LAW ON CIVIL PROCEDURE

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The Law on Civil Procedure, which was adopted by the Constituent Parliament of the Republic of Montenegro, at the first session of the first regular session in 2004, on March 23, 2004, shall be hereby promulgated.

LAW ON CIVIL PROCEDURE[1]

PART ONE

GENERAL PROVISIONS

CHAPTER ONE

BASIC PROVISIONS[2]

Article 1

This Law shall define rules of procedure based on which the court deliberates and decides on personal and family disputes, labour disputes, property and other civil disputes between natural and legal persons, unless some of the mentioned disputes have been placed under the competence of another public authority under a separate law.

Article 2

In civil procedure, the court shall decide within the limits of the claims, which have been filed during the procedure.

The court may not refuse to decide on the claim that falls within its competence.

Article 3

[1] Official Gazette of the Republic of Montenegro, No. 022/04 of 02.04.2004, No. 028/05 of 05.05.2005, No. 076/06 of 12.12.2006, Official Gazette of Montenegro, No. 073/10 of 10.12.2010, No. 047/15 of 18.08.2015, No. 048/15 of 21.08.2015, No. 051/17 of 03.08.2017, No. 075/17 of 09.11.2017, No. 062/18 of 21.09.2018, No. 034/19 of 21.06.2019, No. 042/19 of 26.07.2019, No. 076/20 of 28.07.2020, No. 108/21 of 12.10.2021.
[2] Law Amending the Laws and Other Regulations due to Constitutional Changes in the Name of the State (Official Gazette of Montenegro, No. 073/10 of 23. 10. 2010)

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 1)

The party shall have legal interest for the claim and any other civil action.

Article 4

Parties may freely dispose of claims they filed during the procedure.

They may waive their claim, recognize the claim of the adverse party, or settle the dispute.

The court shall not recognize dispositions by parties, which contravene mandatory regulations and moral rules.

Article 5

The court shall decide on the statement of claims based on an verbal, direct, and public hearing.

Exceptionally from the provision of paragraph 1, the court shall decide on the disputes on the written legal actions and based on indirectly presented evidence if the law prescribes so.

If the law prescribes so, the court may decide that main hearing shall be closed for public.

Article 6

The court shall ensure that each party has the right to present their arguments on the claims and statements of the adverse party.

The court shall be authorised to decide upon a claim with regard to which the adverse party has not been given a possibility to respond only when so provided by this Law.

Article 7

The civil procedure shall be conducted in the language, which is in official use in the court.

The parties involved and other participants in the procedure may use their native language or other language which they understand.

Article 8

Parties shall present all facts on which they ground their claims and present evidence supporting those facts.

The court shall be authorised to take into consideration facts that were not presented by parties and present the evidence that was not proposed by parties if the outcome of the hearing and presentation of evidence indicate that the parties intend to dispose of claims, which they may not dispose of (Article 4, paragraph 3).

Court may not ground its decisions on the facts and evidence about which the parties were not given a possibility to be heard.

Article 9

The court shall decide on its own which facts shall be considered as proved based on conscientious and meticulous evaluation of each individual piece of evidence and all evidence in their entirety, as well as based on the results of entire procedure.

Article 10

Parties, interveners and their representatives shall speak truth before the court and conscientiously use the rights conferred on them under this Law.

Article 11

The court shall conduct the procedure without any unnecessary delay, within reasonable period, with the lowest possible costs and shall also prevent any abuse of rights pertaining to the parties in the procedure.

If parties, interveners, their legal representatives and proxies intend to cause damage to others or abuse rights guaranteed to them by this Law, which is in contravention with good practice, conscience and honesty, the court may impose a fine or other measures prescribed by this Law.

Article 12

The party that does not have a qualified representative (a lawyer or a person who passed bar examination) and therefore does not exercise the right provided under this Law because of not being aware of it shall be informed by the court about the civil actions it is entitled to undertake.

Article 13

Shall be deleted. (Law Amending the Civil Procedure Law, Official Gazette of the Republic of Montenegro No. 76/06 of 12. 12. 2006, Article 2)

Article 14

When the court's decision depends on preliminary ruling on the matter as to the existence of a certain right or legal relationship and such a decision has not yet been rendered by the court or another competent authority (Preliminary Matter) the court itself may resolve the matter unless otherwise stipulated by special regulations.

Court decision on a Preliminary Matter shall have legal effect only in the litigation in which that matter has been determined.

Article 15

With respect to the existence of a criminal offence and criminal liability of the offender, the court shall be bound in the civil procedure by a final judgment of the court pronouncing the defendant guilty.

Article 16

A single judge shall adjudicate in the first instance procedure and procedure upon the motion for reopening the procedure.

A three judge Panel shall adjudicate in the second instance procedure.

A five judge Panel shall adjudicate in the procedure instituted upon motion for review and request for the protection of legality.

A three judge Panel shall decide on the conflict of jurisdiction and determination of territorial jurisdiction.

Article 17

If for some actions the Law does not prescribe the form in which they may be taken, parties take civil actions in writing outside the hearing and verbally at the hearing.

TITLE TWO

COURT JURISDICTION

COMMON PROVISIONS

Article 18

Upon receipt of the claim, the court shall assess if the matter falls within its jurisdiction.

Assessment of jurisdiction shall be based on statements in the complaint and the facts known to the court.

If the circumstances on which the jurisdiction of the court is based change during the procedure, the court that was competent at the moment of filing the complaint shall remain competent even if another court would become competent due to those changes.

Article 19

During entire procedure the court shall ex officio have due regard to whether the dispute falls within the jurisdiction of the court.

When, in the course of procedure, the court finds that another authority has jurisdiction for resolving the dispute instead of the court it shall declare that it is not competent, annul the actions conducted in the procedure and reject the complaint.

When in the course of procedure, the court finds that a domestic court does not have jurisdiction over the dispute it shall declare that it is not competent, annul the actions conducted in the procedure and reject the complaint, except in cases when jurisdiction of the domestic court is dependant on consent of the defendant whereby the defendant granted consent.

Article 20

During the procedure, the court shall ex officio have due regard to its subject matter jurisdiction.

Article 21

If the parties have agreed upon the arbitration in order to resolve a dispute, the court that the claim is filed to in the same dispute between the same parties shall, upon the objection of the defendant, declare itself non-competent, annul actions conducted in the procedure and dismiss the complaint, unless it finds that the arbitration agreement is not legally effective (Article 474 of this Law), that it has ceased to be effective or that it cannot be fulfilled.

Objection referred to in paragraph 1 of this Article may be filed by the defendant to the court at the latest in the response to the claim.

Article 22

If the court finds, before the decision on the main subject matter has been rendered, that the procedure should be conducted in accordance with the rules of non-contentious procedure, it shall suspend the civil procedure. After the ruling becomes legally effective, the procedure shall be continued before the competent court in accordance with the rules of non-contentious procedure.

Actions conducted and decisions rendered by the civil court (on-the-spot investigation, expert evaluation, hearing witnesses and the like) shall not be considered null and void due to the fact that they were conducted in the contentious procedure and they do not need to be repeated.

Article 23

The court may, upon the defendant’s objection, which shall be filed no later than at the time of responding to the complaint, declare that it has no territorial jurisdiction.

The court may ex officio declare that it has no territorial jurisdiction only when another court has the exclusive territorial jurisdiction and not after the response to the complaint has been filed.

The court shall decide on objection referred to in paragraph 1 of this Article at the preliminary hearing at the latest or at the main hearing if the preliminary hearing has not been held.

Article 24

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 3)

After the court ruling becomes final and enforceable declaring that the matter does not fall within its jurisdiction (Articles 20 and 23) the court shall promptly, and no later than three days, forward the case to the competent court.

The court, to which the case has been assigned as the competent court, shall continue the procedure as if they were initiated before that court.

Civil actions taken by non-competent court (on the spot investigation, expert evaluation, hearing of witnesses and the like) shall not be considered null and void due to the fact that they were conducted by the court that was not competent and they do not need to be repeated.

Article 25

If the court to which the case has been forwarded as the competent one considers that the jurisdiction lies with the court that forwarded the case or some other court it shall forward within three days the case to the court which is competent to resolve the conflict of jurisdiction, except if it finds that the case was forwarded to it by obvious mistake when it should have been forwarded to some other court in which case it shall forward the case to another court and notify accordingly the court which has originally assigned the case.

When the second instance court rendered decision acting on an appeal against first instance decision declaring that it does not have territorial jurisdiction, the determination as to the jurisdiction shall be also binding for the court to which the case has been forwarded if the second instance court which rendered the decision is competent for resolving the conflict of jurisdiction between those courts.

Decision of the second instance court on the subject matter jurisdiction of the first instance court shall be binding for any court to which the same case is subsequently assigned if the second instance court is competent for resolving the conflict of jurisdiction between those two courts.

Article 26

Until the conflict of jurisdiction is resolved, the court to which the case has been assigned shall undertake those procedural actions that may be affected by delay.

Appeal shall not be allowed on the ruling that decides on the conflict of jurisdiction.

Article 27

Each court shall conduct procedural actions on its territory of jurisdiction, but if there is a danger of delay, the court shall conduct some actions on the territory of another court as well. The court on whose territory the actions are to be taken shall be informed accordingly.

Article 28

In respect to the jurisdiction of the courts of Montenegro, provisions of international law shall apply to trials to the foreign citizens who enjoy immunity, trials to the foreign states and international organisations.

JURISDICTION OF COURTS IN DISPUTES WITH INTERNATIONAL ELEMENTS

Article 29

The court of Montenegro (hereinafter referred to as the "domestic court") shall be competent to act in the dispute involving international elements when its jurisdiction is expressly provided by the Law or an international treaty. If the Law or international treaties do not contain an explicit provision about jurisdiction of the domestic court for particular category of disputes, the domestic court shall also be competent to decide in such disputes where its competence originates from the provisions of the Law related to the territorial jurisdiction of the domestic court.

SUBJECT MATTER JURISDICTION

Article 30

In civil procedure, courts shall adjudicate within the scope of their subject matter jurisdiction as prescribed by Law.

DETERMINING THE VALUE OF THE DISPUTE

Article 31

In property disputes, the plaintiff shall state the value of disputed matter.

Only the value of the main claim shall be taken as the value of the disputed matter.

Interests, litigation costs, contractual penalty, and other subsidiary claims shall not be taken into account if they are not part of the main claim.

Article 32

If the claim concerns some future instalment payments which repeat, the value of disputed matter shall be calculated according to their total sum, but only up to the sum that equals the payments made over a five-year period.

Article 33

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 1)

If one complaint against the same defendant includes several claims based on the same factual and legal basis, the value shall be decided according to the sum of values of all claims.

If claims in the complaint arise from different bases or they have been filed against several defendants the value shall be determined according to the value of each individual claim, unless prescribed otherwise by this Law.

Article 34

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 4)

Where the dispute concerns existence of a rental agreement or utilization of a dwelling or business premises the value shall be calculated based on one-year lease, if the rental agreement is concluded for a shorter period.

Article 34a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 2)

If the claim refers to the establishment of property rights or other real rights to immovable property, the establishment of nullity or annulment of contracts, which have as their subject immovable property, the value of the subject of the dispute shall be determined according to the market value of the immovable property or its part in the place where the immovable property is located.

Article 35

If the complaint requests only the security for certain claim or determination of a pledge right, the value of disputed matter shall be determined according to the amount of claims that need to be secured. If the value of the pledged object is lower than the claim that needs to be secured, the value of the disputed matter shall be the value of the pledged object.

Article 36

If the statement of claims does not disclose a monetary value, but the plaintiff states in their complaint that they accept a certain monetary sum, instead fulfilment of that claim, that sum shall be taken as the value of disputed matter.

In other cases, when the statement of claims does not refer to a monetary amount, the value stated by the plaintiff in the complaint shall be taken as the applicable value of the dispute.

Article 37

If the plaintiff has not defined value of disputed matter in the complaint or has evidently set the value of the disputed matter either too low or too high, the court shall ex officio or upon objection of the defendant no later than at the preliminary hearing, and if the preliminary hearing has not been held, at the main hearing before the discussion on the main subject matter, in an expedited and appropriate manner check and verify accuracy of the stated value. The court shall decide on it with its ruling against which the appeal shall not be allowed.

TERRITORIAL JURISDICTION

1. General Territorial Jurisdiction

Article 38

If the law does not determine exclusive territorial jurisdiction of some other court, the court that has general territorial jurisdiction for the defendant shall be competent for the trial.

In cases prescribed by this Law, in addition to the court of general territorial jurisdiction, another designated court shall be competent to adjudicate.

Article 39

The court on whose territory the defendant has permanent place of residence shall have the general territorial jurisdiction for the trial.

If the defendant does not have a permanent place of residence, the court on whose territory the defendant has a temporary place of residence shall have general territorial jurisdiction.

If the defendant, in addition to a permanent place of residence also has a temporary place of residence somewhere else, and the circumstances lead to the assumption that

they shall reside for a longer period in that other place, the court which has the territorial jurisdiction over the defendant's temporary place of residence shall have the general territorial jurisdiction as well.

Article 40

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 051/17 of 03/08/2017, Article 1)

For trials in disputes against Montenegro, the general local jurisdiction is the court in the territory of which the plaintiff has their residence, that is, their seat.

If the plaintiff does not have a place of residence, the court in whose area the plaintiff has a place of residence is generally competent for trial in disputes against Montenegro.

If the plaintiff does not have a residence or place of residence, that is, a seat in Montenegro, the court that has general local jurisdiction over the defendant is competent for trial in disputes against Montenegro.

The court in whose territory the seat of its assembly is located has general local jurisdiction for judging disputes against a local self-government unit, as well as another form of territorial organization.

In trials relating to legal persons, the court on whose territory they have their seats shall have the general territorial jurisdiction. In case of a doubt, the place where their management is located shall be considered their seat.

Article 41

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 5)

In civil procedure against citizens of Montenegro who live abroad permanently where they have been posted to perform delivery or work by a public authority or legal person, the court on whose territory they had their last permanent place of residence in Montenegro shall have general territorial jurisdiction.

2. Special Territorial Jurisdiction

2.1. Exclusive Territorial Jurisdiction

Jurisdiction in Real Estate Disputes

Article 42

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 6)

The court on whose territory the real estate is located shall have the exclusive jurisdiction for adjudicating disputes involving ownership rights and other substantive rights in or over the real estate including disputes involving trespass to the real estate and disputes involving rent of real estate.

Where the real estate is located on the territory of several courts each court on whose territory such real estate is located shall be competent.

Jurisdiction in Disputes Involving Military Units

Article 43

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 7)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 3)

In disputes against Montenegro involving military units or institutions, the exclusive jurisdiction shall be that of the court on whose territory the headquarters of the military unit or institution is located.

Jurisdiction over Disputes in Enforcement and Bankruptcy

Article 44

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 4)

In disputes that emerge during and as a result of judicial or administrative enforcement procedure or during and as a result of bankruptcy procedure, the exclusive territorial jurisdiction shall be that of the court on whose territory the court for enforcement or bankruptcy procedure is located or the court on whose territory the administrative enforcement takes place.

Article 45

In disputes in which bankruptcy procedure is instituted over the plaintiff and defendant, the territorial jurisdiction shall be that of the court in which the bankruptcy procedure against one of the parties has been instituted earlier.

By way of exception from the provision of paragraph 1 of this Article, the territorial jurisdiction for deciding on unsecured and secured rights, existence or non-existence of claim towards the bankruptcy debtor and contesting legal actions of the bankruptcy debtor shall be that of the court on whose territory the bankruptcy debtor is seated.

2.2. Elective Territorial Jurisdiction

Jurisdiction in Marital Disputes

Article 46

For conducting disputes whose purpose is determination of existence or non-existence of marriage, annulment of the marriage or divorce of the marriage (marital disputes), in addition to the court of general territorial jurisdiction, the court on whose territory the spouses have had their last joint permanent place of residence shall also be competent.

Jurisdiction in Disputes over Determination or Contesting Fatherhood or Motherhood

Article 47

In the disputes conducted for the purpose of determining of or contesting fatherhood or motherhood, a child may file complaint either with the court of general territorial jurisdiction or with the court on whose territory they have permanent or temporary place of residence.

Jurisdiction in Disputes on Maintenance Support

Article 48

In addition to the court of general local jurisdiction, the court in whose territory the plaintiff resides shall also be competent for legal maintenance disputes, if the plaintiff is a person requesting maintenance.

Jurisdiction in Disputes for Damages

Article 49

In trials concerning non-contractual liability for damages, in addition to the court that has the general territorial jurisdiction, the court on whose territory the damage has been incurred or the court on whose territory the consequence of the damage is felt shall also be competent to adjudicate.

If the damage has been caused as a result of death or severe bodily injury, the court on whose territory the plaintiff has permanent or temporary place of residence shall also be competent to adjudicate in addition to the court referred to in paragraph 1 of this Article.

Provisions of paragraphs 1 and 2 of this Article shall also apply to disputes against insurance company for compensation of damage to third parties, based on regulations on direct liability of insurance companies, while provision of the paragraph 1 of this Article shall also apply to disputes concerning regress claims for compensation of damages against regress debtors.

Jurisdiction in Disputes for the Protection of Rights Based on Manufacturer's Warranty

Article 50

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21/08/2015, Article 5)

In disputes for the protection of rights based on warranty against a manufacturer who issued that warranty, in addition to the court of general territorial jurisdiction for the defendant, the court which has the general territorial jurisdiction for the seller who delivered the manufacturer’s warranty to the buyer during the sale of the item shall also be competent in the matter.

Jurisdiction in Labour Disputes

Article 51

In a labour dispute where the plaintiff is an employee, in addition to the court that has the general territorial jurisdiction for the defendant, the court on whose territory the service is being done or has been done or the court on whose territory the service should be done as well as the court on whose territory the employee has been employed shall also be competent to adjudicate.

Jurisdiction Based on the Place where a Branch Office of Legal Person is Located

Article 52

In disputes against a legal person possessing a branch office in a place different from its seat, if the dispute arose from legal relationships within that branch office, the court where the branch office is located shall also be competent to adjudicate, in addition to the court of general territorial jurisdiction.

Jurisdiction According to the Location of Payment

Article 53

For disputes concerning holder of the bill or check against the signatory, in addition to the court of the general territorial jurisdiction, the court on whose territory the payment has been made shall also be deemed competent.

Jurisdiction in Inheritance Disputes

Article 54

Until the decision in probate procedure has become final and enforceable, the court on whose territory the court conducting the probate procedure is located, in addition to the court that has the general territorial jurisdiction, shall have territorial jurisdiction to adjudicate inheritance disputes and disputes involving claims of creditors towards the deceased.

Jurisdiction in Disputes on Interference of Movables

Article 55

In addition to the court of general territorial jurisdiction, the court on whose territory the interference occurred shall also be competent to adjudicate disputes on the interference of movables.

Jurisdiction in Disputes from Contractual Relations

Article 56

In disputes for determining the existence or non-existence of a contract, for the purpose of enforcement or termination of the contract, as well as in the disputes with a view to the compensation of damages arising from the failure to fulfil of the contract, in addition to the court of general territorial jurisdiction, the court from the place in which defendant, according to the agreement between the parties, is bound to fulfil the contract shall also have territorial jurisdiction.

2.3. Subsidiary Territorial Jurisdiction

Jurisdiction over Co-litigants

Article 57

If one complaint is filed against several individuals (Article 197, paragraph 1, item 1) and the same court does not have the territorial jurisdiction for all of them, the court that has territorial jurisdiction over any one of the defendants shall be competent to adjudicate, whereas if among them there are main and subsidiary debtors, territorial jurisdiction shall be that of the court of main debtor.

Jurisdiction in Marital Disputes

Article 58

If the domestic court is deemed to have jurisdiction to resolve marital disputes based on the fact that the spouses had the last joint permanent place of residence within the territory of Montenegro or because the plaintiff has the permanent place of residence in Montenegro, the court of territorial jurisdiction shall be the court on whose territory the spouses had the last joint permanent place of residence or the court within whose territory the plaintiff has the permanent place of residence.

Jurisdiction in Property Rights of Spouses

Article 59

If in the disputes upon property claims of the spouses the domestic court shall be competent because the property of the spouses is located within the territory of Montenegro or because the plaintiff at the time of filing the complaint has permanent or temporary residence in Montenegro, territorially competent court shall be the court on

whose territory the plaintiff has permanent or temporary place of residence at the time of filing the complaint.

Jurisdiction in Disputes over Determination or Contesting Fatherhood or Motherhood

Article 60

If the domestic court has jurisdiction to resolve the dispute for determination of fatherhood or motherhood because the permanent residence of the plaintiff is in Montenegro, territorially competent court shall be that on whose territory the plaintiff has the permanent residence.

Jurisdiction in Disputes on Maintenance Support

Article 61

If a maintenance support dispute includes an international element and the domestic court has jurisdiction because the plaintiff has permanent residence within the territory of Montenegro, territorially competent court shall be that on whose territory the plaintiff has permanent residence.

If the jurisdiction of the domestic court in the maintenance disputes exists because the defendant possesses some property on the territory of Montenegro from which the maintenance support can be paid, the court on whose area of jurisdiction lies the property shall be deemed competent.

Jurisdiction over the Persons without General Territorial Jurisdiction in Montenegro

Article 62

Complaint involving property claims against a person for whom the court of general territorial jurisdiction does not exist in Montenegro may be filed with any domestic court on whose territory any property of that person or the object claimed in the complaint are located.

If the jurisdiction of the domestic court exists based on the fact that obligation of the defendant arose during their stay in Montenegro, the complaint may be filed with the court on whose area the obligation arose.

In disputes relating to persons for whom any court in Montenegro has general territorial jurisdiction, where the dispute concerns obligations that are to be performed in Montenegro, the complaint may be filed with the court on whose territory the obligation is to be performed.

Jurisdiction Based on the Location of the Representative Office of a Foreign Person in Montenegro

Article 63

In disputes against a natural or legal person seated abroad, concerning obligations that arose in Montenegro or need to be performed in Montenegro, the complaint may be filed with the court on whose territory its permanent representative office for Montenegro or the seat of the authority authorised to act on its behalf are located.

3. Reciprocal Jurisdiction in Disputes Involving Foreign Citizens

Article 64

If in a foreign country our citizen may be sued before the court, which according to the provisions of the Law would not have territorial jurisdiction for trying in this civil procedure, the same jurisdiction shall be applicable for conducting procedure citizens of that foreign country before the domestic court.

4. Determining Territorial Jurisdiction by the Higher Court

Article 65

If the competent court cannot engage in procedure due to the exemption of a judge or for some other reasons it shall notify the immediately higher court accordingly which shall decide that another court with subject matter jurisdiction from its territory shall conduct the procedure.

Article 66

Upon proposal of a party or a competent court, the Supreme Court may decide that another court with subject matter jurisdiction proceed on the case if it is obvious that this would facilitate the procedure or if there are other justified reasons.

Article 67

If a domestic court is competent to adjudicate the case, but it is not possible to determine which court has territorial jurisdiction under provisions of this Law, the Supreme Court shall, upon the party's motion, decide which court with subject matter jurisdiction shall have the territorial jurisdiction.

5. Agreement on Territorial Jurisdiction

Article 68

If the Law does not prescribe the exclusive territorial jurisdiction of a court, the parties may agree that their case be tried at first instance by a court that does not have the territorial jurisdiction, provided that the court in question has subject matter jurisdiction.

If the Law prescribes that two or more domestic courts in Montenegro have territorial jurisdiction in a particular dispute, the parties may agree that their case be tried at first instance by one of these courts or another court with subject matter jurisdiction.

The agreement shall be valid only if it is concluded in writing and if it concerns a particular dispute or several disputes which all arise from a specific legal relationship.

The plaintiff shall submit the agreement together with the complaint.

TITLE THREE

EXEMPTION

Article 69

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 6)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 1)

A judge may not adjudicate the case if:

1) they are the party themselves, legal representative or proxy, co-proxy, co-debtor, regressive debtor, or have taken or is to take the stand as a witness;
2) the party, legal representative or proxy of the party is their blood relative in direct line to any degree or in the lateral line up to fourth degree, or if they are spouses,

non-marital spouses or in-laws up to second degree, regardless of whether the marriage has been terminated or not;

3) they are the guardian, adoptive parent or adopted child of the party, party's legal representative or a proxy;

4) they have participated in rendering decision of the inferior instance court or another authority or have participated in alternative disputes resolution;

5) they have participated in reaching the judicial settlement on the case, whereby setting aside that settlement is requested in the appeal;

5a) there is ongoing litigation between the judge and the party;

6) they are a shareholder or member of the company that is party to the procedure;

6a) in bankruptcy proceedings, as a bankruptcy judge, they have made made a decision, which has led to a dispute;

7) there are other circumstances that question their impartiality.

Article 70

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 7)

As soon as the judge becomes aware of the reasons for their exemption given in Article 66, items 1 through 6 of this Law, they shall stop all activities on the case and notify the President of the court thereof.

If the judge believes that there are some other circumstances that may jeopardise their impartiality (Article 69, item 7), they shall accordingly notify the President of the court who shall decide on exemption. By the time the President of the court has issued the ruling, the judge may only undertake the actions that may be jeopardised by the delay.

Article 71

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 8)

Parties may request exemption as well.

The party may file request for exemption of a judge as soon as they learn about reason for exemption, at the latest until conclusion of the hearing before the first instance court and if the hearing has not been held then until rendering the decision.

The request for exemption of the judge of the higher court may be filed by the party in the legal remedy or in the response to the legal remedy, but if the hearing is held before the higher court, then until the completion of the hearing.

Article 72

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 9)

Parties may only demand exemption of a particular judge who is conducting civil procedure or the President of court who shall decide on the request.

The request for exemption shall not be allowed in the following cases:

1) if generally the exemption of all judges of a court or all judges who might conduct procedure regarding a case is requested;

2) if it has already been decided upon;

3) if the reason for exemption has not been explained.

The request referred to in paragraph 2 of this Article shall be dismissed by the judge who conducts the procedure.

Interlocutory appeal against the ruling referred to in paragraph 3 of this Article shall not be allowed.

Article 73

President of the court shall decide on the request of the party for exemption of a judge except in cases referred to in Article 72, paragraph 2 of this Law.

If the party requests exemption of the President of the court, the President of an immediately higher court shall render decision on exemption.

Parties' request for exemption of the President of the Supreme Court shall be decided at the general session of that court.

Prior to rendering the ruling on exemption of a judge, a statement from the judge whose exemption is requested shall be taken, while other investigations shall be conducted if deemed necessary.

Appeal against the ruling which grants exemption shall not be allowed and interlocutory appeal against the ruling which denies the request shall not be allowed.

Article 74

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 10)

Once the judge has learned that the request for their exemption has been filed they shall immediately stop all activities on the case concerned and if the exemption is the one referred to in Article 69, item 7 of this Law they may take only those actions which may be jeopardised by delay and that only by the time of rendering the ruling on exemption.

By way of exception referred to in paragraph 1 of this Article, the judge may decide to carry on the procedure if they evaluates that request for exemption is evidently unjustified and that it has been filed to prevent or obstruct the court in taking specific actions or in order to unnecessary cause the delay.

If the request for exemption is accepted, actions and decisions taken under paragraph 2 of this Article shall be reversed by the judge who shall take over the procedure.

Article 75

Provisions on exemption of judges shall accordingly apply to exemption of recording clerks.

The judge shall decide on the exemption of recording clerks.

TITLE FOUR

PARTIES AND THEIR REPRESENTATIVES

Article 76

Any natural and legal person may be party to the procedure.

Special regulations prescribe who may be a party to the procedure apart from natural and legal persons.

By way of exception, the civil court may, with legal effect in a certain procedure, recognize the capacity of a party to those forms of associations that are not eligible to be a party under provisions of paragraphs 1 and 2 of this Article if it determines that, with regard to the matter of the dispute, they meet crucial requirements for acquiring the capacity of the party, particularly if they are in possession of the property which may be subject to enforcement.

Interlocutory appeal shall not be allowed against the ruling referred to in paragraph 3 of this Article that recognizes the capacity of a party in litigation.

Article 77

A party with full legal competence may conduct actions in the procedure by itself (litigation capacity).

An adult with partially limited legal competence shall be considered to have litigation capacity within the limits of their legal competence.

A juvenile who has not acquired full legal competence shall be considered to have litigation capacity within the limits of their recognized legal competence.

Article 78

A party without litigation capacity shall be represented by their legal representative.

Legal representative shall be determined by Law or act of the competent public authority.

Representative of legal person shall be determined by Law or general act of legal person.

Article 79

In the course of entire procedure the court shall ex officio have due regard to whether the person acting as a party to the procedure is eligible to be a party to the procedure and whether that person has litigation capacity, whether a party without litigation capacity is represented by their legal representative and whether the legal representative has special authorisation when necessary.

Article 80

On behalf of the party, the legal representative may commence all actions in the procedure, but if special regulations prescribe that the legal representative shall have special authorisation in order to file or withdraw the complaint, acknowledge or waive the statement of claims, reach a settlement or take other actions in the procedure, the legal representative may take those actions only if they have such authorisation.

At the request of the court, a person engaged as legal representative shall prove that they are the legal representative. When special authorisation is required for taking certain actions in the procedure, the legal representative shall prove they have such an authorisation.

When the court finds that the legal representative of the person under the guardianship fails to demonstrate the necessary care in the representation, it shall inform the guardianship authority thereon. The court shall suspend the procedure and suggest appointment of another legal representative if it finds that the failure of the legal representative could cause the damage for the person under the guardianship.

Article 81

When the court finds that the person appearing as a party may not be party to the procedure and that the defect may be remedied, it shall summon the plaintiff to make necessary corrections in the complaint or take other measures to continue the procedure with the person that may participate in the procedure in the capacity of a party.

When the court finds that the party has no legal representative or that the legal representative has no special authorisation when requested, it shall ask the competent guardianship authority to appoint a guardian to the party without litigation capacity by asking the legal representative to obtain special authorisation or it shall take other

measures necessary to ensure regular representation of the party without litigation capacity.

The court may set the deadline for the party to remedy defects referred to in paragraphs 1 and 2 of this Article. Until the defects are remedied, only those actions whose delay could cause harmful consequences for the party may be commenced in the procedure.

If it is not possible to remedy defects referred above or if the deadline expires unsuccessfully, the court shall reverse by a ruling the actions conducted in the procedure if they have been affected by these defects and dismiss the complaint if the defects are of such nature which may prevent further course of the procedure.

Appeal against the ruling on ordering measures for remedying the defects shall not be allowed.

Article 82

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 8)

The court shall appoint temporary representative to the defendant if it finds, in the course of the procedure before the first instance court, that the regular procedure for appointment of the legal representative to the defendant could last so long that it could result in harmful consequences for one or both parties.

If the requirement referred to in paragraph 1 of this Article has been met, the court shall appoint temporary representative to the defendant, particularly in the following cases:

1) if the defendant has neither litigation capacity nor legal representative;

2) if there is conflict of interests between the defendant and their legal representative;

3) if both parties have the same legal representative.

The court shall also appoint a temporary legal representative of the defendant in the following cases:

1) when the temporary place of residence of the defendant is unknown and the defendant does not have proxy;

2) if the defendant or their legal representative are abroad and do not have proxy and the delivery could not be conducted.

Against the decision under paragraph 1 and 2 no appeal is allowed.

The court shall notify the guardianship authority, and the parties when possible, of appointment of the temporary representative.

Article 83

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 9)

The court shall accordingly appoint temporary representative to the legal person and company that has no characteristics of a legal entity as well in line with application of Article 82 of this Law.

Article 84

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 10)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 1)

The court shall appoint temporary representative from among lawyers and other professionals.

The temporary representative from among lawyers is appointed by the court in order from the list of the Bar Association of Montenegro.

In the cases referred to in Article 82 paragraph 2 and 3 of this Law, the plaintiff shall be required to advance funds of a temporary representative.

If the plaintiff does not advance funds for a appointing a temporary representative within the period determined by the court, the complaint shall be considered withdrawn.

Article 85

Temporary representative shall have all rights and duties of the legal representative in the procedure for which they have been appointed.

Temporary representative shall exercise rights and duties until the defendant or their proxy appear before the court or until the court is informed by the guardianship authority on appointment of the guardian.

Article 86

If the temporary representative has been appointed to represent the defendant for the reasons stated under Article 82, paragraph 3, items 1 and 2 of this Law, the court shall within eight days issue an announcement in the Official Gazette of Montenegro and on the notice board of the court and in other appropriate way if necessary.

The announcement shall contain the following: the name of the court which has appointed temporary representative, legal basis, the defendant's name that the representative has been appointed to, the disputed matter, name of the representative, their occupation and temporary place of residence as well as the statement that the representative shall represent the defendant in the procedure as long as the defendant or their representative appears before the court or until the guardianship authority notifies the court that it has appointed the guardian.

Article 87

Person without litigation capacity under the law of their state who has litigation capacity under the law of Montenegro may take actions in the procedure. Their legal representative may take actions in the procedure until this person states that they shall take over conducting of the litigation.

TITLE FIVE

PROXIES

Article 88

Parties may take actions in the procedure either in person or through a proxy, but the court may call on the party who has a proxy to personally give a statement before the court about the facts that need to be determined in this dispute.

The party represented by the proxy may at all times come before the court and give statement besides their proxy.

Article 89

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 11)

The proxy may be any person capable of conducting business affairs, except persons engaged in shyster.

If the proxy is person who is suspected of unauthorised practice of law, the court shall deny permission to that person for their further representation and notify the party immediately.

Appeal against the ruling on denying the permission to represent shall not stay enforcement of the ruling.

Article 89 a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 12)

The revision and proposal from Article 397b paragraph 1 of this Law shall be submitted by the party through a representative who is a lawyer.

By way of exception to paragraph 1 of this Article, the party may submit the review and proposal referred to in paragraph 1 of this Article by themselves if they have passed the bar exam, that is, the review and proposal may be submitted as a proxy by a person who, in accordance with this or another law, is authorized to represent them in in that capacity even though he is not a lawyer if they have passed the bar exam.

The party, that is, its attorney referred to in paragraph 2 of this Article, shall be obliged to attach a certified photocopy of the certificate of passing the bar exam along with the revision and proposal referred to in paragraph 1 of this Article.

Article 90

Actions in the procedure taken by the proxy within the limits of the authorisation shall have the same legal effect as if they had been taken personally by the party.

Article 91

The party may change or revoke statement of their proxy at the hearing at which that statement is given.

If the proxy admitted any fact at the hearing, where the party was not present or if they admitted any fact in the pleading and the party later on changes or reverses that statement, the court shall evaluate both statements in accordance with Article 218 paragraph 3 of this Law.

Article 92

The scope of authorisation shall be determined by the party.

The party may authorise the proxy to take only certain actions or to take all actions in the procedure.

Article 93

If the party issued authorisation to a lawyer for conducting the litigation and did not more closely specify powers in the authorisation, the lawyer shall base on such authorisation have the power to:

1) perform all actions in the procedure and particularly file complaint, withdraw it, respond to the complaint, acknowledge or waive the statement of claims, reach a settlement, submit a request for, waive or withdraw a legal remedy and request issuing the temporary security measures;
2) file request for enforcement for security measures and take necessary actions in the procedure with regard to that request;
3) receive awarded compensation for costs from the adverse party;

4) transfer authorisation to another lawyer or authorise another lawyer to take only particular actions in the procedure.

Lawyer shall need a separate authorisation for filing the motion for reopening the procedure if more than six months have elapsed since the decision has become final and enforceable.

Lawyer may be replaced by a trainee employed with them, but only before the court of first instance.

Article 94

If a party failed to fully specify powers of the proxy in the authorisation, the proxy who is not a lawyer may based on such authorisation perform all actions in the procedure, but they shall be always requested to have special authorisation to withdraw the complaint, acknowledge or waive the statement of claims, reach settlement, waive or abandon legal remedy as well as to transfer authorisation to another person and file extraordinary legal remedies.

Proxy of the party that is a legal person may without explicit authorisation conduct actions referred to in paragraph 1 of this Article.

Article 95

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 11)

The party shall grant authorisation in written or verbal form in the record on hearing.

The party who is illiterate or not able to sign authorisation shall put their index fingerprint on the written authorisation instead of a signature. In these circumstances, where the authorisation is to be granted to a person that is not a lawyer, the presence of two witnesses shall be required to sign the authorisation.

If the court doubts the authenticity of the written authorisation, it may pass a ruling on ordering the submission of the certified authorisation. Appeal against this ruling shall not be allowed.

Article 96

The proxy shall present their authorisation when commencing the first action in the procedure.

The court may allow a person who has not submitted authorisation to temporarily perform actions on behalf of the party, but simultaneously it shall order that person to obtain authorisation or approval of the party for performing litigation actions subsequently, within the set time limit.

The court shall postpone rendering the decision until the deadline for obtaining authorisation expires. If the deadline expires unsuccessfully the court shall revoke actions in the litigation conducted by that person and continue the procedure disregarding actions taken by the person without authorisation.

In the course of entire procedure, the court shall have due regard to whether the person acting as the proxy has been authorised for such representation. If the court finds that the person acting as proxy has not been authorised for such representation it shall revoke actions in the litigation conducted by that person, unless the party subsequently approved those actions.

Article 97

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 13)

The party may revoke authorisation at any time, whereas the proxy may cancel it at any time.

The court before which the procedure is conducted shall be informed in writing or verbally for the record on revoking or cancelling the authorisation.

Revoking or cancelling the authorisation shall apply to the adverse party from the moment they have become informed about it.

After the authorisation has been cancelled the proxy shall carry out actions on behalf of the person who granted authorisation for another seven days if that is necessary to remove any damage that could be caused to the person during that period.

Article 98

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 14)

When natural person dies or legal person ceases to exist, the authorisation they granted shall also cease to exist.

If proxy of a natural person is authorized to undertake all actions in the procedure, and the party or its legal representative dies or becomes legally incapacitated or if the legal representative is relieved of duty, the proxy shall be authorized to undertake actions in the procedure which cannot be delayed.

Article 98a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 15)
(Decision of the Constitutional Court of Montenegro, Official Gazette of Montenegro No. 062/18 of 09/21/2018)

The power of attorney issued by a legal person shall cease upon the termination of that legal entity or the occurrence of the legal consequences of the opening of bankruptcy proceedings or liquidation proceedings.

Upon opening of bankruptcy or liquidation proceedings, attorneys must have a power of attorney issued by the bankruptcy administrator, that is, the liquidator.

TITLE SIX

LANGUAGE USED IN THE PROCEDURE

Article 99

Parties and other participants in the procedure shall be entitled to use their own language or language that they can understand before the court.

If the procedure is not conducted in the language of the party or other participants in the procedure, at their request they shall be provided interpretation to their language or language that they can understand and translation of all pleadings and written evidence, as well as interpretation of what is being said at the hearing.

The parties and other participants in the procedure shall be instructed about their right to follow up the procedure before the court in their own language with assistance of interpreter. It shall be noted in the record that they have been instructed thereon, together with the statements of the parties or participants. Interpretation shall be provided by an interpreter.

Article 100

Summons, decisions, and other court writs shall be delivered to the parties and other participants in the procedure in the language which is in official use in the court.

If any of the languages of national minorities is in official use in the court, the court shall deliver court writs in that language to those parties and participants in the procedure that belong to that national minority and use that language in the procedure.

Article 101

Parties and other participants in the procedure shall submit complaints, appeals and other pleadings to the court in the language that is in official use in the court.

Parties and other participants in the procedure may also submit their pleadings to the court in language of national minorities which is not in official use in the court if that is in conformity with the Law.

Article 102

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 2)

Costs of translation into the language of national minorities arising from the application of the provisions of Constitution and this Law on the right of national minorities to use their own language shall be charged to the court funds.

TITLE SEVEN

SUBMISSIONS

Article 103

Complaint, response to the complaint, legal remedies and other statements, motions and notifications issued out of the hearing shall be submitted in writing (submissions). Submissions submitted by telegram and facsimile or electronic mail are also considered to meet requirements of a writing form. These submissions shall be considered as signed if the name of the submitter has been indicated on them.

Pleadings shall be comprehensible and contain all items necessary to act upon them. In particular, they shall contain the following: name of the court, the first and last name (title for the legal person), permanent or temporary place residence (seat for the legal person) of parties, their legal representatives and proxies, if they have any, disputed matter, contents of the statement and the signature of the submitter.

If the statement contains a request, the party shall state in the submission the facts upon which the request is based and evidence when that is deemed necessary.

By way of exception referred to in paragraph 1 of this Article, the submissions delivered via electronic mail shall be verified with an advanced electronic signature.

Article 104

Pleadings with attachments that are to be delivered to the adverse party shall be submitted to the court in a sufficient number of copies for the court and for the adverse party.

Article 105

Documents enclosed with submissions shall be submitted in the original form, in certified transcript or photocopy that shall be certified.

If the party encloses the original document, the court shall keep that document and allow the adverse party to examine it. When there is no need to keep that document in the court any more, it shall be returned to the submitter upon their request, but the court

may request from the submitter to attach the transcript or photocopy of the document to the case files.

If the document has been submitted in the form of a transcript or photocopy, the court shall, at the request of the adverse party, call upon the submitter to provide the court with original document and allow the adverse party to examine it. Where necessary, the court shall set the deadline within which the document shall be submitted or examined.

Appeal against these rulings shall not be allowed.

Article 106

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 12)
(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 16)

If the submission is incomprehensible or fails to contain all required items in order for the court to proceed, the court shall return the submission for correction or supplementation. The court shall instruct the party as to what needs to be corrected or supplemented and set the deadline for correction or supplementation of the submission, which shall not exceed eight days.

If the submission for which the deadline has been set is corrected, supplemented, and submitted to the court within the deadline set for supplementation or correction, it shall be considered to have been submitted to the court on the day of the first submission.

Pleading shall be considered withdrawn if it has not been returned to the court within a set deadline and it shall be rejected if it has been returned without being corrected or supplemented.

If the submission submitted on behalf of the party by the legal representative who is attorney, the Protector of Property and Legal Interests of Montenegro, the municipal body responsible for the protection of the property and legal interests of the municipality, that is, the State Prosecutor, is incomprehensible or incomplete, the court shall reject it.

If the submissions or attachments have not been submitted in a sufficient number of copies the court shall invite the submitter to submit them within the set deadline. If the submitter fails to proceed in accordance with that order, the court shall reject the submission.

TITLE EIGHT

DEADLINES AND HEARINGS

DEADLINES

Article 107

If the Law does not prescribe deadlines, they shall be determined by the court depending on the circumstances of the case.

Deadline determined by the court may be extended at the motion of the interested person if justified reasons exist.

Motion shall be filed before the expiry of the deadline requested to be extended.

Appeal against the ruling on the extension of deadline shall not be allowed.

Article 108

Deadlines shall be counted in days, months, and years.

When a deadline is set in days, the day of delivery or notification shall not be counted, that is the day of the event from which the deadline is to be counted; instead, the first subsequent day shall be taken as the beginning of the deadline.

Deadlines counted in months or years shall end upon expiry of the day of the last month, or year that corresponds by its number to the day when the deadline started. If there is no such day in the given month, the deadline expires on the last day of that month.

If the last day of the deadline falls on the public holiday or Sunday or any other day when the court is not working, the deadline shall end by the expiry of the first following working day.

Article 109

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 17)

When the submission is restricted by the deadline it shall be considered submitted within the deadline if submitted to the competent court before the deadline expires.

If the submission has been forwarded via registered mail or telegram, the day of its delivery to the post office shall be considered as the day of delivery to the court to which it has been addressed and if the submission was sent via facsimile, the day of its delivery to the court shall be considered as the day of delivery.

If the submission has been sent via telegram, it shall be considered as submitted within the deadline if the submission of the same contents has been submitted to the court subsequently or if it has been forwarded to the court by registered mail within three days from the date of the telegram submission to the post office.

If the submission was submitted via electronic mail, the time of delivery to the court shall be considered the time that is noted on the verification of the advanced electronic signature.

For individuals in mandatory military service in the military, the day of delivering the submission to the military unit or military institution shall be considered as the day of submission of the submission to the court.

As regards people deprived of liberty, the day when the submission is delivered to the administration of the prison or juvenile detention centre or reformatory shall be considered as the date of delivery to the court.

If the submission restricted by the deadline was sent to the court that does not have jurisdiction before the deadline expired and it reaches the competent court prior to expiry of the deadline, it shall be considered as delivered in time if the submission to the court which does not have jurisdiction can be attributed to a lack of knowledge or an obvious mistake on the part of the submitter.

Provisions of paragraphs 1 through 7 of this Article shall be applied on the deadline within which, in accordance with special regulations, complaint shall be filed and also on the statute of limitation period of a claim or some other right.

HEARINGS

Article 110

The court shall schedule hearing when so prescribed by Law or requested to meet needs of the procedure.

Appeal against ruling on the scheduling the hearing shall not be allowed.

The court shall summon to the hearing the parties and other participants whose presence is considered needed. Together with the summons, the party shall also receive

the submission that has caused scheduling the court hearing, while the summons shall indicate the place, room, and time of the hearing. If the summons does not include the submission, the summons shall indicate name of the party, disputed matter and action to be taken at the hearing.

In the summons, the court shall particularly warn of legal consequences of failure to appear at the hearing.

The party who appeared before the court after the hearing has begun may not require that actions taken in their absence be repeated.

Article 111

As a rule, the hearing shall be held in the courthouse.

The court may decide to hold the hearing outside the court house if it deems that necessary or that it would save time and costs of the procedure in doing so.

Article 111 a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 18)

The court may, by decision, allow a party and a person authorized by the party, with the consent of the opposing party, to perform litigation actions outside the place where the hearing is held during the hearing, if electronic communication is provided between the place of the hearing and the place where the litigation actions are taken, by means of sound and visual transmission (video conference).

In the manner referred to in paragraph 1 of this Article, the court may decide to take evidence by hearing the parties, witnesses and experts.

Against the decision under paragraph 1 and 2 appeal shall not be allowed.

RETURN TO THE PREVIOUS STAGE

Article 112

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 19)

If the party misses the hearing or deadline for certain action in the procedure and therefore loses right to initiate that action, the court shall allow the party, upon their motion, to subsequently take that action (return to the previous stage) if it finds that there were justified reasons that could have been neither foreseen nor avoided.

The reason for the return to the previous state cannot be a significant violation of the provisions of the civil procedure due to which the judgment can be challenged in accordance with Article 367 of this Law.

When the return to the previous stage is allowed, the litigation shall be reverted into the state that existed before the omission took place and all court decisions rendered due to the omission shall be reversed.

Article 113

The motion for return to the previous stage shall be filed with the court where the omitted action should have been taken.

The motion shall be submitted within eight days, counting from the day when the reason that caused the omission ceased to exist and if the party learned about the omission on some later date, the counting of days shall start from that date.

After the period of 60 days has passed from the day of the omission, return to the previous stage may not be requested.

If return to the previous stage is requested due to missed deadline, the applicant shall conduct the omitted action simultaneously with filing of the motion.

Article 114

Return to the previous stage shall not be allowed if the deadline for filing the motion for return to the previous stage has passed or if the hearing scheduled in the motion for return to the previous stage has been missed.

Article 115

The motion for return to the previous stage, as a rule, does not affect the course of litigation, but the court may decide to suspend the procedure until reaching final and enforceable ruling on the motion.

If the motion for return to the previous stage has been filed, but the appeal procedure is underway before the higher court, the first instance court shall notify the higher court about the motion that has been filed.

Article 116

The court shall by its ruling reject untimely and inadmissible motions for return to the previous stage.

In relation to the motion for return to the previous stage, the court shall set the hearing if expressly so requested by the party, except in case that the facts on which the motion is grounded are commonly known or if the return is proposed for obviously unjustifiable reason or if there is sufficient evidence in the case files for reaching the decision on the motion.

TITLE NINE

MINUTES

Article 117

Actions taken during the hearing shall be entered in the minutes.

The minutes shall also include relevant statements or announcements that the parties or other participants make outside the hearing. Less relevant statements and announcements shall not be entered in the minutes, but instead they shall only be officially noted in the case file.

The recording clerk shall keep the minutes.

Article 118

The minutes shall include the following: name and members of the court, place, and hour of action that is to be taken, indication of the disputed matter and names of parties, or third parties and their legal representatives or proxies.

The minutes also needs to contain important information about actions that have been taken. The minutes on the main hearing shall particularly include: whether the hearing was public or closed for public, contents of the parties' statements, their motions, evidence they proposed, the evidence that was presented, contents of the statements of witnesses and expert witnesses; court decisions rendered at the hearing and original decision following conclusion of the main hearing.

Article 119

The minutes shall be properly kept, without erasing, adding, or changing anything. Lines that are struck out shall remain legible.

Article 120

The minutes shall be kept in manner that the judge dictates to the court clerk what to enter in the minutes. Participants in the procedure may dictate their statements if the judge allows them to do so.

Parties shall be entitled to read the minutes or demand that it is read to them and give their remarks with regard to the content.

This right shall also apply to other individuals whose statements were entered in the minutes, but only in respect of that part of the minutes pertaining to their statement.

Corrections or additions concerning content of the minutes that need to be made upon objections of the parties or other persons or ex officio shall be entered at the end of the minutes. Objections that were overruled shall be also entered at the request of these individuals.

Article 121

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 20)

The hearing before the court may be audio recorded.

The court decides on audio recording by decision ex officio or at the request of the parties.

No appeal shall be allowed against the decision referred to in paragraph 2 of this Article.

The audio recording of the hearing shall be delivered to the parties.

The audio recording of the hearing shall constitute part of the case file.

Article 121 a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 21)

The audio recording of the hearing shall be transmitted in written form in the form of a record made in accordance with Article 118 of this Law, which must contain everything that was recorded in the audio recording, within eight days from the day of the audio recording.

The party may request the minutes referred to in paragraph 1 of this Article, in accordance with this Law, within eight days from the date of drawing up the minutes.

If the minutes referred to in paragraph 1 of Ahis article and the audio recording of the hearing differ substantially, the party has the right to file an objection within eight days from the date of delivery of the record. The objection must be explained.

Upon the objection referred to in paragraph 3 of this Article, within three days, the court shall accept the complaint by decision and amend the record or reject the objective. Interlocutory appeal shall not be allowed against this decision.

The technical conditions, the method of recording, storing and transmitting the sound recording of the hearing shall be regulated by the Rules of Court.

Article 121b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 21)

The hearing before the court can be recorded in shorthand.

The provisions of Articles 121 and 121a of this Law, shall accordingly apply to shorthand notes.

Article 122

The minutes shall be signed by the judge, court clerk, parties or their legal representatives or proxies and interpreter.

Witness and expert witness shall sign their statements in the minutes when they are heard before the judge carrying out functions on behalf of another judge at their request.

An illiterate person or a person who cannot write their name shall put their index fingerprint and the court clerk shall write the first and last name for these persons below the fingerprint.

Should any party, their legal representative or proxy, witness or expert witness leave before signing the minutes or refuse to sign the minutes, such an action shall be noted in the minutes specifying the reasons for non-signing.

Article 123

In the procedure in relation to legal remedies, separate minutes shall be prepared for conferring and voting. If the higher court rendered unanimous decision in the procedure on legal remedy, the minutes shall not be prepared, instead a note on conferring and voting shall be written down in the original decision.

The minutes on conferring and voting shall contain the course of voting and the decision that has been rendered.

Separate opinions shall be attached to the minutes on conferring and voting if not already included in the minutes.

The minutes or note on voting shall be signed by all Panel members and the court clerk.

The minutes on conferring and voting shall be closed in a separate envelope. Only the higher court may review these minutes when deciding on a legal remedy and in such a case the minutes shall be put again in a separate envelope, noting on the envelope that the minutes was reviewed.

TITLE TEN

RENDERING DECISIONS

Article 124

The court shall render decisions in the hearing or out of the hearing.

The court shall render decisions in the form of a judgment or a ruling.

The court shall decide on the statement of claims by a judgment, while in the procedure for trespassing the property it shall decide by a ruling.

In the procedure of issuing the payment order, the ruling under which the statement of claims is adopted shall be issued as a payment order.

Decision on the costs in the judgment shall be considered a ruling.

Article 125

The decisions of the Panel shall be rendered after voting and conferring.

Only the members of the Panel and court clerk may be present in the room where conferring and voting are taking place.

Article 126

The President of the Panel shall run conferring and voting and they shall be the last one to vote. They shall make sure that all matters are thoroughly and completely considered.

The majority of votes is necessary for all decisions of the Panel.

The members of the Panel may not refuse to vote on matters set forth by the President of the Panel. A member of the Panel who was among the minority in the previous voting may not restrain from voting on the matter that is to be decided later on.

If in respect to certain matters that are being decided upon the votes are divided between several different opinions so that any of them does not have majority, the matters shall be separated and voting repeated until the majority of votes is obtained. If the votes divide to more than two opinions in respect to the monetary amount or quantity, the reasons supporting each opinion shall be discussed again; if the majority of votes cannot be obtained even then, the votes given for the highest monetary amount or quantity shall be added to the votes given for the first smaller monetary amount or quantity until the majority is obtained.

TITLE ELEVEN

DELIVERY OF WRITS AND REVIEWING CASE FILES

METHOD OF DELIVERY

Article 127

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 22)

Delivery of writs shall be conducted by post, through an authorised officer of the court, authorised legal person registered to conduct delivery, directly to the court or in some another manner prescribed by Law.

Delivery may be conducted by electronic mail, in line with the law regulating electronic administration.

The delivery referred to in paragraph 2 of this Article shall be considered to have been completed if, in accordance with a special regulation, return information can be provided that the recipient has received the writ.

The return information referred to in paragraph 3 of this Article shall be an electronic record of the day and time when the device for electronic data transfer recorded that the writ was sent to the recipient, the name of the sender and the recipient, and title of the writ. A printed electronic record is a confirmation of receipt of a writ delivered electronically.

Article 127a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 3)

Delivery to natural persons shall be made to the address specified in the complaint, that is, to the address of residence or place of residence registered with the state administration authority responsible for keeping the register of residence and place of residence.

Article 128

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 13)

Delivery to the public authorities and legal persons shall be conducted by delivery of the writ to the person authorised to receive writs or to the employee who happens to be in office or business premises.

Delivery to the legal person may be conducted to the branch office of the legal person if the dispute arises from legal relationship within that branch.

If the writ needs to be delivered to the public prosecutor or competent authority of the municipality, writs shall be delivered to its minutes management office. The date of delivery of the writ to the minutes management office shall be considered the date of delivery.

Delivery under provisions of paragraphs 1 and 2 of this Article shall also be conducted in cases when parties mentioned in these paragraphs have appointed their employee as their proxy or if the party has appointed a person who is not their employee as their proxy, but has not submitted their address.

Article 129

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 23)

Members of the Army of Montenegro, members of the police and persons employed in road, railway, river, sea and air transport can also be served with a summons through the competent command, i.e. immediate superior, authority, institution and other legal entity in which they are employed, and if necessary, other documents can also be delivered to them in this way.

Article 130

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 5)

When the delivery is to be conducted to persons, institutions abroad, or foreigners who enjoy immunity, delivery shall be conducted through diplomatic channels unless otherwise specified by international treaty or this Law (Article 143).

If the delivery of the writ needs to be conducted to the citizens of Montenegro living abroad, the delivery may be conducted through the competent consular or diplomatic representative office of Montenegro performing consular affairs in the country concerned. This delivery shall be valid only if the person to whom the delivery is made agrees to accept it.

Article 131

Delivery to the legal person with its seat abroad may be conducted through its branch, i.e. representative office in Montenegro.

Article 132

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 24)

Delivery to persons deprived of liberty shall be conducted through the administration of the prison or institution in which the person deprived of liberty is accommodated.

Delivery shall be considered completed after the writ has been delivered to the addressee.

Article 133

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 25)

If the legal representative or proxy represents the party, the delivery shall be conducted to the legal representative or proxy.

If the party has more than one legal representative or proxy, it shall suffice to carry out the delivery to one of them.

In the manner referred to in paragraphs 1 and 2 of this Article, delivery shall also be made to the person authorized to receive writs, to the temporary representative and to the representative appointed to receive writs. The submission shall be considered to have been delivered to the party when it is delivered to the person authorized to receive documents, the temporary representative, or the representative appointed to receive documents.

Article 134

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 4)

Delivery to the lawyer who acts as the proxy may be conducted by delivering documents to a person employed in their law firm.

If the lawyer practices law in their dwelling, Article 137, paragraph 1 of this Law shall apply accordingly.

Article 135

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 26)

Delivery shall be carried out every day from 07:00 until 20:00 in the dwelling or workplace of the person to whom delivery needs to be conducted or in the court when the person happens to be there.

If the writ cannot be delivered at the address referred to in the previous paragraph and at the mentioned time, it may be delivered at anytime and anywhere.

Article 135a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 5)

If the person to whom the writ should be delivered is not in their apartment, delivery shall be made by handing the writ to one of their adult household members who shall be obliged to receive the writ, and if they are not in the apartment, the writ shall be delivered to the neighbour, if they agree with it. Thus, the delivery shall be considered as completed.

If delivery is made at the workplace, and the person to whom the writ is to be delivered is not at the workplace, delivery may be made to another person who happens to be at the workplace, if they agree to receive the writ.

Delivery of writ to another person shall not be permitted, if that person participates as an opposing party in a civil proceeding in which the party is the person to whom the writ should be delivered.

A person to whom, in accordance with paragraphs 1 and 2 of this Article, a writ was delivered instead of the person to whom the writ was addressed shall be obliged to deliver the writ to that person.

Article 136

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 6)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 2)

Complaint, response to the complaint, summons to the hearing, judgment and ruling against which interlocutory appeal is allowed, legal remedies shall be delivered to the party in person or to their legal representative or proxy. The other writs shall be delivered in person when this Law explicitly prescribes so or when the court deems that greater caution is necessary due to attached original documents or some other reason.

If the person to whom the document must be personally delivered is not at the place where delivery is to be made, provided that the address is correct, the delivery person shall leave a notice in the mailbox or in another visible place that they can collect the document in court within 30 days from the day of leaving the notification.

In the case referred to in paragraph 2 of this Article, a copy of the writ shall be is displayed on the notice board of the court.

After the expiration of the term referred to in paragraph 2 of this Article, it shall be regarded that delivery has been made.

The notification referred ti in paragraph 2 of this Article shall contain: name and surname of the person to whom delivery service was attempted, business designation of the item to which the writ refers, title of the writ being served, capacity of that person in the proceedings, date and time when service was attempted, address where service was attempted, instructions for that person that it can receive the writ from the court within 30 days, stating the name and address of the court and that the writ shall be displayed on the notice board of the court, as well as a warning that after the deadline has passed, it shall be regarded that service has been completed.

If the writ referred to in paragraph 1 of this Article is to be delivered to state authorities and legal entities, delivery shall be made in accordance with Article 128 of this Law.

Article 137

Shall be deleted.

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 7)

Article 138

When the person to whom the writ has been addressed or adult member of their household or authorised person or employee in government authority or legal person, without having any legally acceptable reason, refuses to accept the writ the deliverer shall leave it in the dwelling or in premises where the person concerned works or they shall put up the writ on the door of the dwelling or business premises. They shall indicate on the delivery note the date, hour, reasons for refusing acceptance and the place where the writ has been left whereby the writ shall be considered served.

Article 139

Shall be deleted.

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 7)

Article 140

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 27)

If delivery to the entity entered into the register may not be conducted to the address indicated in the register, delivery shall be conducted by posting the writ on the court notice

board, while delivery shall be considered complete after expiry of the period of eight days from the day of posting on the court notice board.

The provisions of paragraph 1 of this Article shall also apply to natural persons who, in order to perform a certain activity, are registered in the appropriate register in accordance with the law (entrepreneurs, notaries, lawyers, etc.), when delivery to these persons is made in connection with that activity.

Article 141

Shall be deleted.

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 7)

CHANGE OF ADDRESS

Article 142

If the party or their representative change address for delivery during the procedure or before expiry of the deadline of six months after the final and enforceable decision has been rendered, they shall notify the court thereof.

If the request for review is filed against the final and enforceable decision within the deadline referred to in paragraph 1 of this Article, that deadline shall be extended until expiry of six months from the delivery to the party of the decision on the review under which the review is either dismissed or rejected or the contested decision overruled.

If a motion to repeat the procedure is submitted against the legally binding decision before the expiration of the period referred to in paragraph 1 of this Article, that period shall be extended until the expiration of the period of six months after the final decision of the first instance in that procedure against which no appeal has been filed, i.e. until the expiration of the period of six months from deliver second instance decisions to the parties.

If the final and enforceable decision is reversed in extraordinary legal remedy procedure and the case remanded for reopening, it shall be considered that the deadline referred to in paragraph 1 of this Article has not started.

If the party or their representative fail to immediately notify the court about the change of address the court shall determine that further delivery in the litigation be conducted by posting the writs on the court notice board until the party or their representative provide the court with a new address.

The delivery referred to in paragraph 5 of this Article shall be considered completed after eight days have passed from the day of posting the writ on the notice board of the court.

When the proxy for receiving writs until the deadline referred to in paragraphs 1 to 3 of this Article changes his address, and does not inform the court about it, the court shall appoint a representative to the party, at their expense, to receive the writ through which delivery shall be made, until they receive the party's notification about the appointment of a new attorney.

PROXY AND REPRESENTATIVE FOR RECEIVING WRITS

Article 143

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 5)

The plaintiff or their representative who are abroad and do not have a representative in the territory of Montenegro shall be obliged, when filing the complaint, to appoint a representative for receiving writs in Montenegro. If they do not act in this way, the court shall appoint to the plaintiff, at their expense, a representative to receive the writs and, through that representative, summon them or their representative to appoint proxy to receive writs within a certain period. If the plaintiff or their proxy do not appoint a representative for receiving writs within a certain period, the court shall reject the complaint and deliver the decision on rejection to the plaintiff or their representative through the appointed representative for receiving writs.

The court shall invite the plaintiff or their representative who are abroad and do not have a representative in the territory of Montenegro, upon delivery of the first writ, to appoint a representative for receiving writs in Montenegro within a reasonable period of time, with a warning that otherwise the court shall, on their cost, appoint a representative to receive writs and inform the plaintiff, i.e. their representative, about this appointment through that representative.

If the party terminates authorisation to their proxy for receiving writs and fails to simultaneously appoint another one for that purpose, the court shall conduct delivery by posting writs on the court notice board until that party appoints another proxy for receiving writs.

If the proxy for receiving writs cancels authorisation and the party fails to appoint another proxy within 30 days from the date when the court has been informed about the cancellation of the proxy, the court shall, at the expense of the party, appoint a representative for receiving writs and conduct all deliveries through the appointed representative until it receives notification from the party of appointment of a new proxy.

The plaintiff shall advance the funds needed for the plaintiff or defendant's representative for receiving writs. If the plaintiff fails to advance funds the complaint shall be dismissed.

Provisions on appointment of the representative for receiving writs on behalf of the defendant shall also apply to informing the third party about litigation and appointment of the predecessor.

Article 144

If several persons sue jointly and they do not have a joint legal representative or proxy the court may direct them to appoint, within a set deadline, a joint proxy authorised to receive writs. At the same time, the court shall inform plaintiffs who among them shall be considered a joint proxy authorised to receive writs if they do not appoint such proxy themselves.

Provision referred to in paragraph 1 of this Article shall also apply when several persons have been sued together as joint co-litigants.

IDENTIFICATION OF ADDRESS

Article 145

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 8)

The competent authority shall inform the party that has legal interest about the address of the person to whom the delivery should be conducted.

If the court is not able to deliver the writ to the address referred to in paragraph 1 of this Article, it shall ex officio obtain from the state administration authority responsible for keeping the register of permanent and temporary residence, the address of permanent

and temporary residence of the party to whom the writ should be personally delivered and shall perform delivery at the obtained address, in accordance with Articles 136 and 138 of this Law.

The state administration authority responsible for keeping the register of permanent and temporary residence shall be obliged to inform the party that has a legal interest, that is, to deliver the address of the person to whom delivery should be made. Legal interest shall be evidenced by the statement of the court about filing the complaint or existence of litigation.

DELIVERY NOTE

Article 146

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 3)

The recipient and deliverer shall sign the certificate of performed delivery (delivery note). The recipient shall write on the delivery note legibly, in letters, the date of receipt.

If the recipient is illiterate or unable to sign, the deliverer shall write out their first and last name and date of receipt in letters, indicating the reason why the recipient did not put their signature.

If the recipient refuses to sign the delivery note, the deliverer shall indicate that on the delivery note and put in letters the date of delivery and thereby it shall be considered that the delivery has been conducted.

If delivery has been conducted in accordance with provision of Article 136, paragraph 2 of this Law, the date and place of leaving the notification from Article 136, paragraph 5 of this Law (mailbox or other visible place) shall be indicated on the delivery note.

If, under provisions of this Law, the writ has been delivered to another person and not to the person to whom the writ should have been served, the deliverer shall indicate on the delivery note the relationship between these two persons.

If the date of the delivery has been incorrectly indicated on the delivery note, the delivery shall be considered conducted on the date when the writ has actually been handed over.

If the delivery note has gone missing, the delivery may be proved in another way.

DELIVERY BY PARTIES

Article 147

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 28)

The party may deliver submission to the adverse party with the consent of the court except for the writs that must be delivered in person.

In the case referred to in paragraph 1 of this Article, the party shall deliver one copy in person to the adverse party in compliance with provisions of this Law prescribing delivery and one copy to the court with the notification that the delivery to the adverse party has already been conducted.

Delivery referred to in paragraph 2 of this Article shall be considered duly performed.

REVIEWING AND TRANSCRIBING FILES

Article 148

Parties shall be entitled to review and transcribe case files related to the litigation in which they participate.

Reviewing and transcribing of certain files may be permitted to other persons who have justified interest to do so.

The judge shall grant permission, or President of the Panel, when the procedure is underway and when the procedure has been terminated it shall be granted by the President of the court or employee of the court designated by them.

TITLE TWELVE

COSTS OF PROCEDURE

LITIGATION COSTS

Article 149

Litigation costs shall include expenses incurred during the procedure or in connection therewith.

Litigation costs shall also include the remuneration for work of attorneys and other persons whose right to remuneration is envisaged by Law.

Article 150

Each party shall individually and in advance bear the costs incurred by their actions.

Article 151

When the party proposes presentation of evidence they shall, pursuant to the court order and in advance, deposit the amount required for covering the costs to be incurred by the presentation of evidence.

The court shall reject presentation of evidence if the amount required for bearing the costs is not deposited within the deadline set by the court.

By way of exception from the provision of paragraph 2 of this Article, if the court orders presentation of evidence ex officio in order to establish facts referring to the application of Article 4, paragraph 3 of this Law and the parties fail to deposit the amount that has been set, the costs of the presentation of evidence shall be paid out from the court funds.

Article 152

The party that has lost the litigation in its entirety shall bear costs of adverse party and their intervener.

If the party was partially successful in the litigation, the court may, depending on the success achieved, order each party to bear their own costs or order one party to bear a proportionate part of costs of the other party and the intervener.

The court may order that one party shall bear all the costs incurred by the adverse party and their intervener if the adverse party failed to succeed in proportionately small part of their claim and no separate costs were incurred in connection to that part.

Based on the outcome of the presentation of evidence, the court shall decide if the costs referred to in Article 151 paragraph 3 of this Law shall be borne by one or both parties or whether these costs shall be borne from court funds.

Article 152a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 29)

When the state prosecutor takes part in the proceedings as a party, they shall have the right to reimbursement of expenses in accordance with this Law, but not the right to a reward.

Article 152b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 051/17 of 03/08/2017, Article 2)
(Correction to the Law on Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 042/19 of 26.07.2019)
(Decision of the Constitutional Court of Montenegro cancelling the Correction to the Law on Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 108/21 of 12.10.2021)

Provisions of this Law on procedural costs shall also apply to parties represented by the Protector of Property and Legal Interests of Montenegro.

In the case referred to in paragraph 1 of this Article, the costs of the procedure include the amount of costs that would be awarded to the party as award for the lawyer.

Funds awarded on the basis of costs referred to in paragraphs 1 and 2 of this Article shall be income of the budget of Montenegro.

Article 153

When deciding on the costs that are to be reimbursed to the party, the court shall take into account only the costs necessary for conducting the litigation. When deciding which costs have been necessary and the amount thereof, the court shall thoroughly evaluate all circumstances.

Rewards and remunerations for the work of attorneys shall be measured up according to the valid tariff.

Article 154

Regardless of the outcome of the litigation, the party shall reimburse costs to the adverse party which have been incurred by their fault or incident that happened to them.

The court may decide that legal representative or proxy of the party reimburse costs to the adverse party which have been incurred by their guilt.

Requests for reimbursement of costs referred to in paragraphs 1 and 2 of this Article shall be determined in a ruling rendered by the court, separately from the decision on the main subject matter.

Article 155

If the defendant has not presented the cause for the complaint, and in response to the complaint or at the preliminary hearing or at the main hearing if the preliminary hearing has not been held, and before starting deliberation on the main subject matter, they acknowledges the statement of claims the plaintiff shall reimburse litigation costs to the defendant.

Article 156

The plaintiff who withdraws the complaint shall reimburse litigation costs to the adverse party, except if the withdrawal occurred immediately after the defendant has met the claim.

The party who waives legal remedy shall reimburse costs to the adverse party incurred with regard to the legal remedy.

Article 157

A judicial settlement shall also contain the agreement on costs.

If the parties fail to reach agreement, each party shall bear their own costs.

The costs of attempted but unsuccessful settlement shall be included in the litigation costs.

Article 158

If the statement of claims is accepted in the dispute on secured right for securing the object and the court finds that the defendant being creditor in the enforcement procedure has had justified reasons to believe that rights of third parties over these objects do not exist, it shall decide that each party bear their costs.

Article 159

Co-litigants shall bear costs in equal shares.

If there is a considerable difference with respect to their share in the disputed matter, the court shall proportionally determine the share of costs to be borne by each co-litigant.

Costs incurred by special litigation actions of individual co-litigants shall fall within responsibility of the other co-litigants.

Co-litigants who are jointly liable for the liability arising from in the main subject matter shall be jointly liable also for the costs awarded to the adverse party.

Article 160

If the appointed predecessor takes the role of the defendant, the original defendant may not file the request for the reimbursement of costs in the litigation from which they have withdrawn.

If the predecessor succeeds in the litigation, they may claim reimbursement of costs of the original defendant as part of their costs.

If the procedure terminates unfavourably for the new defendant, they shall reimburse costs to the plaintiff which the original defendant caused by their actions.

Article 161

At the specific request of the party, the court shall decide on the reimbursement of costs.

The party shall precisely define in their request the costs whose reimbursement is required, enclosing the evidence for the costs incurred unless they are already contained in the case files.

The request for reimbursement of costs shall be filed by the party not later than upon the completion of the deliberation which precedes rendering of the decision on costs and if the decision is to be rendered without a prior deliberation the party shall include the request for reimbursement of costs in the motion to be decided by the court.

The court shall decide on the request for reimbursement of costs either in judgment or in the ruling which concludes the procedure before that court.

In the course of the procedure, the court shall decide on reimbursement of costs by the separate ruling only when the right to the reimbursement of costs does not depend on the decision on the main subject matter.

In the case referred to Article 156 of this Law, if the withdrawal of the complaint or waiver of legal remedy have not taken place at the hearing, the request for reimbursement of costs may be filed within 15 days upon the receipt of the notification on the waiver.

Article 162

When rendering partial judgment or interim judgment, the Court may determine that the decision on costs be left for a later judgment.

Article 163

When the court dismisses or rejects a legal remedy it shall also decide on the costs incurred in the procedure upon the legal remedy.

When the court overrules the decision against which the legal remedy has been filed or reverses that decision and dismisses the complaint it shall decide on the costs of entire procedure.

When the decision against which the legal remedy has been filed is reversed and the case has been remanded the costs of the procedure on legal remedy shall be decided in final decision.

The court may act in accordance with the provision of paragraph 3 of this Article also in the case when it only partially reverses the decision against which legal remedy has been filed.

Article 164

Decision on costs included in the judgment may be contested only by an appeal against the ruling provided that the decision on the main subject matter is not contested at the same time.

If one party contests the judgment only in respect to the costs and the other one in the part related to the main subject matter the higher court shall decide on both legal remedies by one decision.

COSTS INCURRED IN THE PROCEDURE ON PROVISION OF EVIDENCE

Article 165

The party who has filed the motion for provision of evidence shall reimburse costs incurred in the procedure for the provision of evidence. They shall also reimburse costs to the adverse party or the temporarily appointed representative.

The party may subsequently recover those costs as the part of litigation costs depending on the success in the litigation.

EXEMPTION FROM PAYING COSTS OF THE PROCEDURE

Article 166

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 30)

The court shall exempt the party from paying the costs of the procedure if according to their general financial situation the party may not bear the costs without jeopardizing necessary support of themselves and their family.

Exemption from payment of the costs of the procedure shall include exemption from paying court charges and depositing advance payment for the costs of witnesses, expert witnesses, on the spot investigation and court advertisements.

The court may exempt the party only from payment of charges if such payment of charges would considerably reduce resources for supporting the party and their family members.

The decision on exemption from the payment of the costs of procedure shall be rendered by the court within eight days from the date when the request has been filed.

Article 167

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 31)

The decision on exemption from the payment of the costs of procedure shall be rendered by the first instance court at the motion of the party.

Along with the proposal for exemption from payment of the costs of the procedure, the party shall be obliged to state the facts and submit evidence confirming those facts.

When passing a decision on exemption from paying the costs of the procedure, the court shall carefully evaluate all the circumstances, and in particular shall take into account the value of the subject of the dispute, the number of persons supported by the party and the income of the party and their family members.

The court shall assesses the property status of the party referred to in Article 166 paragraph 1 of this Law based on the criteria prescribed by the law regulating free legal aid for a person with poor financial status.

The court can verify the facts and evidence referred to in paragraph 2 of this Article through the free legal aid service in that court.

When necessary, the court may ex officio obtain necessary information and notifications about financial situation of the party requesting exemption and it may also hear the adverse party thereof.

Appeal against the court ruling which approves the motion of the party shall not be allowed.

Article 168

When the party based on their financial situation is not able to bear costs of attorney at law the first instance court shall, at the party's request, order that they be represented by an proxy if that is necessary for protection of party's rights.

The party to whom the proxy has been appointed shall be exempted from paying the actual expenses and remuneration for the appointed proxy.

President of the first instance court shall appoint attorney at the law as an proxy.

An appointed proxy may request to be exempted due to justified reasons and the judge conducting procedure for the case shall decide thereon. Appeal against the decision on exemption of the proxy shall not be allowed.

Article 169

When the party is completely exempted from paying the costs of procedure (Article 166, paragraph 2), as well as in case referred to in Article 168, paragraph 1 of this Law, the advance for the costs for witnesses, expert witnesses, on the spot investigation, issuance of the court advertisement and actual expenses and remuneration of the appointed proxy shall be paid from the court funds.

Article 170

During the procedure, the first instance court may reverse the ruling on exemption from the payment of costs of the procedure and appointment of the proxy if it establishes that the party is able to bear costs of the procedure. In such cases, the court shall decide whether the party shall entirely or partially reimburse costs and charges which they have previously been exempted from, as well as actual expenses and remuneration of appointed proxy.

Amounts advanced from the court funds shall be reimbursed first.

Article 171

Charges and costs advanced from the court funds, as well as actual expenses and remuneration of appointed proxy shall constitute part of litigation costs.

Under provisions on reimbursement of costs, the court shall decide on reimbursement of these costs by the adverse party that has been exempted from the payment of the costs of procedure.

The first instance court shall ex officio collect charges and costs paid from the court funds from the party obliged to reimburse those costs.

If the adverse party, that has been exempted from the payment of the costs of procedure, has been bound to reimburse litigation costs and it is established that they are not able to bear the costs, the court may subsequently order that the costs referred to in paragraph 1 of this Article be entirely or partially paid by the party who has been exempted from the payment of costs of the procedure from the part awarded. Thus, the right of the party to request reimbursement from the adverse party for what they have already paid shall not be affected.

TITLE THIRTEEN

LEGAL AID

Article 172

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 32)

Courts shall provide legal aid to one other in civil procedure.

If the court which was requested to provide legal aid is not competent to conduct the action which it was requested to conduct, it shall pass the request to the competent court or other public authority and notify the court from which it had received the request thereof.

Article 173

Courts shall provide legal aid to foreign courts in cases envisaged by an international treaty and in the event of existence of reciprocity on the provision of legal aid. In case of doubt regarding the existence of reciprocity the Ministry of Justice shall produce explanation.

The court shall deny legal aid to a foreign court if the performance of the action requested is contrary to the public order. In that case the court competent for the provision of legal aid shall ex officio submit the case to the Supreme Court to render final decision.

Provision of Article 172, paragraph 2 of this Law shall apply when handling requests from the foreign court.

Article 174

The courts shall provide legal aid to foreign courts as prescribed by national law. The action, which is the subject of the request of a foreign court, may also be taken in the manner requested by the foreign court if such action is not in contravention with public order.

Article 175

Unless otherwise prescribed by an international treaty, courts shall act on request from foreign courts only if they have been submitted through diplomatic channels and if requests and attachments thereto are composed in the language officially used in the court or if the certified translation to that language is enclosed.

Article 176

Unless otherwise prescribed by international treaty, the requests of the domestic courts for legal aid shall be delivered to foreign courts through diplomatic channels. Requests and attachments thereto shall be composed in the language of the country from which aid is requested or their certified translation in that language shall be enclosed as well.

TITLE FOURTEEN

CONTEMPT OF COURT

Article 177

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 33)

In the course of procedure the court shall impose a fine in the amount of EUR 1 000 on the party, legal representative, proxy or intervener who tend to abuse through their civil actions the rights recognized under this Law.

If the action referred to in paragraph 1 of this Article caused damage to some of the participants, the court shall award the aggrieved party, upon their request, the compensation of damage.

Article 178

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 9)

The court shall impose fine in the amount of EUR 1 000 on a person or other participant in the procedure who insults the court in the submission.

If the person participating in the procedure or person attending the hearing insults the court or other participants in the procedure, impedes the work or fails to obey orders of the judge concerning maintenance of order, the judge shall give warning to them. In case the warning is unsuccessful, the judge shall order the cautioned person to leave the courtroom or impose fine in the amount of EUR 1 000 and they may also order the person to leave and impose the fine on them.

If the party and their proxy are ordered to leave the courtroom, the hearing shall be held in their absence as well. If the proxy in the further course of the procedure carries out activities referred to in paragraphs 1 and 2 of this Article the court may reverse their representation.

When the court imposes fine or orders an attorney or law trainee acting as proxy to leave the courtroom, they shall notify the Bar Association thereof.

Article 179

The court shall impose fine up to the amount of EUR 500 on the proxy authorised for the receipt of writs if in contravention with the provisions of Article 142 of this Law they fail to inform the court about the change of address.

The court shall, at the request of the party, order the proxy for the receipt of writs to reimburse costs incurred by unjustified failure to notify the court about the change of address.

Article 180

The court shall impose fine up to the amount of EUR 500 on persons who obstruct delivery of writs, conscientiously preventing or hampering the application of the provisions of this Law regarding delivery.

The court shall, at the request of the party, order the person referred to in paragraph 1 of this Article to reimburse costs incurred by their behaviour described under paragraph 1.

Article 181

If the duly summoned witness fails to appear as well as to justify their absence or if they leave the place of hearing without permission or justified reason, the court shall order that they be brought in by force, bear the costs of their bringing in and shall fine them with the amount of EUR 500.

If the witness appears and refuses to testify or answer a certain question despite warning of the consequences and the court determines that their reasons for refusal are unjustified, it shall fine them with the amount of up to EUR 500 and if they still refuse to testify, it may order their imprisonment. Imprisonment shall last until the witness consents to testify or until their interrogation becomes unnecessary, but it shall not exceed 30 days.

The court shall, at the request of the party, order the witness to reimburse costs incurred by their unjustified absence or unjustified refusal to testify.

If the witness subsequently justifies their absence, the court shall reverse its ruling on the fine and may exempt the witness entirely or partially from the reimbursement of costs. The court may revoke its ruling on the fine also when the witness subsequently consents to testify.

Article 182

The court shall fine expert witness up to the amount of EUR 500 when they fail to deliver findings and opinions within the set deadline or unjustifiably fails to appear at the hearing, although duly summoned.

The court shall impose the fine referred to in paragraph 1 of this Article on the expert witness who refuses to perform expert evaluation without justified reason.

The court shall, at the request of the party, order the expert to reimburse costs incurred by their failure to submit findings and opinions, unjustified absence or unjustified refusal to perform expert evaluation.

The court may revoke ruling on the fine under the conditions referred to in Article 181, paragraph 4 of this Law.

Provisions of this Article shall accordingly apply to court interpreters.

Article 183

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 34)

If a person who has been fined under the provisions of this Law does not pay the fine within a certain period, the decision on the fine shall be executed in accordance with the law regulating the enforcement procedure.

Article 184

Appeal against the ruling referred to in Articles 177, 178, 179, paragraph 1, Article 181, paragraph 1 and Article 182, paragraph 1 of this Law shall not stay enforcement of the ruling.

Appeal against the ruling referred to in Articles 181 paragraph 2 and 182 paragraph 2 of this Law does not stay the execution of the decision, unless the appeal also challenges the court's decision which did not accept the witness's reasons for denying testimony or answering a particular question, that is, the expert's reasons for denying expert testimony.

Article 185

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 14)

If a person that represents Montenegro i.e. the competent authority of the municipality or in procedure takes action on their behalf impedes order, the court shall notify the competent authority of Montenegro, i.e. municipality, and may postpone the hearing and from the competent authority of Montenegro, and municipal authority require determination of another person to participate in civil procedure.

PART TWO

THE COURSE OF CIVIL PROCEDURE

A. PROCEEDINGS BEFORE THE FIRST INSTANCE COURT

TITLE FIFTEEN

COMPLAINT

Article 186

Civil procedure shall be initiated by filing the complaint (for acting, by determination and transformation).

CONTENT OF THE COMPLAINT

Article 187

(Decision of the Constitutional Court of the Republic of Montenegro determining that the provision of Article 187 paragraph 4 of the Law on Civil Proceedings is not aligned with the Constitution of the Republic of Montenegro and shall cease to be valid on the date of publication of this Decision - Official Gazette of the Republic of Montenegro No. 028/05 of 05.05.2005)

The complaint shall contain the specific claim in respect of the main subject matter and subsidiary claims, facts on which the plaintiff bases their claim, evidence proving those facts and other data that are mandatory for each submission (Article 103).

The court shall act upon the complaint even if the plaintiff has not stated legal basis of their statement of claims and if the plaintiff has stated such legal basis the court shall not be bound by it.

The plaintiff shall attach to their complaint a receipt on the payment of the court charge.

COMPLAINT FILED FOR DETERMINATION

Article 188

The plaintiff may request in the complaint that the court make a determination only as to the existence or non-existence of a right or legal relationship or the authenticity or falsity of a document.

Such complaint may be filed when the special regulations so prescribe, when the plaintiff has legal interest in court's establishing the existence or non-existence of a right or legal relationship or authenticity or falsity of a document before the maturity of the claim arising from that relation.

If the decision on the dispute depends on the existence or non-existence of the right or legal relationship which became disputable in the course of the litigation the plaintiff

may, in addition to the existing claim, file the statement of claims with the court in order for it to determine whether such a relation exists or not if the court conducting the litigation is competent to decide on such a claim.

Claims under paragraph 3 of this Article shall not be considered as an alternation of the complaint.

FILING SEVERAL STATEMENTS OF CLAIMS IN ONE COMPLAINT

Article 189

The plaintiff may state several claims in one complaint against the same defendant when all claims arise from the same factual and legal basis. If the claims do not arise from the same factual and legal basis they may be filed in one complaint against the same defendant only when the same court has subject matter jurisdiction for each of those claims and when the same type of procedure is prescribed for all claims whereby the court finds that filing these statements of claims in one complaint contributes to the efficiency of the procedure (cumulative jointer).

The plaintiff may file two or more interrelated statements of claims in one complaint and request the court to accept the next claim if it finds that the one filed prior to it is not grounded (alternation of claims).

Under paragraph 2 of this Article, the claims may be united in one complaint only if the court has subject matter jurisdiction for each of those claims and if the same type of procedure is prescribed for all claims.

After the judgment on accepting the first claim has been rendered the procedure upon the perspective claim shall cease to run.

COUNTER – CLAIM

Article 190

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 15)

In the response to the complaint and at the preliminary hearing at the latest or at the first deliberation for the main hearing if the preliminary hearing has not been held, the defendant may file the counter-claim if:

1) the counter-claim is related to the statement of claims (connected);

2) if these claims may be reimbursed (compensative);

3) if the counter-claim is filed in order to determine a right or legal relationship on whose existence or non-existence the decision on the statement of claims depends entirely or partially (prejudicial).

The counter-claim may not be filed if the court of another type has subject matter jurisdiction over the counter-claim.

After the hearing referred to in paragraph 1 of this Article the counter-claim may be filed only with the consent granted from the plaintiff.

In the case described in paragraph 1, item 1 of this Article the court may decide to separate the counter-complaint procedure if so required by reasons of effectiveness.

ALTERNATION OF THE COMPLAINT

Article 191

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 16)

The plaintiff may alter the complaint before conclusion of the preliminary hearing at the latest or beginning of the main hearing if the preliminary hearing has not been held. In such case, the court shall be bound to leave the defendant an adequate period for preparation for the hearing on the altered claim if the defendant has not had enough time to do so.

After the preliminary hearing and before conclusion of the main hearing at the latest, the court may permit alternation of the complaint only if it concludes that the purpose of the alternation is not to delay the procedure and if the defendant consents to the alternation.

It shall be considered that the defendant consented to the alternation of the complaint if they present arguments on the main subject matter under the altered complaint, without previously having contested the alternation.

In the case referred to in paragraph 2 of this Article, the court shall permit alternation of the complaint even when the defendant objects to alternation if the plaintiff, without their fault, could not have altered the complaint earlier and the defendant is in a position to present arguments on the altered complaint without causing delay to the main hearing.

If the complaint has been altered at the hearing at which defendant was not present, the court shall postpone the hearing and deliver transcript of the court minutes from the hearing to the defendant.

Appeal against the ruling on permitting the alternation of the complaint shall not be allowed.

Article 192

Alternation of the complaint is modification of the original statement of claims, augmentation of the existing claim or statement of another claim in addition to the existing one.

If the plaintiff alters the complaint in such a way that they, because of circumstances brought about after the complaint has been filed, claims another object or amount of money on the same factual basis the defendant may not object to such alternation.

The complaint shall not be considered altered if the plaintiff altered legal basis of the claim, reduced the claim, or modified, supplemented or rectified certain statements whereby the statement of claims remained unchanged.

Article 193

Under conditions referred to in Article 191 of this Law, the plaintiff may alter their complaint by suing another person instead of the original defendant.

Consent of the person who is to join the litigation instead of the original defendant shall be required for the alternation of the complaint under paragraph 1 of this Article and if the original defendant has already presented arguments on the main subject matter, consent of the defendant shall also be required.

The person joining the litigation instead of the original defendant shall accept the litigation in the state existing at the moment they enter the litigation.

WITHDRAWAL OF THE COMPLAINT

Article 194

The plaintiff may withdraw the complaint without consent of the defendant before the defendant provides response to the complaint.

The complaint may also be withdrawn later, before conclusion of the main hearing if the defendant grants consent thereto. If the defendant does not make statement thereof

within eight days from the date of the receipt of the notification of withdrawal the complaint, it shall be considered that they have consented to withdrawal.

If the complaint has been withdrawn the court shall render ruling which determines that the complaint has been withdrawn. Such ruling shall be delivered to the defendant only if the complaint has been previously delivered to them.

Withdrawn complaint shall be considered as not having been filed and may be filed again.

EXISTENCE OF LITIGATION

Article 195

Litigation shall start to run from the date the complaint is delivered to the defendant.

With respect to the claim put forward by the party in the course of the procedure, the litigation shall start to run from the moment of notification of the adverse party of the claim.

During the course of litigation, a new litigation may not be initiated among the same parties regarding the same claim and if such litigation is initiated the court shall reject the complaint.

The first instance court shall ex officio have due regard to whether another litigation between the same parties regarding the same claim is already underway.

Article 196

If one of the parties alienates an object or the right that is the subject of the litigation, this shall not prevent continuation of the litigation.

The person who acquired the object or the right that is subject of the litigation may enter the procedure as plaintiff or defendant only if the parties grant consent thereto.

In the case referred to in paragraph 1 of this Article, judgment becomes effective either tp the benefit or against the acquirer.

TITLE SIXTEEN

CO - LITIGANTS

Article 197

Several individuals may institute or be subject to civil procedure in one complaint (co-litigants) if:

1) they are in legal relationship with regard to the disputed matter or if their rights and obligations arise from the same factual and legal basis (material co-litigants);
2) subject matter of the dispute are claims or obligations of the same type based on an essentially similar factual and legal basis and if there is subject matter and territorial jurisdiction of the same court for each claim and each defendant (formal co-litigants);
3) this is prescribed by another law.

Before conclusion of the preliminary hearing or deliberation for the main hearing if the preliminary hearing has not been held and under conditions referred to in paragraph 1 of this Article, a new plaintiff may join the plaintiff or the complaint may be extended to include another defendant with their consent.

Person joining the complaint or person to whom the complaint is being extended shall accept the status of the litigation at the date of the joiner.

Article 198

Plaintiff may institute procedure against two or more defendants in one complaint by requesting that the statement of claims be accepted against the subsequent defendant if it has been finally refused with a view to the one who is stated in the complaint before them (subsidiary co-litigation).

Under paragraph 1 of this Article the plaintiff may institute procedure against two or more defendants in one complaint only if they states the same claim against each one of them or states different interrelated claims against each one of them and if the same court has subject matter and territorial jurisdiction for each claim.

Article 199

The person, entirely or partially claiming a matter or a right which is the subject of litigation between other people may sue both parties in one complaint before the court where the procedure is underway before final and enforceable conclusion of the procedure is reached (main intervention).

If the court decides to stay the procedure in the first litigation the judgment by which the claim of the main intervener has been accepted is considered prejudicial.

Article 200

The main debtor and warrantor may be sued together if that it is not in contravention with the substance of their warranty agreement.

Article 201

Each co-litigant shall be independent party in the litigation and their actions or omissions shall neither benefit nor harm other co-litigants.

Article 202

If, according to law or due to the nature of legal relationship, the dispute may be resolved only equally for all co-litigants (joint co-litigants) they shall be considered as one litigant party, so that if certain co-litigants omit a litigation action, the effect of litigation actions taken by other co-litigants shall be extended to include those who have not undertaken these actions.

If co-litigants take different litigation actions, the court shall take into account that action which is the most favourable for them.

Article 203

If deadlines for performing certain litigation action for individual joint co-litigants expire at different times, such litigation action may be commenced by any co-litigant for which the period for commencement of such action is still running.

Article 204

Each co-litigant shall be entitled to file motions regarding the course of the litigation.

TITLE SEVENTEEN

PARTICIPATION OF THIRD PARTIES IN LITIGATION

PARTICIPATION OF INTERVENERS IN LITIGATION

Article 205

A person having legal interest in success of one party in the ongoing litigation between other individuals may join that party.

Intervener may join ongoing litigation before the decision on the statement of claims becomes final and enforceable and during the extraordinary legal remedy procedure.

A statement on joining the litigation may be given by the intervener at the hearing or in the submission.

The submission of intervener shall be delivered to both litigants and if the statement of intervener has been given at the hearing, the transcript of that part of the minutes shall be delivered only to the litigant who failed to appear at the hearing.

Article 206

Each party may contest participation of intervener in the procedure and propose that the participation of the intervener be denied.

Until the ruling on denying participation of an intervener becomes final and enforceable the intervener may participate in the procedure and their litigation actions may not be excluded.

Interlocutory appeal against court decision on accepting participation of intervener shall not be allowed.

Article 207

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 35)

When joining the litigation, the intervener shall accept litigation in the existing state at the moment they joins. In the further course of the litigation, they shall be authorised to file motions and take other litigation actions within time limits in which the party they have joined might take actions.

If the intervener has joined the litigation before the decision on the statement of claims has become final and enforceable they shall also be entitled to file an extraordinary legal remedy.

If the intervener files legal remedy, the copy of that same submission shall also be delivered to the party they have joined.

Litigation actions of the intervener have legal effect on the party they have joined if they do not contravene actions of the party.

After the consent granted by litigants, the intervener may enter the litigation as a party instead of the party they have joined.

Article 207a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 36)

The court in a later litigation based on a party's complaint against an intervener who participated with it in a previous litigation cannot rule against an earlier decision, except when it accepts an objection of negligent handling of the dispute.

The party that was an intervener in the previous litigation shall have the right to object that the party from the previous litigation, with which it participated as an intervener, conducted the previous litigation negligently or that the court failed to deliver summonses, submissions or decisions to it.

The court can accept the complaint referred to in paragraph 2 of this Article, only if the party that intervened in the previous litigation proves that:

1) at the time of entering into that litigation, they were not informed about the litigation in a timely manner and were thus prevented from taking actions that would lead to a more favourable outcome of that litigation;

2) the party from the litigation in which they participated as an intervener, intentionally or due to gross negligence, failed to take litigation actions that would lead to a more favourable outcome of that litigation, and they did not know or could not have known about the possibility of taking them as an intervener in that litigation;

3) the party from that litigation, with its litigation actions, prevented the effect of the actions of its intervenor from taking effect.

If the party referred to in paragraph 1 of this Article, who was an intervener in the previous litigation, succeeds with the objection referred to in paragraph 2 of this Article, the court shall allow the parties to discuss again the factual and legal issues discussed in the previous litigation.

Provisions of paragraphs 1, 2 and 3 of this Article shall accordingly apply to the named predecessor referred to in Article 209 of this Law and to the third party notified of the litigation referred to in Article 210 of this Law.

Article 208

If legal effect of the judgment also applies on the intervener, they shall have the status of joint co-litigant (Article 202).

The intervener with the status of joint co-litigant may file extraordinary legal remedy also in the litigation in which they did not participate as an intervener before the decision on the statement of claims becomes final and enforceable.

Article 208a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 37)

Provisions of this Law on party and litigation capacity and representation of the parties, as well as on submissions by the parties and delivery to the parties shall accordingly apply to the intervener.

APPOINTMENT OF PREDECESSOR

Article 209

The person who has been sued as a proprietor of an object or user of a right, who claims that they holds the object or exercises the right on behalf of a third party may at the preliminary hearing at the latest or if preliminary hearing has not been held then at the main hearing, before presenting arguments on the main subject matter, invite that third party (predecessor) through the court to enter the litigation as a party.

Consent of the plaintiff on entering of the predecessor in the litigation instead of defendant is required only when the plaintiff sets against the defendant such claims that do not depend on whether the defendant has the object or exercises the right on behalf of the predecessor or not.

If the predecessor who has been duly summoned fails to appear at the hearing or refuses to enter the litigation, the defendant may not refuse to enter the litigation.

NOTIFYING THE THIRD PARTY ON LITIGATION PROCEDURE

Article 210

If the defendant or the plaintiff need to notify the third party about the initiated procedure in order to create a certain civil law effect, they can do it at any time before the decision in the procedure becomes final and enforceable by a submission submitted

through the civil court in which they shall indicate the reason for notification and describe the state of the litigation.

The party who has notified the third party on the litigation may not, due to that reason, request the stay of the procedure that has been initiated, prolongation of the deadlines or postponement of the hearing.

TITLE EIGHTEEN

STAY AND SUSPENSION OF PROCEDURE

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 38)

Article 211

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 17)
(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 39)

The procedure shall be stayed if:

1) the party dies;
2) the party loses litigation capacity while having no proxy in that litigation;
3) legal representative of the party dies or their authorisation of representation ceases to be valid, while the party has no proxy in that litigation;
4) the party who is a legal person ceases to exist or when the competent authority validly decides on prohibition of business practice;
5) the motion for initiation of bankruptcy procedure is filed in disputes where the defendant is a bankruptcy debtor;
6) when the legal consequences of opening the liquidation procedure occur;
7) the court ceases to function due to war or other causes;
8) it is so prescribed by another law.

Article 212

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 40)

In addition to the cases explicitly prescribed by this Law, the court shall determine the stay of procedure if:

1) it has decided not to resolve a preliminary matter on its own (Article 14);
2) the party is located in the region from which the court is not accessible due to emergency conditions (flood and the like).

The court may order a stay of the procedure if the decision on the statement of claims depends on whether a criminal or commercial offence prosecutable ex officio has been committed, if it depends on who the offender is and if they are responsible and particularly if there is a doubt that the witness or expert witness has given false testimony or if the document used as evidence is false.

Article 213

All deadlines set for commencing litigation actions shall be terminated during the stay of the procedure.

During the stay of the procedure, the court may not take any actions in the procedure, but if the stay has occurred after the completion of the main hearing the court may render decision on the grounds of that hearing.

Litigation actions taken by one party during the stay of procedure shall not have legal effect on the other party. Their effect shall start only after the procedure has been resumed.

Article 214

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 41)

The procedure stayed due to reasons stated in Article 211, paragraphs 1 through 4 of this Law shall resume when an heir or a trustee of hereditary property, new legal representative, legal successors of a legal person take over the procedure or when the court, at the motion of the adverse party, invites them to do so.

The procedure stayed for the reason specified in Article 211, item 5 of this Law shall continue when the bankruptcy court lifts moratorium.

If the court has stayed the procedure due to the reasons stated in Article 212, paragraph 1, item 1 and paragraph 2 of this Law the procedure shall resume when it is validly concluded before the court or other competent authority or when the court establishes that the reasons for waiting its conclusion cease to exist.

In all other cases, the stayed procedure shall resume at the motion of the party as soon as the reasons for the stay cease to exist.

Deadlines that have ceased to run due to the stay of procedure shall start to run anew for the party concerned from the day when the court delivers the ruling on resumption of the procedure to that party.

Delivery of ruling on resumption of the procedure to the party who did not file the motion for resumption of the procedure shall be conducted in accordance with provisions of Article 136 of this Law.

Article 215

Appeal against the ruling that determines (Article 211) or orders (Article 212) the stay of procedure shall not stay enforcement of the ruling.

If at the hearing the court denies the motion to stay the procedure and decides to immediately continue the procedure, interlocutory appeal against such ruling shall not be allowed.

Article 216

The procedure shall be suspended if the party dies or ceases to exist, if in the dispute it is decided on the rights that are not assigned to their heirs or legal successors.

In the cases referred to in paragraph 1 of this Article, the ruling on suspension of the procedure shall be delivered to the adverse party, heirs, or legal successors of the party after they have been identified.

At the request of the adverse party or ex officio, the court shall appoint temporary representative to the heirs of deceased party to whom it shall deliver the ruling on suspension of the procedure if it establishes that the probate procedure might last longer.

Ruling on suspension of the procedure that has been rendered due to the fact that legal person ceased to exist shall be delivered to the adverse party and legal successor of the legal person if it exits.

Provisions on suspension of the procedure shall accordingly apply to time limits for commencement of certain actions until the ruling on suspension of the procedure becomes final and enforceable.

Article 216a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 42)

The court shall suspend the proceedings in cases prescribed by this Law.

The court shall determine the duration of the suspension by ruling on the suspension of the proceedings.

A separate appeal shall not allowed against the decision on the suspension of the proceedings.

The court shall continue the proceedings ex officio when the reasons that caused the suspension of the proceedings, which led to the decision on the suspension of the proceedings, cease.

When the proceedings are suspended, the court can only undertake those actions for which there is a risk of delay.

Suspension of the proceedings shall not affect the deadlines for taking civil actions.

TITLE NINETEEN

EVIDENCE AND PRESENTATION OF EVIDENCE

GENERAL PROVISIONS

Article 217

Each party shall present facts and propose evidence which serve as a basis for their claim or which serve to contest statements and evidence of the adverse party.

Presentation of evidence includes all facts that are important for rendering the decision.

The court shall determine which evidence shall be presented for the purpose of establishing relevant facts.

Article 218

Generally known facts and facts known to the court in performance of its function need not be proved.

Facts admitted by the party during litigation need not be proved, but the court may order that these facts also be proved if it finds that the parties by admitting them tend to dispose of claims of which they cannot dispose (Article 4 paragraph 3).

Taking into consideration all the circumstances, the court shall establish whether the fact that was first admitted and later entirely or partially denied by the party shall be considered as admitted or contested and whether it restricted confession by adding other facts.

Facts presumed under the law need not be proved, however non-existence of these facts may be subject to proving, unless otherwise prescribed by law.

Article 219

If the court, based on presented evidence (Article 9), may not determine a fact with certainty, it shall decide on the existence of that fact by applying rules on the burden of proof.

The party that claims a right bears the burden of proof of the fact, which is relevant for its qualification or exercise, unless otherwise prescribed by law.

The party that contests existence of a right bears the burden of proof of the fact which has prevented its qualification or exercise or during which it has ceased to exist, unless otherwise prescribed by law.

Article 220

If it is established that a party is entitled to the compensation of damages, monetary sum or things that are replaceable, but the amount of money or the quantity of things may not be precisely determined or might be determined only with disproportionate difficulties, the court shall decide on the matter according to its own evaluation.

Article 220a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 43)

If the complete clarification of the circumstances on which the decision on some of the several outstanding claims in the same complaint depends, which are insignificant in relation to the total amount of all the outstanding claims, is connected with difficulties that are disproportionate to the importance of the outstanding claims, the court may decide based on a free assessment, taking into account the already explained circumstances of the case and the collected evidence, especially the documents submitted by the parties, as well as their statements if the court has heard them.

Article 220b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 43)

In disputes where the value of the subject of the dispute in the proceedings before the basic courts does not exceed EUR 1 000, i.e. in the proceedings before the commercial courts EUR 7 000, the court may, if it assesses that the establishment of facts important for the resolution of the dispute could be associated with disproportionate difficulties and costs, the existence of those facts to determine based on a free assessment, taking into account the documents submitted by the parties, as well as their statements, if the court produced evidence by hearing the parties.

Article 221

Evidence shall be presented at the main hearing.

The court may decide that certain pieces of evidence be presented before another court (requested court). In such case, the minutes of the presented evidence shall be read at the main hearing.

When the court decides that a piece of evidence be presented before the requested court, the request for presentation of evidence shall describe status of the matter according to the information from the case files with particular emphasis on circumstances which require special attention during the presentation of evidence.

Parties shall be informed about the hearing for presentation of evidence before the requested court.

During the presentation of evidence, the requested court shall have the same powers as the requesting court during the presentation of evidence at the main hearing.

Interlocutory appeal against the court ruling, which entrusts the hearing of evidence to the requested court, shall not be allowed.

Article 222

If, due to circumstances, it may be assumed that presentation of evidence would not be possible within reasonable time frame or if the evidence is to be presented abroad the court shall determine by its ruling on the presentation of evidence the deadline for the presentation of evidence.

After the set deadline has expired, the hearing shall be conducted regardless of the fact that the evidence has not been presented.

ON-THE-SPOT INVESTIGATION

Article 223

On-the-spot investigation shall be conducted when the direct observation of the court is required for the determination of a fact or clarification of a circumstance.

On-the-spot investigation may be conducted with the participation of expert witnesses.

Article 224

If the object that needs to be investigated may not be brought before the court or its bringing would incur significant costs the court shall conduct on-the-spot investigation and take down the minutes thereon.

Article 225

If the object kept by one of the parties or the third party is to be investigated, provisions of this Law on obtaining documents from parties or third parties shall accordingly apply.

DOCUMENTS

Article 226

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 18)

A document issued in the prescribed form by a public authority within the limits of its competence, i.e. institution or other legal entity under public authority entrusted by law (public document) proves authenticity of what is confirmed or determined by it.

The same evidential value shall be granted to other documents that have under special regulations been granted the same status as public documents in terms of evidential value.

It shall be allowed to prove that the facts in the public document have been falsely established or that the document has been issued irregularly.

Should the authenticity of the document be brought in question by the court, it may request from the authority from which it originates to make a statement in that regard.

Article 227

Unless otherwise prescribed by international treaty, foreign public documents that have been duly certified and also meet the condition of reciprocity shall have the same evidential value as domestic public documents.

Article 228

The party shall submit by themselves the document proposed as evidence in support of their statements.

The document composed in a foreign language shall be submitted with a certified translation by a permanent court translator.

If the document is in the possession of a public authority or a legal person exercising public power and the very party may not have the document either submitted or presented the court shall, at the request of the party, obtain such document.

Article 229

When one party proposes the document and claims it is in the possession of another party, the court shall order that party to submit the document within a set deadline.

The party may not refuse to submit the document if they had proposed that document as the evidence corroborating their statements in the litigation or if their obligation to submit or present the document in question is prescribed by law or if the document, according to its content, is considered to be common for both parties.

With respect to the right of the party to refuse to submit other documents, provisions of Articles 233 and 234 of this Law shall apply accordingly.

When the party that is requested to submit the document denies possession of the document, the court may hear evidence in order to determine that fact.

Taking into consideration all the circumstances, the court shall, based on its own evaluation, determine relevance of the party's refusal to act upon the ruling of the court which requires submission of the document or their denial of possession of the document despite contrary opinion of the court.

Interlocutory appeal against court decision referred to in paragraph 1 of this Article shall not be allowed.

Article 230

At the request of the party, the court may order the third party to present the document that serves as proof to determine a relevant fact. The third party may deny presentation of the document under provisions of Articles 233 and 234 of this Law shall apply accordingly.

Before issuance of the decision as to which third party is required to bring the document, the court shall invite the third party to make statement on the matter.

If the third party denies their obligation to present the document in their possession, the court shall decide whether the third party is obliged to present the document.

If the third party denies possession of the document, the court may decide to hear the evidence in order to establish that fact.

Final and enforceable ruling on obligation of the third party to present the document may be enforced through the competent court according to the enforcement procedure rules.

The third party shall be entitled to reimbursement of costs incurred as a result of the presentation of documents. Provisions of Article 242 of this Law shall apply accordingly in such case.

WITNESSES

Article 231

Any person summoned as a witness shall respond to the summons and, unless otherwise prescribed by this Law, they shall testify.

Only persons capable of giving information about the facts that are being proved may be interrogated as witnesses.

A child may be heard as a witness if the court based on the opinion of a competent authority or expert finds that they are capable of testifying.

Article 232

If the person, by giving testimony, would breach their duty to keep an official, state or military secret, they may not be heard as witness until the competent authority discharges them from that duty.

Article 233

Witness may refuse to testify on:

1) what has been divulged to them by a party, in their capacity of proxy of the party;
2) what has been confessed to them by the party or another person, in their capacity of a religious confessor;
3) facts learnt by the witness in their capacity of an attorney at law or doctor or during the exercise of some other occupation or some other business if there is an obligation to keep as secret the matters learnt in the exercise of that occupation or business.

The court shall instruct those persons that they may refuse to testify.

Article 234

Witness may refuse to answer particular questions if there are justified reasons and particularly if such answer would cause severe disgrace, considerable property damage or criminal prosecution to them, their blood relatives in the direct line up to any degree and in the lateral line up to and including the third degree, their marital or non-marital partner or in-laws up to and including the second degree even if the marriage has ended, as well as their guardian or person under guardianship, adoptive parent or adopted child.

The court shall inform the witness that they may refuse to answer the question that has been put.

Article 235

The witness may not refuse to testify, based on potential property damage, on legal actions to which they was present as invited witness, on actions which they had undertaken in respect to the dispute as legal predecessor or representative of one of the parties, on the facts related to the property relations conditioned by family or marriage relations, on the facts that are related to birth, marriage or death or when they are bound under special regulations to report or make a statement.

Article 236

Justifiability of reasons for refusing to testify or answer certain questions shall be evaluated by the court before which the witness is to testify. Where necessary, the parties shall be previously heard thereof.

Parties shall not be entitled to file interlocutory appeal against the ruling referred to in paragraph 1 of this Article, while the witness may contest the ruling in an appeal against the ruling on the fine or imprisonment they was imposed because of their denying to testify or give the requested answer (Article 181, paragraph 2).

Article 237

The party proposing a certain person to be heard as witness shall in advance state the subject of that person’s testimony, their name, surname, and the place of temporary residence.

Article 238

Witnesses shall be summoned by delivery of written summons which indicate the name and surname, occupation of the summoned, time and place of the hearing, the note on the case for which they are summoned and an indication that they are summoned in the capacity of a witness. The summons shall contain warning of the witness in terms of the consequences of their unjustified absence (Article 181) and their right to the reimbursement of costs (Article 242).

Juvenile who has not turned 16 years of age shall be summoned as a witness through parents or legal representatives.

Witnesses who may not respond to the summons due to their age, illness or serious physical disabilities may be heard in their dwelling or premises in which they reside.

Article 239

Witnesses shall be heard individually without presence of those witnesses who shall be heard afterwards. Witness shall answer verbally.

The witness shall first be informed about the obligation to speak the truth and not to withhold anything and thereupon they shall be warned of the consequences of giving a false testimony.

The witness shall then be asked about their name and surname, father's name, occupation, place of temporary residence, place of birth, age and their relation with the parties.

Article 240

Following general questions, witness shall be examined to present everything about facts they are to testify about and then they may be asked questions for the purpose of verification, supplementation or clarification. It is not allowed to pose the question formulated in such way to already contain the desired response.

The witness shall always be asked how they have learnt the facts they are testifying about.

Witnesses may be confronted with each other if relevant facts from their statements are in conflict. . Confronted witnesses shall be heard one by one about each fact on which they do not agree and their response shall be included in the minutes.

Article 241

The witness who does not speak the language in which the procedure is conducted shall be interrogated with assistance of an interpreter.

If the witness is deaf, the questions shall be put in writing and if they are dumb, they shall be required to answer in writing. If the hearing cannot be conducted in this manner, a person that can communicate with the witness shall be invited to act as interpreter.

The court shall warn interpreter of their duty of accurate interpretation of the questions addressed to the witness as well as the statements given by the witness.

Article 242

The witness shall be entitled to the reimbursement of travel costs, costs for food and overnight stay as well as the compensation of the loss of earnings.

The witness should request reimbursement and where applicable the compensation for the loss of earning immediately after the hearing, otherwise they shall lose this right. The court shall inform the witness thereof.

In the ruling on determining the costs of witness the court shall determine that the set amount be paid from the deposited advance payment and if the advance payment has not been deposited the party shall be ordered to pay certain amount to the witness within eight days. Appeal against such ruling shall not stay enforcement of the ruling.

EXPERT WITNESSES

Article 243

The court may decide to hear expert witnesses when the expertise which the court does not have is necessary for establishment or clarification of a fact.

Article 244

The party proposing expert evaluation shall indicate the subject and scope of expert evaluation in the proposal and shall also propose the person from the list of certified expert witnesses who shall provide expert evaluation.

The adverse party shall make statement on the proposed expert witness.

If the parties fail to reach agreement on the person to be appointed as the expert witness and on the subject and scope of the expert evaluation, the court shall make decision thereon.

Regardless of the agreement between parties, the court may designate other expert if it finds the examination a complex one.

Article 245

Expert evaluation shall be preformed by one expert witness, but if the court finds the examination to be a complex one, it can designate more expert witnesses.

Expert witnesses shall predominantly be appointed from among certified court experts for a specific type of expert evaluation.

More complex expert evaluation may also be entrusted with professional institutions (hospital, chemical laboratory, university, and the like).

If there are institutions specialised in specific types of expert evaluation (expert evaluation of counterfeit money, handwriting, typewriting and the like) such expert evaluations shall predominantly be entrusted with these institutions.

Article 246

Expert witnesses shall respond to the court summons and state their findings and opinion.

The court shall exempt expert witness from the duty of providing expert evaluation, at their request, for reasons for which a witness may refuse to testify or give answer to a specific question.

The court may also exempt expert witness from the duty of providing expert evaluation, at their request, for other justified reasons. Exemption from the duty of expert evaluation may also be requested by an authorised employee of the authority or organisation where the expert witness is employed.

Article 247

Expert witness may be exempted for the same reasons for which the judge may be exempted, but exceptionally a person who has already testified as witness may be taken as expert witness.

The party may file the request for exemption of expert witness as soon as they learns that there is a reason for exemption and at the latest before the beginning of presentation of evidence in expert evaluation.

The party shall indicate in their request for exemption the circumstances on which they grounds the request for exemption.

The court shall decide on the request for exemption.

Appeal against the ruling which grants exemption shall not be allowed and interlocutory appeal against the ruling which denies the request shall not be allowed.

If the party has learned about the reason for exemption after the performance of expert evaluation and objects expert evaluation for that reason, the court shall act as if the request for exemption has been filed prior to the expert evaluation.

Article 248

Expert witness shall be entitled to the reimbursement of travel costs, costs for food and overnight stay, compensation of the loss of earning and costs of expert evaluation as well as the right to remuneration for conducted expert evaluation.

Provisions of Article 242, paragraphs 2 and 3 of this Law shall apply accordingly to the reimbursement of costs and remuneration of witness expert. 2 and 3 of this Law shall apply accordingly.

Article 249

The court shall, by a ruling, decide to hear expert evaluation that contains the following: the name, surname and occupation of expert witness, disputed matter, scope and subject of expert evaluation and deadlines for filing the findings and opinion in writing.

Article 250

Expert witness shall be always summoned to the deliberation for the main hearing.

Transcript of the ruling referred to in Article 249 of this Law shall be delivered to the expert witness, together with the summons for the main hearing.

In the summons, the court shall advise the expert witness that they shall present their opinion conscientiously and in accordance with the rules of science and profession and warn them of consequences of the failure to deliver findings and opinion within the set deadline or unjustified absence from the hearing, as well as of the right to the remuneration and reimbursement of costs.

Article 251

Unless the court determines otherwise, the expert witness shall always submit to the court their written findings and opinion before the hearing.

The expert witness shall always elaborate their opinion.

Article 252

If the expert witness fails to deliver findings and opinion within the set deadline, the court shall designate another expert witness after expiry of the deadline left to the parties to state their opinion on this matter in writing.

If the expert witness submits findings or opinion which are unclear, incomplete, or contradictory to themselves or to other presented evidence, the court shall invite the expert witness to supplement or correct them and set the deadline for re-submission of findings and opinion.

If the expert witness fails to submit complete and understandable findings and opinion even upon the court invitation, the court shall after having heard opinion of the parties designate another expert witness.

Article 253

The court shall deliver expert witness findings and opinion to the parties in writing at least eight days before deliberation for the main hearing.

Article 254

Deliberation for the main hearing shall be held even if the expert witness fails to appear at the hearing.

By way of exception referred to in paragraph 1 of this Article, should the court find presence of the expert witness at the hearing essential for the clarification or supplementation of their findings and opinion it may, on proposal of the party, postpone the hearing and schedule a new one to which the expert shall be re-summoned.

Article 255

The court shall allow the expert witness to examine case files as well as to interrogate parties and other participants with regard to the subject of expert evaluation.

Article 256

If several expert witnesses are designated to testify, they may submit their shared findings and opinions if they agree in the findings and opinions. If findings and opinions of expert witnesses are not in agreement each expert shall submit their own report separately.

If the expert opinions substantially differ or if their finding is unclear, incomplete and in contradiction with themselves or with the adduced circumstances and those faults cannot be removed by repeated hearing of the expert witnesses, the expert evaluation shall be repeated by the same or other experts.

If contradictions or faults are found in the opinion of several expert witnesses or a reasonable suspicion in the regularity of the given opinion arises and the suspicion and faults cannot be removed by repeated hearing of the expert witnesses, opinions of other expert witnesses shall be sought.

Article 257

Appeal against the court ruling under Articles 249 and 252 of this Law shall not be allowed.

Article 258

Provisions on the hearing of witnesses shall apply accordingly to hearing of the expert witnesses unless provisions of this Law prescribe otherwise.

Article 259

Provisions on expert evaluation shall accordingly apply to court interpreters.

HEARING THE PARTIES

Article 260

On proposal of the party, the court may order the presentation of evidence by hearing the parties.

Article 261

If the court is assured that the party or the person who is to be heard as the party is not acquainted with disputed facts or if the hearing of that party is not possible it may decide to hear the other party only.

The court shall decide that only one party is to be heard even if the other party refuses to give testimony or does not respond to court summons.

Article 262

The legal representative shall be heard for the party without litigation capacity. Where possible, the court may decide that instead of or in addition to the legal representative the party also is heard.

The person appointed for representation of the legal person under law or general act shall be heard on behalf of that legal person.

If several persons take part as one party to the dispute the court shall decide whether to hear all of them or only some of them.

Article 263

Summons to the hearing shall be delivered to the proxy of the party who shall communicate it to the party or if the party does not have the proxy, it shall be delivered to the party personally or to the person who shall be heard on behalf of the party.

Summons shall indicate that the evidence shall be presented by interrogating parties at the hearing and that the party present at the hearing shall be heard regardless the absence of the other party.

Article 264

Coercive measures may not be applied against the party who fails to respond to the court summons for the hearing, nor may the party be forced to give testimony.

Article 265

Provisions on the presentation of evidence by hearing witnesses shall also apply to the presentation of evidence by hearing the parties, unless otherwise prescribed for the hearing the parties.

TITLE TWENTY

PROVISION OF EVIDENCE

Article 266

In case of justified belief that a piece of evidence shall not be available for presentation or that its later presentation may be hindered it may be proposed that such evidence be presented in the course of and prior to instituting the litigation.

Provision of evidence may also be requested prior to or in the course of the procedure for reopening instituted upon motion.

Article 267

If the motion for the provision of evidence has been filed in the course of civil procedure, the court conducting this procedure shall be competent to act.

When the provision of evidence is required before initiation of the procedure, as well as in emergency cases if the litigation procedure is already underway, the competent court shall be the first instance court on whose territory objects to be examined or persons to be interrogated are located.

Article 268

In the submission on request for the provision of evidence, the applicant shall indicate facts to be proved, evidence to be presented and reasons for believing that the later presentation of evidence shall not be possible or that the presentation shall be hindered. Name and surname of the adverse party shall be given in the submission unless, under the circumstances, it may be concluded that they are unknown.

Article 269

The submission containing motion for the provision of evidence shall be delivered to the adverse party if they are known. If there is a danger of delay, the court shall decide on the motion without having previously requested the adverse party to make statement.

In the ruling on acceptance of the motion, the court shall schedule the hearing for the provision of evidence, indicate facts in relation to which the evidence shall be presented and shall also indicate the evidence to be presented.

If the submission containing motion for the provision of evidence has not been previously delivered to the adverse party, it shall be delivered together with the court ruling on acceptance of the motion for the provision of evidence.

The court may appoint temporary representative for the adverse party who is unknown or whose place of temporary residence is not known for the purpose of their participating at the hearing for the presentation of evidence (Article 82). This appointment need not be announced.

In emergency cases, the court may decide to start hearing the evidence before the ruling on acceptance of the motion for the provision of evidence has been delivered to the adverse party.

Appeal against the court ruling on acceptance of the motion for the provision of evidence or appeal against the ruling to start hearing the evidence prior to having delivered ruling to the adverse party shall not be allowed.

Article 270

In case the evidence has been presented before the procedure has been initiated the minutes on the presentation of evidence shall be kept at the court where they were presented.

If the procedure is underway and the court conducting the procedure did not conduct the procedure for the provision of evidence, the minutes shall be forwarded to that court.

TITLE TWENTY-ONE

PREPARATION FOR THE MAIN HEARING

GENERAL PROVISIONS

Article 271

The court shall start preparations for the main hearing immediately upon receipt of the complaint.

These preparations shall include initial examination of the complaint, delivery of the complaint to the defendant for mandatory response, holding preliminary hearing and scheduling the main hearing.

During the preparation for the main hearing, the parties may submit submissions in which they indicate facts and evidence whose presentation they intend to propose.

Article 272

During the preparation for the main hearing, before the main hearing is held, the court is authorised to decide on:

1) predecessor's entry into the dispute;
2) participation of intervener;
3) provision of evidence;
4) alteration of complaint;
5) withdrawal of complaint;
6) stay of the procedure;
7) temporary security measures;
8) merging and separating cases;
9) setting the court's deadlines and their extension;
10) scheduling and postponement of hearings;
11) return to the previous stage;
12) exemption of the party from paying the costs of the procedure;
13) provision of litigation costs;
14) depositing an amount to bear costs of certain litigation actions;
15) appointing expert witness;
16) appointing temporary representative;
17) delivery of court writs;
18) measures for the correction of submissions;
19) validity of authorisations, and
20) all matters related to conducting the procedure.

Appeal against decisions made in preparation for the main hearing which are related to conducting the procedure shall not be allowed.

Article 273

In the course of preparations for the main hearing the court may render judgment based on confession, judgment based on waiver and default judgment and register settlement of the parties in the minutes.

PRELIMINARY EXAMINATION OF THE COMPLAINT

Article 274

After the preliminary examination of the complaint the court renders rulings under Article 272 of this Law, unless it is about matters that by nature or by provisions of this Law may be decided only in the further procedure.

Article 275

If the court finds that the complaint is either incomprehensible or incomplete or that there are defects concerning capacity of the plaintiff or defendant to act as a party to the procedure or defects concerning legal representation of the party or defects concerning authorisation of the representative to institute litigation when such authorisation is needed, it shall take necessary actions prescribed by this Law in order to remedy defects (Article 81 and 106).

Article 276

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 10)

After the preliminary examination of the complaint the court shall render ruling on rejection of the complaint if it finds that:

1) adjudication of the statement of claims does not fall within the competence of the court;
2) parties have agreed upon arbitration;
3) the complaint has not been filed within the prescribed deadline if special regulations prescribe deadline for filing such complaint;
4) litigation concerning the same claim is underway;
5) final and enforceable judgment has been rendered on the subject matter;
6) judicial settlement has been reached on the disputed matter, the plaintiff has waived their statement of claims before the court, there is no legal interest of the plaintiff for filing the complaint for determination and the plaintiff failed to remedy defects referred to in Article 81 and 106 of this Law within the required deadlines set by the court.
7) that the party, before starting the dispute before the court, did not, in accordance with the obligation prescribed by a special law, turn to the competent authority for the purpose of out-of-court settlement of the dispute.

The court shall render ruling to declare that it is not competent and shall forward the case to a different court if it finds that it does not either have territorial or subject matter jurisdiction to adjudicate the case.

Article 277

If the court finds that there is insufficient information to render decision on the matter raised in the course of the preliminary examination of the complaint it shall decide on that matter when it receives the response to the complaint or at the preliminary hearing, or at the deliberation for the main hearing if the preliminary hearing has not been held.

RESPONSE TO THE COMPLAINT

Article 278

The complaint with attachments thereto shall be delivered to the defendant for response within 30 days after the day of receipt of a correct and complete complaint by the court.

Article 279

After receipt of the complaint with attachments, thereto the defendant shall provide written response to the complaint to the court within 30 days.

When serving the defendant with the complaint, the court shall inform the defendant about their obligation referred to in paragraph 1 of this Article, required contents of the response to the complaint and consequences of not responding to the complaint within the set deadline.

Article 280

In response to the complaint, the defendant shall state possible procedural objections and make statement as to whether they accepts or contests the claim put forth in the complaint and indicate all other information that every written submission shall contain (Article 103).

If the statement of claims is contested by the defendant, response to the complaint shall also contain facts on which their position is grounded and evidence corroborating those facts.

Article 281

When the court finds that response to the complaint is incomprehensible or incomplete it shall proceed in accordance with Article 106 of this Law in order to remedy defects.

Article 282

If, after receipt of response to the complaint, the court finds that there are no disputable facts between the parties and that there are no any other obstacles for rendering decision it may render decision on the dispute without scheduling the hearing.

Article 283

If the court, upon receipt of the response to the complaint, finds that the facts stated in the complaint do not constitute basis for the statement of claims it shall render decision by which it shall dismiss the statement of claims.

For the purpose of paragraph 1 of this Article, the statement of claims is not grounded if it is evidently in contravention with the facts stated in the complaint or if the facts on which the statement of claims is grounded are evidently in contravention with the evidence proposed by the plaintiff themselves or with the facts which are commonly known.

Article 283a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 44)

The court may decide on the dispute based on submissions and attached evidence without a main hearing, if the parties agree about it in writing.

Article 283b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 44)

If a large number of complaints have been submitted to the court in which the claims are based on the same or similar factual situation and the same legal basis, the court may, after receiving the response to the complaint, conduct the proceedings on the basis of one complaint, and stop the other proceedings until the judgment rendered on the complaint becomes final. the basis on which the procedure was carried out.

After the judgment referred to in paragraph 1 of this Article becomes final, the court shall decide in the proceedings with which it has stopped as in that final judgment.

A party that had the opportunity to participate in the procedure referred to in paragraph 1 of this Article, in the proceedings with which it has been stopped, cannot dispute the factual situation that it established, that is, the legal positions taken by the court in the procedure referred to in paragraph 1 of this article.

The procedure referred to in paragraph 1 of this Article shall be urgent.

PRELIMINARY HEARING

Article 284

The court shall schedule preliminary hearing after receipt of response to the complaint.

If the defendant failed to deliver response to the complaint and there are no grounds for rendering default judgment the court shall schedule preliminary hearing after expiry of the deadline set for filing response to the complaint.

As a rule, the preliminary hearing shall be held within 30 days after delivery of the written response to the complaint by the defendant.

Article 285

Preliminary hearing shall be mandatory except in cases where the court, after having received the complaint and response to the complaint, determines that there are no disputable facts between the parties (Article 282) or when the preliminary hearing is unnecessary due to the simplicity of the case.

Article 286

In the summons for the preliminary hearing, the court shall inform the parties about consequences should they fail to appear at the preliminary hearing and that they are obliged at the preliminary hearing at the latest to present all facts on which their claims are based and propose all the evidence that they want to present in the course of procedure and shall also inform them about their obligation to bring to the hearing all the documents and items they want to use as evidence.

Summons to the preliminary hearing shall be delivered to the parties at the latest eight days before the hearing.

Article 287

Preliminary hearing shall start with a brief presentation of the complaint by the plaintiff to be followed by brief response to the complaint by the defendant.

When required, the court shall demand from parties to clarify their statements and proposals.

Article 288

Matters related to any obstacles to further course of the procedure shall be heard after the presentation of the complaint and response to the complaint. Evidence related to these matters may be presented at the preliminary hearing when necessary.

Upon objection of the party or ex officio the court shall decide on matters referred to in Article 276 of this Law unless otherwise prescribed by provisions of this Law.

If the court does not accept objection regarding existence of an obstacle for further course of the procedure, the decision on the objection shall be rendered at the same time as the decision on the main subject matter, except if the objection refers to territorial jurisdiction.

Interlocutory appeal against the decision referred to in paragraph 3 of this Article shall not be allowed.

Article 288a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 45)

By asking questions and in other expedient ways, the court shall try to present all decisive facts during the preliminary hearing, to supplement the incomplete statements of the parties about important facts, to state or supplement the means of evidence related to the statements of the parties, and to provide all the clarifications necessary for establishing factual situation important for decision-making.

Article 289

In the further course of the preliminary hearing, the proposals by parties and statement of facts on which proposals of the parties have been grounded are discussed.

Article 290

On the basis of the results of deliberations at the preliminary hearing the court shall decide on the matters to be discussed and the evidence to be presented at the main hearing.

The court shall reject motions which it does not hold necessary for rendering the decision and state the reasons for the rejection in the ruling.

Interlocutory appeal against the ruling referred to in paragraph 2 of this Article shall not be allowed.

In the further course of the procedure, the court shall not be bound by its previous rulings referred to in this Article.

Article 291

If the court, on motion of the party, orders hearing of the expert witness and delivery of expert findings and opinion, it shall set the deadline for the expert witness to do so.

When setting this deadline the court shall take into consideration that the expert witness` written findings and opinion shall be delivered to the parties no later than eight days before the main hearing.

Article 292

If there are several ongoing litigations before the same court involving the same parties or involving one person as the adverse party of different plaintiffs or different defendants the court may by the ruling merge all litigations for joint deliberation if that would contribute to a speedier deliberation or to a decrease of the costs. All merged cases shall be decided by a single judgment.

The court may determine that certain claims from the same complaint be deliberated separately and upon completion of separate deliberation it shall render separate decisions on those claims.

As a rule, the rulings referred to in paragraphs 1 and 2 of this Article may be rendered at the preliminary hearing at the latest or by the beginning of the main hearing if the preliminary hearing has not been held.

Interlocutory appeal against these rulings shall not be allowed.

Article 293

Complaint shall be considered withdrawn if the plaintiff who has been duly summoned fails to appear at the preliminary hearing unless the defendant requests the hearing to be held.

If duly summoned defendant fails to appear at the preliminary hearing, the deliberation shall be held with the plaintiff.

Article 294

Authorisations of the court at the preliminary hearing regarding management of the procedure shall be the same as at the main hearing.

SCHEDULING THE MAIN HEARING

Article 295

At the preliminary hearing, the court ruling shall determine the following: date and hour of the main hearing, matters to be deliberated, evidence to be presented by each of the parties and persons to be summoned to the main hearing.

As a rule, the main hearing shall be held within 60 days after the preliminary hearing at the latest.

The court may also order the main hearing to be held immediately after the preliminary hearing.

If the court finds that the main hearing shall last more than one day the deliberation shall be scheduled for the number of consecutive days necessary to finalise the hearing in continuation.

Article 296

Parties present at the preliminary hearing shall be informed about content of the ruling referred to in Article 295, paragraph 1 of this Law and the ruling and summons for the main hearing shall not be delivered to them.

The court shall also warn parties of the consequences of their failure to appear at the main hearing.

Article 297

Parties that were not present at the preliminary hearing and witnesses and expert witnesses whom the court decided to summon at the preliminary hearing shall be summoned by the court to the deliberation for the main hearing.

In the summons for the main hearing, the court shall warn the invited parties of the consequences of their failure to appear at the hearing.

Certified transcript of the minutes shall be delivered to the party who was absent from the preliminary hearing together with the summons for the main hearing.

TITLE TWENTY-TWO

MAIN HEARING

COURSE OF THE MAIN HEARING

Article 298

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 46)

The judge shall open the main hearing and announce subject of the deliberation.

After that, the judge shall verify whether all the summoned persons have appeared and in case of absence the judge shall verify whether the absent persons have been duly summoned and whether they have justified reason to be absent.

If duly summoned plaintiff fails to appear without justified reason at the deliberation for the main hearing it shall be considered that they have withdrawn the complaint unless the defendant presents arguments at such a hearing.

If duly summoned defendant fails to appear at the deliberation for the main hearing, the hearing shall be held without their presence.

Article 299

Upon objection of the party or ex officio, the court shall first determine if there are procedural obstacles for further procedure and proceed in accordance with Article 276 of this Law unless otherwise prescribed by provisions of this Law.

If the court does not accept objection referred to in paragraph 1 of this Article, the ruling on the objection shall be rendered together with the ruling on the main subject matter regardless of whether it was discussed separately or together with the main subject matter.

Interlocutory appeal against the decision on rejecting objection of the party referred to in paragraph 1 of this Article shall not be allowed.

Article 300

If the preliminary hearing has not been previously held, the first deliberation for the main hearing shall start with concise presentation of the complaint followed by concise response of the defendant to the statements contained in the complaint.

In the further course of the procedure, the court shall determine by its ruling which evidence shall be presented at the main hearing.

The court shall dismiss the proposed evidence which it does not consider relevant for rendering the decision and shall also indicate in the ruling the reasons for such dismissal.

Interlocutory appeal against the ruling, which either orders or dismisses presentation of evidence, shall not be allowed.

In the further course of litigation, the court shall not be bound by its previous ruling on the presentation of evidence.

Article 301

If the preliminary hearing has been held, the evidence presented at the main hearing shall be those whose presentation has been ordered by court ruling at that hearing.

Article 302

Procedure at the main hearing shall be verbal and the evidence shall be presented directly before the court unless otherwise prescribed by this Law.

Article 303

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 47)

Parties may present new facts and propose new evidence in the course of the main hearing only if they satisfy the court that, without their fault, they could not have presented or proposed them at the preliminary hearing, i.e. at the first hearing of the main hearing if the preparatory hearing was not held.

The court shall not take into account new facts and new evidence presented by the parties, that is, proposed contrary to the provisions of paragraph 1 of this Article.

Article 304

The party and their representative or proxy may, upon approval of the court, pose direct questions to the adverse party, witnesses, and expert witnesses.

The court shall prohibit the party to pose a particular question or shall prohibit answering to a particular question if the question implies the answer or if the question is not related to the case.

At the request of the party, the question prohibited by the court shall be registered in the court minutes, as well as the question to which the answer has been banned.

Article 305

The already heard witnesses and expert witnesses shall stay in the courtroom unless the court after consulting the parties fully dismisses them or orders that they temporarily leave the courtroom.

The court may order that the already heard witnesses be later called again and heard one more time either in presence or absence of other witnesses or expert witnesses.

Article 306

After presentation of all the evidence, parties starting from the plaintiff shall be entitled to address the court with the closing statement which summarises legal and factual aspects of the case. The court may allow the plaintiff to express themselves briefly regarding closing statement of the defendant. If the plaintiff is allowed to express themselves regarding closing statement of the defendant, then defendant is also entitled to express themselves briefly regarding closing statements of the plaintiff.

Article 307

After all the stages of the main hearing have been completed and the case has become ready for rendering the judgment the court shall state that the main hearing has been concluded.

The court may decide to conclude the main hearing even when certain case files containing information necessary for rendering the decision are still to be obtained or if the minutes on the evidence obtained from the requested judge is awaited, where the parties renounce deliberation on those evidence or the court believes that such deliberation is not necessary.

PUBLICITY OF THE MAIN HEARING

Article 308

The main hearing shall be public.

Only adults may attend the hearing.

Persons attending the hearing shall not carry weapons or dangerous tools.

Paragraph 3 of this Article shall not apply to law enforcement officers who protect persons participating in the procedure.

Article 309

The court may exclude public from the entire main hearing or a part of it if so required in order to preserve the state, official, business, or personal secret or to protect interests of public order or morals.

The court may also exclude public when measures for the maintenance of order at the hearing provided by this Law cannot ensure unhindered course of the hearing.

Article 310

Exclusion of public does not apply to the parties, their legal representatives, proxies and interveners.

The court may allow certain official persons, scientific and public workers to attend the main hearing that is closed for public if it is relevant for their profession or scientific and public activity.

In case of the exclusion of public, at the request of the party, the court may also allow that two persons at the most determined by the party be present at the main hearing.

The court shall inform persons attending the hearing that is closed for public that they shall keep as confidential the matters relating to the hearing and warn them of the consequences of disclosing such secret.

Article 311

The court shall decide on exclusion of public by a ruling that shall be explained and made available to the public.

Interlocutory appeal against the ruling on the exclusion of public shall not be allowed.

Article 312

Provisions pertaining to publicity at the main hearing shall apply accordingly to the preliminary hearing, deliberations outside the main hearing and deliberation before the requested judge.

CONDUCTING THE MAIN HEARING

Article 313

The court shall conduct the main hearing, interrogate parties, present evidence, give parties, their legal representatives, and proxies permission to speak.

The court shall ensure that the main hearing is conducted on the right track and in proper manner without any unnecessary delays.

The court shall maintain order and dignity of the court during the main hearing.

The court is not bound by its ruling related to conducting the procedure.

Interlocutory appeal against the ruling related to conducting the procedure shall not be allowed.

Article 314

The court renders decisions on the matters referred to in Article 272 and decisions referred to in Article 273 of this Law outside deliberation for the main hearing.

Article 315

The court may postpone a scheduled deliberation for the main hearing before it is held if it finds that the legal requirements for its holding have not been met or that evidence that need to be presented shall not have been obtained for the main hearing.

No later than eight days before holding of the deliberation the court shall check whether the conditions referred to in paragraph 1 of this Article have been met.

When it postpones the deliberation the court shall immediately notify all summoned parties about the date of new deliberation.

Article 316

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 48)

On motion of the party, the court may postpone deliberation that has already begun only for the following reasons:

1) if through no fault of the party who proposes postponement of the deliberation it is not possible to present a piece of evidence whose presentation has been decided and which is relevant for rendering correct decision;
2) if both parties propose postponement in order to attempt to reach an amicable alternative dispute resolution.

In the case referred to in paragraph 1 item 1 of this Article, a party may only request a postponement of the hearing once, unless the opposing party agrees with the repeated request for a postponement of the hearing.

In the case referred to in paragraph 1 item 2 of this Article, the court may postpone the hearing several times, and at the request of one party, only if there is the consent of the opposing party.

When deliberation is postponed the court shall immediately notify parties of the place and time of new deliberation. The court is not obliged to notify the party who is not present at the postponed deliberation although duly summoned about the place and time of new deliberation unless the adverse party has presented new facts or proposed new evidence (Article 303).

Article 317

If at the court deliberation it is not possible to present a piece of evidence whose presentation was decided the court shall decide to hold deliberation if the other evidence may be presented and to have that specific piece of evidence presented subsequently at a new deliberation.

Article 318

Actions that have already been conducted shall be repeated at the new court deliberation that was scheduled after postponement of the hearing only if the court finds it necessary for rendering the correct judgment.

Article 319

Deliberation for the main hearing may not be postponed for an indefinite period.

Deliberation for the main hearing may not be postponed for the period longer than 30 days except under Article 222 and Article 329, paragraph 2 of this Law.

When it postpones deliberation the court shall take all available actions before the next deliberation commences in order to remove obstacles that led to the postponement so that the hearing may be finalised at that new deliberation.

Appeal against the court ruling on postponement of the deliberation or the ruling on refusal of the motion of the parties to postpone the main hearing shall not be allowed.

Article 319a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 49)

In the event that case files must be submitted to the court of second instance in order to decide on the appeal, the court shall stop the proceedings until the court of second instance's decision on the appeal.

Article 320

If an initiated deliberation cannot be finalised during the same day the court shall order continuance of deliberation for the next working day.

Article 321

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 19)

If the deliberation is postponed, new deliberation shall be held before the same judge if possible.

If new deliberation is held before the same judge, the main hearing shall continue and the judge shall briefly present the course of previous deliberations.

If the deliberation is held before a new judge the main hearing shall start from the beginning, but after the parties make their statements the judge may decide that witnesses and expert witnesses are not interrogated again and that a new on-the-spot investigation is not conducted and that it is not determined the fact again by interrogation of the parties, instead they may decide to read minutes on presentation of this evidence.

By way of exception referred to in paragraph 3 of this Article the judge shall decide to read testimonies of witnesses and expert witnesses who are deceased, who suffer from mental disorder or those who are not available to the court.

TITLE TWENTY-THREE

ALTERNATIVE DISPUTE RESOLUTION

JUDICIAL SETTLEMENT

Article 322

At any time during the procedure the parties may settle their dispute (judicial settlement).

Judicial settlement may pertain to the whole statement of claims or to a part thereof.

Judicial settlement before the court may not be concluded with regards to the claims of which the parties may not dispose (Article 4, paragraph 3).

When the court renders ruling which does not allow for settlement between the parties the procedure shall be suspended until the ruling becomes final and enforceable.

Article 323

The court shall throughout entire procedure attempt to have the parties settle the case in a manner, which does not compromise its impartiality.

Article 324

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 50)

As a rule, judicial settlement is concluded before the court of first instance.

If the court settlement was concluded after the first-instance judgment was passed, the court shall issue a decision establishing that the first-instance judgment is without legal effect.

If the appeal procedure has been instituted before the court of second instance, the court of first instance shall notify the court of second instance of the concluded judicial settlement.

Judicial settlement may also be concluded before the court of second instance when the main hearing is held before the court of second instance.

The court of second instance shall determine by decision that the first-instance judgment is without legal effect, if the parties concluded a court settlement during the appeal procedure.

Article 325

Judicial settlement between parties shall be entered in the minutes.

Judicial settlement shall be reached when parties have signed the settlement minutes after having read the minutes.

Parties shall be issued a certified transcript of the minutes on judicial settlement.

Article 326

During the procedure the court of first instance shall ex officio have due regard as to whether the litigation concerns disputed matter on which the judicial settlement has been previously reached. If it finds that the litigation concerns the matter on which the judicial settlement has been previously reached it shall dismiss the complaint.

Article 327

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 20)

Judicial settlement may only be contested by the complaint.

If a judicial settlement is annulled, procedure continues as if in litigation on statement of claims had not been concluded.

Article 328

A person intending to file a complaint can try to reach a settlement through the court of first instance in the territory of which the opposing party is domiciled.

The court to which such a proposal was sent shall call for the opposing party and inform them of the settlement proposal.

The costs of this procedure shall be borne by the applicant.

ALTERNATIVE DISPUTE RESOLUTION

Article 329

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 21)
(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 51)
(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 4)

At the preliminary hearing, that is, at the first hearing for the main hearing, if the preliminary hearing was not held, the court shall be obliged to inform the parties of the possibility of resolving the dispute through mediation or other alternative dispute resolution methods.

If the court finds that the dispute might be successfully resolved by mediation it shall suspend the procedure and refer parties to the mediation procedure in line with law regulating alternative dispute resolution.

If it considers that it is justified according to the circumstances of the specific case, the court may, by decision, refer the parties to the first meeting with the mediator in order to try to resolve the dispute in the mediation procedure, until the final conclusion of the procedure.

The court shall be obliged to refer the parties to the first meeting with the mediator by a special decision:

1) if one of the parties is Montenegro, the Capital City, the Royal Capital, i.e. a municipality;
2) in commercial disputes, except for disputes with an international element, in disputes from relationships to which status (company) law is applied and in disputes in which a party in bankruptcy proceedings shall be referred to civil proceedings;
3) in other cases prescribed by a special law.

Against the decision under paragraph 3 and 4 of this Article interlocutory appeal shall not be allowed.

Article 330

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 4)

In the case referred to in Article 329 paragraph 4 of this Law, the court shall be obliged to issue a decision on referring the parties to the first meeting with the mediator within 15 days from the date of receipt of the response to the complaint or, if the response to the complaint has not been submitted, within 15 days from expiration of the deadline for submitting an answer to the complaint.

If, in the case referred to in Article 329, paragraph 4 of this Law, the claim is not submitted to the defendant for response, the court shall issue a decision on referring the parties to the first meeting with the mediator at the preliminary hearing, i.e. at the first hearing for the main hearing, if the preliminary hearing was not held.

In the decision on referring the parties to the first meeting with the mediator, the court shall instruct the parties to contact the Centre for Alternative Dispute Resolution within eight days from the date of delivery of the decision.

The decision on referring the parties to the first meeting with the mediator shall be submitted by the court, along with the complaint, the response to the complaint and other submissions and data that are important for mediation, to the Centre for Alternative Dispute Resolution.

Article 330a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 5)

When the court directs the parties to the first meeting with the mediator in accordance with Article 329 paragraphs 3 and 4 of this Law, the parties shall be obliged to personally attend the first meeting with the mediator.

In the case referred to in paragraph 1 of this Article, in addition to the parties, their proxies may attend the meeting with the mediator.

If a party does not come to the first meeting with the mediator without a valid reason, they shall be obliged to compensate the other party for the costs caused by their own fault, regardless of the outcome of the court proceedings.

The costs referred to in paragraph 3 of this Article shall consist of all expenses incurred on the occasion of the first meeting with the mediator, including the award for the work of the lawyer and other persons to whom the award belongs in accordance with the law.

Article 330b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/20 of 28/07/2020, Article 5)

When the court refers the parties to the first meeting with the mediator, the proceedings shall be suspended for a maximum of 90 days from the date of delivery of the decision on referring the parties to the first meeting with the mediator.

After the deadline referred to in paragraph 1 of this Article, if the parties do not resolve the dispute through mediation, the court shall schedule a hearing.

If the Centre for Alternative Dispute Resolution, within the deadline referred to in paragraph 1 of this Article, submits to the court a settlement concluded in the mediation procedure, that settlement shall be the basis for concluding a settlement before the court.

TITLE TWENTY-FOUR

JUDGMENT

Article 331

The court shall render judgment on the claim concerning main subject matter and subsidiary claims.

As a rule, if there are several claims the court shall decide on all those claims by a single judgment.

If several litigations have been merged for joint deliberation and only one litigation has been become mature for rendering the judgment, then judgment on that specific litigation may be rendered.

Article 332

The court may order the defendant to take certain action only if it is due before conclusion of the main hearing.

If the court accepts the request for maintenance, for the compensation of damage in the form of annuity for the loss of earning or other income from work or because of lost maintenance, it may bind the defendant to take actions that are not yet due.

If the action that is subject of the statement of claims is not due until conclusion of the main hearing the court shall dismiss the statement of claims as premature.

Article 333

If the plaintiff has requested in the complaint that a certain object be awarded to them and has simultaneously declared in the complaint or before conclusion of the main hearing that they are ready to accept a certain amount of money in lieu of the object, the court shall, in case it accepts the statement of claims, state in the judgment that the defendant may be released from surrendering the object if they pays the specified amount.

Article 334

When the party is ordered by the judgment to perform a certain action, a deadline shall be set for them to do so.

Unless otherwise prescribed by special regulations the deadline for performance of the action shall be 15 days, but the court may set longer deadline for performances that do not involve monetary obligations. In disputes concerning bills of exchange and checks this deadline shall be eight days.

Deadline for performance of the action shall start to run from the first day after the transcript of the final and enforceable judgment has been delivered to the party who is ordered to perform the action unless otherwise prescribed by law.

PARTIAL JUDGMENT

Article 335

If out of several claims only some of them are ready for final decision because of confession or based on the hearing or if only a part of one claim is ready for final decision

the court may conclude the hearing related to the claims that are ready or to the part of the claim that is ready and render judgment (partial judgment).

The court may render partial judgment when a counter-claim has been filed if only the claim from the complaint or only the claim from the counter-complaint are ready for rendering decision.

When assessing whether to render partial judgment the court shall take into special consideration size of the claim or the part of the claims ready for decision.

In the litigation where the complaint or the counter-claim comprises several claims partial judgment is not allowed if the ground of those claims, due to the nature of the disputed matter, may be decided only by a single judgment.

As far as the legal remedies and enforcement are concerned the partial judgment shall be considered as a separate judgment.

INTERIM JUDGMENT

Article 336

If the defendant has contested both, basis of the statement of claims and amount of the statement of claims and in respect to the basis the subject matter is ready for rendering decision the court may for the reasons of purposefulness first render the judgment only related to the basis of the statement of claims (interim judgment).

The court shall cease deliberations on the amount of the claims until the interim judgment becomes final and enforceable.

JUDGMENT BASED ON CONFESSION

Article 337

If the defendant entirely or partially confesses the statement of claims or part of the statement of claims before conclusion of the main hearing the court shall without further deliberation render judgment accepting the statement of claims in the part related to confession of the statement of claims (judgment based on confession).

The court shall not render judgment based on confession even if the required conditions have been met if it finds that parties may not dispose of the claim (Article 4, paragraph 3).

Rendering the judgment based on confession shall be postponed if there is a need to obtain information about circumstances referred to in paragraph 2 of this Article.

Confession of the statement of claims may be withdrawn by the defendant either at the hearing or in a written submission without consent of the plaintiff before the judgment has been rendered.

JUDGMENT BASED ON WAIVER

Article 338

Should the plaintiff waive their statement of claims or part of the statement of claims before conclusion of the main hearing, the court shall without further deliberation render judgment refusing the statement of claims in the part waived by the plaintiff (judgment based on waiver).

No consent of the defendant is required for waiving statement of claims.

The court shall not render judgment based on waiver even if all required conditions have been met if it finds that parties may not dispose of such claim (Article 4, paragraph 3).

Rendering the judgment based on waiver shall be postponed if it is necessary to previously obtain information related to the circumstances referred to in paragraph 3 of this Article.

Waiver of the statement of claims may be withdrawn by the plaintiff either at the hearing or in a written submission and without the consent of the defendant before the judgment has been rendered.

DEFAULT JUDGMENT

Article 339

If the defendant fails to respond to the complaint within the deadline prescribed in Article 279, paragraph 1 of this Law the court shall render judgment accepting the statement of claims (default judgment) if the following conditions have been met:

1) if the defendant has been duly served the complaint for response;
2) if those are not the claims that the parties cannot dispose of (Article 4, paragraph 3);
3) if the basis of the statement of claims arises from the facts specified in the complaint;
4) if the facts on which the statement of claims is based are not in contravention with the evidence submitted by the very plaintiff or generally known facts.

Rendering default judgment shall be postponed if it is necessary to previously obtain information on circumstances referred to in paragraph 1 of this Article.

RENDERING, DRAFTING AND DELIVERING THE JUDGMENT

Article 340

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 52)

The judgment shall be passed on behalf of Montenegro.

The court shall render judgment no later than 30 days after conclusion of the main hearing. The day when the judgment is rendered in writing shall be considered a time of delivery of the judgment.

If the judge exceeds the deadline set in paragraph 1 of this Article they shall inform the President of the court in writing about the reasons for such exceeding.

Article 341

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 22)

After conclusion of the main hearing the court shall inform the present parties of the date when the judgment shall be rendered. If one party was absent from the main hearing the court shall inform them in writing about the day when the judgment shall be rendered.

Parties or their representatives or proxies shall take over the judgment in the court house.

If parties were duly informed of the date when the judgment was rendered, the deadline for the appeal against the judgment shall start to run from the next day after the judgment has been rendered.

After conclusion of the main hearing parties shall be warned that the deadline for the appeal against the judgment shall start to run from the next day after the judgment has been rendered.

Article 342

At the time of rendering the judgment (Article 340) the court may, at the request of the party, decide to serve the judgment under provisions regarding delivery in this Law if the party is not able take over the judgment (Article 341, paragraph 2).

By all means, the court shall serve the judgment under provisions on delivery in this Law to the party that was not duly informed of the date of rendering the judgment.

Article 343

Default judgment and judgment of the court of the second instance rendered without hearing shall be served to the parties under provisions on delivery in this Law.

Article 344

In the case referred to in Article 340, paragraph 2 of this Law the court shall, as soon as it learns that the day of rendering the judgment shall be postponed, notify parties thereof and serve the judgment to parties afterwards under provisions on delivery in this Law.

Article 345

In cases referred to in Articles 342, 343 and 344 of this Law, the deadline for the legal remedy shall start to run from the day after the day of receipt of the judgment.

Article 346

The judge shall sign the original judgment.

Article 347

Written judgment shall contain the following: introduction, operative part, reasoning and instruction regarding the right to the legal remedy against the judgment.

Introduction to the judgment shall contain the following: name of the court, name and surname of the judge, name and surname and permanent or temporary place of residence of parties, their representatives and proxies, short description of disputed matter and its value, date of conclusion of the main hearing, note on parties, their representatives and proxies attending the hearing and date when the judgment was rendered.

Operative part of the judgment shall contain the following: decision on acceptance or rejection of certain claims pertaining to the main subject matter and subsidiary claims, decision on the existence or non-existence of the claim put forward for the purpose of compensation of debts as well as the decision on litigation costs.

Reasoning shall contain the following: claims of parties, facts they presented and evidence they proposed, which of the facts were subject to determination, why and how it determined them and if it determined them with the evidence then what evidence it presented and how it evaluated them. The court shall particularly indicate which provisions of substantive law it applied in deciding at the requests of parties and if necessary, it shall also make the statement as to the legal basis of the dispute, its motions and objections for which it did not produce reasons in decisions it has already rendered in the course of the procedure.

Reasoning for default judgment, judgment based on confession or judgment based on waiver shall indicate only the reasons that justify rendering such judgments.

SUPPLEMENTAL JUDGMENT

Article 348

If the court has failed to decide on all claims or part of the claim that is to be decided by judgment the party may propose to the court to supplement the judgment within 15 days from the date of receipt of the judgment.

If the party does not file motion for rendering supplemental judgment it shall be considered that the complaint is withdrawn in this part.

Untimely and unjustified motion to supplement the judgment shall be dismissed or rejected by the court without deliberation.

Article 349

When the court finds that the motion to supplement the judgment is justified it shall schedule the main hearing to render the judgment on the request that has not been decided upon (supplemental judgment).

Supplemental judgment may be also rendered without reopening the main hearing if this judgment is to be rendered by the judge who rendered the original judgment and if the request for which supplementation is required has been sufficiently deliberated upon.

If the motion to supplement the judgment refers only to the costs of procedure decision on the motion shall be rendered by the court without holding the hearing.

Article 350

If the appeal against the judgment has been filed along with the motion to supplement the judgment, the court of first instance shall suspend delivery of the appeal to the court of second instance until decision on the motion to supplement the judgment has been reached and the deadline for appeal against this decision expires.

If the appeal is filed against the decision to supplement the judgment, this appeal shall be delivered to the court of second instance along with the appeal against the original judgment.

If the first instance judgment is contested by the appeal only because the court of first instance has not decided on all claims of parties that are the subject of litigation the appeal shall be considered as a motion of the party to reach supplemental judgment.

CORRECTION OF JUDGMENT

Article 351

Misspelled names and mistakes in numbers and other obvious mistakes in writing and calculation, defects in form and discrepancy between transcript of the judgment and the original shall be corrected by the court at any time.

The correction shall be made by a separate ruling and entered at the end of the original and the parties shall be served with transcript of the ruling.

If there is discrepancy between the original and transcript of the judgment with regard to any decision contained in the operative part of the judgment, parties shall be provided with the corrected transcript of the judgment with a note indicating that the previous transcript of the judgment has been replaced with that transcript. In such case, the deadline for filing legal remedy related to the corrected part of the judgment shall start to run from the date of delivery of the corrected transcript of the judgment.

The court may decide on correction of the judgment without hearing the parties.

VALIDITY OF JUDGMENT

Article 352

The judgment that cannot be further contested by appeal shall become final and enforceable if it decides on the claim of the complaint or counter-complaint.

The court of first instance shall have due regard to whether final and enforceable decision has been rendered on the matter, except on the motion of parties and ex officio, and if it finds that the litigation has been instituted concerning the claim that has been previously decided by final and enforceable decision it shall dismiss the complaint.

If the judgment decides on the claim put forward by the defendant for the purpose of compensation of debts, the decision on existence or non-existence of that claim shall become final and enforceable.

Article 353

Final and enforceable judgment shall have legal effect only on parties except in the cases when due to the nature of the disputed relation or according to the law it has effects on third parties.

Final and enforceable judgment shall be bound with the state of the legal relationship at the time when the main hearing was concluded.

Article 354

Shall be deleted.

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 53)

Article 355

The court shall be bound by the judgment it has rendered.

The judgment shall become effective for the parties from the date when it is rendered, while in cases referred to in Articles 342, 343 and 344 of this Law it shall become effective from the day it has been delivered to them.

TITLE TWENTY-FIVE

RULING

Article 356

Any ruling rendered at the hearing shall be pronounced by the court.

The ruling that has been pronounced at the hearing shall be delivered to the parties in certified transcript only if interlocutory appeal against that ruling is allowed or if immediate enforcement may be requested immediately based on that ruling or if so required for the proper managing of the litigation.

The court shall be bound by its rulings if they do not refer to managing the litigation or if otherwise prescribed by this Law.

When the ruling is not to be delivered, its effect on parties commences with its pronouncement.

Article 357

Rulings rendered by the court outside the hearing shall be communicated to the parties by delivery of the certified transcript of the ruling.

If the motion of one party is dismissed by the ruling without previously hearing the adverse party the ruling shall not be delivered to that party.

Article 358

The ruling shall contain reasoning if interlocutory appeal is allowed against it, but it may also contain reasoning in other cases when so required.

Article 359

Final and enforceable rulings on sanctions imposed under provisions of this Law shall be enforced ex officio.

Article 360

The provisions of Articles 334, 340 through 347 and Article 355, paragraph 2 of this Law shall also apply accordingly to the rulings.

B. PROCEDURE FOR LEGAL REMEDIES

TITLE TWENTY-SIX

ORDINARY LEGAL REMEDIES

APPEAL AGAINST JUDGMENT

Right to Appeal

Article 361

Parties may file appeal against the first instance judgment within 15 days from the day of rendering or from delivery of transcript of the judgment unless a different deadline is prescribed by this Law. In disputes concerning bills of exchange and checks this deadline shall be eight days.

Appeal filed within the prescribed deadline prevents effectiveness of the judgment in the part contested by the appeal.

The court of second instance shall decide on appeal against the judgment.

Article 362

The party may waive the right to appeal from the moment of the receipt of transcript of the judgment.

The party may withdraw an already filed appeal until the second instance judgment is rendered.

Waiver or withdrawal of appeal may not be revoked.

Content of Appeal

Article 363

Appeal shall contain the following:

1) indication of the judgment against which the appeal is filed;

2) statement indicating whether the judgment is contested entirely or partially;

3) reasons for appeal, including reasoning;

4) signature of appellant.

Article 364

If based on information contained in the appeal it is impossible to establish which judgment is contested, or if the appeal is not signed (incomplete appeal), the court of first instance shall, by the ruling against which the appeal shall not be allowed, order the appellant to supplement or correct the appeal within eight days.

If the appellant fails to act as requested by the court within the deadline referred to in paragraph 1 of this Article the court shall render ruling on rejection of appeal as incomplete.

If the appeal has other faults concerning the content, the court of first instance shall refer appeal to the court of second instance without inviting the applicant to supplement or correct it. Supplements submitted after expiry of the deadline for filing appeal shall not be taken into account by the court of second instance.

Article 365

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 54)

New facts and new evidence may not be presented in the appeal, unless they relate to significant violations of the provisions of the civil procedure for which the appeal may be filed.

Objections regarding the statute of limitation and compensation of debts that have not been raised before the court of first instance may not be raised in the appeal.

Reasons for Contesting the Judgment

Article 366

Judgment may be appealed on the following grounds:

1) substantial violation of provisions of the civil procedure;

2) erroneously or incompletely determined facts;

3) misapplication of the substantive law.

Default judgment may not be contested based on erroneously or incompletely determined facts.

Judgment based on confession and judgment based on waiver may be contested based on substantial violations of provisions of civil procedure or because the statement of confession or waiver was given under delusion, duress, or deceit.

If the judgment based on confession and judgment based on waiver are contested because the statement of confession or waiver was given under delusion, duress or deceit the party may present new facts in the appeal and propose new evidence concerning statements given under duress.

Article 367

Substantial violation of provisions of the civil procedure exists if the court, in the course of the procedure, failed to apply or improperly applied any provision of this Law, which could have affected rendering of lawful and correct judgment.

Substantial violation of provisions of the civil procedure always exists in the following cases:

1) if the judge who has not been present at the main hearing has participated in rendering the judgment;

2) if the judge who according to the law should have been exempted (Article 69, paragraph 1, items 1 through 6) or the one who has been exempted by the ruling of the court has participated in rendering the judgment;

3) if the decision has been rendered on the claim in the dispute that does not fall within jurisdiction of the court (Article 19);

4) if it has been decided on the claim which was filed after expiry of the deadline prescribed by law;

5) if the court has decided on the statement of claims for which another type of court has subject matter jurisdiction;

6) if the court, on the objection by the party that the disputed matter was subject of the arbitration agreement reached in the decision which was included in the judgment, has wrongly decided that it was competent;

7) if, in contravention with provisions of this Law, the court grounded its decision on prohibited disposition by parties (Article 4, paragraph 3);

8) if the court has rendered default judgment, judgment based on confession, or judgment based on waiver in contravention with the provisions of this Law;

9) if one of the parties has not been presented an opportunity to speak before the court as a result of illegal action, particularly the failure of delivery,

10) if, in contravention with provisions of this Law, the court has refused request of the party to use their own language in the procedure or the language they understands and to follow the procedure in their own language or the language they understands and the party appeals against it;

11) if the court has rendered judgment without holding the main hearing and was bound to hold the main hearing;

12) if the person who cannot act as a party to the procedure has acted as the plaintiff or the defendant or if the party which is a legal person was not represented by the authorised person or if the person without litigation capacity was not represented by legal representative or if the legal representative or proxy of the party did not have proper authorisation to conduct the litigation or specific litigation actions if conducting the litigation or some actions in the procedure have not been approved afterwards,

13) if it has been decided on a dispute which is already in litigation before another court or which has earlier been effectively ruled or which was decided in judicial settlement;

14) if the main hearing has been closed for public in contravention with the law;

15) if the judgment contains faults that cannot be examined, particularly if the operative part of the judgment is not understandable, if it contradicts itself or reasons of the judgment or if the judgment does not have any reasons at all or if the reasons for relevant facts are not stated or the reasons are either unclear or contradictory or there is a contradiction in respect to the relevant facts between what is stated in the reasons for the judgment on the content of the documents or minutes of the statements given in the procedure and actual content of the documents and court minutes.

Article 368

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 55)

Erroneously or incompletely determined facts exist when the court has erroneously established or failed to determine a relevant fact.

Article 369

Misapplication of substantive law exists when the court failed to apply provision of the substantive law which it should have applied or when such provision has not been properly applied.

Appeal Procedure

Article 370

Appeal shall be filed with the court of first instance in a sufficient number of copies for the court and the adverse party.

Article 371

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 56)

Untimely, incomplete (Article 364, paragraph 1) or inadmissible appeal shall be dismissed by the ruling of the court of first instance without holding a hearing.

Appeal shall be considered untimely if filed after expiry of the deadline prescribed for its filing.

Appeal shall be considered inadmissible if filed by the person who has not been authorised to file appeal or person who waived or withdrew appeal or if the person who filed appeal does not have the legal interest to do so.

Article 371a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 57)

In the event that the appellant withdraws the appeal, the court of first instance shall determine by decision that the applicant has withdrawn the appeal.

Article 372

A copy of timely, complete, and admissible appeal shall be delivered by the court of first instance to the adverse party that may file response to the appeal before that court within eight days from the receipt thereof.

A copy of response to the appeal shall be delivered to the appellant by the court of first instance.

Untimely response to the appeal shall not be considered by the court of second instance.

Article 373

After receipt of the response to the appeal or after expiry of the deadline for the response to the appeal, the court shall forward the appeal and response to the appeal if filed together with the entire case files to the court of second instance within eight days at the latest.

If the appellant claims that provisions of civil procedure have been violated in the course of the first instance procedure, the court of first instance may provide explanation related to the statements contained in the appeal concerning these violations and if needed it shall conduct on-the-spot investigations to check accuracy of these statements contained in the appeal.

Article 374

When the case files upon appeal reach the court of second instance, the judge rapporteur shall prepare report for the purpose of examining the case by the appeal Panel.

When required, the judge rapporteur may obtain report from the court of first instance on violations of provisions of the civil procedure and other faults indicated in appeal and request on-the-spot investigations in order to establish those violations.

Article 375

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 23)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 58)

The court of second instance shall decide on appeal in a Panel session or based on the hearing.

The court of second instance shall schedule hearing when it finds that in order to properly determine facts it is necessary to determine new facts or hear new evidence under conditions referred to in Article 365, paragraphs 1 and 2 of this Law.

The court of second instance shall also schedule hearing when the first instance judgment has been reversed twice according the provisions of this Law, and when the Panel session finds that the judgment against which the appeal has been filed is based on substantial violations of provisions of the civil procedure or erroneously or incompletely determined facts.

The court of second instance may also schedule hearing when it finds that in order to properly establish facts it is necessary to again present before the second instance court all or some pieces of evidence that have already been presented before the court of first instance.

Article 376

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 59)

Parties, their legal representatives or proxies shall be summoned to the hearing, as well as those witnesses and experts whom the court decides to hear.

If the appellant fails to appear at the hearing, the hearing shall not be held and decision shall be rendered based on statements contained in the appeal and response to the appeal.

If the party other than appellant fails to appear at the hearing, the court shall hold the hearing and render decision.

In the summons for the hearing, the party shall be warned of the consequences of failure to appear in the court.

Article 376a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 60)

The court may, when scheduling the hearing, decide to transfer the powers of the president of the panel in relation to the preparation and conduct of the hearing to the judge reporter.

Article 377

The hearing before the court of second instance shall start with a brief presentation of the judge rapporteur about the state of the case without giving their own opinion as to whether the appeal is justified or not.

After this the judgment or part of the judgment appealed shall be read and if necessary minutes from the main hearing before the court of first instance shall be read as well. Thereafter the appellant shall explain the basis for their appeal and the adverse party shall respond to the appeal.

If a piece of evidence cannot be presented any more the court of second instance shall decide that the minutes on the presentation of that evidence be read.

Article 378

Provisions prescribed for the procedure before the court of first instance shall apply accordingly to the procedure before the court of second instance.

Limits of Examination of the First Instance Judgment

Article 379

The court of second instance shall examine the first instance judgment in the part that has been contested by appeal within the limits of the reasons stated in the appeal and having due regard ex officio to application of substantive law and violations of provisions of the civil procedure referred to in Article 367 paragraph 2, items 3, 7 and 12 of this Law.

Exceeding the statement of claims shall be taken into consideration by the court of second instance only at the request of the party.

Decisions of the Second Instance Court on Appeal

Article 380

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 61)

The court of second instance may at the Panel session or based on a hearing:

1) dismiss the appeal as untimely, incomplete or inadmissible;

2) reject the appeal as unjustified and confirm the first instance judgment;

3) reverse the first instance judgment and remand the case to the first instance court for retrial;

4) reverse the first instance judgment and dismiss complaint or

4a) reverse the first instance judgment and return it to the first instance court to redraw the judgment;

4b) cancel the first instance judgment and decide on the request of the parties;

5) overrule the first instance judgment.

The second instance court is not bound with motion for appeal.

Article 380a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 62)

The first instance judgment can be annulled on appeal and the case returned to the first instance court for retrial once.

Article 381

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 63)

Untimely, incomplete or inadmissible appeal shall be dismissed by the court of second instance by its ruling, if the first instance court failed to do so (Article 371).

The court of second instance shall determine by decision that the appellant has abandoned the submitted appeal, if the court of first instance failed to do so.

If the complainant has abandoned the appeal in the procedure before the court of second instance, the court shall determine by decision that the applicant has abandoned the appeal.

Article 382

By the judgment, the court of second instance shall dismiss the appeal as groundless and confirm the first instance judgment if it finds there are no reasons for contesting the judgment or that there are no reasons to be taken into consideration ex officio.

Article 383

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 64)

The court of second instance shall render decision to reverse the judgment of the court of first instance should it find that there is a substantial violation of provisions of the civil procedure (Article 367) and it shall remand the case to the same court of first instance or assign it to the competent court of first instance for the purpose of holding a new main hearing. In this ruling the court of second instance shall decide which particular actions affected by the violation of provisions of the civil procedure shall be reversed.

If provisions of Article 367, paragraph 2, items 3, 4, 6 and 13 of this Law have been violated in the procedure before the court of first instance the court of second instance shall reverse the first instance judgment and dismiss the complaint.

If in the procedure before the court of first instance the provisions of Article 367, paragraph 2, item 12 of this Law have been violated the second instance court shall, considering nature of the violation, reverse the first instance judgment and remand the case to the competent court of first instance or it shall reverse the first instance judgment and dismiss the complaint.

If a violation referred to in Article 367 paragraph 2 item 15 of this Law was committed in the proceedings before the first instance court, and the judgment has no other defects, the court shall cancel the first instance judgment and return the case to the first instance court to redraw the judgment, without opening a hearing.

Article 384

The court of second instance shall also by its ruling reverse the judgment of the court of first instance and remand the case to that court for a new trial if it believes that proper determination of the facts requires holding a new main hearing before the court of first instance.

The second instance court shall also act in the same way if due to erroneous application of substantive law the determination of the facts has not been completed.

Article 385

When the court of second instance reverses judgment of the court of first instance and remands the case to the same court for retrial it may order that the main hearing be held before another judge.

Article 386

If it finds that the first instance judgment exceeded the statement of claims whereby the court decided about another statement of claims instead of the one, which was requested, the second instance court shall render ruling to reverse the judgment of the court of first instance and remand the case for retrial.

If it finds that the first instance judgment exceeded the statement of claims whereby more was awarded than what was requested, the court of second instance shall render ruling to reverse the judgment of the court of first instance in this part in which the statement of claims has been exceeded.

Article 386a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 65)

The court of second instance shall annul the first-instance judgment and decide on the requests of the parties if it determines that there is a significant violation of the provisions of civil procedure referred to in Article 367 of this Law, or the factual situation is wrongly or incompletely determined, or due to the incorrect application of substantive law, the factual situation is incompletely determined, and it has eliminated those deficiencies by holding a discussion.

Article 387

The court of second instance shall overrule the judgment of the first instance court with its own judgment in the following cases:

1) if based on the hearing it has determined different facts from those determined by the first instance judgment;
2) if the court of first instance erroneously evaluated documents and indirectly presented evidence whereby the decision of the first instance court is exclusively grounded on such evidence;
3) if the court of first instance based on facts it determined drew wrong conclusion about existence of other facts and such facts form grounds of the judgment;
4) if it believes that the facts in the first instance judgment are correctly determined, but that the court of first instance erroneously applied substantive law.

Article 388

The court of second instance may not overrule the judgment to the detriment of the appellant if only that party filed appeal.

Article 389

The court of second instance shall in the reasoning of the judgment or ruling assess reasons of appeal that are of crucial importance and state the reasons it has taken into consideration ex officio.

When the first instance judgment is reversed because of substantial violations of provisions of the civil procedure the reasoning shall indicate which provisions have been violated and what the violations consist of.

If the first instance judgment is reversed and the case remanded to the court of first instance for retrial for the purpose of proper determination of facts, it shall be indicated which faults in determination of facts have been made.

Article 390

The court of second instance shall remand all case files to the court of first instance accompanied with a sufficient number of certified transcripts of its own decision for the purpose of delivery to the parties and other persons concerned within 30 days from rendering the decision.

Article 390a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 66)

If the court of second instance has failed to make a decision regarding all parts of the judgment that are challenged by the appeal or if it failed to make all the decisions that it should have made by rejecting, refusing or accepting the appeal, or if it failed to make a decision with respect to one or more appeals, the complainant may, within 15 days from

the date of delivery of the second-instance decision, propose to the court of second instance to amend its decision.

The proposal for the adoption of a supplementary second-instance decision cannot be submitted because the court of second instance did not evaluate all the reasons for which the appeal was filed or which it was obliged to look out for in its official capacity.

The proposal referred to in paragraph 1 of this Article shall be submitted to the court of first instance, which is obliged to submit it without delay together with the case files to the second-instance court.

If, due to the second-instance decision referred to in paragraph 1 of this Article, it is necessary to re-conduct the procedure before the court of first instance, the court of first instance shall submit the proposal for making a supplementary decision to the court of second instance together with the case files.

On procedure on proposal referred to in paragraph 1 of this Article, provisions of Articles 348, 349 and 350 of this Law shall be applied accordingly.

Article 391

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 67)

Immediately upon receipt of the ruling rendered by the court of second instance, the court of first instance shall schedule deliberation for the main hearing, which shall be held no later than 30 days from the day of receiving the ruling of the court of second instance.

The court of first instance shall conduct all litigation actions and clarify all disputed matters indicated in the ruling of the court of second instance.

At the new main hearing, the parties can present new facts and propose new evidence if they make it probable that they could not present or propose them in the earlier proceedings through no fault of their own.

The party does not have the right to modify the claim at the new main hearing, by changing the identity of the claim or to emphasize another claim in addition to the existing one, which does not arise from the same factual situation.

Article 392

Provisions of Articles 383 through 386, 389, paragraphs 2 and 3, and Article 391 of this Law do not apply when the court of second instance, under provisions of this Law, has held the main hearing.

APPEAL AGAINST THE RULING

Article 393

Appeal against the ruling of the court of first instance shall be allowed unless this Law prescribes that the appeal shall not be allowed.

If this Law explicitly prescribes that interlocutory appeal shall not be allowed, the ruling of the court of first instance may be contested only in the appeal against the final decision.

Article 394

Timely filed appeal shall stay enforcement of the ruling unless this Law prescribes otherwise.

The ruling against which interlocutory appeal is allowed may be enforced immediately.

Article 395

When deciding on appeal, the court of second instance may:

1) dismiss the appeal as untimely, incomplete or inadmissible;

2) reject the appeal as ungrounded and confirm ruling of the court of first instance;

3) accept the appeal and overrule or reverse the ruling and remand the case for retrial if necessary.

Article 396

Provisions pertaining to the appeal against the judgment shall apply accordingly when deciding on appeal against the ruling, except for the provisions on holding the hearing before the court of second instance.

TITLE TWENTY-SEVEN

EXTRAORDINARY LEGAL REMEDIES

REVIEW

Article 397

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 24)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 68)

Parties may file request for review of the final and enforceable judgment of the court of second instance within 30 days from the day of the delivery of the judgment.

The review shall not be allowed in property disputes where the statement of claims relates to an amount of money, delivery of an object or committing some other action if the value of the disputed matter in the contested part of the final and enforceable judgment does not exceed the amount of EUR 20 000.

The review shall not be allowed in property disputes when the statement of claims does not relate an amount of money, delivery of an object or committing some other action if the value of the disputed matter indicated in the complaint by the plaintiff does not exceed the amount of EUR 20 000.

By way of exception and related to the statement of claims referred to in paragraphs 2 and 3 of this Law, the review shall always be allowed:

1) in disputes on maintenance support when the maintenance support has been determined for the first time or reversed;

2) in disputes regarding the compensation of damage for the lost maintenance support due to the death of supporter of the maintenance and due to the loss of earning or other income from work when those compensations have been determined for the first time or reversed;

3) in property disputes arising from unconstitutional and illegal individual acts and actions by which legal or natural persons are placed in an unfair position in the market due to their seat or place of permanent residence or the market is violated in some other manner, involving disputes on the compensation of damage caused by it.

4) and in other cases prescribed by law.

Article 397a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 69)

Revision may also be allowed against a final judgment passed in the second instance that could not be challenged by revision in accordance with Article 397 of this Law, if it is necessary to consider a legal issue that is important for ensuring legal certainty or uniform application of law, and especially if:

1) on this issue, the Supreme Court of Montenegro has not yet taken a decision-making position in individual cases, and it is an issue on which there is a different practice of court of second instances;
2) the Supreme Court of Montenegro has already taken a position on this issue, but the decision of the court of second instance is based on a position that is not identical to that position;
3) the Supreme Court of Montenegro has already taken a position on this issue and the judgment of the court of second instance is based on that position, but that position should be reconsidered, especially taking into account the reasons presented during the first- and second-instance proceedings, due to changes in the legal system conditioned by new legislation or confirmed international contract, as well as the decision of the Constitutional Court of Montenegro or the European Court of Human Rights.

Revision referred to in paragraph 1 of this Article cannot be allowed if the value of the contested part of the final judgment does not exceed EUR 4 000, or EUR 7 000 in commercial disputes.

By way of exception to paragraph 2 of this Article, revision may be allowed in labour disputes if the value of the contested part of the final judgment exceeds EUR 1 500.

In the case referred to in paragraphs 2 and 3 of this Article, the value of the challenged part of the final judgment shall be determined by adding up the value of individual claims, i.e. parts of these claims that are disputed, if the decision on revision depends on the resolution of legal issues that are common to these claims or if certain claims are interconnected so that the decision on a particular request depends on another request.

Article 397b

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 69)

The proposal by which the party demands that it be allowed to declare a revision referred to in Article 397a of this Law can be submitted within 30 days from the date of delivery of the final judgment rendered in the second instance.

The proposal referred to in paragraph 1 of this Article shall be submitted to the Supreme Court of Montenegro.

In the proposal, the party must indicate the legal issue for which they submitted the proposal, citing the regulations and other valid sources of law referred to in Article 397a paragraph 1 of this Law that refer to that issue, as well as reasons why they considers that deciding on that legal issue is important for provision of legal certainty or uniform application of law.

If in the proposal the party refers to the judicial practice of the Supreme Court of Montenegro, it shall be obliged to indicate the business numbers of the cases in which the Supreme Court of Montenegro took the position referred to in Article 397a of this Law and submit copies of the court decisions of the court of second instances.

Along with the proposal, the party referred to in paragraph 1 of this Article must submit a copy of the judgment referred to in paragraph 1 of this Article, and may also attach a copy of the judgment of the first instance court and copies of other documents from the

court files, which would indicate the existence of the conditions referred to in article 397a paragraph 1 of this Law.

Article 397c

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 69)
(Decision of the Constitutional Court of Montenegro Official Gazette of Montenegro No. 075/17 of 09.11.2017)

The Supreme Court of Montenegro in a panel composed of five judges shall decide on proposal referred to in Article 397b paragraph 1 of this Law.

The Supreme Court of Montenegro shall reject the proposal if it was submitted after the expiration of the legal term or if it does not contain information, copies of court decisions and other documents referred to in Article 397b paragraphs 3, 4 and 5 of this Law.

In the explanation of the decision rejecting the proposal referred to in Article 397b paragraph 1 of this Law, the Supreme Court of Montenegro shall state the reasons indicating the absence of the conditions referred to in Article 397a of this Law.

In the decision allowing a party to declare a revision, the Supreme Court of Montenegro shall state in which part, that is, in relation to which specific legal issues, the revision shall be allowed.

No appeal shall be allowed against the decision referred to in paragraph 1 of this Article.

Article 397č

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 69)

The party may declare the revision referred to in Article 397a of this Law within 30 days from the date of delivery of the decision allowing the party to declare the revision.

Article 398

The Supreme Court of Montenegro shall decide on the review.

Article 399

The submitted request for review shall not stay enforcement of the final and enforceable judgment for which it has been filed.

Article 400

The review may be requested for the following reasons:

1) substantial violation of provisions of the civil procedure referred to in Article 367, paragraph 2 of this Law unless the court of first instance has decided on the statement of claims for which the other type of court is competent (Article 367, paragraph 2, item 5) or if court of first instance on the objection of the party, according to which the arbitration agreement has been concluded for the dispute, erroneously decided in the decision that was included in the judgment that it is competent (Article 367, paragraph 2, item 6) or if the court of first instance rendered judgment without the main hearing, though it was obliged to hold it (Article 367, paragraph 2, item 11) or if it has been decided on the claim which is already in the undergoing litigation (Article 367, paragraph 2, item 13) or if the main hearing has been closed for public contrary to the law (Article 367, paragraph 2, item 14).

2) substantial violation of provisions of the civil procedure referred to in Article 367, paragraph 1 of this Law committed in the court of second instance;

3) misapplication of the substantive law.

Review may be requested for exceeding the statement of claims only if such violation has been committed before the court of second instance.

Review may be not requested for erroneously or incompletely determined facts.

Review may be requested for the judgment rendered in second instance by which the first instance judgment based on confession is confirmed only for the reasons stated in paragraph 1, items 1 and 2 and paragraph 2 of this Article.

Review may not be requested for the judgment rendered in second instance which confirms the first instance judgment for substantial violations of provisions of civil procedure referred to in paragraph 1, item 1 of this Article if their existence has not been indicted in the claim, except for the violations to which the court of review and the second instance have due regard ex officio.

Article 400a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 70)

The revision referred to in Article 397a of this Law can be declared for the reasons referred to in Article 400 of this Law only if they are related to a legal issue of importance for ensuring legal certainty or uniform application of rights.

Article 401

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 71)

The review court shall examine the contested judgment only in the part which has been contested by the request for review and within the limits of reasons indicated in the request for revision having due regard ex officio to the substantial violation of provisions of the civil procedure referred to in Article 367, paragraph 2, item 12 of this Article of this Law and proper application of substantive law.

Regarding the review referred to in Article 397a of this Law, the review court examines the challenged judgment only in the part in which it is challenged by review and only because of issues that are important for ensuring legal certainty or uniform application of rights, and which are stated as such in the review, with reference to regulations and other sources of law that refer to that issue.

Article 402

Parties shall be entitled to state new facts and propose new evidence in the request for review only if they are linked to the substantial violation of provisions of the civil procedure for which the review may be requested.

Article 403

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 72)

The request for review shall be filed with the court that rendered the first instance judgment in a sufficient number of copies for the court and the adverse party.

Along with the review referred to in Article 397a of this Law, a decision shall be submitted that allows the party to declare a review.

Article 404

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 73)

The court of first instance shall by its ruling dismiss untimely, incomplete, or inadmissible request for review without holding the hearing.

The review shall be inadmissible if filed by a person that is not authorised to file for review or a person who waived review or if a person who filed for the review does not have legal interest to file review or if the review has been filed against the judgment for which the review may not be filed under the law.

The review referred to in Article 397a of this Law shall not permitted if it is declared contrary to Article 400a of this Law.

In the event that the review applicant has abandoned the submitted review, the court of first instance shall determine by decision that the applicant has abandoned the review.

Article 405

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 74)

Copy of timely, complete, and admissible request for review shall be delivered to the adverse party by the court of first instance within eight days, along with a copy of the review referred to in Article 397a of this Law and the proposal by which the party requested to be allowed to declare a review and the decision by which the party is allowed to declare a review.

The adverse party may submit to the court its response to the request for review within eight days from the day of receipt of the request for the review.

After receiving the response or after making statement regarding the review or after expiry of the deadline for responding the first instance court shall forward the request for review and the response to the review, if filed, along with all case files to the review court through the court of second instance within eight days.

Article 406

The review court shall decide on review without holding the hearing.

Article 407

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 75)

Untimely, incomplete, or inadmissible review shall be dismissed by the review court in its ruling if the court of first instance failed to do so within the limits of its powers (Article 404).

The review court shall determine by decision that the review applicant abandoned the submitted review, if the court of first instance failed to do so.

Article 408

The review court shall in its judgment dismiss the request for review as ungrounded if it finds that the reasons for which the review was requested and the reasons to be taken into consideration ex officio do not exist.

Article 409

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 76)

If it determines the existence of substantial violations of provisions of civil procedure referred to in Article 367, paragraphs 1 and 2 of this Law, which justifies the request for

review, with the exception of violations referred to in paragraphs 2 and 3 of this Article, the review court shall render ruling on entirely or partially reversing the second instance judgment and first instance judgment or only the second instance judgment and shall remand the case for retrial to the same or a different judge of the court of first instance or the same or different Panel of the court of second instance or to another competent court.

The review court shall reverse the rendered decisions and dismiss complaint in the event of violation referred to in Article 367, paragraph 2, items 3, 4, 6 and 13 of this Law in the procedure before the court of first and second instance.

In the event of violation referred to in Article 367, paragraph 2, item 12 of this Law before the court of first and second instance and depending on the nature of the violation, the review court shall proceed in accordance with provisions referred to in paragraphs 1 or 2 of this Article.

If, regarding the review referred to in Article 397a of this Law, it is established that in the proceedings before the first-instance or court of second instance, a significant violation has been made of the provisions of the civil procedure referred to in Article 400, paragraph 1 of this Law, which is related to a legal issue that is important for ensuring legal certainty or uniform application of law, and for which the revision is allowed, the revision court shall, depending on the type of significant violation of the provisions of the civil procedure, decide by corresponding application of the provisions of paragraphs 1, 2 and 3 of this Article.

Article 410

If the review court finds that the substantive law has been misapplied it shall render a judgment admitting the request for review and overrule the contested judgment.

If the review court determines that the facts have been incompletely determined due to the misapplication of the substantive law that therefore the requirements for overruling the contested judgment have not been met, it shall entirely or partially reverse judgment of the court of first instance and court of second instance or only judgment of the court of second instance and remand the case for retrial to same or different Panel of the court of first instance or court of second instance.

Article 411

Should the review court determine that the statement of claims has been exceeded by the final and enforceable second instance judgment it shall, depending on the nature of the exceed the statement of claims, reverse the judgment of the court of second instance in its ruling and if necessary remand the case to the second instance court for retrial.

Article 412

Decision of the review court shall be delivered to the court of first instance through the court of second instance within 30 days from rendering the decision.

Article 413

Unless stipulated otherwise in Articles 397 through 412 of this Law, the provisions of this Law on the appeal against a judgment from Article 362, paragraphs 2 and 3, Article 363, 364, 369, Article 372, paragraphs 2 and 3, Article 373, paragraph 2, Articles 347, 380, 385, and Articles 388 through 391 of this Law shall apply accordingly to the review procedure.

Article 414

Parties may also file request for review against the final and enforceable ruling rendered by the second instance court which effectively concluded the procedure.

The request for review of the ruling referred to in paragraph 1 of this Article shall not be allowed in disputes where the review against the final and enforceable judgment would not be allowed (Article 397, paragraphs 2 and 3).

Review shall always be allowed for the second instance ruling on dismissal of appeal or confirmation of the first instance decision on rejection of the review.

Review shall always be allowed against second instance ruling by which it has been finally decided on the motion for reopening the procedure.

Provisions of this Law regulating the review of the judgment shall apply accordingly to the procedure upon the review of the ruling.

Article 415

The court to which the case has been remanded for retrial is bound in this case with legal opinion which forms grounds for ruling of the review court that has reversed the second instance judgment or reversed the second instance and first instance judgment.

REQUEST FOR PROTECTION OF LEGALITY

Article 416

Public prosecutor may file request for the protection of legality against final and enforceable court decision only on grounds of substantial violations of provisions of civil procedure referred to in Article 367, paragraph 2, item 7 of the Law within three months.

The deadline for filing request for the protection of legality referred to in paragraph 1 of this Article shall be counted as follows:

1) against the decision rendered in the first instance against which appeal has not been filed – as of the day when it was not possible to contest that decision by an appeal;
2) against the decision rendered in second instance - as of the day when that decision has been delivered to the party to which it has been delivered later.

Request for the protection of legality shall not be allowed against the decision rendered upon review by the court competent to decide on that legal remedy (Article 398).

Article 417

The court referred to in Article 398 of this Law decides on the request for protection of legality.

Article 418

If both the request for review and request for the protection of legality have been filed against the same decision, the court referred to in Article 398 of this Law shall decide on those legal remedies by rendering a single decision.

Article 419

Public prosecutor shall be notified of holding the session where the court shall consider the request for protection of legality.

Article 420

When deciding upon request for the protection of legality, the court shall restrict itself only to the examination of the violation set forth by the public prosecutor in their request.

Unless stipulated otherwise by Articles 416 through 419 of this Law, in the procedure on the request for the protection of legality the provisions Articles 399, 402 through 409 and Articles 412 and 413 412 and 413 of this Law shall apply accordingly.

REOPENING THE PROCEDURE

Article 421

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 77)

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 11)

Procedure completed by a final court decision may be reopened at the party's motion if:

1) a party has not been given the possibility to be heard before the court by some illegal action, particularly omission of delivery;
2) the personal delivery of the first writ has been conducted in accordance with article 141 of this Law and the party was continually absent longer than three months;
3) if the person who cannot act as a party to the procedure has acted as the plaintiff or the defendant or if the party which is a legal person was not represented by the authorised person or if the person without litigation capacity was not represented by legal representative or if the legal representative or proxy of the party did not have proper authorisation to conduct the litigation or specific litigation actions if conducting the litigation or some actions in the procedure have not been approved afterwards,
4) the court decision has been grounded on a false testimony by a witness or expert witness;
5) the court decision has been grounded on a false document or a document where the false content has been certified;
6) rendering the court decision involved a criminal act of the judge, legal representative or the proxy of the party, adverse party or any third party;
7) the party acquires possibility to use the final and enforceable decision of the court which has already been rendered on the same dispute and between the same parties;
8) the court decision has been grounded on the other decision of the court or some other authority and that other decision is effectively overruled, reversed and annulled;
9) the party learns new facts or finds or acquires the possibility to use new evidence that would have led to a more favourable decision for the party if those facts or evidence had been presented in the previous procedure.
10) it was determined by the decision of the Constitutional Court of Montenegro that human rights and basic freedoms have been violated during the civil proceedings and that the judgement was based on such a violation, and that it is possible to correct the violation by repeating the procedure.

Article 422

Reopening the procedure may not be requested for the reasons stated in Article 421, items 1 and 3 of this Law if the same reason was unsuccessfully presented in the previous procedure.

Reopening due to the circumstances stated in Article 421, items 7, 8 and 9 of this Law may be allowed only if a party, through their fault, was unable to present those circumstances prior to the conclusion of the previous procedure by the final and enforceable court decision.

Article 423

Motion for reopening shall be filed within 30 days, as follows:

1) in the case referred to in Article 421, items 1 and 2 of this Law – as of the date when the decision was delivered to the party.

2) in the case referred to in Article 421, item 3 of this Law, if a person who may not be party in the procedure has participated in the procedure in capacity of the plaintiff or defendant – as of the date the decision was delivered to that person; if a legal person in capacity of a party is not represented by an authorised person or if a party without litigation capacity has not been represented by legal representative – as of the date the decision was delivered to the party or their legal representative; if a legal representative or party's proxy has not had the necessary authorisation for conducting the procedure or for particular litigation actions – as of the date the party found out about that reason;

3) in the case referred to in Article 421, items 4 through 6 of this Law – as of the date the party learnt about the final and enforceable judgment in the criminal procedure; and if the criminal procedure may not be conducted then as of the date they learned about suspension of the procedure or circumstances due to which the procedure may not be initiated;

4) in the case referred to in Article 421, items 7 and 8 of this Law – as of the date when the party was able to execute the final and enforceable decision of the court which is the reason for reopening the procedure;

5) in the case referred to in Article 421, item 9 of this Law – as of the date the party was able to present new facts or new evidence to the court.

If a deadline set in paragraph 1 of this Article would commence before the decision becomes final and enforceable, the deadline shall be counted from the date the decision becomes final and enforceable unless a legal remedy has been filed against it or from the delivery of the final and enforceable decision of higher court rendered in the last instance.

Motion for reopening the procedure may not be filed after expiry of five years from the date the decision has become final and enforceable, unless reopening is requested for the reasons stated in Article 421, items 1, 2 and 3 of this Law.

Article 424

Motion for reopening the procedure shall always be filed with the court that rendered the first instance decision.

The motion shall contain the following: the legal grounds for reopening, the circumstances indicating that the motion was filed within the deadline determined by law and the evidence corroborating arguments of the proposing party.

Article 425

The court shall reject by its ruling the untimely (Article 423), incomplete (Article 424, paragraph 2) or inadmissible (Article 423) motions for reopening the procedure without holding a hearing.

If the court does not reject the motion, it shall serve the copy of the motion to the adverse party under provisions of Article 136 of this Law who is entitled to give the response within 15 days.

Article 426

After the motion for reopening the procedure has been filed, the court of first instance may hold deliberation to discuss the motion.

Article 427

The court of first instance decides on the motion, except if the reason for reopening the procedure is only related exclusively to the procedure before a higher court (Article 428).

The court decides on the motion for reopening for procedure its ruling.

The ruling which allows reopening the procedure shall pronounce that the decision rendered in the previous procedure is reversed.

The court shall set the main hearing only after the ruling which allows reopening the procedure becomes final and enforceable. At the new main hearing, parties may present new facts and propose new evidence apart from those for which the reopening the procedure has been allowed if they prove it likely that they were not able to present or propose them in the previous procedure without their fault.

Article 428

If the reason for reopening the procedure relates exclusively to the procedure before higher court then the court of first instance shall, upon receipt of the response to the motion if it has been filed, or after holding a hearing for deliberation on the motion for reopening the procedure, forward the case to the higher court to render decision.

When the case is received by the higher court, the court shall act under provisions of Article 374 of this Law.

The higher court decides on motion for reopening the procedure without holding a hearing.

When the higher court finds that the reason stated in favour of motion for reopening the procedure is justified and that it is not necessary to hold a new main hearing, it shall reverse its own decision and the decision of higher court if it exists and render new decision on the main subject matter.

Article 428a

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 25)

When the European Court of Human Rights establishes violation of basic human rights and fundamental freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the party may, within three months from the final judgment of the European Court of Human Rights, submit request to the court in Montenegro, which judged in the first instance in the case where was made a decision that violates human rights and fundamental freedoms, to change the decision by which that right or fundamental freedoms have been violated, if committed violation cannot be removed in any other way except by reopening of procedure.

Procedure referred to in paragraph 1 of this article is implemented with the appropriate application of the provisions on the reopening of procedure.

In the reopening of procedure, the court is bound by the legal views expressed in the final judgment of the European Court of Human Rights by which is established violation of basic human rights and freedoms.

RELATION BETWEEN MOTION FOR REOPENING THE PROCEDURE AND OTHER EXTRAORDINARY LEGAL REMEDIES

Article 429

If the party files the motion for reopening the procedure due to reasons and within the deadline for filing the review, it shall be considered that the party filed request for review.

Should the party file request for review for reasons started under Article 367, paragraph 2, item 13 of this Law or simultaneously or subsequently the files motion for the reopening the procedure for any reason under Article 421 of this Law, the court shall stay the procedure with regard to the motion for the reopening the procedure until the conclusion of the review procedure.

If the party files request for review for any of the reasons, with the exception of that stated in Article 367, paragraph 2, item 13 of this Law and simultaneously or subsequently files motion for reopening the procedure for the reasons stated in Article 421, items 4 through 6 of this Law corroborated by the final and enforceable judgment rendered in criminal procedure, the court shall stay the review procedure until the conclusion of the procedure with regard to the motion for reopening the procedure.

In all other cases where a party files request for review and simultaneously or subsequently files motion for reopening the procedure, the court shall decide which procedure to resume and which one to stay, taking into consideration all circumstances and particularly the reasons due to which both legal remedies have been filed and evidence proposed by parties.

Article 430

Provisions of Article 429, paragraphs 1 and 3 of this Law shall also apply when the party first filed motion for reopening the procedure and thereafter filed request for review.

In all other cases where a party files motion for reopening the procedure and thereafter files request for review, the court shall, as a rule, stay the review procedure until the conclusion of the reopening procedure, unless it finds serious reasons demanding different actions.

Article 431

The court of first instance shall render ruling referred to in Article 429 of this Law if the motion for reopening the procedure reaches the court of first instance before the case for review reaches the review court. If the motion for reopening the procedure reaches the court of first instance after the case has already been referred to the review court, the ruling referred to in Article 429 of this Law shall be rendered by the review court.

The court of first instance shall render ruling referred to in Article 430 of this Law, except if the case, at the time the request for review is received at the court of first instance, has been delivered to the higher court to render decision on reopening the procedure upon motion (Article 428, paragraph 1) in which case the ruling shall be rendered by the higher court.

Appeal against ruling referred to in paragraphs 1 and 2 of this Article shall not be allowed.

Article 432

The provisions of Articles 429 through 433 of this Law shall accordingly apply when the public prosecutor in compliance with provisions of Article 416 of this Law files request for the protection of legality and the party submits motion for reopening the procedure before, at the time or after that time.

PART THREE

SPECIAL PROCEEDINGS

TITLE TWENTY-EIGHT

PROCEDURE IN LITIGATION CONCERNING LABOUR RELATIONS

Article 433

Other provisions of this Law shall apply in the litigation concerning labour relations, unless this Title contains special provisions.

Article 434

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 78)

In the litigation on labour relations, particularly when setting the deadlines and deliberations, the court shall always give expedited treatment to the labour disputes.

In labour relations disputes initiated by an employee against the decision to terminate the employment contract, the hearing for the main hearing must be held within 30 days from the date of the preliminary hearing.

In the case referred to in paragraph 2 of this Article, the proceedings before the court of first instance must be completed within six months from the date of filing the complaint.

In the case referred to in paragraph 2 of this Article, the court of second instance shall be obliged to make a decision on the appeal filed against the decision of the court of first instance within 60 days from the date of receipt of the case file.

Article 435

In the course of the procedure the court may ex officio determine temporary measures which are applied in enforcement procedure to prevent violent actions or remove irreparable damage. Interlocutory appeal shall not be allowed against this decision.

Article 436

The court shall, in the judgment ordering the performance of certain action, set a deadline of eight days for the performance of that action.

Article 437

The deadline for filing an appeal shall be eight days.

Article 438

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 26)

The review shall be allowed only in disputes concerning the beginning, existence and termination of employment.

TITLE TWENTY-NINE

PROCEDURE IN LITIGATION CONCERNING TRESPASSING

Article 439

Other provisions of this Law shall apply in the litigation on trespassing, unless this Title contains special provisions.

Article 440

In setting the deadlines and deliberations on complaints for trespassing, the court shall always have due regard to the necessity of expedited treatment considering the nature of every single case.

Article 441

The deliberation on the complaint for trespassing shall be limited to deliberation and proving of facts pertaining to the latest situation of possession and the disturbance thereof. The deliberation as to the right to the real estate, legal grounds, and possession of real estate in good faith and in bad faith or claims for award of damages shall be excluded.

Article 442

In the course of the procedure court may ex officio determine temporary measures, without hearing of the adverse party, that are applied in enforcement procedure to eliminate immediate threat against legal damage, prevent violence or eliminate irreparable damage. Interlocutory appeal shall not be allowed against this decision.

Article 443

The deadline for filing an appeal shall be eight days.

In extraordinary circumstances the court may decide that that the appeal shall not stay enforcement of the ruling.

The request for review shall not be allowed against rulings rendered in the litigation concerning the trespassing.

Article 444

In the enforcement procedure, the plaintiff shall lose the right to request enforcement of the ruling rendered upon the complaint for the trespass, which orders the defendant to perform certain action unless they requested enforcement within the 30 days upon expiry of the deadline set by the ruling for the performance of that action.

Article 445

Reopening the procedure on trespassing that has been finalised with final and enforceable decision shall be allowed only for the reason under Article 421, items 1, 2 and 3 of this Law and only within 30 days from the date of rendering final and enforceable ruling on trespassing.

TITLE THIRTY

SMALL CLAIM DISPUTES PROCEDURE

Article 446

Other provisions of this Law shall apply to the small claim disputes procedure, unless this Title contains special provisions.

Article 447

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 79)

For the purposes of the provisions of this Title, small claim disputes are those in which the statement of claims refers to the pecuniary claim that does not exceed the amount of EUR 1 000.00.

Small claim disputes shall also include disputes in which the statement of claims is not of pecuniary nature and the plaintiff has stated in the complaint that they shall accept certain monetary sum that does not exceed the amount referred to in paragraph 1 of this Article in lieu of the obligation disclosed in the complaint (Article 36, paragraph 1).

Small claim disputes shall also include those disputes in which the statement of claims is not of pecuniary nature, but the transfer of a moveable asset whose value, as stated in the complaint by the plaintiff, hat does not exceed the amount referred to in paragraph 1 of this Article (Article 36, paragraph 2).

Article 448

For the purposes of the provisions of this Title, disputes concerning real estate, labour relations and trespassing shall not fall within the category of small claim disputes.

Article 449

In the small claim disputes, the interlocutory appeal shall be allowed only against the ruling on conclusion of the procedure.

Other rulings, against which an appeal is allowed in accordance with this Law, may be contested only by the appeal against the decision on conclusion of the procedure.

Rulings referred to in paragraph 2 of this Article shall not be delivered to the parties, but shall be pronounced at the hearing instead and included in written form of the decision.

Article 449a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 12)

In small claims proceedings, the court may, in whole or in part, reject the request for compensation of costs to the party that succeeds in the dispute, if these costs are clearly disproportionate to the amount of the claim or if they were not necessary for the conduct of the proceedings.

Article 450

In the small claim disputes procedure, the minutes of the main hearing, in addition to the information required under Article 118, paragraph 1 of this Law shall also contain the following:

1) statements of parties which are important, particularly the ones which entirely or partly admit the statement of claims or waive the statement of claims or the appeal, or overrule or withdraw complaint;
2) significant substance of the presented evidence;
3) decisions against which the appeal is allowed and which have been pronounced at the mean hearing;
4) whether the parties were present during pronouncement of the judgment and, if they were, whether they were instructed about conditions of the appeal.

Article 451

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 80)

If the plaintiff amends the statement of claims so that the value of the dispute exceeds EUR 1 000.00, the procedure shall be concluded in accordance with the provisions of this Law on regular procedure.

If the plaintiff, before conclusion of the main hearing conducted in accordance with the provisions on regular procedure of this Law, reduces their claim so that it does not exceed EUR 1 000.00 any more further procedure shall be conducted in accordance with the provisions of this Law on the small claim disputes.

Article 452

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 27)

If the court schedules the main hearing and the plaintiff fails to appear at the hearing in spite of being duly summoned the court renders judgment by which it shall dismiss the statement of claims (the judgment based on waiver).

Summons for the main hearing shall state that, inter alia, that if the plaintiff fails to appear at the deliberation for the main hearing it shall be considered that they have withdrawn the claims and that the decision may be contested only based on substantial violation of provisions of the civil procedure and misapplication of substantive law.

Article 453

The judgment in the small claim disputes procedure shall be pronounced immediately after conclusion of the main hearing.

Transcript of the judgment shall always be delivered to the party who has not been present at the pronouncement, while it is delivered to the party who was present only upon their request. Such request may be expressed by the party at the hearing where the judgment is being announced, but not later.

When pronouncing the judgment the court shall inform the present parties on conditions for filing appeal (Article 454).

Article 454

The judgment or ruling by which the small claim disputes procedure is completed may be contested only based on substantial violation of provisions of the civil procedure under Article 367, paragraph 2 of this Law and misapplication of substantive law.

In the procedure on appeal in case of the small claim disputes procedure, the provisions of Article 384, paragraph 1 of this Law shall not apply neither shall provisions of this Law on holding the hearing before the court of second instance apply.

The appeal against the first instance judgment or ruling referred to in paragraph 1 of this Article may be filed by parties within eight days.

Deadline for appeal is counted from the day of pronouncing the judgment or ruling and if the judgment or ruling has been delivered to the party the deadline runs from the day of its receipt.

In the small claim disputes procedure the deadline under Article 334, paragraph 2, and Article 348, paragraph 1 of this Article of this Law shall be eight days

TITLE THIRTY-ONE

PROCEDURE IN COMMERCIAL DISPUTES

Article 455

Provisions of this Law shall apply in commercial disputes, unless otherwise prescribed in provisions of this Title.

Rules on procedure in commercial disputes shall also apply to all disputes for which the competent court is commercial court according to the Law on Courts except in disputes for which it has subject matter jurisdiction.

PREPARATION FOR THE MAIN HEARING

Article 456

In emergency cases, the judge is authorised to schedule hearings by telephone or facsimile.

Article 457

As a rule, the facts about the turnover of goods and services accompanied by standard business documents shall be proved by such documents.

LEGAL REMEDIES

Article 458

(Law Amending the Law on Civil Procedure, Official Gazette of the Republic of Montenegro No. 076/06 of 12.12.2006, Article 28)
(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 81)

Review of commercial disputes shall not be allowed if the value of the dispute of the contested part of final and enforceable judgment does not exceed the amount of EUR 40 000.

Review of commercial disputes shall be always allowed in the disputes under Article 397, paragraph 4, item 3 of this Law.

Article 459

In commercial disputes the following deadlines shall be valid:

1) deadline of 15 days for responding to the appeal;
2) deadline of 30 days for submitting motion for returning to the previous stage under Article 113, paragraph 3 of this Law;
3) deadline of eight days for the appeal against the judgment or ruling and deadline of three days for responding to the appeal;
4) deadline of eight days for execution of the act, however for the acts not involving monetary payments, the court may order a longer deadline.

Article 460

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 82)

In the procedure on commercial disputes the small claim disputes procedure shall be the one in which the value of the statement of claims refers to the monetary claim that does not exceed the amount of EUR 7 000.

The small claim disputes procedure shall be regarded also the dispute where the claimed matter is not an amount of money, but the plaintiff has stated in the complaint that they would accept a certain amount of money in lieu of satisfaction of the claim when the amount so stated does not exceed the amount defined under paragraph 1 of this Article (Article 36, paragraph 1).

The small claims disputes shall be regarded also disputes where the matter of the dispute is not an amount of money, but transfer of movable object whose value as stated by the plaintiff in their complaint does not exceed the amount specified in paragraph 1 of this Article (Article 36, paragraph 2).

TITLE THIRTY-TWO

ISSUANCE OF PAYMENT ORDER

Article 461

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 048/15 of 21.08.2015, Article 83)

If the statement of claims refers to the claim that has become due in money and this claim is proved by authentic document, which is submitted with the complaint either in original or certified copy the court shall order the defendant to fulfil the statement of claims (payment order).

Authentic documents shall be the following:

1) public documents;
2) private documents in which signature of the debtor has been certified by the authority competent for certification;
3) bills of exchange and checks with objection to payment and reverse accounts when they are necessary for establishing of the claim;
4) excerpts from certified business books;
5) invoices;
6) documents considered as public documents under special regulations.

The court shall issue payment order even though the plaintiff did not suggest issuance of the payment order in the complaint whereby all conditions for its issuance have been met.

When execution based on the authentic document may be requested in accordance with Law on Enforcement Procedure, the court shall issue payment order if only plaintiff proves likely their legal interest for issuing the payment order.

If the plaintiff does not prove likely their legal interest for issuing the payment order the court shall reject the complaint.

Article 462

If the statement of claims refers to the claim that has become due in money which does not exceed the amount of EUR 500.00 the court shall issue payment order against the defendant even though authentic documents have not been submitted with the complaint, however the complaint states basis and amount of debt and indicates evidence based on which accuracy of the statements in the complaint may be verified.

Payment order referred to in paragraph 1 of this Article may be issued by the court only against main debtor.

Article 463

The court shall issue payment order without holding the hearing.

The court shall indicate in the payment order that the defendant shall, within eight days or in the bill of exchange or check disputes within three days from delivery of the payment order, fulfil statement of claims together with all costs calculated by the court and shall also submit objections to the payment order within the same deadline. In the payment order the court shall warn the defendant of rejection of untimely submitted objections.

Payment order shall be delivered to parties.

The defendant shall, in addition to the payment order, be also delivered a copy of complaint with attachments.

Article 464

If the court does not accept motion for issuance of payment order the procedure shall continue in accordance with the complaint.

Appeal against the ruling of the court which accepts motion for issuance of the payment order shall not be allowed.

Article 465

Payment order may be contested only by objection. If the payment order is contested only in the part referring to the costs this decision may be contested only by appeal against the ruling.

The payment order shall become legally binding in the part where it is not disputed by objection.

Article 466

Untimely, incomplete, or inadmissible objections shall be dismissed by the court without holding hearing.

If the objections are submitted timely, the court shall evaluate whether it is necessary to schedule preliminary hearing or whether it may immediately schedule the main hearing.

In the course of the preliminary hearing, parties may present new facts and propose new evidence and the defendant may raise new objections referred to the contested part of the payment order.

The court shall decide in the decision of the main subject matter whether the payment order entirely or partially stays in force or becomes annulled.

Article 467

If the defendant puts forward the objection that legal grounds for issuance of the payment order did not exist (Article 461 and 462) or that there are obstructions for further course of the procedure, the court shall first decide on this objection. If it finds that this objection is justified, it shall annul the payment order with its ruling and after the ruling becomes final and enforceable it shall initiate deliberation on the main subject matter when there are conditions for such deliberation.

If the court does not accept this objection, it shall proceed to deliberate on the main subject matter and include its decision on the main subject matter in the ruling.

If, upon objection regarding non-maturity, the court finds that the claim has become due after issuance of the payment order, but before the conclusion of the main hearing, payment order shall be reversed by the judgment and the court shall decide on the statement of claims (Article 322, paragraph 1).

Article 468

The court may declare that it has not territorial jurisdiction until issuance of payment order.

Defendant may file objection against territorial jurisdiction only in the objection against payment order.

Article 469

If the court declares after issuing the payment order that it does not have territorial jurisdiction it shall annul the payment order and assign the case to the competent court after the ruling on non-competence becomes final and enforceable.

If the court establishes after issuing the payment order that it has territorial jurisdiction it shall not annul the payment order, instead it shall assign the case to the competent court after the ruling becomes final and enforceable.

Article 470

When the court in the cases in accordance with this Law decides to dismiss the complaint, it shall also reverse the payment order.

Article 471

The plaintiff may withdraw the complaint without consent of the defendant only before submission of objection. If the complaint has been withdrawn, the court shall reverse the payment order by its ruling.

If the defendant waives all objections before conclusion of the main hearing, the payment order shall remain in force.

PART FOUR

Article 472

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 473

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 474

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 475

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Article 476

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Article 477

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Article 478

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Article 480

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Article 481

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 482

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Article 483

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Article 484

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Article 485

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Article 486

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Article 494

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Article 495

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Article 496

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Article 497

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Article 498

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Article 499

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Article 500

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Article 501

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 502

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 503

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 504

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 505

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 506

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 507

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

Article 508

Shall be deleted. (Law on Arbitration, Official Gazette of Montenegro No. 47/15)

PART FOUR A

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 13)

SPECIAL PROVISIONS ON EXERCISING JUDICIAL COOPERATION IN THE EUROPEAN UNION

TITLE THIRTY-THREE

DELIVERY OF JUDICIAL AND EXTRAJUDICIAL WRITS IN CIVIL AND COMMERCIAL MATTERS IN MEMBER STATES

Article 508a

For sending judicial or extrajudicial documents to another member state of the European Union (hereinafter referred to as "the Member States"), for the purpose of Article 2 paragraph 1 of Regulation (EU) No. 1393/2007 of the European Parliament and the Council of December 13, 2007 on the delivery of judicial and extrajudicial documents in civil and commercial matters in Member States (hereinafter referred to as the Regulation 1393/2007), shall be competent:

- for court writs, the court leading the proceedings in which the writ should be served;
- for writs of public bailiffs, the public bailiff who leads the procedure in which the writ should be delivered;
- for writs of a notary, the notary who conducts the procedure in which the writ is to be served;
- for writs certified or issued by notaries, the basic court in whose territory the official seat of the notary is located;
- for out-of-court writs, the basic court in whose territory the person to whom the writ is to be served in another member state has his domicile or residence, or headquarters.

For the reception and delivery of judicial or extrajudicial writs from another Member State, for the purpose of Article 2 paragraph 2 of Regulation 1393/2007, shall be competent the basic court in whose area the writs are to be delivered.

Article 508b

The central authority in Montenegro, for the purpose of Article 3 of Regulation 1393/2007, shall be the Ministry of Justice.

Article 508v

The delivery of writ to be carried out in Montenegro, for the purpose of Article 13 of Regulation 1393/2007, shall be allowed only if the recipient to whom the writ is delivered is a citizen of the Member State from which the writ was sent.

Article 508g

Delivery of writ, for the purpose of Article 14 of Regulation 1393/2007, shall be proven by a return receipt or other similar confirmation of receipt of writ.

Article 508d

A writ that needs to be delivered in Montenegro, for the purpose of Article 7 paragraph 1 of Regulation 1393/2007, can also be delivered by registered mail with return receipt.

Article 508đ

Delivery of a court writ, for the purpose of Article 15 of Regulation 1393/2007, shall be done in Montenegro only if the sender of that document is a party to the proceedings before the court of the Member State from which the writ originates.

TITLE THIRTY-FOUR

COOPERATION BETWEEN THE COURTS OF THE MEMBER STATES IN REGARDS TO THE TAKING OF EVIDENCE IN CIVIL AND COMMERCIAL MATTERS

Article 508e

When the presentation of evidence should be conducted according to Regulation (EC) No. 1206/2001 of the European Parliament and the Council of May 28, 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (hereinafter referred to as the "Regulation 1206/2001"), the court may:

1) request evidence from a competent court in another Member State, or
2) request permission for the direct presentation of evidence in another member state, in accordance with the assumptions referred to in Article 17 of Regulation 1206/2001.

Article 508ž

A single judge, that is, a judicial panel of a competent court in Montenegro that requires the presentation of evidence may, in cases to which Regulation 1206/2001 applies and in accordance with that regulation, participate in the presentation of evidence before the requested court of another Member State.

The parties, their representatives and expert witnesses may, in cases to which Regulation 1206/2001 applies and in accordance with that Regulation, attend the presentation of evidence before the requested court of another Member State, in the same way as they could in the proceedings before the competent court in Montenegro. participate in the presentation of evidence.

A single judge, that is, a judicial panel of a competent court in Montenegro, can directly take evidence in another member state, in accordance with Article 17 of Regulation 1206/2001.

Article 508z

As for production of evidence, as the requested court in Montenegro, for the purpose of Article 2 paragraph 1 of Regulation 1206/2001, the basic court in whose territory the evidence should be produced shall be competent.

Article 508i

The request for the production of evidence, as well as the notification from another Member State, must be made in the Montenegrin language or must be accompanied by a translation into the Montenegrin language made by an authorized interpreter of one of the Member States.

Article 508j

The central authority in Montenegro, for the purpose of Article 3 of Regulation 1206/2001, shall be the Ministry of Justice.

TITLE THIRTY-FIVE

EUROPEAN SMALL CLAIMS PROCEDURE

Article 508k

For the trial in the European small claims procedure, for the purpose of Regulation (EU) No. 861/2007 of the European Parliament and the Council of July 11, 2007 on the introduction of the European Small Claims Procedure (hereinafter referred to as the "Regulation 861/2007"), the competent court shall be the basic court, that is, the Commercial Court of Montenegro.

Article 508l

Forms, for the purpose of Regulation 861/2007, legal remedies, proposals and announcements that are made outside the hearing, shall be submitted in writing (submissions). Submissions sent by telegram, fax and e-mail shall be considered to be in written form, in accordance with the Law regulating electronic administration.

Article 508lj

In the case referred to in Article 4, paragraph 3 of Regulation 861/2007, the provisions of Regulation 861/2007 shall not be applied to the procedure, which shall be conducted, but the procedure shall continue according to the provisions of this Law.

Article 508m

The court shall dismiss a counterclaim that is not filed in accordance with Regulation 861/2007, except in the case referred to in Article 5 paragraph 7 of Regulation 861/2007.

In the case referred to in Article 5 paragraph 7 of Regulation 861/2007, the provisions of Regulation 861/2007 shall not apply to the proceedings to be conducted regarding the claim and counterclaim, but the proceedings shall continue in accordance with the provisions of this Law.

Article 508n

The delivery of the notice of refusal to receive writ, for the purpose of Article 6 paragraph 3 of Regulation 861/2007, shall be conducted by the court within eight days.

In the notification referred to in paragraph 1 of this article, the court shall oblige the recipient to submit to the court a translation of the document referred to in Article 6, paragraph 3 of Regulation 861/2007, within a period that cannot exceed eight days, and shall warn them of the consequences of failure to comply with provisions of this Law which regulates delivery of submissions.

Article 508nj

The judgment made in the European Small Claims Procedure shall not be published.

Article 508o

An appeal shall be allowed against the judgment rendered in the European Small Claims Procedure, in accordance with the provisions of this Law governing appeals in small claims.

Article 508p

The court that made that decision shall be competent to decide on the request for review of the decision made in the European Small Claims Procedure, for the purpose of Article 18 of Regulation 861/2007.

According to the request referred to in paragraph 1 of this Article, the court shall decide with a decision.

If it determines that the request referred to in paragraph 1 of this Article is well-founded, the court shall cancel the decision to which that request refers and order a repetition of the procedure.

Article 508r

An appeal against a judgment passed in Montenegro in the European Small Claims Procedure shall not stay execution of that judgment.

Article 508s

The certificate referred to in Article 20 paragraph 2 of Regulation 861/2007 shall be issued by the court that issued the judgment for which the certificate is issued.

TITLE THIRTY-SIX

EUROPEAN PAYMENT ORDER

Article 508t

To decide on the request for the issuance of a European payment order, for the purpose of Regulation (EU) No. 1896/2006 of the European Parliament and the Council of December 12, 2006, on the introduction of the European payment order procedure (hereinafter referred to as the "Regulation 1896/2006"), the competent court shall be the basic court, that is, the Commercial Court of Montenegro.

The court that issued the order shall be competent to issue a certificate of enforceability of the European payment order.

Article 508ć

A request for issuing a European payment order, an objection against a European payment order, a request for a review of a European payment order in extraordinary cases, as well as other proposals and announcements shall be submitted in writing (submissions). Submissions sent by telegram, fax and e-mail shall be considered to be in written form, in accordance with the Law regulating electronic administration.

Article 508u

If the European payment order needs to be delivered in Montenegro, delivery shall be carried out in accordance with the provisions of this Law.

If the European payment order is to be delivered in another Member State, the delivery shall be carried out in accordance with Regulation 1393/2007 and provisions of this Law governing delivery according to that Regulation.

Article 508f

If the plaintiff files an objection against a European payment order, for the purpose of Article 16 of Regulation 1896/2006, the procedure shall continue in accordance with the provisions of this Law, which regulate the procedure regarding objections against a payment order, unless otherwise prescribed by Article 17 of Regulation 1896/2006.

Article 508h

Due to missing the deadline referred to in Article 16 paragraph 2 of Regulation 1896/2006, the return to the previous state shall not be allowed.

Article 508c

The court that has issued the European payment order shall be competent to decide on the request for review of the European payment order referred to in Article 20 paragraph 1 of Regulation 1896/2006.

According to the request referred to in paragraph 1 of this Article, the court shall decide with a decision.

When it determines that the request referred to in paragraph 1 of this Article is founded, the court shall cancel the European payment order to which that request refers and start discussing the main matter, if necessary.

PART FIVE

TRANSITIONAL AND FINAL PROVISIONS

Article 509

If a first-instance judgement or decision was passed before the start of the application of this Law, which ended the proceedings before the court of first instance, further proceedings shall be carried out according to the current regulations.

On the day of coming into force of this Law, the procedure which is conducted in a temporary halt shall continue accordance with this Law.

If the first-instance decision referred to in paragraph 1 of this Article is revoked after the start of the application of this Law, further proceedings shall be carried out according to this Law.

If the request for review has been submitted against the second instance judgment in procedure which was initiated before the beginning of the application of this Law the further procedure shall be conducted in accordance with rules of civil procedure which were in force until the beginning of application of this Law.

After the beginning of the application of this Law, request for protection legality regarding final and enforceable court decision may be filed only in accordance with the provisions of this Law.

If the complaint has been filed before the beginning of application of this Law, provisions of Article 339 of this Law shall not apply in the procedure, instead the

conditions for rendering the default judgment shall be evaluated in accordance with the regulations which were in force so far.

If the preliminary hearing or main hearing has been held before the beginning of the application of this Law, parties may state new facts and present new evidence at the latest on the first deliberation for the main hearing after the beginning of the application of this Law.

Article 509a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 14)

Proceedings initiated before the start of application of this Law shall be completed according to this Law.

If a first-instance judgement or decision was passed before the start of the application of this Law, which ended the proceedings before the court of first instance, further proceedings shall be carried out according to the current regulations.

If the first-instance decision referred to in paragraph 2 of this Article is revoked after the start of the application of this Law, further proceedings shall be carried out according to this Law.

Article 510

Provisions of this Law concerning arbitration procedure shall apply to the arbitration that is agreed upon after the beginning of the application of this Law.

Article 511

On the day of beginning of the application of this Law, the Law on Civil Procedure shall cease to be in force on the territory of Montenegro (Official Gazette of the Socialist Federal Republic of Yugoslavia No. 4/77, 36/77, 36/80, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91 and Official Gazette of the Federal Republic of Yugoslavia No. 27/92, 31/93, 24/94, 12/98, 15/98 and 3/2002).

Article 511a

(Law Amending the Law on Civil Procedure, Official Gazette of Montenegro No. 034/19 of 21/06/2019, Article 15)

PART FOUR A of this Law shall be applied from the day of Montenegro's accession to the European Union.

Article 512

This law shall enter into force on the eighth day from the day of its publication in the Official Gazette of Montenegro, and it shall be applied on the day of entry into force of the Law on Alternative Dispute Resolution.

PROVISIONS NOT INCLUDED IN THE CLEANED TEXT

THE LAW AMENDING THE LAW ON CIVIL PROCEDURE

(Official Gazette of the Republic of Montenegro, No. 076/06 of 12.12.2006)

Article 29

The Legislative Committee of the Parliament of the Republic of Montenegro shall be authorized to determine the clean text of this Law.

Article 30

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

PROVISIONS NOT INCLUDED IN THE CLEANED TEXT

THE LAW AMENDING THE LAW ON CIVIL PROCEDURE

(Official Gazette of Montenegro, No. 048/15 of 21.08.2015)

Article 84

"If a first-instance judgement or decision was passed before the start of the application of this Law, which ended the proceedings before the court of first instance, further proceedings shall be carried out according to the current regulations.

If the first-instance decision referred to in paragraph 1 of this Article is revoked after the start of the application of this Law, further proceedings shall be carried out according to this Law.

The review filed against the final decision of the court of second instance, in the procedure initiated before the application of this Law, shall be resolved according to the rules of civil procedure that were valid until the application of this Law."

NOTE

On the day of entry into force of the Law Amending the Law and Other Regulations due to the Constitutional Change in the Name of the State (Official Gazette of Montenegro, No. 73/10), in the laws and other regulations that were adopted before the Constitution of Montenegro:

- title: "Republic of Montenegro" shall be replaced by the title: "Montenegro";
- in the title of state and other authorities and in the title of individual acts, the word "Republic" shall be deleted;
- title: "administrative authority of the Republic" shall be replaced by the title: "state administration authority";
- wording "of the Republic" shall be replaced by "the state" or shall be deleted.