

The Republic of Montenegro

MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT

## LAW ON PLANT HEALTH PROTECTION

### I GENERAL 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 other regulated articles, and other issues of relevance for plant protection.

#### Article 2

The plant protection related activities include:

- Protection of plants, plant products and regulated articles against harmful organisms;
- Prevention of the introduction and spread of harmful organisms and their suppression by ensuring measures for the protection of plants and plant products;
- Detection and identification of harmful organisms;
- Ensuring optimal production of agricultural plants and trade in them;
- Forecasting and reporting activities;
- Protection of the environment against any incidental effect of harmful organisms;
- Collection, keeping and exchange of data and information;
- Continuous surveillance of plants during their vegetation period, plant products in storage places, and plant products in transportation;
- Supervision over destruction and spread of the organisms which are harmful for plants and plant products;
- Supervision over importation of the consignments of plants and plant products in respect of which other countries impose the special phytosanitary requirements;
- Inspection of plants and plant products in the territory of the Republic and issuing of plant passports, phytocertificates, and other documents;
- Implementation of phytosanitary measures;
- Education and information to raise public awareness of plant health; and
- Performing other activities laid down in this Law.

#### Article 3

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

- branches with leaves or needles,
- cut trees retaining leaves or needles,
- leaves, foliage,
- tissue cultures,
- live pollen,
- bud-wood, cuttings, scions,
- any other part of plants, in accordance with the law.

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may contain or spread a harmful organism and which requires the introduction of phytosanitary measures.

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- measures, in accordance with the law (hereinafter referred to as: the service providers), which are authorized by the administrative authority responsible for the plant health protection issues ( hereinafter referred to as 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:

- coordination and monitoring of the plant protection activities;
- implementation of international conventions, ~~contracts~~ and treaties related to plant health care and exchange of information with government authorities, organizing bodies, institutions and other persons involved in the plant protection activities;
- participation in international authorities and ~~organizations~~ related to plant health protection;
- reporting to the European Commission about plant health protection;
- preparation of reports, analyses, information and other material related to the occurrence and spread of harmful organisms, in accordance with the regulation and international contracts and treaties related to plant health protection;
- performance of the plant health protection activities;
- organization of the implementation of continuous surveillance over harmful organisms;
- assessment of the health status of plants with the purpose of ascertaining the occurrence and spread of harmful organisms in the country and abroad;
- 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;
- risk assessment in the event of the occurrence and identification of new harmful organisms, issuing of expert ~~guidelines~~ and measures;
- notification of exporting countries about the retained consignments of plants because of non-compliance with phytosanitary requirements;
- restriction or ban of the import into the Republic or transit of individual plant species across the territory of the Republic;
- provision of the expert platform for setting the boundaries of the zones for which the establishment of extraordinary health surveillance is necessary;
- establishment and keeping of the register and records;
- preparation of the programs of preventive measures undertaken with the purpose of preventing the introduction and spread of harmful organisms and taking care about their implementation;
- proposing the implementation of the measures for prevention, suppression and eradication of

- other activities laid down by the law.

#### Article 6

The titleholders of plants must

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

#### 1) Harmful organisms, plants, plantproducts and regulated articles

##### Article 8

Harmful organisms shall be listed according to 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:

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

The Ministry shall specify the content of these 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:

- List III.A, which relates to the ban on introduction of plants, plant products, and regulated articles;
- List III.B, which relates to the ban on introduction of plants, plant products, and regulated articles into a specific protected zone;
- 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;
- List IV.B, which relates to special phytosanitary requirements, which shall be met in respect of introduction of plants, plant products and regulated articles into specific protected zones and movement within such zones;
- List V.A, which relates to of 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

- a. List V.B.I which relates to plants, plant products, and regulated articles which must be checked before introduction and which may transfer harmful organisms significant for the whole territory of the Republic,
- b. List V.B.II which relates to plants, plant products, and regulated articles which must be checked before introduction in certain protected zones and which may transfer harmful organisms significant for certain protected zones;
- List VI, which relates to plants and plant products which may be subjected to special measures.

More detailed content of the Lists referred to in paragraph 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 normal continuation 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 cannot reach needed level of plant health protection, phytosanitary measures shall be scientifically justified and based on the principles of the risk assessment and management.

In the risk assessment referred to in paragraph 1 of Article, the following shall be taken into account:

- available scientific data;
- production processes and methods;
- inspection supervision, sample taking and testing methods;
- population of specific harmful organisms;
- existence of a zone without harmful organisms;
- requirements in respect of the environment, and
- quarantine or other procedure.

Risk management shall include the study 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

A titleholder of plants or any other person who 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

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 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 appropriate international agreements.

### Article 13

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 holders 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 established itself despite the favorable conditions for it to establish itself there, and in which, under the favorable 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 defined as 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.

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 limits are determined for harmful organisms included in List II.A, section II.

More detailed requirements and limits of tolerance 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.

Without prejudice to paragraphs 1 and 2 of this Article, provided there is no risk of the spread of harmful organisms, the administrative authority may allow introduction of plants and plant products included in List III.A, plants, plant product and regulated articles included in List III.B, if they 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 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.

Without prejudice to paragraphs 1 and 2 of this Article, provided there is no risk of the spread of harmful organisms, the administrative authority may allow introduction of plants and plant

products included in List IV.A and List IV.B even if specific phytosanitary requirements are not met, if they were cultivated, produced, or used in a 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 intr

3) Register of producers, processors, importers, distributors and the person who store

- keep and regularly update the plan of the places where plants, plant products and regulated articles are grown, produced, stored, preserved or used;
- perform regular visual health checks of plants in the prescribed manner;
- 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;
- report to the administrative authority in the prescribed time limit any changes of data kept in the Register;
- each year report to the competent inspector in the prescribed time limit the scope and place of production or processing of plants, plant products and regulated articles;
- co-operate with the administrative authority and competent inspector in ensuring plant health;
- retain the records for at least a year.

The Ministry shall prescribe the manner of keeping the records.

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





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 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 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 phytocertificate 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 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 permit 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 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 phytocertificate, or phytocertificate for re-export.

Phytocertificate 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 phytocertificate certified by the competent authority may be acceptable.



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

In the events when he orders any of the measures referred to in paragraph 2 of this Article, the phytosanitary inspector shall place in the phytocertificate the mark to render the phytocertificate 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.

The Ministry shall specify detailed requirements for implementation of measures referred to in paragraph 2 of this Article, and the form and content of the mark referred to in paragraphs 1 and 3 of this Article.

## 2. Export

### Article 37

If a consignment of plants that is being exported originate in the Republic and the importing country or the country across the territory of which the consignment of plants is in transit requires that the consignment of plants is accompanied by phytosanitary certificate, upon the request

Article 38

If it is determined based on phytosanitary inspection that there is a risk of harmful organisms spreading from a consignment of plants, or that 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





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 export, 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

The introduction, cultivation and use of autochthonous species of organisms for the purpose of

VII ENSURING THE PERFORMANCE OF ACTIVITIES OF PUBLIC INTEREST

Article 51

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

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

Authorization for performance of the activities of public interest shall be given to the authorized institutions through a public invitation, in accordance with the law.

Authorization for performance of the activities shall be given to the service providers directly, by way of an administrative decision issued by the administration.

Mutual rights and obligations referred to in paragraph 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 legal and natural persons involved in

- 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



- occurrence of harmful organisms in a protected zone, due to which such zone was declared to be a protected zone;
- results of the systematic surveys in the protected zone;
- regulations passed on the basis of this Law;
- events of the bans due to non-compliance with phytosanitary requirements;
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6. check whether the persons 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 phytocertificate 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;
5. check and control the compliance with technical requirements at border crossings, storage



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 examinations or official 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 it is established that a danger of the 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.

## XI PENALTY PROVISIONS

### Article 62

An authority, company, or other legal person or entrepreneur may be fined between two-hundred-and-fifty and three-hundred times the labor price in the Republic if it:

1. does not protect and prevent contact with other plants, plant products and regulated articles (Article 12 paragraph 2),
2. provides or publishes data on the occurrence of a newly discovered harmful organism in the Republic without the approval of the administrative authority (Article 13 paragraph 3);
3. declares a certain area the protected zone contrary to the provisions of Article 15 of this Law;
4. acts contrary to the provisions of Articles 16, 17, and 18 of this Law;
5. imports and moves harmful organisms from Lists I.A, I.B, II.A, II.B, and plants, plant products and regulated articles from Lists A, III.B and IV.A and IV.B without the import permit and does not use them for trial and research purposes or for work on varietal selections (Article 19);
6. imports consignments of plants from List V.B without phytosanitary inspection of their packaging and means of transportation (Article 27 paragraph 1);
7. moves consignments of plants from List V.A without being issued a phytosanitary certificate based on a phytosanitary inspection (Article 40 paragraph 1);
8. introduces or moves consignments of plants from List V.A, section II, and seeds from List IV.A, within a protected zone without relevant plant passport (Article 43 paragraph 1);
9. for a consignment of plants which is accompanied by a plant passport, issues a replacement of the plant passport without a phytosanitary inspection in the event

- split up or its parts were merged into a single consignment (Article 44, paragraphs 1 and 2);
10. issues a plant passport even if phytosanitary inspection demonstrates that the requirements referred to in Article 39 are not met (Article 45 paragraph 2);
  11. uses for biologic health protection the introduced types of organisms which are included in the defined list (Article 50 paragraph 2).

For a violation under the first paragraph of this Article, a natural person and the responsible person of the legal entity shall be fined twenty times the amount of labor price in the Republic.

### Article 63

An authority, company, or other legal person or entrepreneur may be fined between hundred-and-fifty and two-hundred-and-fifty times the labor price in the Republic if it:

1. acts contrary to the provisions of Articles 6 and 7 of this Law;
2. does not notify a phytosanitary inspector or administrative authority of the occurrence of harmful organisms or the symptoms



