

*"RM Official Gazette", No. 28/2006*

By virtue of Article 88 item 2 of the Constitution of the Republic of Montenegro, I promulgate this

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I promulgate the Law on Planting Material which was passed by the Assembly of the Republic of Montenegro at its fourth meeting of the first regular session in 2006, on the 18<sup>th</sup> of April 2006.



- 9) **Article 1** is a variety or rootstocks entered in the Register of Varieties and Rootstocks, that is distinguished by its values for cultivation and use and used in the variety or rootstocks recognition procedure;
- 10) **Article 2** is a collection of varieties or rootstocks of a plant variety with specific morphologic characteristic determined in accordance with the UPOV (Office of the International Union for the Protection of New Varieties of Plants) criteria that is used in assessment of new varieties (DUS test);
- 11) **Article 3** is a document on the quality of the planting material category in international circulation (ISTA – International Seed Testing Association);

3) Certified;

4) Standard.

Pre-basic planting material is the reproduction material which is produced under supervision of the maintainer, tested on presence of diseases and pests, and used for production of basic planting material.

Article 6

3) outline production plan (the manner of processing, protecting and preserving the biological and chemical characteristics of land, cultivation of parent trees, and production volumes);

4) proof of registration in CRPS.

Where the producer is involved in this business activity in more than one place, appended to the application shall be the documentation referred to in paragraph 3 items 1, 3 and 4 of this Article for each of the places of production.

The producer shall be under obligation to notify the administrative authority about any change in the circumstances for involvement in production, within 15 days after the day such change occurred.

#### Article 8

The producer of planting material shall be removed from the Register of Producers, if

## Article 10

The producer may produce the planting material for varieties and rootstocks which are not entered in the Register of Varieties and Rootstocks of Planting Material (hereinafter referred to as: Register of Varieties and Rootstocks).

The producer shall be under obligation to provide, from the owner of the variety or rootstocks, the consent for multiplication of the planting material for protected varieties.

The producer shall be under obligation to, every year, submit to the administrative authority the report about production planting material.

Deadlines for submission of the report, the content and form of the report for production, methods, requirements and procedure of production and marketing of the planting material for specific plant species or groups of plant species shall be specified by the Ministry.

## Article 11

The producer shall be under obligation to:

- 1) Have the plan of production that defines critical points for specific species of planting material which could affect the quality, health status, and yield of planting material, and methods for monitoring and supervision of critical points;
- 2) Make inspections with the aim of constantly monitoring and supervising the critical points in accordance with the methods; implement the measures with the aim of preventing the occurrence, or spread, of harmful organisms; take samples and submit them to authorized laboratory with the aim of monitoring the quality of production; keep minutes about monitoring and supervising the critical points, and about the measures implemented to ensure compliance of planting material with the prescribed standards;
- 3) Without delay notify the administrative authority, or phytosanitary inspector about occurrence or suspected occurrence of harmful organisms at the place of production;
- 4) Provide for a possibility to monitor and distinguish between different lots of planting material in all phases of production, warehousing, marketing and procurement of planting material;
- 5) Keep records and store the documentation about maintenance of the variety, namely the procurement and origin of planting material, and which is used for reproduction;
- 6) Perform other tasks determined by the law.

## Article 12

The producer may, for the requirements of a foreign client, produce, from the imported reproduction material, the planting material for varieties orstocVari



The authorized legal person may not be assigned the tasks of supervising its own production of planting material, with the exception of pre-basic and basic material.

Compliance with requirements referred to in paragraph 2 of this Article shall be determined and the authorization for the conduct of expert supervision shall be issued by the administrative authority.

The authorized legal person shall report to the administrative authority about the expert supervision conducted after completing the expert supervision for each individual culture.

The requirements in respect of personnel and equipment to be complied with by the authorized legal person, and the manner and methods of the conduct of expert supervision, the content of and deadlines for submission of reports about the expert supervision that was conducted shall be specified by the Ministry.

#### Article 15

Producer shall be under obligation to, every year, apply with the administrative authority for the conduct of expert supervision.

Deadlines for submission of application, the content and form of the application referred to in paragraph 1 of this Article shall be specified by the Ministry.

A producer may submit the application referred to in paragraph 1 of this Article, provided:

- 1) He is entered in the Register of Producers;
- 2) The variety or rootstocks is entered in the Register of Varieties and rootstocks;
- 3) The producer of planting material has obtained the consent referred to in Article 10 paragraph 2 of this Law.

#### Article 16

Breeder or maintainer shall submit to the administrative authority the report about the expert supervision conducted in order to be issued the certificate of recognition of the production of pre-basic planting material.

Maintainer shall be under obligation to keep records about the issued reports referred to in paragraph 1 of this Article for at least six years.

#### Article 17

Procedure of expert supervision which is implemented by the authorized legal person shall comprise:

- 1) Expert supervision over planting material;



In respect of quality, planting material norms.

must comply with the prescribed quality

Article 24

A company, or other legal person or entrepreneur may become involved in marketing of planting material if it is entered in the Register for Wholesale of Planting Material, or in the Register for Retail of Planting Material.

A company, or other legal person or entrepreneur may become involved in wholesale of planting material if it employs, for marketing activities, on full time basis, a person who has graduated from specialist studies or agricultural faculty, department for fruit and grapevine cultivation, general department or other plant production department, and has a facility for warehousing or sales of planting material.

A company, or other legal person or entrepreneur may become involved in retail of planting material if it employs, in all of its sales facilities, on a full time basis, a person who has finished secondary agricultural school.

Compliance with requirements referred to in paragraphs 2 and 3 of this Article shall be determined by the administrative authority.

Entry in the Register for Wholesale of Planting Material and in the Register for Retail of Planting Material shall be made on the basis of an application.

The requirements to be met by the sales facility and warehouse, and the manner and conditions for warehousing of planting material referred to in paragraph 1 of this Article shall be specified by the Ministry.

#### Article 27

To the marketing of planting material intended for organic production, the requirements determined in the regulations that govern organic production shall apply in addition to the requirements determined by the law.

### IMPORTING MR

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#### Article 28

A company, or other legal person or entrepreneur (hereinafter referred to as: the importer) may become involved in importation of planting material if it owns or, on the basis of a lease contract, uses a registered customs warehouse and if it is entered in the Register of Importers.

The importer may import the pre-basic, basic, certified, and standard planting material for varieties or rootstocks which are entered in the Register of Varieties and Rootstocks.

#### Article 30

The imported planting material, along with the bill of lading, must be accompanied by the phytocertificate, certificate on certification of planting material (OECD), and the certificate of quality of planting material (ISTA).

The imported planting material shall be accompanied by a declaration issued by the competent authority of the exporting country and, when it is placed on the market in the territory of the Republic, it shall be designated in accordance with Article 22 of this Law.

Planting material of plant species other than those included in the OECD Certification System, and the importation of planting material from the countries that are not OECD Member Countries shall be accompanied by the document on certification issued by the competent authority of the exporting country.

The importer shall be accountable for the quality and authenticity of imported planting material.

#### Article 31

Planting material may be imported only from producers which comply with the production requirements, namely which are registered and under supervision of the competent authority of the exporting country.

Planting material which is imported shall be subject to mandatory control of certification and quality which is conducted by the phytosanitary inspector, at the border crossing.

The importer shall be under obligation to submit a sample of imported planting material to the scientific-research institution which conducts examination of the value for cultivation and use of a variety in order to be examined and kept in the referential collection.

The quantity of planting material that is taken as a sample and the manner of sample designation shall be specified by the Ministry in more detail.

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#### Article 32

Recognition of varieties or rootstocks, in the context of this Law, shall be the recognition of newly-created domestic varieties or rootstocks (hereinafter referred to as: recognition of variety), if the variety results from selection, namely if it is biologically different from other recognized varieties, and which was used as a standard variety in the recognition process.

#### Article 33

The varieties recognition process shall determine the quality and other essential characteristics on the basis of which a variety may be recognized, and the planting material for such variety may be produced and placed on the market as certified in the territory of the Republic.

#### Article 34

The variety shall be recognized if it is determined that:

- 1) it is distinct, uniform, and stable (DUS test);
- 2) it has a favorable value for cultivation and use (VCU test);
- 3) the name of the variety was determined in accordance with the law.

#### Article 35

A variety is distinct if it is clearly distinguished for at least one characteristic from any other variety the existence of which is a matter of common knowledge.

A variety is uniform if it is sufficiently unvarying in essential characteristics in respect of the variations which may be expected due to specific nature of its propagation.

A variety is stable if its essential characteristics which are of importance for distinguishing remain unchanged even after the repeated multiplication.

A variety is generally recognized if it is entered in the Register of Varieties and rootstocks or the Register of Protected Varieties in accordance with the regulations related to the protection of varieties, and a variety which is currently undergoing the entry process.

Article 36

Values for cultivation and use of a variety shall be deemed to include:



The data and documentation relating to the origin of source material and to the description of the new variety creation process shall constitute a professional secret.

#### Article 40

Administrative authority shall be under obligation to notify the applicant that the variety shall be examined and to demand that he submits necessary quantities of planting material for the variety, for examination purposes.

On the basis of notification referred to in paragraph 1 of this Article, the applicant shall be under obligation to submit to the administrative authority, in a timely manner, the planting material in the quantity and in the manner specified by the Ministry.

If the applicant fails to meet the requirements referred to in paragraph 2 of this Article, the application shall be rejected.

#### Article 41

The distinctness, uniformity, and stability of the variety, and the value for cultivation and use of the variety shall be determined by the examinations at the experiment field and in the laboratory.

Duration of examination of the varieties and examination methods shall be specified by the Ministry.

Costs of examination referred to in paragraph 1 of this Article shall be borne by the applicant.

#### Article 42

Examination of varieties at the experiment field and in the laboratory shall be conducted under code designations which shall constitute a professional secret. The codes shall be opened and closed every year and the administrative authority shall notify the applicant about the findings.

#### Article 43

Examination of varieties in the process of variety recognition, with the aim of determining their value for cultivation and use, shall be conducted with one or with more than one variety of standard at the same time.

Variety of standard can be only such variety which is entered in the Register of Varieties and Rootstocks and which, according to its biological and cultivation characteristics, has the highest level for the purpose for which the examination is being conducted.

If a particular species does not have the varieties described in the Register of Varieties and rootstocks, the variety shall be examined without the variety of standard for one year.

#### Article 44

Examination of a variety at the experiment field, or in the laboratory, shall be conducted by a legal or natural person who has the land, equipment, and experts required for conduction of such examination (hereinafter referred to as: the experimenter).

The contract with experimenter for examination of the variety at the experiment field, or in the laboratory, shall be executed by the administrative authority, in accordance with the law.

Compliance with requirements referred to in paragraph 1 of this Article shall be determined by the administrative authority.

The requirements referred to in paragraph 1 of this Article shall be specified by the Ministry in more detail.

#### Article 45

The administrative authority shall recognize the findings of DUS tests which are conducted in an UPOV Member Country.

The experimenter which has executed a contract on examination of a variety at the experiment field, or in the laboratory, shall be under obligation to submit to the administrative authority the annual and final findings of the examination conducted in accordance with the prescribed methods and covenants under the contract.

#### Article 46

Processing of annual and final examination findings referred to in Article 45 paragraph 2 of this Law shall be made by the administrative authority.

Processing of the data referred to in paragraph 1 of this Article shall be made according to the method which shall be specified by the Ministry.

Final examination findings shall be submitted to the expert commission with the aim of assessing the value for cultivation and use of a variety, as well as its distinctness, uniformity, and stability, and the final findings shall be submitted to the applicant.

Expert commission referred to in paragraph 3 of this Article shall be set up by the administrative authority.





The fee referred to in paragraph 1 of this Article shall be paid by the applicant.

The level of compensation referred to in paragraph 1 of this Article shall be determined by the Government of the Republic of Montenegro.

The compensation referred to in paragraph 2 of this Article shall be the budget revenues of the Republic.

#### Article 55

A sample of the variety which is entered in the Register of Varieties and Rootstocks or whose entry is in process shall be kept as a standard sample in the referential collection of varieties and rootstocks.

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#### Article 56

The maintainer of a variety shall be under obligation to maintain such variety according to the prescribed methods throughout the period before the variety is entered in the Register of Varieties and Rootstocks.

The maintainer of a variety shall be under obligation to, at the request of the administrative authority, submit the sample of planting material of the variety within 15 days, with the aim of:

- 1) Checking whether he maintains the variety in the manner that does not change the uniformity and stability of the variety;
- 2) Preserving the standard sample or its regeneration.

Methods for maintenance of the variety shall be specified by the Ministry in more detail.

#### Article 57

Supervision over the maintenance of the variety shall be made by the administrative authority by examining the variety in the manner provided by Article 46 of this Law by checking whether the uniformity and stability of the variety is determined.

If, on the basis of examination findings referred to in paragraph 1 of this Article, it determines that the maintainer of the variety did not maintain the variety in the manner which guarantees the preservation of certification, stability, and uniformity of a variety, the administrative authority shall remove his right to maintain such variety and, if he is the only maintainer, the administrative decision on entry of such variety in the Register of Varieties and Rootstocks shall be rescinded.

Supervision over maintenance of the variety shall be made according to the methods to be specified by the Ministry.

#### Article 58

The costs of the supervision over maintenance of the variety shall be borne by the maintainer of the variety from whom the sample was seized.

#### Article 59

A sample of the variety which is entered in the Register of Varieties and Rootstocks or for which the process of entry in the Register of Varieties and Rootstocks has been initiated shall be kept as the standard sample.

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#### Article 60

Inspection surveillance over the implementation of this Law shall be exercised by the administrative authority, through the agricultural inspector, in accordance with the law.

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#### Article 61

Agricultural inspector shall conduct inspection surveillance in particular in respect of:

- 1) Compliance with requirements for entry in the prescribed registers;
- 2) Keeping records on production of planting material;
- 3) Recognition of newly-created domestic variety or rootstock;
- 4) Varieties entered in the Register of Varieties and Rootstocks, and exercise of the right of use over the protected varieties and rootstocks.



- 5) Has not submitted the application for implementation of expert supervision to the administrative authority within the deadline and under the conditions determined in Article 15 of this Law;
- 6) Places on the market the planting material for varieties that are not entered in the Register of Varieties and Rootstocks and are not accompanied by the certificate of recognition for production of planting material ( Article 25);
- 7) Imports the planting material of varieties or rootstocks which are not entered in the Register of Varieties and Rootstocks (Article 28 paragraph 2);
- 8) Imports planting material from a producer which does not meet the requirements for production, namely which is not registered and under supervision of the competent authority (Article 31 paragraph 1);
- 9) Places on the market planting material for the varieties which were removed from the Register of Varieties and Rootstocks after expiry of the period of three years following the day of removal from the Register of Varieties and Rootstocks



other legal person, in the amount of between fifteen and twenty times the lowest price of labor in the Republic.

For the infringement referred to in paragraph 1 of this Article the inspector may collect from a natural person a fine on the site of perpetration, in the amount of three times the amount of the lowest price of labor in the Republic.

#### Article 65

A fine amounting to twenty times the lowest price of labor in the Republic shall be imposed on a natural person if it becomes involved in production of planting material without having concluded a contract with a producer of planting material (Article 5 paragraph 2).

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#### Article 66

A company, or other legal person or entrepreneur involved in production, marketing and importation of planting material shall be under obligation to render their business operations compliant with this Law within a year after the coming into force of this Law.

#### Article 67

Regulations on the basis of the authorizations under this Law shall be passed within six months after the coming into force of this Law.

#### Article 68

Until the regulations are passed on the basis of the authorizations under this Law, regulations passed on the basis of the Law on Seed and Planting material ("RM Official Gazette", No. 39/92) and the Law on Recognition of Varieties of Agricultural and Forestry Plants ("FRY Official Gazette", Nos. 12/98 and 37/02) shall apply unless they are in conflict with this Law.

#### Article 69

On the day of coming into force of this Law, provisions of the Law on Recognition of the Varieties of Agricultural and Forestry Plants ("FRY Official Gazette", Nos. 12/98 and 37/02) concerning recognition of the varieties of fruit trees, grapevine, hops, decorative, medicinal and aromatic plants shall no longer apply, and provisions of the Law on Seed and Planting material ("RM Official Gazette", Nos. 39/92 and 59/92) concerning the planting material for fruit trees, grapevine, hops, decorative, medicinal and aromatic plants, shall cease to apply.

#### Article 70

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