

## **MONTENEGRO**

### **Gesetz über die Pflanzengesundheit**

#### **(Zakon o Zdravstenoj Zaštiti Bilja)**

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(Konsolidierung 2015 und Übersetzung der Änderungen 2015 aus dem Bosnischen, Julius Kühn-Institut, Bundesforschungsinstitut für Kulturpflanzen, Institut für nationale und internationale Angelegenheiten der Pflanzengesundheit, 20.02.2017)

Übersetzung und Wiedergabe der Vorschriften erfolgen ohne Gewähr.

Inoffiziell konsolidierte Fassung. Geändert durch:

► M1 Decision of 31. July 2015, OG Vol. 01-741/2

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

### **DECREE**

#### **PROMULGATING THE LAW ON PLANT HEALTH PROTECTION**

**(Official Gazette of the Republic of Montenegro 28/06 of 03 May 2006, Official Gazette of Montenegro 28/11 of 10 June 2011)**

I hereby promulgate the Law on Plant Health Protection, passed by the Parliament of Montenegro, in the fourth sitting of the first ordinary session in 2006, on 18 April 2006.

No.: 01-33/2

Podgorica, 20 April 2006

President of the Republic of Montenegro,  
Filip Vujanović, signed

### **LAW ON PLANT HEALTH PROTECTION**

#### **I BASIC PROVISIONS**

##### **Article 1**

This Law shall regulate the plant health protection and biological measures for plant protection; measures for preventing the introduction and spread of harmful organisms and measures for suppression of harmful organisms on plants, plant products and regulated articles, and other issues of relevance for plant protection.

## Article 2

The plant protection related activities include:

- 1) Protection of plants, plant products and regulated articles against harmful organisms;
- 2) Prevention of the introduction and spread of harmful organisms and their suppression by taking of phytosanitary measures;
- 3) Detection and identification of harmful organisms;
- 4) Ensuring conditions for optimal production of plants and trade in plants;
- 5) Forecasting and reporting activities;
- 6) Protection of the environment against any detrimental effect of harmful organisms;
- 7) Collection, keeping and exchange of data and information;
- 8) Continuous surveillance of plants during their vegetation period, plant products in storage places, and plant products in transportation;
- 9) Monitoring of harmful organisms, risk assessment, management of risk from harmful organisms and their suppression, as well as taking of biological measures of plant health protection;
- 10) Supervision over destruction and spread of the organisms which are harmful for plants and plant products;
- 11) Supervision over exportation of the consignments of plants and plant products in respect of which other countries impose the special phytosanitary requirements;
- 12) Special supervision over harmful organisms, particularly phytosanitary inspection, monitoring of plant health status and systematic examination;
- 13) Inspection of plants and plant products in the territory of the Republic and issuing of plant passports, plant health certificates, and other documents;
- 14) Implementation of phytosanitary measures;
- 15) Education and awareness-raising of the public on plant health protection; and
- 16) Performing other activities laid down in this Law.

## Article 3

The terms used in this Law shall have the following meaning:

- 1) Plants shall mean the living plants and their parts, including seeds.
  - a) Living parts of plants shall mean:
    - fruit, in the botanical sense, other than that preserved by deep freezing,
    - vegetables, other than those preserved by deep freezing,
    - tubers, bulbs, rhizomes and other underground particles for reproduction,
    - cut flowers,
    - branches with leaves or needles,
    - cut trees with leaves,
    - leaves, foliage,
    - tissue cultures,
    - live pollen,
    - bud-wood, cuttings, scions,
    - any other part of plants, in accordance with the law.

b) seeds, in botanical sense, shall mean seeds aimed at sowing.

► **M1** e) ~~edible mushrooms.~~ ◀

- 2) Plant products shall mean products of plant origin, unprocessed or having undergone a simple processing which do not belong to plants ► **M1**, wood that has fully or partially kept its natural round surface, with or without bark, and wood in the form of sawdust, wood chips, shavings and other wood waste, and wood in the form of pallets and other wood packaging material used for the transport of commodities which is a risk to plant health in accordance with Annex 5 ◀.
- 3) Plant passport shall mean a document ► **M1** or documents, the official label or other marks ◀ which attests to the fact that plants, plant products and regulated articles which are moved within the territory of the Republic of Montenegro (hereinafter referred to: the Republic), meet the phytosanitary requirements pursuant to this Law and the regulations passed on its basis.
- 4) Plants intended for planting shall mean:
  - plants which are already planted and will remain planted or will be replanted after introduction;
  - plants which are not yet planted at the moment of introduction but are intended to be planted thereafter.
- 5) Biological plant protection shall mean suppression of harmful organisms in agriculture and forestry making use of living natural enemies, antagonists or competitors, products thereof, and other self-replicating biotic entities.
- 6) Title holder of plants, plant products and other regulated articles (hereinafter referred to as the “titleholder”) shall mean a natural or legal individual who is the owner of such or who is involved in the production, processing, treatment, storing, sale, distribution or other use of such.
- 7) Phytosanitary certificate (hereinafter referred to as: the plant health certificate) shall mean: a certificate which attests to the health status of a consignment of plants issued by a competent body of the country of origin, and shall accompany a consignment which is imported, exported or in transit.
- 8) Plant health certificate for re-export shall mean: a certificate which attests to the health status of a consignment of plants which is issued by the competent body of the exporting country and shall accompany the consignment which is re-exported.
- 9) Phytosanitary measure or statement shall mean: any measure which is carried out in order to protect plant health against the risks arising from the introduction and spread of harmful organisms, and to prevent occurrence of or diminish damage incurred by harmful organism, taken or pronounced by an administrative authority in charge of plant health protection affairs (hereinafter referred to as: administrative authority), namely, the person authorized by the administrative authority regarding issuance of a plant health certificate of plant health certificate for re-exportation.
- 10) Phytosanitary inspection shall mean an inspection of documents, identity and health check of plants, plant products or regulated articles to determine if harmful organisms are present.
- 11) Export shall mean: taking or dispatching of consignments of plants out of the territory of the Republic to another country.
- 12) Place of production shall mean: any fields or a group of fields which is an individual

- production unit with all the associated facilities, machinery and equipment.
- 13) Regulated articles shall mean: fields, storage premises, processing premises, packaging, means of transportation, containers, soil or any other surface on which plants are grown or any other organism, object or material which may contain or spread a harmful organism and which requires the introduction of phytosanitary measures.
  - 14) Movement shall mean: any movement or transportation of plants, plant products or regulated articles outside the place of production within the territory of the Republic.
  - 15) Risk assessment of harmful organisms is a biological, scientific, and economic assessment of evidence whether a harmful organism should be subjected to mandatory surveillance, and about the scope of sanitary measures to be undertaken.
  - 16) Consignment of plants shall mean a quantity of plants, plant products and regulated articles being transported and accompanied by a plant health certificate, other document or mark and may contain of one or several batches (lots).
  - 17) Monitoring of the health status (monitoring) is an ongoing inspection process for verifying the phytosanitary situation.
  - 18) ► **M1** Transit is any transit of consignments under customs control from one place to another through the customs territory of Montenegro in accordance with the law governing customs duties; ◀
  - 19) Consignment of plants for re-export shall mean any consignment of plants that is imported into the Republic and subsequently exported, without being exposed to or contaminated by harmful organisms, that may be stored, split up, combined with other consignments, or repacked
  - 20) Continuous surveillance shall mean: a procedure of collecting and recording the data on the presence of harmful organisms or their absence, on the basis of phytosanitary inspections, monitoring the health status, systematic surveys of available sources.  
► **M1 20a)** Special monitoring... ◀
  - 21) Planting or sowing shall mean any process of placing the plants with the intention of ensuring their future growth, replication and reproduction;
  - 22) Harmful organism shall mean: any type, species or biotype of plant, animal or other pathogenic organisms that are harmful for plants and plant products.
  - 23) Introduction of a harmful organism shall mean: any entry of a harmful organism into an area in which it is not yet present or is present to a limited extent and controlled
  - 24) ► **M1** The introduction of a consignment of plants, plant products and regulated articles is the import or shipping of consignments into the customs territory of Montenegro and is not a transit through the territory of Montenegro. ◀
  - 25) Country of origin shall mean:
    - For plants: the country in which the plants were grown;
    - For plant products: the country in which the plants from which plant products derived were grown.
  - 26) ► **M1** Point of entry is a place through which a consignment of plants, plant products and regulated articles first enters the customs territory of Montenegro and where the customs office (customs office of point of entry) as well as phytosanitary inspection (official body of point of entry) at an airport, port, railway and road border crossing point is established; ◀
  - 27) Official body of destination shall mean the administrative authority where the customs office of the destination is;

- 28) Customs office of destination shall mean the customs authority performing affairs determined by customs and other regulations in the destination of the consignment of plants, plant products and regulated articles;
- 29) Customs-approved treatment or use shall mean treatment or use of the consignment in compliance with the customs law;
- **M1** 30) Interception...;
- 31) Notification of interception...;
- 32) Quarantine...;
- 33) IPPC...;
- 34) EPPO... ◀.

## **II. PLANT HEALTH PROTECTION ACTIVITIES**

### **Article 4**

Plant health protection activities shall be performed by:

- competent public administration authorities;
- licensed scientific and research institutions authorized by the administrative authority responsible for plant health protection (hereinafter referred to as: the authorized institutions);
- companies and entrepreneurs which meet the requirements and are registered for performance of professional and technical activities in the implementation of specific phytosanitary measures, in accordance with the law (hereinafter referred to as: the service providers), which are authorized by the administrative authority , and
- titleholders of plants.

### **Article 5**

Administrative authority shall be responsible for plant health protection in the Republic.

Administrative authority shall perform the administrative activities and related professional activities concerning the following:

- 1) coordination and monitoring of the plant protection activities;
- 2) implementation of international conventions, contracts and treaties related to plant health protection and exchange of information with government authorities, organizations, institutions and other individuals involved in the plant protection activities;
- 3) participation in international authorities and organizations related to plant health protection;
- 4) reporting to the European Commission about plant health protection;
- 5) preparation of reports, analyses, information and other material related to the occurrence and spread of harmful organisms, in accordance with the regulations and international contracts and treaties related to plant health protection;
- 6) performance of the plant health protection activities;
- 7) organization of the implementation of continuous surveillance over harmful organisms according to the annual programme of phytosanitary measures;
- 8) assessment of the health status of plants with the purpose of ascertaining the occurrence and spread of harmful organisms in the country and abroad;

- 9) laboratory investigations of the plants, plant products and regulated articles with the purpose of diagnosing the harmful organisms from Lists I.A, II.A, I.B and II.B;
- 10) risk assessment in the event of the occurrence and identification of new harmful organisms, issuing of expert guidelines and measures;
- 11) notification of exporting countries about the retained consignments of plants because of non-compliance with phytosanitary requirements;
- 12) restriction or ban of the import into the Republic or transit of individual plant species across the territory of the Republic;
- 13) provision of the expert platform for setting the boundaries of the zones for which the establishment of extraordinary health surveillance is necessary;
- 14) establishment and keeping of the register and records;
- 15) preparation of the programs of preventive phytosanitary measures undertaken with the purpose of preventing the introduction and spread of harmful organisms and taking care about their implementation;
- 16) proposing the implementation of the measures for prevention, suppression and eradication of harmful organisms and coordination of their implementation;
- 17) supervision over the performance of activities by the authorized persons;
- 18) notification about the occurrence, mass infestation and spread of harmful organisms in the country and abroad;
- 19) notification of the public about plant health protection and issuing of publications;
- 20) establishment and maintenance of the information system related to plant health protection;
- 21) conducting the phytosanitary inspection;
- 22) issue of plant health certificates; and
- 23) other activities laid down by the law.

## **Article 6**

The titleholders of plants shall be under obligation to:

1. check grown plants in the cultivation areas (fields, plantations, tree nurseries, gardens, greenhouses), wild growing plants and plants, plant products and regulated articles which are owned or otherwise used or treated or used by them, in order to detect the occurrence or prevent the spread of harmful organisms.
2. notify the administrative authority or those providing public services in the field of plant health, of any new or unusual or suspected occurrences of harmful organisms
3. immediately take measures, determined by the administrative authority, to suppress or to prevent the spread or to eradicate harmful organisms.
4. keep records about the measure taken with regard to plant health protection.

If a titleholder does not carry out measures referred to in paragraph 1 item 3 of this Article, the administrative authority shall order their execution at the titleholder's expense.

With the purpose of timely alerting the titleholders of plants about the occurrence of harmful organisms and providing the recommendation for their suppression, the reporting and forecasting activities shall be performed, according to the annual programme of phytosanitary measures.

Annual Programme referred to in paragraph 3 of this Article which shall contain particularly the phytosanitary measures, names of harmful organisms and other regulated articles, entities in charge of activities and necessary financial funds, shall be adopted by the state administration body in charge of the agricultural affairs (hereinafter referred to as: Ministry).

### **Article 7**

Administrative authority, authorized institutions, service providers and titleholders of plants shall, with the purpose of timely detecting the harmful organisms, reporting about their occurrence, spread and suppression, conduct the continuous surveillance and cooperate in respect of the implementation of continuous surveillance over the plants, plant products and regulated articles.

About any new and unanticipated occurrences of harmful organisms, individuals referred to in paragraph 1 of this Article shall, without delay, notify the competent inspector or the administrative authority.

The obligation to notify shall also apply to all persons which by the nature of their profession take notice of or suspect the occurrence of new or unanticipated harmful organisms.

Administrative authority responsible for forestry issues, and legal and natural individuals involved in the activities of plant health protection in forestry, shall act in accordance with this Law and the regulations that govern the forestry issues.

## **III. PREVENTION OF THE INTRODUCTION AND SPREAD OF HARMFUL ORGANISMS, AND THEIR SUPPRESSION**

### **1. Harmful organisms, plants, plant products and regulated articles**

#### **Article 8**

Harmful organisms shall be classified according to the level of risk to health of plants and plant products and existence of individual species of plants, and in relation to the risk of extensive economic damage they may cause.

Harmful organisms considered particularly dangerous to plants and plant products shall be classified in the following lists:

- 1) List I.A and List II.A refer to harmful organisms, plants and plant products whose introduction and spread is forbidden in the territory of the Republic;
- 2) List I.B and List II.B refer to harmful organisms, plants and plant products whose introduction and spread is forbidden in protected zones.

The Ministry shall specify the content of the lists referred to in paragraph 2 of this Article.



## Article 9

Plants, plant products and regulated articles which may carry harmful organisms referred to in

Article 8, paragraph 2 of this Law shall be classified in the following lists:

- 1) List III.A, which relates to the ban on introduction of plants, plant products, and regulated articles;
- 2) List III.B, which relates to the ban on introduction of plants, plant products, and regulated regulated articles into a specific protected zone;
- 3) List IV.A, which relates to special phytosanitary requirements, which shall be met in respect of introduction and movement of plants, plant products, and regulated articles;
- 4) List IV.B, which relates to special phytosanitary requirements, which shall be met on the occasion of introduction of plants, plant products and regulated articles into specific protected zones and movement within such zones;
- 5) List V.A, which relates to plants, plant products, and regulated articles which must be checked before movement, contains:
  - a. List V.A.I which relates to plants, plant products, and regulated articles which must be checked before any movement in the territory of the Republic and must be accompanied by plant passports;
  - b. List V.A.II which relates to plants, plant products, and regulated articles which must be checked before introduction in specific protected zones and movement within such zones and must be accompanied by plant passports for specific protected zones;
- 6) List V.B, which relates to plants, plant products, and regulated articles which must be checked before introduction, contains:
  - List V.B.I which relates to plants, plant products, and regulated articles which must be checked on the occasion of introduction and which may transfer harmful organisms significant for the territory of the Republic,
  - List V.B.II which relates to plants, plant products, and regulated articles which must be checked on the occasion of introduction in certain protected zones and which may transfer harmful organisms significant for certain protected zones;
- 7) List VI, which relates to plants and plant products which for which special measures may be prescribed.

More detailed content of the Lists referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

The Lists referred to in Articles 8 and 9 of this Law shall be published in the Official Gazette of the Republic of Montenegro.

## Article 10

With the purpose of preventing the introduction and spread of harmful organisms, continuous monitoring over the plants, plant products and other regulated articles shall be implemented, as well as the phytosanitary measures laid down by this Law.



Phytosanitary measures shall be implemented in such scope as necessary to protect the health status of plants and ensure smooth conducting of trade.

Phytosanitary measures shall be prepared, enacted and amended in accordance with international standards, guidelines and recommendations, scientific principles and facts related to plant health protection and economic justification. In case that there are no international phytosanitary guidelines, recommendations and standards, or they do not meet the needed level of plant health protection, phytosanitary measures shall be adopted which must be scientifically justified and based on the principles of the risk assessment and management.

In the risk assessment referred to in paragraph 3 of this Article, the following shall be taken into account:

- 1) available scientific data;
- 2) production processes and methods;
- 3) inspection supervision, sample taking and testing methods;
- 4) spread of specific harmful organisms;
- 5) existence of a zone free of harmful organisms;
- 6) environmental conditions;
- 7) quarantine or other procedure.

Risk management shall include the consideration of economic justifiability in terms of the loss in production or sale in the event of the introduction and spread of harmful organisms, the costs of their suppression or eradication, as well as the economic justifiability of alternative approaches to risk reduction.

Phytosanitary measures in other country shall be considered as equivalent to the measures of the Republic if such other country demonstrates in an objective manner that it achieves the same or higher level of the plant health protection, compared with the level required in the Republic.

## **Article 11**

If a titleholder of plants or any other person detects in the plants, plant products or regulated articles any new and unusual occurrence of harmful organisms, or suspects the presence of harmful organisms indicated in List I.A or List II.A, or List I.B or List II.B in the case of a protected zone, must immediately notify the competent inspector, or the administrative authority.

In the event of suspected infection with harmful organisms referred to in paragraph 1 of this Article, the competent inspector shall take a sample and submit it for laboratory analysis to confirm the infection with harmful organism.

The laboratory shall handle the samples as to avoid the risk of harmful organisms spreading and to ensure the identity of the sample.

The laboratory shall keep records of the samples and keep and communicate the data about the

analysis that were conducted, in the prescribed manner.

The laboratory analyses referred to in paragraph 2 of this Article shall be conducted only by the authorized phytosanitary laboratories, meeting the requirements regarding personnel premises and equipment.

The Ministry shall determine the method of handling the samples and the method of keeping records of samples, keeping and communicating the data about the analyses that were conducted, and more detailed requirements referred to in paragraph 5 of this Article.

## **Article 12**

When an infection with harmful organisms from List I.A and List II.A is ascertained, or, in the case of a protected zone, with harmful organisms from List I.B and List II.B, or with harmful organisms which are not entered in the lists, the administrative authority shall order the implementation of suitable phytosanitary measures with the purpose of preventing further spread or with the purpose of suppressing the harmful organisms, such as treatment, destruction or other method of elimination of harmful organisms, plant, plant products or regulated articles in which infection with harmful organisms has been ascertained.

In the event of infection with harmful organisms referred to in paragraph 1 of this Article, the titleholder of plants shall protect plants, plant products and regulated articles against harmful organisms and prevent any contact with other plants, plant products and regulated articles on which harmful organisms can be transferred.

The extent of infection with harmful organisms shall be determined by the administrative authority.

The administrative authority shall notify the titleholders of plants and authorized persons of the occurrence and risks of harmful organisms and provide information with regard to the relevant measures for the prevention of infection with harmful organisms.

The Ministry shall specify the phytosanitary measures referred to in Article 10 of this Law, and the measures referred to in paragraph 1 of this Article and the method of notification referred to in paragraph 4 of this Article.

The Ministry shall specify in more detail the method of preparation, enactment and amendment of proposed and urgent phytosanitary measures, as well and manner of their notification in accordance with obligations arising from corresponding international agreements.

### **► M1 Article 12a**

[emergency measures to prevent the introduction and spread of harmful organisms]... ◀

### Article 13

The administrative authority shall keep records and data and findings on occurrences of harmful organisms, for the purpose of providing information at the national and international levels.

Contents, forms and methods of keeping records ►M1 and providing information ◀ referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

►M1The first occurrence or detection of new harmful organisms shall be reported to the administrative authority to pass on information on an international and national level. ◀

The method of giving and publishing the data referred to in paragraph 3 of this Article shall be determined in more detail by the Ministry.

### Article 14

A specific surveillance is a procedure of systematic collection and keeping of data about the infection with harmful organisms, which includes the inspection examinations, monitoring of health status of plants and systematic survey in the areas in which harmful organisms are present or there is a risk of their presence, or are not present.

The method of conducting and the persons who shall conduct specific surveillance over harmful organisms in respect of which the specific surveillance is conducted, shall be specified by the Ministry in the annual program.

When a harmful organism is detected by specific surveillance, the administrative authority, namely the competent inspector shall ascertain the location of its presence and, in relation to the species of harmful organism, order the suitable phytosanitary measures and notify the titleholder of plants in whose estate the presence of harmful organism was established.

The implementation of the ordered phytosanitary measures shall continue for as long as there is a risk of harmful organisms.

The boundaries of areas referred to in paragraph 1 of this Article, measures for detection, prevention of spread and suppression of harmful organisms, conditions for termination of the ordered measures and manner of notifying the titleholders of plants shall be prescribed by the Ministry.

### Article 15

A zone in which one or more than one harmful organism which is established in one or more areas of the Republic have never occurred or established itself despite the favorable conditions for it to establish itself there, and in which, under the favorable environmental conditions, for individual cultures, there is a danger that certain harmful organisms establish themselves despite the fact that such organisms have never occurred or established themselves in the Republic, may be proclaimed a protected zone.

It shall be considered that a harmful organism is established in a protected zone if it is known to

occur there and there have been no phytosanitary measures for its eradication, or if such measures have proved ineffective over a period of at least two consecutive years.

In a protected zone, the administrative authority shall ensure the carrying out of regular and systematic surveys of the possible presence of harmful organisms in relation to which the protected zone was proclaimed protected.

Protected zones referred to in paragraph 1 of this Article, more detailed conditions for carrying out systematic surveys within the boundaries of the protected zone, and lists of protected zones shall be prescribed by the Ministry.

## **2. Bans and Restrictions**

### **Article 16**

The introduction and spread in the territory of the Republic of harmful organisms indicated in List I.A and their spread through plants, plant products and regulated articles shall be banned.

The introduction and spread in the territory of the Republic of plants and plant products indicated in List II.A if they are infected with harmful organisms from such List and their spread through plants, plant products and regulated articles shall be banned.

Introduction into the protected zone and spread in the protected zone shall be banned in respect of:

- 1) harmful organisms included in List I.B,
- 2) plants or plant products as indicated in List II.B, if infected by harmful organisms included in such List,

It shall be prohibited to introduce and spread the harmful organisms in the territory of Montenegro:

- which are suspected of being harmful to plants or plant products and are indicated in the lists I.A, I.B, II.A and II.B;
- which are suspected of being harmful to plants or plant products and are indicated in the lists II.A i II.B if they are present on other plants or plant products (which are not indicated in the lists);
- which are indicated in the lists I.A, I.B, II.A and II.B, and which are in an isolated state and could be harmful to plants and plant products.

The measures for prevention or control of introduction and spread of harmful organisms referred to in paragraph 4 of this Article shall be specified by the Ministry.

Without prejudice to paragraphs 1 and 2 of this Article, the administrative authority may allow the introduction of plants on which low level of infection with harmful organisms included in Lists I.A and II.A is determined, provided that they are not intended for planting and sowing or that, based on the risk assessment of harmful organisms for specific plants intended for

planting and sowing, the tolerance thresholds are determined for harmful organisms included in List II.A, section II.

More detailed requirements and tolerance thresholds for introduction of plants referred to in paragraph 6 of this Article shall be specified by the Ministry.

### **Article 17**

The introduction in the territory of the Republic of plants, plant products and regulated articles indicated in List III.A shall be banned, if their origin is one of the countries included in such List.

The introduction of plants, plant products and regulated articles indicated in List III.B shall be banned into protected zones included in such List.

► **M1** Without prejudice to paragraphs 1 and 2 of this Article, the administrative authority may allow the introduction of plants and plant products included in List III.A or List III.B

- 1) provided there is no risk of the spread of harmful organisms or the risk is reduced to a minimum (the place of production is free from harmful organisms, application of phytosanitary measures, additional phytosanitary measures) or
- 2) provided there is no risk of the spread of harmful organisms or the risk is reduced to a minimum and when the plants were cultivated, produced, or used in near-border area of a neighboring country in order to be used at the nearby locations within the near-border area of the Republic. ◀

The administrative decision on allowing the introduction of plants, plant products and regulated articles referred to in paragraph 3 must indicate the name of the location and the name of the user.

Plants, plant products and regulated articles referred to in paragraph 3 of this Article must be accompanied by a written evidence of their place of origin.

More detailed requirements for the introduction of plants, plant products and regulated articles referred to in paragraph 3 of this Article shall be specified by the Ministry.

### **Article 18**

The introduction or movement of plants, plant products and regulated articles indicated in List IV.A shall be banned if prescribed phytosanitary requirements included in such List are not met.

The introduction of plants, plant products and regulated articles into specific protected zones indicated in List IV.B and movement within such zones shall be banned if prescribed phytosanitary requirements included in such List are not met.

► **M1** Without prejudice to paragraphs 1 and 2 of this Article the administrative authority may allow introduction of plants and plant products included in List IV.A and List IV.B:

- 1) provided there is no risk of the spread of harmful organisms, even if specific phytosanitary requirements are not met or

- 2) provided there is no risk of the spread of harmful organisms, even if specific phytosanitary requirements are not met, if they were cultivated, produced, or used in near-border area of a neighboring country in order to be used in the territory of Montenegro. ◀

The administrative decision on allowing the introduction of plants, plant products and regulated articles referred to in paragraph 3 shall indicate the name of the location and the name of the user.

Plants, plant products and regulated articles referred to in paragraph 3 of this Article must be accompanied by written evidence of their place of origin.

The ban referred to in paragraphs 1 and 2 of this Article shall not apply to small quantities of plants, plant products and regulated articles, included food products and feeding stuffs if their owner or recipient intends to use them for non-industrial and non-commercial purposes, or use them during travel, provided there is no risk of the spread of harmful organisms.

The Ministry shall specify more detailed requirements for the introduction of plants, plant products and regulated articles referred to in paragraph 3 of this Article, and the small quantities for specific types of plants and plant products.

### **Article 19**

Without prejudice to Articles 16, paragraphs 1 to 3; Article 17 paragraphs 1 and 2; and Article 18 paragraphs 1 and 2 of this Law, provided the prescribed requirements are met, the introduction and movement of harmful organisms indicated in Lists I.A, II.A, I.B and II.B and plants, plant products and regulated articles indicated in Lists III.A, III.B, IV.A and IV.B shall be allowed, if:

- 3) they have an introduction permit;
- 4) they are used for trial and research purposes or for work on varietal selections;

The requirements, method of issuing, and the content of the application for the permit referred to in paragraph 1 of this Article shall be specified by the Ministry.

The administrative authority shall keep records of permits referred to in Article 16 paragraph 6, Article 17 paragraph 3, Article 18 paragraph 3, and Article 19 paragraph 2 of this Law.

### **Article 20**

In order to prevent the introduction and spreading of harmful organisms and their suppression in the Republic, the Ministry may:

- 1) ban, in a specific region, the cultivation of specific species, varieties and clones of plants;
  - 2) ban or restrict the importation into the Republic or transit of specific plant species through the territory of the Republic;
  - 3) ban or restrict the movement of specific plant species in the territory of the Republic;
  - 4) determine the boundaries of the regions under specific or extraordinary surveillance;
- and
- 5) order other emergency measures in accordance with this Law.

### **3. Register of producers, processors, importers, distributors and the person who store plants, plant products and regulated articles**

#### **Article 21**

Production, processing, importation, storing, and distribution of plants, plant products and regulated articles indicated in List V.A and List V.B may be performed by companies or other legal ►M1 and natural ◀ individuals and entrepreneurs who are registered for performance of such activities and entered in the Register of producers, processors, importers, distributors and individuals storing the plants, plant products and regulated articles (hereinafter referred to as: “the Register”).

#### **Article 22**

Entry in the Register referred to in Article 21 of this Law shall be compulsory for:

- 1) producers, processors, distributors and those involved in storing the plants, plant products and regulated articles indicated in List V.A;
- 2) importers of plants, plant products and regulated articles indicated in List V.B;  
►M1 2a) legal and natural individuals who perform the treatment and / or labeling of wood packaging material; ◀
- 3) producers of specific plants, plant products and regulated articles not indicated in List V.A and owners of the relevant collection and distribution centers in the production area.

#### **Article 23**

Individuals referred to in Article 22 of this Law shall have a responsible person for plant health who is professionally qualified ►M1 and fulfills the requirements regarding the level and profile of qualification. ◀

Professional qualification of the responsible person shall be conducted by the administrative authority on the basis of the programme of professional qualification of the responsible person.

Programme and manner of professional qualification of shall be specified by the Ministry. The register shall be kept by the administrative authority.

Individuals referred to in Article 22 of this Law, who cease to meet the requirements for entry into the Register specified by this Law shall be removed from the Register.

Further requirements with regard to ►M1 the level and profile of the training of the person responsible for plant health, for entering in and removing from the Register, ◀ the content and method of keeping the Register, the form, content and method of applying for entry in the Register, and the types of plants, plant products and regulated articles referred to in Article 22 item 3 of this Law.

►M1 The data of the Register are public and published on the website of the administrative authority. ◀



## Article 24

Individuals referred to in Article 22 of this Law shall, in particular:

- 1) keep thorough records about production, processing and trade in plants, plant products and regulated articles which they buy for storage or planting on estate, processing or movement to other place;
- 2) keep and regularly update the plan of the places where plants, plant products and regulated articles are grown, produced, stored, preserved or used;
- 3) perform regular visual health checks of plants in the prescribed manner;
- 4) without delay notify the administrative authority or competent inspector of all unusual occurrences and outbreaks of harmful organisms, symptoms or other particularities on plants and of the production and occurrence of banned plant species;
- 5) report to the administrative authority any changes of data kept in the Register;
- 6) each year report to the administrative authority, namely the competent inspector the scope and place of production or processing of plants, plant products;
- 7) ► **M1** to conducts imposed phytosanitary measures ◀ co-operate with the administrative authority and competent inspector in ensuring plant health;
- 8) retain the records for at least a year.

The Ministry shall prescribe the manner of keeping the records, carrying out plant health checks, deadlines for communicating changes in the data kept in the Register, and report of the place and scope of production or processing of plants and plant products referred to in paragraph 1 of this Article.

## Article 25

Without prejudice to Article 22 of this Law, entry in the register shall not be compulsory for small-scale producers or processors who are not professionally involved in production and processing of plants, if their entire production of plants, plant products and regulated articles is intended for their own needs or for the end users in the local market and if there is no risk from the spread of harmful organisms.

► **M1** Small producers and processors referred to in paragraph 1 of this Article shall be entered in the records of the administrative authorities. ◀

The Ministry shall prescribe in more detail the requirements and criteria for determining small-scale producers or processors and the local market.

## IV. IMPORT, EXPORT AND TRANSIT OF CONSIGNMENTS OF PLANTS

### 1. Import

## Article 26

The Ministry may prescribe issuance of licenses for import and transit of consignments of plants with the phytosanitary requirements issued by the administrative authority, that may be carrier or

transmitter of harmful organisms and diseases endangering plant health, and based on international recommendations and guidelines, available scientific proofs and risk assessment for plant health, in accordance with the requirements for conducting foreign trade.

► **M1** Importers, carriers or other individuals who introduce consignments of plants to Montenegro shall ensure the introduction of plants in means of transport which have a chamber with an appropriate temperature regime, in order to ensure optimal conditions for the keeping of plants. ◀

Consignment of plants may be imported only through specified points of entry with a customs office and phytosanitary inspection.

Without prejudice to paragraph 2 of this Article, consignments which are not consignments of plants, but have wooden packing material may be imported also through points of entry provided only with a customs office.

Points of entry referred to in paragraph 2 of this Article must meet the prescribed technical conditions for carrying out phytosanitary inspections of consignment of plants.

The Ministry shall decide on appeals against the administrative decision on the issue of permit referred to in paragraph 1 of this Article, and on other individual administrative documents which are issued by the administrative authority in accordance with this Law.

The Ministry shall specify the method and requirements for issuing the permit referred to in paragraph 1 of this Article, the list of points of entry referred to in paragraph 2 of this Article and technical conditions referred to in paragraph 4 of this Article.

## **Article 27**

Consignments of plants from List V.B which are imported, their packaging and means of transportation shall be subject to customs supervision and mandatory phytosanitary inspection.

Customs procedure may not commence before phytosanitary inspection is completed, with the exception of the transit procedure and procedure of customs warehousing.

Wooden packing material which is used in importation for the transportation of goods other than plants, plant products and regulated articles included in List V.B shall be inspected by the customs officers at the point of entry.

Phytosanitary inspection shall in particular ascertain whether:

- 1) consignment is accompanied by the original plant health certificate or plant health certificate for re- export;
- 2) consignment of plants from List I.A is not infected with harmful organisms and, if they are imported in specific protected zones, also harmful organisms from List I.B;

- 3) consignment of plants from List II.A is not infected with harmful organisms from such part of the List and, if they are imported in specific protected zones, also harmful organisms from List II.B;
- 4) consignment does not contain plants, plant products or regulated articles indicated in List III.A;
- 5) consignment of plants meets special phytosanitary requirements indicated in List IV. A, and, if they are imported in specific protected zones, also the special requirements from List IV.B.

Phytosanitary inspection referred to in paragraph 1 of this Article shall be performed on:

- 1) every reported consignment of plants from the list V.B;
- 2) and consignment constituted of several part and every part of a consignment of plants from the list V.B.

Phytosanitary inspection may also be performed on consignments of plants which are not included in List V.B.

The consignment of plants which is liable to phytosanitary inspection shall remain under customs supervision until the phytosanitary inspector confirms that phytosanitary inspection is completed.

## **Article 28**

Phytosanitary inspection referred to in Article 27 of this Law shall include:

- 1) check of documentation accompanying the consignment (plant health certificate, invoice, etc.);
- 2) identity check of the consignment of plants by way of which, based on the whole or part of one or more representative samples, it is determined whether a consignment contains the reported plants, plant products and regulated articles;
- 3) check of the health status of the consignment, including wooden packing material, wrapping and the means of transportation, which is conducted visually, and in case of suspected presence of harmful organism, by taking of samples from the consignment, for the purpose of the laboratory analyses.

Phytosanitary inspection of consignment of plants or its part shall also be performed in the following events:

- 1) where there is a serious reason to suspect that a consignment of plants or its part, for which it was not reported that it contains plants, plant products and regulated articles from List V.B, contains such plants, plant products and regulated articles;
- 2) where customs inspection reveals that a consignment of plants or its part contains the unreported plants, plant products and regulated articles from List V.B;
- 3) where even after the phytosanitary inspection it is impossible to determine with certainty the identity of goods, in particular their gender, type or origin.

The Ministry shall specify the method of performing the phytosanitary inspection referred to in Article 27 paragraph 1 of this Law, of the consignment of plants referred to in Article 27

paragraph 6 of this Law, and the minimum number and size of the samples referred to in paragraph 1 items 2 and 3 of this Article.

### **Article 29**

Consignment of plants from List V.B which are imported and intended for use in trial, scientific research and work on varietal selections shall be subjected to phytosanitary inspection and shall be accompanied by an import permit in compliance with Article 19 paragraph 1 item 1 of this Law and a plant health certificate from the country of origin.

The Ministry shall specify in a regulation more detailed requirements and method of importing the consignment of plants referred to in paragraph 1 of this Article.

### **Article 30**

If there is no risk of harmful organisms spreading, phytosanitary inspection of consignment of plants from List V.B shall not be mandatory if it is moved from one country to another, or from one place to another within the same country, and the transit is made through the territory of the Republic without its customs status being changed.

### **Article 31**

Reduced scope of identity and health checks for a consignment of plants may be implemented in the following events:

- if the check already took place in the country from which such consignment of plants is imported, based on the agreement made with the authority responsible for health protection of plants in such country;
- if it is so envisaged in the agreement concluded with the country from which such consignment of plants is imported, based on the principle of reciprocity.

The Ministry shall specify the requirements and method of performing the check, and the type of plants, plant products and regulated articles referred to in paragraph 1 of this Article.

### **Article 32**

Phytosanitary inspection referred to in Articles 27 and 28 of this Law and plant health certificate shall not be mandatory for small quantities of plant and plant products, which their owner or end user introduces in order to use them for non-industrial and non-commercial purposes or during the travel, providing there is no risk of harmful organisms spreading, with the exception of plants and plant products from List III.A and List III.B.

Without prejudice to Articles 27 and 28 of the Law, provided there is no risk of harmful organisms spreading, the administrative authority may allow the introduction of plants and plant products from List V.B without phytosanitary inspection, if they are grown, produced or used in the near-border area of the neighboring country to be used in nearby locations in the near-

border area of the Republic.

The approval which allows for the introduction of plants, plant products and regulated articles referred to in paragraph 2 of this Article must indicate the name of the location and the name of the user.

The Ministry shall specify the small quantities for specific types of plants, plant products and regulated articles referred to in paragraph 1 of this Article, and the method and requirements for the introduction of plants and plant products referred to in paragraph 2 of this Article.

### **Article 33**

Plants, plant products and regulated articles from List V.B must be accompanied by original plant health certificate, or plant health certificate for re-export.

Plant health certificate referred to in paragraph 1 of this Article may be in electronic form, provided it meets the requirements laid down by the law.

Without prejudice to paragraph 1 of this Article, in the events determined by the Ministry, a copy of the plant health certificate certified by the competent authority may be acceptable.

For plants, plant products and regulated articles from List IV.B, for which special requirements are prescribed in the lists IV.A and IV.B, the plant health certificate shall be issued by the competent authority of the country of origin. Plant health certificate may be issued in a country other than the country of origin where the special requirements can be met outside the place of origin.

Plants, plant products and regulated articles from List V.B, which are dispatched from the country of origin and in another country stored, split up, merged with other, or repacked, must, in addition to the original plant health certificate or a certified copy of it, be accompanied by a plant health certificate for re-export issued in such other country.

If the plants, plant products and regulated articles from List V.B were in succession imported in several different countries and if several plant health certificates for re-export were issued, appended to the last plant health certificate for re-export must be all formerly issued plant health certificates for re-export or their certified copies.

The Ministry shall specify the form and the content of the plant health certificate and the plant health certificate for re-export in compliance with the International Convention on Plant Protection.

Without prejudice to paragraph 7 of this Article, a plant health certificate issued in the exporting country that has not ratified the International Convention on Plant Protection, may be acceptable under the conditions specified by the Ministry.

Plant health certificate and the plant health certificate for re-export shall be acceptable if

more than 14 days expired between their issuance date and the day when the consignment in respect of which they are issued crossed the border of the country in which they were issued.

#### **Article 34**

Importers, transporters and their representatives and natural individuals who import the consignments of the plants from List V.B shall be under obligation to, to the administrative authority or phytosanitary inspector, within the prescribed time, announce the consignment and submit the application for phytosanitary inspection of the consignment.

Importers, transporters or their representatives shall be under obligation to, in a single customs declaration or other official document serving the purpose of instigating the customs procedure, indicate that consignment is the consignment of the plants from List VB and include other prescribed data.

The Ministry shall specify the form of the application for phytosanitary inspection referred to in paragraph 1 of this Article and the method of indicating the declaration or other document referred to in paragraph 2 of this Article, and the method and time limit for announcing the plant consignment and submitting the application for phytosanitary inspection.

#### **Article 35**

Checking of documents and the inspection referred to in Article 27 of this Law, and the checks whereby it is confirmed whether the consignments contain the plants or plant products from List III.A and List III.B whose introduction is banned, shall be performed by the phytosanitary inspector.

Checking of the identity and health status of plants shall be performed by the phytosanitary inspector at the border crossing or other place in the immediate vicinity of the border crossing, as designated by the administrative authority and the administrative authority responsible for customs issues, provided it is not the end destination.

Phytosanitary inspection at the border crossing may allow the responsible inspection at the place of destination, upon the consent of the latter, to in whole or in part perform the checking of the identity and health status, whether in the premises of the phytosanitary inspection or in other place in the immediate vicinity, as designated or approved by the administrative authority and the administrative authority responsible for customs issues, provided it is not the end destination. Where the approval is not granted, the checking of identity and health status shall be in whole performed by the phytosanitary inspector at the border crossing.

Checking of identity and health status may be also performed at the place of destination ►M1 when this place is not the place of introduction◀, such as the place of production which was approved by the responsible authority and the administrative authority responsible for customs issues in whose territory the end destination is located, provided there are special guarantees and documents demonstrating that there is no risk from harmful organisms spreading during the transportation of the consignments of plants.

►M1 The Ministry shall specify minimum requirements for carrying out identity and plant health checks, when the check is carried out at a place other than the point of entry, and the cases referred to in paragraph 4 of this Article, special guarantees and documents related to the transportation of the consignment of plants to the destination or end destination, and minimum requirements for storing at the final destination. ◀

### Article 36

Phytosanitary inspector, after the checking or verification of the phytosanitary certificate was completed, shall place the mark which allows the importation of the consignment of plants or ►M1 issue a document on the movements of consignments◀ which shows that the phytosanitary inspection was not completed at the point of entry. Along with the mark, the official name of the phytosanitary inspection and the date of submitting the application referred to in Article 34 paragraph 1 of this Law shall be placed.

Where the phytosanitary inspection finds that the requirements referred to in Article 27 paragraph 4 of this Law are not met, the phytosanitary inspector shall detain the consignment of plants and order one or more than one measure: ban on introduction into the territory of the Republic of the consignment of plants or its part; movement to a destination outside Montenegro under surveillance during their movement within Montenegro in accordance with the suitable customs procedure; ►M1 destruction of consignment◀; removal of the contaminated part of the consignment of plants; introduction of quarantine surveillance until the findings of laboratory analyses or testing are known, and suitable treatment with the purpose of suppressing the harmful organisms other than those included in the Lists I.A, II.A, I.B and II.B, if the phytosanitary inspector assesses that the requirements will be met upon the treatment.

►M1 Where the introduction of a consignment is prohibited or the destruction of a consignment of plants is ordered◀, the phytosanitary inspector shall place in the plant health certificate the mark to render the plant health certificate null.

Phytosanitary inspector shall be under obligation to immediately notify the administrative authority of any events of detaining the consignment of plants due to incompliance with phytosanitary requirements, indicating the reasons for detention, with the purpose of notifying the competent authority in other country.

►M1 The Ministry shall specify in a regulation detailed requirements for implementation of measures referred to in paragraph 2 of this Article, the procedure to issue a document on the movements of consignments and the mark referred to in paragraphs 1 and 3 of this Article, the procedure of the notification of detentions of a consignment and the deadline of notifications, agencies and organizations to be informed. ◀



## **2. Export**

### **Article 37**

If a consignment of plants that is being exported originates in the Republic and the importing country or the country across the territory of which a consignment of plants is in transit requires that the consignment of plants is accompanied by the plant health certificate, upon the request of the exporter or his authorized representative, a phytosanitary inspector shall carry out a phytosanitary inspection of the consignment and, provided the prescribed requirements are met, issue the plant health certificate.

If a consignment of plants that is being exported does not originate in the Republic, but has been stored, repacked or split up in the Republic, and the importing country or the country across the territory of which a consignment of plants is in transit requires that the consignment of plants is accompanied by the plant health certificate, upon the request of the exporter or his authorized representative, a phytosanitary inspector shall carry out an inspection and, provided the prescribed phytosanitary requirements are met, issue the plant health certificate for re-export.

Consignments of plants intended for export, means of transportation, packaging, and, if necessary, storage places, preparation facilities, and the estates in which they originate shall be liable for phytosanitary inspection referred to in paragraphs 1 and 2 of this Article.

If it is established in phytosanitary inspection that the requirements of the importing country or the country across whose territory the consignment was in transit have not been met, a phytosanitary inspector shall order the implementation of measures for meeting such requirements.

The Ministry shall specify the form of the request, the method and time limit for its submission, and the place and method for conducting the phytosanitary inspection referred to in paragraphs 1 and 2 of this Article.

## **3. Transit**

### **Article 38**

Phytosanitary inspection referred to in Article 27 paragraph 4 of this Law shall not be compulsory in the case of consignments of plants in transit.

Consignments of plants referred to in paragraph 1 of this Article must be packed so that there is no risk of harmful organisms spreading and it may not be stored, split up, repacked, combined with other consignments in the territory of the Republic.

If a consignment of plants is not packed in compliance with paragraph 2 of this Article or is re-loaded, a phytosanitary inspection referred to in Article 27 paragraph 4 of this Law shall be compulsory.

Without prejudice to the provisions of paragraph 1 of this Article, for the consignments in transit,

in the event of damage or a well-founded suspicion of the risk of the introduction or spread of harmful organisms, the Ministry may prescribe a specific treatment, or a compulsory phytosanitary inspection, the manner of inspection, the laboratory investigations, and implementation of phytosanitary measures.

## **V MOVEMENT OF CONSIGMENTS OF PLANTS**

### **Article 39**

A consignment of plants from List V.A.I which is intended for movement, the packaging in which it is packed, and if necessary the means of transportation in which it is transported, shall be subjected to the phytosanitary inspection in whole or based on a representative sample, in order to check whether it is infected with harmful organisms from List I.A section II, and, if the consignment is introduced in a specific protected zone, also the harmful organisms from List I.B in order to check:

- 1) whether plants and plant products from List II.A section II contain specific harmful organisms indicated in such List, and if they are introduced into specific protected zones, also the harmful organisms from List II.B;
- 2) whether a consignment of plants from List II.A section II complies with the special requirements indicated in such List, and if it is introduced into a specific protected zone, also the special requirements for List IV.B.

Specific plants and plant products, included the substrate for plant cultivation, grown, produced or used, or otherwise present in the estate of the producer or in collective storage places and distribution centers in the production area shall be subjected to phytosanitary inspection referred to in paragraph 1 of this Article.

Phytosanitary inspection referred to in paragraph 1 of this Article shall be conducted regularly, at a suitable time, and at least once a year and at least visually.

If it is determined based on phytosanitary inspection that there is a risk of harmful organisms spreading from a consignment of plants, or that the requirements are not met for its movement, a phytosanitary inspector shall, in accordance with Article 12 paragraph 1 of this Law, order one or more of the following measures: suitable treatment; movement, under official supervision, into the areas where they shall not cause further risks, and movement, under official supervision, to the facilities for industrial processing, or destruction.

The Ministry shall specify the method of conducting the phytosanitary inspection and the requirements for implementation of measures referred to in paragraph 4 of this Article.

### **Article 40**

Consignment of plants from List V.A may be moved only based on a completed phytosanitary inspection referred to in Article 39 of this Law, and with the plant passport issued, for the purpose of traceability, i.e. tracing of the consignment of plants.

Plant passport for consignments of plants from List V.A, shall be issued by:

- the individuals referred to in Article 22 of this Law who have acquired the permit for issue of plant passport;
- authorized persons referred to in Article 4 paragraph 1 items 2 and 3 of this Law;
- administrative authority.

Permit for issue of plant passport shall be issued by the administrative authority based on the request of the individuals referred to in paragraph 2 items 1 and 2 of this Article.

Administrative authority shall keep the Register of permits for issue of plant passports.

Plant passport shall be attached to the consignment of plants or its packaging or the means of transportation by way of which it is being transported.

The Ministry shall specify the requirements for issue and the method for issuing plant passport.

#### **Article 41**

Phytosanitary inspection referred to in Article 39 paragraph 1 of this Law and a plant passport shall not be mandatory in the case of small quantities of plants and plant products from List V.A, if they are produced by small-scale producers referred to in Article 25 of this Law, and for animal feeding stuffs if not intended for trade, industrial purposes or to be used during travel, provided there is no risk from harmful organisms spreading.

Consignment of plants from List V.A, section II, shall not be liable to phytosanitary inspection referred to in Article 39 paragraph 1 of this Law, for the purposes of the inspection on infection with harmful organisms from Lists B.I and B.II, if they are taken out of the protected zone or are in transit across the protected zone.

For consignments of plants from List IV.B, which are being taken out or are in transit across the protected zone, special requirements related to the protected zone shall not be mandatory.

#### **Article 42**

Types of plant passport are:

- standard plant passport;
- plant passport for protected zone;
- replacement of a plant passport.

For specific types of products, the use of other marks to be considered plant passports may be approved.

The Ministry shall specify the types of products and other marks referred to in paragraph 2 of this Article, as well as the form and content of the plant passport.

### **Article 43**

Consignment of plants from List V.A section II and seed from List IV.A, may be introduced or moved within the protected zone only if accompanied by a suitable plant passport.

For consignments of plants referred to in paragraph 1 of this Article, other than those originating in the protected zone, that are being moved across the protected zone to a destination outside such zone, plant passport for protected zone shall not be mandatory if they are moved in accordance with the requirements specified by the Ministry.

### **Article 44**

If a consignment of plants which is accompanied by plant passport is being split up or several separate consignments of plants or their parts are being combined into a single consignment of plants, as well as in the event when the health status of the consignment of plants has changed, a replacement of plant passport shall be issued.

If the health status has been changed in a consignment of plants referred to in paragraph 1 of this Article, phytosanitary inspection must be completed before issuing the replacement of plant passport.

### **Article 45**

Plant passport shall not be issued if it is determined in the phytosanitary inspection that the requirements referred to in Article 39 paragraph 1 of this Law are not met.

If it is determined in the phytosanitary inspection that a consignment of plants is infected with harmful organisms from Lists I.A, I.B, II.A and II.B, the plant passport may be issued for the remaining part of the consignment of plants which is not suspected of being infected with harmful organisms and if there is no risk of harmful organisms spreading.

### **Article 46**

Plant passport shall also be issued for the consignments of plants from imports, which are, besides in the List V.B also included in the List V.A, even if it was determined in the phytosanitary inspection that they meet the prescribed requirements.

After completing the phytosanitary inspection of the consignment of plants, the phytosanitary inspector shall allow the movement of the consignment of plants to a destination within the country with the plant health certificate of the exporting country in which it shall be indicated that it is replacing the plant passport.

If a consignment of plants referred to in paragraph 2 of this Article is split up or is combined from several consignments of plants, or several parts of consignments of plants are combined in a single consignment of plants, or if the health status of consignment of plants has changed, a replacement of plant passport shall be issued.

The Ministry shall determine the method of marking referred to in paragraph 2 of this Article.

#### **Article 47**

Persons who have acquired the permit for issue of plant passport shall be under obligation to meet the obligations referred to in Article 24 of this Law.

If the individuals referred to in paragraph 1 of this Article cease to meet the requirements for issue of plant passports, or obligations, the administrative authority shall revoke the permit for issue of plant passports.

Permit for issue of plant passport may also be revoked upon the request of the person for issue of plant passport.

#### **Article 48**

Buyer of the consignment of plants, who uses it for plant production, shall be under obligation to retain the plant passport for a year after the date of purchasing the consignment of plants and shall keep records of plant passports.

### **VI BIOLOGICAL PLANT HEALTH PROTECTION**

#### **Article 49**

An autochthonous species of organism is a species which is naturally present in a given ecosystem.

The introduction, cultivation and use of autochthonous species of organisms for the purpose of biological plant protection in a protected zone or outside it shall be allowed based on the program by way of which the methods of biological plant health protection and the main implementing parties are determined.

Program referred to in paragraph 2 of this Article shall be adopted by the ►MI Ministry◄.

Main implementing parties referred to in paragraph 2 of this Article may be companies or other legal individuals and entrepreneurs who meet the requirements in respect of the personnel and the equipment and are entered in the Register of the parties implementing the biological plant protection.

Entry in the Register of the parties implementing the biological plant protection shall be made based on a request.

The Ministry shall specify more detailed requirements referred to in paragraph 4 of this Article. Register of the parties implementing the biological plant protection shall be kept by the administrative authority.

The Ministry shall specify the form, content and method of keeping the Register of the parties

implementing the biological plant protection, and the content of request referred to in paragraph 5 of this Article

### **Article 50**

Introduced species of organisms is a species which men introduce in the ecosystem in which it was not previously present.

Acceptable for biological plant health protection shall be only those introduced species which are included in the list determined by the ►M1 Ministry subject to prior commenting by the competent authority for environmental protection◄.

Permit for importation and use of the introduced species of organisms referred to in paragraph 2 of this Article shall be issued by the administrative authority upon the approval of the administrative authority responsible for environmental protection.

Permit referred to in paragraph 3 of this Article may be issued to scientific and research institutions, for the needs of trials, research or development, in accordance with paragraph 3 of this Article.

In order to acquire the permit referred to in paragraph 3 of this Article, the applicant must comply with the requirements in respect of the space, equipment, and professional personnel.

Content of the application for permit referred to in paragraph 3 and the requirements referred to in paragraph 5 of this Article shall be determined by the Ministry, in agreement with the state administration authority responsible for environmental protection.

## **VII ENSURING THE PERFORMANCE OF ACTIVITIES OF PUBLIC INTEREST**

### **Article 51**

The activities of public interest related to health protection of plants (hereinafter referred to as: the activities of public interest) shall include:

- 1) monitoring of the health status of plants, including wild growing plants, for the purposes of collecting the data about occurrence, intensity of attack, population dynamics, and spread of harmful organisms for plants, plant products, and keeping of records;
- 2) collection of biological, meteorological and other data for forecasting the spread of harmful organisms;
- 3) forecasting the occurrence of harmful organisms, their development and movement of the population, and determination of the optimum timeframe for their suppression;
- 4) detection of harmful organisms;
- 5) laboratory investigations of plants, plant products and regulated articles with the purpose of diagnosing the harmful organisms from Lists I.A, II.A, I.B and II.B;
- 6) drawing up platforms for personnel and material requirements with the purpose of determining the borders of the protected zone and the zone under special surveillance;
- 7) reporting about the occurrence, infection and spread of harmful organisms;

- 8) assessment of the risk from harmful organisms;
- 9) assessment of the needs to implement the preventive measures and measures on suppression of harmful organisms;
- 10) implementation of the surveys related to plant health protection;
- 11) provision of expert recommendations to the titleholders of plants related to plant health protection;
- 12) training of the titleholders of plants, service providers and other entities in respect of harmful organisms, phytosanitary measures and method of performing the tasks related to plant health protection;
- 13) preparation, organization and implementation of the programs for further professional training of the persons involved in plant health protection;
- 14) participation in the preparation and implementation of programs referred to in Article 6 paragraph 4 and Article 14 paragraph 2 of this Law;
- 15) provision of the data for information system;
- 16) activities on suppression of harmful organisms or destruction of plants, plant products or regulated articles for which measures of destruction have been ordered;
- 17) activities on disinfection, insect and rodent control for the requirements of plant health protection ► **M1** according to the Law on Plant Protection Products ◀; and
- 18) other professional and technical activities in the implementation of phytosanitary measures prescribed by this Law.

## Article 52

Activities of public interest referred to in Article 51 items 1 to 4 and items 6 to 15 of this Law shall be performed by authorized institutions.

Activities of public interest referred to in Article 51 items 16 to 18 of this Law shall be performed by service providers.

► **M1** Notwithstanding paragraph 2 of this Article, activities of public interest referred to in Article 51 item 16 of this Law, ordered measures may be carried out under the supervision of a plant health inspector by the following individuals on their own plants:

- registered individuals,
- official local authorities registered according to the Law on Plant Protection Products,
- natural individuals as holders of plants. ◀

Laboratory investigations referred to in Article 51 item 5 of this Law may be conducted by the authorized laboratories or authorized institutions with a corresponding laboratory.

Authorization for performance of the activities of public interest shall be given to the authorized institutions and service providers directly, by way of an administrative decision issued by the administrative authority.

Mutual rights and obligations referred to in paragraph ► **M1** 5 ◀ of this Article shall be regulated by a contract.



Activities of public interest referred to in paragraphs 1 and 2 of this Article, concerning the plant protection in forestry, shall be assigned to be performed by authorized institutions, legal and natural individuals involved in forestry, in accordance with this Law.

Authorized institutions and service providers, while ascertaining the results of laboratory analyses, have to ensure impartiality, quality and confidentiality of information and must not be in conflict of interests.

Administrative authority for confirming of results of laboratory analyses (superanalysis) may authorize a laboratory or institution from another state, provided it has been authorized by the competent authority for plant health protection of the respective country.

### **Article 53**

Authorizations referred to in Article 52 paragraphs 4 and 5 of this Law shall be revoked if authorized institutions and service providers cease to meet the prescribed requirements for performance of the activities of public interest, or if the administrative authority finds that they are performing the activities or providing the services contrary to the regulations.

Supervision over the performance of the activities of public interest shall be exercised by the administrative authority.

## **VIII FINANCING, COMPENSATIONS AND COMPENSATION FOR DAMAGE**

### **Article 54**

The funds required for the activities of public interest referred to in Article 51 of this Law shall be provided from the Budget of the Republic.

### **Article 55**

Legal and natural individuals shall pay the compensation for:

- 1) laboratory analysis and testing of official samples of plants, plant products and other regulated articles, which are conducted at the request of the phytosanitary inspector with the purpose of determining the health status of plants, in the event when the result of the analysis or testing is unfavorable for such legal or natural individual, unless the law provides otherwise;
- 2) phytosanitary inspection of plants, plant products and regulated articles related to the movement within the Republic;
- 3) phytosanitary inspection of plants, plant products and regulated articles which are being imported;
- 4) phytosanitary inspection of plants, plant products and regulated articles which are being exported;
- 5) ► **M1** quarantine inspections at the holders of plants; ◀  
► **M1** 6) for a qualification training referred to in Article 23 paragraph 2 of the present Law ◀.

Compensations referred to in paragraph 1 items 2, 3 4 and ►M1 6◀ of this Article shall be the revenue of the Budget of the Republic.

The Ministry shall determine the level of compensations referred to in paragraph 2 of this Article, taking care not to exceed the real costs of services provided.

Compensations referred to in paragraph 1 items 1 and 5 of this Article shall be the revenue of the authorized institutions, or accredited laboratories.

Cost of the implementation of phytosanitary measures at the premises of titleholders of plants shall be borne by the titleholders of plants.

### **Article 56**

A titleholder of plants who produces or processes the plants or plant products shall be entitled to the compensation for damage if he has:

- immediately notified of the occurrence or suspected occurrence of a harmful organisms from List I.A. or from List II.A, or, for the protected zone, from List I.B or List II.B, or an organism other than those included in such Lists which poses a risk for the plants in the territory of the Republic and in respect of which the Ministry has ordered the implementation of the measures of eradication or prevention of their spread;
- implemented all the measures of plant health protection ordered by the phytosanitary inspector.

Compensation for damage shall be paid out of the Budget of the Republic.

Compensation for damage referred to in paragraph 1 of this Article shall not be paid if a harmful organism is detected during the phytosanitary inspection of plants, plant products and regulated articles which are being imported in the Republic.

Procedure for payment of compensation for damage shall be instigated at the request of the titleholder of the destroyed or otherwise removed plants, plant products or other regulated articles.

To the claim for the compensation for damage which is being submitted to the administrative authority, a titleholder of plants shall append the administrative decision by way of which the measures which have caused the damage have been ordered.

Level of the compensation for damage shall be determined by the commission to be appointed by the administrative authority.

Administrative authority shall issue the administrative decision on the merits of the claim and level of the compensation for damage.

The Ministry shall specify the more detailed criteria for determination of the level of compensation for damage.

## **IX COLLECTION, USE AND EXCHANGE OF DATA AND INFORMATION**

### **Article 57**

With the purpose of analyzing and monitoring the plant health protection measures and keeping and maintaining the data base, the administrative authority shall collect the data and information from the databases kept with the government authorities, local government authorities and other individuals, and in particular the data and information from:

- 1) the register of agricultural producers and processors;
- 2) the records of producers and processors of agricultural and food products;
- 3) the register of companies;
- 4) the register of tax payers (fiscal number);
- 5) central register of population (name and surname, unique personal identification number, place and address of residence);
- 6) land cadastre (number, boundaries and area of the land lot, the owner, the user, etc);
- 7) statistical data bases for the agricultural and forestry land and forests (data about the land owned by the Republic and legal grounds for its use);
- 8) customs data bases about imports and exports of consignments of plants;
- 9) databases of the Republic Hydro-meteorological Office.

Administrative authority may also use the topographical-cadastre plans, maps, survey maps and digital ortho-photographic charts and plans.

### **Article 58**

At the international level, the administrative authority shall exchange the data and information, in particular about:

- 1) the competencies and organization of government authorities related to plant health protection;
- 2) border crossing, namely points of entry in which it is allowed to import the consignments of plants into the Republic;
- 3) lists of harmful organisms;
- 4) infection with and occurrence of harmful organisms from the lists prescribed on the basis of this Law, in the territory of the Republic, where their presence was not previously known, and about the measures implemented with the purpose of preventing their spread or eradication measures;
- 5) occurrence, over-replication or spread of harmful organisms, which constitute a potential risk;
- 6) occurrence of harmful organisms in a protected zone, due to which such zone was declared to be a protected zone;
- 7) results of the systematic surveys in the protected zone;
- 8) regulations passed on the basis of this Law;
- 9) events of the bans on importation due to incompliance with phytosanitary requirements;
- 10) other data and information in accordance with this Law, at the request of international

bodies and organizations.

The data and information referred to in paragraph 1 of this Article shall be disseminated in accordance with international conventions and international treaties.

## **IXa OFFICIAL CONTROLS**

### **Article 58a**

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## **X INSPECTION SUPERVISION**

### **Article 59**

Inspection supervision of the implementation of this Law shall be exercised by the administrative authority ► **M1** responsible for implementing inspection supervision ◀ through phytosanitary inspectors, in accordance with the law.

Without prejudice to paragraph 1 of this Article, inspection supervision concerning the forest plants, forest nurseries and reproduction material, with the exception of forest plants and forest reproduction material that is being imported, exported or is in transit, shall be exercised by the ► **M1** administrative authority responsible for implementing inspection supervision ◀ through forestry inspectors, in accordance with the law.

Plant health inspectors...

### **1. Powers of the phytosanitary inspector**

#### **Article 60**

In addition to the powers of inspectors provided for in the law that governs the inspection supervision, a phytosanitary inspector shall also have a power to:

- 1) carry out inspection of plants, plant products and regulated articles and order the measure for prevention of occurrence, detection, suppression and eradication of harmful organisms;
- 2) monitor and supervise the implementation of the Program of Reporting and Forecasting Activities, Program of Biological Plant Protection, annual programs of specific professional supervision and carrying out public works based on the powers vested in him;
- 3) supervise and inspect the plants, plant products and regulated articles entered into the Register at least once a year, visually;
- 4) take samples of plants, plant products and regulated articles in order to determine whether they are infected with harmful organisms;
- 5) check whether the producers, processors, importers, exporters, individuals who store the prescribed species of plants and plant products, and distributors of prescribed types of plants and plant products are entered in the Register;

- 6) check whether the individuals entered in the Register meet the requirements for entry in the Register, and fulfill the obligations referred to in Article 24 of this Law;
- 7) check the importation, growing and use of the organisms for biological health protection of plants;
- 8) carry out phytosanitary inspection of plants, plant products and regulated articles.

In addition to the powers referred to in paragraph 1 of this Article, a phytosanitary inspector exercising inspection supervision at a border crossing shall also have a power to:

- 1) upon previous phytosanitary inspection of the consignment and the accompanying documentation, allow importation, transit or storing of the consignment of plants, by issuing an administrative decision whereby for each individual consignment of plants it is separately determined that, based on the prescribed requirements, there are no phytosanitary obstacles for their importation, transit or storing;
- 2) inspect and control the consignments of plants intended for exportation, if they are reloaded or stored in the registered storage places under the prescribed conditions at the border crossing, issue the plant health certificate or mark the consignment in the prescribed manner;
- 3) take samples of the consignment of plants and send them for examination to the authorized institution or accredited laboratory or conduct necessary examinations in the laboratory at the border crossing;
- 4) check business records and documents of individuals involved in international transportation;
- 5) check and control the compliance with technical requirements at border crossings, storage places, customs warehouses, and customs-free zones, in respect of phytosanitary inspection;
- 6) keep records of export, import and transit consignments when they cross the country border;
- 7) monitor occurrence of harmful organisms in neighboring countries and notify the administrative authority about the information acquired.

## **2. Administrative Measures and Actions**

### **Article 61**

In addition to the administrative measures and actions provided for in the law that governs the inspection supervision, a phytosanitary inspector shall also be under obligation to undertake the following administrative measures and actions:

- 1) ban the importation of plants, plant products and regulated articles which are infected with harmful organisms indicated in the lists adopted under this Law and other harmful organisms;
- 2) ban the importation and movement of plants, plant products and regulated articles which do not meet the requirements referred to in this Law;
- 3) ban the cultivation of prescribed species of plants for a specified time at the place of production;

- 4) order suitable treatment of a consignment of plants which is being imported, exported or moved, if he ascertains that they are infected with specified harmful organisms;
- 5) order the removal of only the infected part of a consignment of plants if there is no risk of harmful organisms spreading;
- 6) order that a consignment of plants may not be handed over to an importer, transporter or user, until a phytosanitary inspection has been carried out or until the results of laboratory investigations or prescribed tests are known;
- 7) order the destruction of a consignment of plants during importation or movement if there is a risk of harmful organisms spreading or if the conditions under this Law are not met;
- 8) temporarily ban activities of producers or processors in whole or in part and the issue of plant passports until the risk of spread of harmful organisms has been removed;
- 9) ban the issue of plant passports in cases in which conditions for the issue of these are not met;
- 10) ban the importation, cultivation or use of organisms for biological plant protection if conditions under this Law are not met;
- 11) order change of purpose for the plants, plant products and regulated articles, if he determines that by that procedure occurrence of spread of harmful organisms would be avoided, with a professional opinion of the scientific institution;
- 12) order destruction of plants, plant products and establishments under supervision in production, treatment, processing, warehousing and trade and when there is risk from spreading of harmful organisms or when the requirements prescribed by this law are not met;
- 13) order measures for removal of established irregularities when he ascertains in the supervision procedure that the regulation on plant health protection has not been applied or that it has been wrongly applied;
- 14) order other measures and take other actions, in compliance with this law.

## **XI PENALTY PROVISIONS**

### **Article 62**

A legal individual shall be fined by a fine amounting to between EUR 700 and EUR 25,000, if it:

- 1) ...Article 13 paragraph 3
- 2) ...Article 16 paragraph 1;
- 3) ...Article 16 paragraph 2;
- 4) ...Article 16 paragraph 3;
- 5) ...Article 16 paragraph 4 indent 1;
- 6) ...Article 16 paragraph 4 indent 2;
- 7) ...Article 16 paragraph 4 indent 3;
- 8) ...Article 18 paragraph 1;
- 9) ...Article 18 paragraph 2;
- 10) ...Article 19 paragraph 1;
- 11) ...Article 23 paragraph 1;
- 12) import consignments of plants from List V.B without phytosanitary inspection of their packaging and means of transportation (Article 27 paragraph 1);

- 13) moves consignments of plants from List V.A without being issued a phytosanitary certificate based on a phytosanitary inspection (Article 40 paragraph 1);
- 14) for a consignment of plants which is accompanied by a plant passport, issues a replacement of the plant passport without the phytosanitary inspection in the event that health status of the consignment of plants has changed when the consignment was split up or its parts were merged into a single consignment (Article 44);
- 15) issues a plant passport even if phytosanitary inspection demonstrates that the requirements referred to in Article 39 are not met (Article 45 paragraph 1);
- 16) ...Article 47 paragraph 1;
- 17) uses for biologic health protection the introduced types of organisms which are not included in the defined list (Article 50 paragraph 2).

For a violation under paragraph 1 of this Article, a natural individual and the responsible person of the legal entity shall be fined by a fine amounting to between EUR 100 and EUR 3,000.

For a violation under paragraph 1 of this Article, the fine for companies amounts to between EUR 300 and EUR 8,000.

### **Article 63**

A legal individual shall be fined for an infringement by a fine amounting to between EUR 600 and EUR 22,000, if it:

- 1) ... Article 6 paragraph 1 item 1;
- 2) ... Article 6 paragraph 1 item 2;
- 3) ...Article 11 paragraph 1;
- 4) ...Article 12 paragraph 2,
- 5) produces, processes, imports, stores and distributes plants, plant products and regulated articles from List V.A and List V.B and it is not entered in the Register (Article 21);
- 6) ... Article 24 paragraph 7;
- 7) issues plant passport, without having obtained the permit for issue of plant passports from the administrative authority (Article 40 paragraph 2 item 1)

For a violation under paragraph 1 of this Article, a natural individual and the responsible person of the legal entity shall be fined by a fine amounting to between EUR 50 and EUR 2,500.

For a violation under paragraph 1 of this Article, the fine for companies amounts to between EUR 200 and EUR 7,000.

### **Article 64**

A fine between EUR 500 and EUR 20,000 shall be imposed for an infringement on a natural individual, if it:

- 1) does not keep records on taken measures of plant protection Article 6 paragraph 1 item 4;
- 2) ...Article 17 paragraph 1;



- 3) ...Article 17 paragraph 2;
- 4) do not keep detailed records of production, processing and trade in plants, plant products and regulated articles, that they purchase for warehousing, planting in the estate, processing or movement to another place (Article 24 paragraph 1 item 1);
- 5) does not report to the administrative authority all changes of data kept in the Register (Article 24 paragraph 1 item 5);
- 6) ...Article 48.

For a violation under paragraph 1 of this Article, a natural individual and the responsible person of the legal entity shall be fined by a fine amounting to between EUR 30 and EUR 2,000.

For a violation under paragraph 1 of this Article, the fine for companies amounts to between EUR 150 and EUR 6,000.

#### ► M1 Article 64a

~~For infringement referred to in Article 64 paragraph 1 items 2, 3, 4 and 5 of this Law, a fine may be imposed on the spot in the amount up to EUR 200 for a natural and responsible person of the legal entity.~~

~~For infringement referred to in Article 64 paragraph 1 items 2,3,4 and 5 of this Law, a fine may be imposed on the spot in the amount up to EUR 2.000 for a legal individual.~~

~~For infringement referred to in Article 64 paragraph 1 items 2, 3, 4 and 5 of this Law, a fine may be imposed on the spot in the amount up to EUR 400 for an entrepreneur. ◀~~

## XII TRANSITIONAL AND FINAL PROVISIONS

### Article 65

Movement of consignments of plants, after the date of accession of the Republic to the European Union, shall be deemed to be the movement within Member States.

After the date of accession of the Republic to the European Union, transit for the purposes of Article 3 of this Law shall be considered to be the transportation of the goods subjected to customs supervision from one place to another place within the European Union customs area.

#### ► M1 Article 65a

The customs territory of Montenegro shall be regarded as the customs territory of the European Union from the date of the accession to the European Union.

The tasks of the administrative authorities according to Articles 17 and 18 of the present Law are subject to the European Commission from the date of the accession to the European Union.

The import of plants, plant products and regulated articles shall be deemed as import from countries that are not a member of the European Union (hereinafter referred to as third country) from the date of the accession to the European Union. ◀

## **Article 66**

After the date of accession of the Republic to the European Union, the administrative authority shall notify other European Union Member States and the European Commission of all measures taken on the basis of this Law and regulations adopted on the basis of this Law.

## **Article 67**

Provisions of Articles 40 to 48 of this Law shall be applicable as of 1 January 2013.

## **Article 68**

Without prejudice to paragraph 3 of Article 52 of this Law, laboratory investigations shall be conducted, until the 1<sup>st</sup> of January 2009, by the existing scientific and research institutions involved in the health protection of plants, as designated by the Ministry.

## **Article 69**

Implementing by-laws for this Law shall be issued not later than two years following the effective date of this Law.

### **► M1 Article 69a**

The provisions of Article 12a paragraph 6 and Article 36 paragraph 5 of the present Law shall be adopted within six months from the date of the entry into force of this law. ◀

## **Article 70**

Until the by-laws on the basis of the powers arising from this Law are adopted, the by-laws adopted on the basis of the Law on Plant Protection (Official Gazette of the Federal Republic of Yugoslavia 24/98) shall apply, unless they are in contravention to this Law.

## **Article 71**

On the effective date of this Law, the provisions of the Law on Plant Protection (Gazette of the Federal Republic of Yugoslavia 24/98) concerning the protection of plants against harmful organisms, health check of plants in internal trade and trade across the country border, shall cease to apply, with the exception of the provisions concerning the agents for plant protection and nourishment; the Law on Protection of Plants from Diseases and Pests (Official Gazette of the Republic of Montenegro 4/92, 59/92, 17/92, and 27/94) shall also cease to apply.

## **Article 72**

This Law shall take effect eight days after its publication in the Official Gazette of the Republic

of Montenegro.

***ISSUER'S NOTE:***

Pursuant to the Law Amending the Law on Plant Health Protection (Official Gazette of Montenegro 28/11) application of Articles 62, 63, 64 and 64a of this Law shall be delayed until the day of application of the Law on Misdemeanors (Official Gazette of Montenegro 1/11).