws or other general act, he/she shall warn the Council thereof. If even after such warning the Council still keeps to its act, the President shall inform the Parliament of it.

The Director General shall replace the President of the Council if he/she is prevented from attending.

In case when the Director General is prevented from attending too, the Deputy Director General for banking system supervision shall replace the President of the Council.

Article 19

Director General is an executive officer of the Central Bank in charge of daily business operation of the Central Bank.

The Director General shall report to the Council, at least once a month, on business operation and activities of the Central Bank, on managing monetary policy, on soundness of the financial system, on money supply, capital and foreign exchange market, including all movements that have or shall have significant influence on the management or business operation of the Central Bank, on enforcement of its policies, on the financial system or on the mentioned markets.

In the case that the Director General is absent or prevented from attending, he/she shall be replaced by Deputy Director General for banking system supervision, or if he/she is prevented too, then by Deputy Director General for payment operations system.

Article 20

One Deputy Director General shall be appointed for banking system supervision and shall be responsible for the licensing, regulation and supervision of banks and financial institutions.

In performing his/her functions, the Deputy Director General mentioned in paragraph 1 above shall have powers to undertake all necessary measures against a bank and financial institution, including appointment of interim administrator, as well as implementation of the procedure of closing a bank or financial institution.

Article 21

The other Deputy Director General shall be appointed for payment operations system and shall be responsible for the management, regulation and supervision of payment systems, including the functioning of the Real-Time Gross Settlement (RTGS) of large payments.

Article 22

The Central Bank shall have a Chief Economist, as an executive officer who shall manage the statistic and research department, and who shall be responsible for macroeconomic analyses, including monetary, fiscal, financial and balance of payment' s analyses of the economy of the Republic.

The Council shall appoint the Chief Economist upon the nomination by President of the Council.

The Chief Economist shall give advise to President of the Council, the Council and executive officers of the Central Bank on macroeconomic and monetary issues that are under the competence of the Central Bank and shall submit monthly reports to the Council on the condition of the economy of the Republic.

Article 23

(Official Gazette of the RM No. 04/05)

Member of the Council shall be relieved of duty if he/she:

- 1) is not fit and proper to be a member of the Council in the meaning of Article 15 of this Law;
- 2) has been a debtor in a bankruptcy procedure;
- 3) has been convicted to an unconditional prison term or convicted for an offence which makes him unworthy of position of the Council' s member;
- 4) has performed functions of the Council member unprofessionally and unconscientiously;
- 5) has become permanently incapacitated for performing the function of the Council member.

Article 24

The Council may decide to suspend a member of the Council, against whom criminal proceedings have been brought, during the course of the proceedings.

Article 25

Member of the Council may submit a written resignation to the Parliament, upon a prior announcement thereof made at least one month in advance.

Article 26

A vacancy in the Council shall be filled by appointment of a new member of the Council in accordance with provisions of Article 14 above.

Article 27

Member of the Council may not be an officer or an employee in a bank operating in the Republic a year after his/her term in the Council has ended.

Article 28

The Council shall decide upon the activities from its scope at meetings that shall be held at least once monthly.

The Council may take decisions if there are at least five members of the Council present at the meeting.

The Council shall make decisions by majority vote of the Council members.

Article 29

The Secretary of the Council shall take minutes of the Council's meetings. The Council shall appoint the Secretary upon nomination by the President of the Council.

The Secretary shall make the minutes available to the President of the Republic, to the Parliament and the Government for their review, after the minutes have been adopted by the Council on its first meeting.

III BUSINESS OPERATION OF THE CENTRAL BANK

Article 30

The Central Bank may grant to a bank licensed in the Republic, for the purpose of maintaining its daily liquidity:

- 1) permission to use its Statutory Reserve Deposits held at the Central Bank, that the bank must restore to the prescribed level by the end of the same working day;
- 2) an intra-day credit from its own resources;
- 3) a credit from its own resources, provided that the amount of the credit is fully secured by securities issued by the Republic, a European Union member-state or other state specified in a regulation of the Central Bank.

The credit referred to in bullet 3 above shall be granted or renewed for a period of one business day.

The securities used as pledge for intra-day credits and for the credits referred to in bullet 3 above, must be pledged on the basis of a pledge contract and delivered by the borrowing bank to the Central Bank.

The conditions and manner of the use of the funds referred to in paragraph 1 above shall be prescribed in more detail by the Central Bank.

Article 31

The Central Bank has the right of priority in the collection of its claims for any credit balance and other assets held on its account or on the account of its appropriate debtors, whether in the form of a collateral for securing its claims or in other form, after such claims become due and payable.

The Central Bank may use the right referred in paragraph 1 above only if it has a credit balance or has performed the sale of other assets at a fair price and reimbursed itself from the sale proceeds after the deduction of the sale costs.

Article 32

For the purpose of maintaining liquidity in foreign payments, the Central Bank may purchase and sell foreign currency at the foreign exchange market or hold foreign currency in the form of notes or securities that have been issued and/or guaranteed by the European Union or a European Union member-state or other state designated in a regulation of the Central Bank.

Article 33

The Central Bank shall handle foreign exchange reserves of the Republic, except for the part that is handled by licensed banks.

The Central Bank may open accounts in foreign countries.

Article 33a

The Central Bank may buy and sell securities in the secondary market that are issued by the Republic.

The Central Bank may buy and sell securities issued in either the primary or secondary market that are issued by a member state of the European Union or other state designated in a regulation of the Central Bank.

Article 34

For maintaining the liquidity in foreign payments, the Central Bank may occasionally prescribe that the licensed banks must hold, as a minimum reserve, a certain percentage of foreign exchange deposits freely available at the accounts in foreign banks or in the Central Bank.

Article 35

The Central Bank shall supervise the compliance with the regulations on foreign exchange business operations and foreign exchange reserves management enacted by itself, or, as a representative of the Republic, with the regulations in this field enacted by the Republic.

Article 36

The Central Bank shall perform foreign payment operations in accordance with the principles of banking operations.

The Central Bank may enter, for its own account or for the account and upon the order of a competent Republic authority, into clearing or payment agreements or sign contracts for the same purpose with public or private central clearing houses domiciled in foreign countries.

Article 37

The Central Bank may organize, own, manage, control and prescribe the manner of operating the payment system, settlement and inter-bank clearing, in currencies determined by the Central Bank, including payments by checks and other payment instruments.

Article 38

The Central Bank shall grant a license and perform supervision of private clearing houses and private payment systems.

The rules for the licensing and manner of operation of payment systems shall be determined by a Central Bank's special regulation.

Article 39

The bank licensed for operating in the Republic, which desires to participate in payment operations, must have an opened account with the Central Bank, under the conditions stipulated by the Central Bank, including maintaining a minimum balance.

Article 40

The Central Bank shall organize the supply of notes and coins for the Republic.

Article 41

Banks and financial institutions engaged in treasury operations shall be supplied with notes and coins from the Central Bank and shall bear the costs of the supply.

The costs of withdrawal of worn-out notes and replacement of damaged notes and coins shall be borne by the Central Bank.

IV SUPERVISORY FUNCTION OF THE CENTRAL BANK

Article 42

The Central Bank shall grant and revoke operation licenses of banks and financial institutions, under the conditions prescribed by the law.

Article 43

The Central Bank shall perform control of creditworthiness and legality of banks' and financial institutions' business operations.

In the performance of the supervision specified in paragraph 1 above, the Central Bank shall have the right to review books and other documentation of banks and

financial institutions, as well as of all other participants in the activity that is subject to the supervision.

Article 44

If the supervision specified in Article 43 above finds that a bank or financial institution has acted contrary to the regulations in the manner that endangers their creditworthiness, the Central Bank shall issue an order to the bank or financial institution to correct the found irregularity and shall at the same time undertake measures towards them as prescribed by the Law.

Article 45

The licensed banks and financial institutions are obliged, upon the requirement of the Central Bank, to deliver, without delay, any information related to their business operation and financial position, in the manner prescribed by the Central Bank.

Article 46

The Central Bank shall keep a register of banks and financial institutions that it has licensed and of their organizational units, a register of banks authorized for performing foreign payment and credit operations, a register of banks and financial institutions in foreign countries with domestic ownership or mixed ownership that include Montenegrin capital, and a register of representative offices, organizational units and other forms of financial activities of foreign banks and other financial institutions in the Republic.

V INFORMATION SYSTEM OF THE CENTRAL BANK

Article 47

The Central Bank shall perform bookkeeping and processing of data and reports in accordance with accepted international standards, including international accounting standards.

Article 48

The Central Bank shall gather data on macroeconomic, monetary, fiscal, financial and current account developments, necessary for exercising the powers set forth in Article 11 above.

Article 49

The Central Bank shall gather the data from banks and other users on all export-import operations, foreign exchange used in those transactions and the manner of payment of obligations, for the purpose of establishing the existing debts and outstanding obligations to foreign countries.

Article 50

The Central Bank shall prescribe the format and the content for the records, data processing, reports and transfer of data necessary for the application of this Law.

VI PROPERTY, INCOME AND EXPENSES OF THE CENTRAL BANK

Article 51

The Central Bank shall use the property for performing its activities determined by this Law.

The property in the meaning of paragraph 1 above consists of ownership rights related to: immovable and movable items, the founding capital and other financial resources, precious metals and other titles.

The Council shall enact more detailed regulations on the acquisition, use and management of the property.

Article 52

The founding capital of the Central Bank shall be DEM 5 million.

In a period within six months as of the payment of this amount of capital, the capital and the general reserve accounts of the Central Bank must be equal to at least five percent of the total amount of credit balances of all accounts shown as liabilities in the balance sheet at the end of the financial year. The level of this aggregate minimal amount of funds must be at least five percent (5%) of the total amount of such credit balances. The capital may be increased by such amounts as may be determined by the Central Bank and approved by the Government.

The capital of the Central Bank may not be pledged or subject to encumbrance in any other way.

Article 53

The Government shall allocate from available funds, within a month as of the day of publishing the balance sheet of the Central Bank, amounts necessary to cover the shown deficits, whenever:

- 1) a monthly trial balance sheet of the Central Bank shows that the value of its property has fallen below the total amount of its liabilities and unimpaired founding capital, or
- 2) the amount of net income for any financial year is not sufficient to increase amount of founding capital and general reserves of the Central Bank that is equivalent to five percent (5%) of the total amount of credit balance of all accounts kept by the Central Bank, presented in the balance sheet of the Central Bank as liabilities at the end of a specific financial year.

Article 54

Net income or net loss of the Central Bank shall be calculated for each financial year in accordance with accepted international accounting standards.

Net income shall be allocated each year to the general reserve account, until amounts of founding capital and general reserve accounts are equal to the amount specified in Article 52, paragraph 2 above.

The balance of net income shall represent the income of the budget of the Republic and shall be transferred to the account of the Ministry of Finance that has been established with the Central Bank.

Net loss shall be covered from general reserves or charged to the founding capital, in that order.

Article 55

In addition to the income earned in accordance with Article 51 above, the Central Bank shall also earn income from:

- 1) bank licensing fees;
- 2) bank supervision fees paid by banks; and
- 3) other fees for performing operations that are within the sphere of activities of the Central Bank.

The decision on the amount of fees specified in paragraph 1 above shall be made by the Council.

Article 56

Material expenses of the Central Bank shall be determined by annual financial plan adopted by the Council and furnished to the Government for information purposes only.

Article 57

The resources for “ Fixed Assets Fund” , “ Special Reserves Fund” , “ Non-Operating Assets Fund” and “ Employee’ s Salaries Fund” in the Central Bank shall be anticipated by the financial plan and finally established in annual financial statements.

The Council shall decide, upon the proposal of president of the Council, on the use of special reserve funds during the year.

Article 58

The financial year of the Central Bank begins on the first day of January and ends on the last day of December.

Article 59

Annual financial statements of the Central Bank for previous year shall be prepared in accordance with accepted international accounting standards.

The annual financial statements, with the report and the opinion of an independent external auditor, shall be considered and enacted by the Council by the 31st of May of a current year and shall be delivered to the Parliament for information purposes.

The financial plan of the Central Bank for the next year shall be enacted by the Council, by not later than the 30th of September of the current year.

Article 60

The audit of accounts, records and financial statements of the Central Bank shall be performed by internationally recognized auditors appointed by the Council, with an approval of the Government.

VII CONTROL OVER THE CENTRAL BANK' S BUSINESS OPERATIONS

Article 61

The Central Bank shall have an Inspector General, who shall be appointed by the Council upon the proposal of the Director General, for a six-year period, with a possibility for another term.

The Inspector General shall report to the Council.

The Inspector General may resign, but under at least 2-month written notice to the Council.

The Director General shall be relieved of duty under the conditions prescribed by Article 23 above relating to relieving of duty members of the Council.

Article 62

Duties of the Inspector General are:

- 1) to assess the quality of existing and proposed management systems and systems of financial control and test the functioning of those systems, as well as the reliability and protection of information and transactions;
- 2) to establish and maintain adequate procedures and instruments for risk control in the Central Bank;
- 3) to perform periodical control of administration and business operations of the Central Bank, in the manner that should ensure strict implementation of the Law and regulations related to the Central Bank;
- 4) to control and submit reports and recommendations to the Council about accounts and reports as well as budgetary and accounting procedures and controls of the Central Bank, and

- 5) to review periodic financial records and appropriate documents of the Central Bank.

VIII ORGANIZATION OF WORK AND STATUS OF EMPLOYEES IN THE CENTRAL BANK

Article 63

The fundamentals of organization of work and business operations, as well as the rights, obligations and responsibilities of employees in the Central Bank shall be regulated in more details in the Bylaws.

Article 64

The Director General shall perform hiring for the Central Bank in accordance with the general regulations.

Employees of the Central Bank may, exceptionally, subject to the approval of the Director General, work in another legal person beyond the working hours, if it is not contrary to interests of the Central Bank.

Article 64a

While holding office, members of the Council and Inspector General shall not occupy any other office or employment, duty or function, except upon special approval of the Council.

While holding office, no member of the Council nor any employee of the Central Bank shall accept any gift or credit or other kinds of benefits from any persons with whom he/she has business or financial interests, if the acceptance thereof would result in diminishment of his/her impartial devotion to his/her duties.

Article 65

Employees of the Central Bank may not be guided by their political affiliations in the performance of their duties.

Article 66

Members of the Council and employees of the Central Bank are obliged not to disclose business and official secret regardless of the manner it has come to their knowledge.

The confidentiality obligation stipulated in paragraph 1 above shall last for five years after the function, i.e., the employment with the Central Bank has terminated.

IX PENALTY PROVISIONS

Article 67

A responsible person in the bank or financial institution or other legal person that prevents the Central Bank from reviewing their business books and other documentation in the process of supervision shall be punished for the offence by a fine in an amount up to twenty minimal wages in the Republic (Article 43).

Article 68

A bank or financial institution that does not provide or deliver to the Central Bank in the prescribed time limit information related to its business operations and financial position shall be punished for the offence by a fine ranging from ten to three hundred minimal wages in the Republic (Article 45).

A responsible person in the bank or the financial institution shall also be punished for the offence specified in paragraph 1 above by a fine ranging from ten to twenty minimal wages in the Republic.

X CLOSING AND FINAL PROVISIONS

Article 69

The Central Bank shall start operating in accordance with this Law as of the day of the appointment of members of the Council.

Article 70

The Central Bank shall enact the Bylaws and other general regulations facilitating the implementation of this Law within three months as of the day of enforcement of this Law and shall arrange its organization and business operations within six months as of the day of enforcement of this Law.

Article 71

As of the day of enforcement of this Law, the Central Bank shall take over the property and employees of the National Bank of Montenegro, including the Settlement and Payments Institute (ZOP) - Podgorica.

Employees not reassigned in accordance with the job classification scheme of the Central Bank shall exercise their rights derived from employment in accordance with general regulations on employment relations.

Article 72

The Central Bank shall coordinate activities related to the settlement of the external debt and the collection of claims against foreign countries originating before the effective date of this Law.

Article 73

This Law shall come into force eight days after the day of publication in the “Official Gazette of the Republic of Montenegro”.