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

EDICT

ON PROMULGATION OF THE LAW ON PLANTING MATERIAL

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 18th of April 2006.

No: 01-634/2
Podgorica, 20 April 2006

Signed by the President of the Republic of Montenegro,
Mr. Filip Vujanović

LAW

ON PLANTING MATERIAL

I. MAIN PROVISIONS

Article 1

This law regulates the conditions and manner for production, marketing, and importation of the planting material for fruit trees, grapevine, hops, decorative, medicinal and aromatic plants (hereinafter referred to as: planting material), the procedure for recognition of planting material varieties, registration of varieties, and entry in the Register of Varieties and entry of planting material rootstocks, and other issues of relevance for production and marketing of planting material.

Article 2

This Law shall not apply to:

- 1) Production and marketing of genetically modified planting material;

- 2) Samples of planting material which a company or other legal person or entrepreneur involved in the plant breeding activities in the area of fruit cultivation, vineyard cultivation, hops cultivation, decorative, medicinal and aromatic plants, propagates, receives, or sends to other legal person for the scientific research and experimentation purposes, in the quantities that are used for experiment purposes or for the plant gene banks;
- 3) Planting material for forestry plants.

Article 3

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

- 1) **Planting material** are seedlings of fruit trees, hops, decorative, medicinal and aromatic plants and grapevine used for raising of plantations or for decoration purposes, as well as reproduction planting material used for production of seedlings;
- 2) **Reproduction planting material for production of seedlings** is the meristem, seed for production of generative rootstocks, vegetative rootstocks, root-sucker, mature and green cuttings, branch grafts and strawberry tendrils derived from the pre-basic, basic, and certified parent trees, vines, or bushes of varieties and rootstocks;
- 3) **Seedling** is an annual or perennial plant derived from the vegetative parts of the parent plant, by combining rootstock and scion, or produced from the seed of parent plant;
- 4) **Variety** of fruit trees, grapevine, hops and rootstocks is plant grouping within a single botanical taxon of the lowest known rank, which grouping can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, and is distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated unchanged;
- 5) **Breeder of variety or rootstock** is a company or other legal persons, entrepreneur, or natural person, who has created or discovered a new variety or rootstock;
- 6) **Maintainer of variety or rootstock** is a breeder or producer of planting material who maintains a variety or rootstock in accordance with the prescribed methods and guarantees that such variety or rootstock has remained unchanged during maintenance and as such is uniform and stable;
- 7) **Sample of planting material** is the least prescribed quantity of planting material, recognizable for its homogeneity and representing the planting material from which it was taken;
- 8) **Category of planting material** is a particular quality level of planting material;

- 9) **Variety standard or rootstocks standard** 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) **Referential collection of varieties or rootstocks** 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) **ISTA certificate** is a document on the quality of the planting material category in international circulation (ISTA – International Seed Testing Association);
- 12) **OECD certificate** is a document about certification of planting material in international circulation (OECD – Organization for Economic Cooperation and Development);
- 13) **DUS test** is a test which determines the distinctness, uniformity and stability of a variety or rootstocks in accordance with the UPOV provisions (International Union for Protection of New Plant Varieties);
- 14) **VCU (value for cultivation and use) test** is a test which determines the value for cultivation and use of a variety or rootstock;
- 15) **Place of production** is a unit that is complete in organizational and business terms and comprises the land, facilities, machines and equipment where the producer practices his business;
- 16) **Domestic varieties** are those varieties which are of domestic or unknown origin and have been for a long time cultured in the agroecological environment of the Republic of Montenegro (hereinafter referred to as: the Republic);
- 17) **Domesticated varieties** are the varieties of foreign origin which have been for a long time cultured in the Republic and have major value for cultivation and use;
- 18) **Recommended varieties and rootstocks** are those varieties and rootstocks which are, after examination of value for cultivation and use, recommended for cultivation in the territory of the Republic;
- 19) **Plant gene bank** is a place where plant genetic resources are kept, described, collected, and used.

Article 4

Planting material categories, in the context of this Law, are the following:

- 1) Pre-basic;
- 2) Basic;

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.

Basic planting material is the propagation material which is obtained from pre-basic planting material, free from viruses, intended for production of certified planting material, produced in parent plantations (facilities) under expert supervision, and which is designated on the market with a declaration of white color.

Certified planting material is the propagation planting material which is obtained from the basic planting material, intended for production of certified seedlings or for production of standard planting material, and which is designated on the market with a declaration of white color.

Standard planting material is the propagation planting material which is obtained through reproduction of the planting material of certified seedlings or standard parent trees, shrubs or vines, the identity, purity of variety, and health condition of which were determined, and which are used for production of standard seedlings, raising of plantations, and which is designated on the market with a declaration of yellow color and mark S-A.

Only the categories of planting material referred to in paragraph 1 of this Article may be used for production of planting material.

The manner of individual categories of planting material and rootstocks packaging and designation is specified by the Ministry of Agriculture, Forestry, and Water Management (hereinafter referred to as: the Ministry).

II. PRODUCTION OF PLANTING MATERIAL

Article 5

Only a company or other legal person or entrepreneur (hereinafter referred to as: the producer) which is entered in the Register of Planting material Producers (hereinafter referred to as: the Register of Producers) may become involved in production of planting material

A natural person may become involved in production of planting material provided it has entered into a cooperation agreement with the producer, where the planting material produced in such cooperation shall be considered the production of such producer.

Article 6

Administrative authority in charge of planting material (hereinafter referred to as: the administrative authority) shall conduct the assessment of compliance with the requirements for entry in the Register of Producers and shall keep the Register of Producers.

Any appeals against the administrative decision on compliance referred to in paragraph 1 of this Article, as well as against other individual administrative acts which, in accordance with this Law, are passed by the administrative authority, shall be decided by the Ministry.

The data from the Register of Producers shall be public.

The content and manner of keeping the Register of Producers shall be specified by the Ministry.

Article 7

Entry of producers in the Register of Producers shall be made provided it has:

- 1) land required for production of planting material;
- 2) a person employed on full-time basis responsible for production of planting material (hereinafter referred to as: responsible person), who has graduated from specialist studies or faculty of agriculture (department: fruit-grapevine cultivation, general department or other department of plant production) and has at least three years of relevant work experience.

Entry in the Register of Producers shall be made on the basis of an application that contains that data about:

- 1) the producer (name, registered office, address, unique identification number, fiscal identification number and code of business activity);
- 2) responsible person (first and last name, address, unique identification number, and educational background);
- 3) species, variety, and category of planting material;
- 4) parent trees.

Appended to the application referred to in paragraph 2 of this Article shall be the following documentation:

- 1) proof of the right of disposal over, or use of, the agricultural land for production of planting material (an excerpt from the title deed, or the lease agreement);
- 2) employment contract with the responsible person;

- 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 it is no longer involved in this business activity or no longer complies with the requirements referred to in Article 7 paragraph 1 of this Law.

The administrative authority shall be under obligation to keep original documentation on the basis of which the Register of Producers is kept for at least three years after the day when the producer is removed from the Register of Producers.

Article 9

The producer shall be under obligation to keep a book of records about production of planting material.

The book of records referred to in paragraph 1 of this Article shall contain in particular:

- 1) Administrative decision on entry in the Register of Producers;
- 2) Name of the responsible person;
- 3) Layout of the nursery or parent plantation (facility) with clearly designated part where planting material is produced, species, namely variety and year of production of the planting material with which it establishes the production;
- 4) Total quantity of planting material;
- 5) Information about the production method;
- 6) Type and date of execution of works;
- 7) Quantities of total received, produced, sold, and destroyed planting material.

A form of the book referred to in paragraph 2 of this Article shall be specified by the Ministry.

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.

The producer must keep all documentation referred to in paragraph 1 item 5 of this Article, for at least five years.

Article 12

The producer may, for the requirements of a foreign client, produce, from the imported reproduction material, the planting material for varieties or rootstocks other than those entered in the Register of Varieties and Rootstocks.

Planting material referred to in paragraph 1 of this Article may be produced upon the consent of the administrative authority on the basis of a contract with a foreign client, under which contract such foreign client takes over the entire quantity of the planting material produced.

Production of planting material referred to in paragraph 1 of this Article shall be subject to medical examination.

It shall not be allowed to place the planting material referred to in paragraph 1 of this Article on the market in the territory of the Republic.

Production of certified planting material for the account of a domestic client may be conducted in other country on the basis of a contract between such domestic client and a foreign producer, upon the consent of the administrative authority.

III EXPERT SUPERVISION OVER THE PRODUCTION OF PLANTING MATERIAL

Article 13

Production of planting material shall be subject to mandatory expert supervision.

Parent trees which are used for production of planting material shall also be subject to expert supervision.

Expert supervision over production of planting material shall determine: the origin, authenticity and purity of species and varieties, health status of planting material, parent trees, and species of reproduction material used for production of planting material, application of agritechnical measures, and quantity of the planting material produced.

Article 14

Expert supervision over production of pre-basic planting material shall be conducted by the breeder or maintainer of the variety or rootstock.

Expert supervision over production of basic, certified and standard planting material shall be conducted by a legal person which complies with the requirements in respect of personnel and equipment, and which is authorized by the administrative authority (hereinafter referred to as: the authorized legal person).

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;

- 2) Expert supervision over parent trees;
- 3) Expert supervision over plantations, soil, production facilities, warehousing space, and preparation of planting material for marketing, etc;
- 4) Review of the documentation, minutes, and book of records;
- 5) As appropriate, taking of samples from the planting material and the soil;
- 6) Keeping of minutes referred to in paragraph 1 of this Article.

Article 18

The authorized legal person, after the expert supervision is completed, shall submit to the administrative authority the report on the expert supervision completed in order to be issued the certificate of recognition for production of basic, certified and standard planting material.

The authorized legal person shall be under obligation to keep records about the reports on completed expert supervision that were issued.

Article 19

On the basis of the report about the completed expert supervision over planting material referred to in Articles 16 and 18 of this Law, the administrative authority shall issue the certificate of recognition for production of planting material (hereinafter referred to as: the certificate).

The records about issued certificates referred to in paragraph 1 of this Article shall be kept by the administrative authority.

The form and content of the certificate referred to in paragraph 1 of this Article, the manner for keeping the records referred to in Article 16 paragraph 2 of this Law, and paragraph 2 of this Article, the form and content of the minutes about the completed expert supervision shall be specified by the Ministry.

The costs of expert supervision and the costs of issuance of certificate shall be borne by the producer.

IV. QUALITY OF PLANTING MATERIAL

Article 20

Quality of planting material, in the context of this Law, shall be the origin, authenticity of a variety and rootstock, the vegetative development level, and the health status.

In respect of quality, planting material must comply with the prescribed quality norms.

The producer, or the importer, shall be responsible for the quality of planting material on the market.

V. PACKAGING, DECLARATION AND LABELING

Article 21

Planting material on the market must comply with the declared species and variety, the prescribed quality norms; it must be in its original packaging and have the declaration attached to the bill of lading and the label on the seedlings, individually or in a group.

Planting material on the market must comply with the quality designated in the declaration and on the label.

Depending on the species and category of planting material concerned, the declaration and the label must be unique in content, size, color, and must have attached the serial number.

Article 22

The producer of planting material shall submit to the authorized legal person the application to be issued the declaration or the label.

The imported planting material shall be declared by the importing country and the importer of planting material shall bear the responsibility.

The producer of planting material shall conduct the packaging and labeling of planting material at the place of production, in the presence of the representative of the authorized legal person.

The authorized legal person shall keep records of the declaration, or the labels, issued.

The form, content, and manner of issuance of declaration and label, and the manner of keeping the records referred to in paragraph 4 of this Article shall be specified by the Ministry in more detail.

Article 23

The producer, or the importer, shall be liable for the damage incurred to the end user if the planting material is not in compliance with the requirements in respect of the declared species, variety and quality of planting material.

VI. MARKETING OF PLANTING MATERIAL

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.

Register for Wholesale of Planting Material and Register for Retail of Planting Material shall be kept by the administrative authority.

The data from the Register for Wholesale of Planting Material and Register for Retail of Planting Material shall be public.

The content, form, and manner of keeping the Register for Wholesale of Planting Material and the Register for Retail of Planting Material, and the content of the application with the required documentation for entry in these registers shall be specified by the Ministry.

Article 25

Only the basic, certified, and standard planting material for varieties or rootstocks which is entered in the Register of Varieties and Rootstocks and which is accompanied by the certificate of recognition for production of planting material may be placed on the market.

Article 26

Planting material on the market must be warehoused and stored in the manner and under conditions which provide for preservation of their quality.

Marketing of planting material may be conducted only in a sales facility.

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.

VII IMPORTATION OF PLANTING MATERIAL

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.

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

Entry in the Register of Importers shall be made based on the application.

Register of Importers shall be kept by the administrative authority.

The data from the Register of Importers are public.

The content, form, and manner of keeping the Register of Importers, and the content of the application shall be specified by the Ministry.

Article 29

Planting material may be imported only in original packaging.

The importer shall be under obligation to keep records about the imported quantities of planting material.

The content, form, and manner of keeping the records referred to in paragraph 2 of this Article shall be specified by the Ministry.

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.

VIII RECOGNITION OF A NEWLY-CREATED DOMESTIC VARIETY OR ROOTSTOCK AND ENTRY IN THE REGISTER OF VARIETIES AND ROOTSTOCKS

1. Recognition of Variety or Rootstock

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:

- 1) yield;
- 2) product quality;
- 3) other characteristics that may contribute to the increase of production volumes or improvement of quality.

Essential characteristics of the varieties for different species shall be specified by the Ministry in more detail.

Article 37

Breeder must be indicated in the application and in all documents related to the recognition of a newly-created domestic variety.

When a newly-created domestic variety results from the creative endeavor of more than one breeder, all breeders shall be indicated, in the sequence corresponding to their respective contribution in such creative endeavor.

Breeder of a newly-created domestic variety shall have the right of use and disposal over the variety, and to exercise the right to the compensation for the use of variety.

Article 38

The process of variety recognition shall be instigated on the basis of the application submitted by the breeder of a variety or his authorized agent (hereinafter referred to as: the applicant).

The application referred to in paragraph 1 of this Article shall be submitted for each variety separately.

The form and content of the application referred to in paragraph 1 of this Article, and the criteria for determination of the denomination of varieties shall be specified by the Ministry.

Article 39

The application referred to in Article 38 paragraph 2 of this Law shall be submitted to the administrative authority.

At the request of the administrative authority, the applicant shall be under obligation to append to the application referred to in paragraph 1 of this Article the documentation about the work done on creation of the new variety.

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.

Article 47

Based on the findings of the variety examination at the experiment field, or in the laboratory, and upon the proposal of the expert commission referred to in Article 46 paragraph 4 of this Law, the administrative authority shall issue the administrative decision on recognition of the variety or rejection of the application.

2. Entry of Varieties in the Register of Varieties and Rootstocks

Article 48

On the basis of the administrative decision on recognition of a variety, the administrative authority shall enter such variety in the Register of Varieties and Rootstocks.

Register of Varieties and Rootstocks shall be kept by the administrative authority.

The content and manner of keeping the Register of Varieties and Rootstocks shall be specified by the Ministry in more detail.

Article 49

Register of Varieties and rootstocks shall contain the data, in particular about:

- 1) Newly-created domestic varieties;
- 2) Foreign varieties recognized by the competent authority of a foreign country;
- 3) Domestic and domesticated varieties.

Article 50

A foreign variety shall be entered in the Register of Varieties and Rootstocks if it is recognized by the competent authority of a foreign country, if it has proof of title holder, maintainer, or authorized agent, and about the findings of DUS test.

Entry of a foreign variety in the Register of Varieties and Rootstocks shall be made on the basis of application by the user of such foreign variety.

The form and content of the application referred to in paragraph 2 of this Article and the evidence to be appended to the application shall be specified by the Ministry.

Article 51

Domestic and domesticated varieties which do not meet all the requirements specified by this Law for entry in the Register of Varieties and Rootstocks may be entered in the Register of Varieties and Rootstocks and shall be specially designated.

The administrative authority shall enter the variety referred to in paragraph 1 of this Article in the Register of Varieties and Rootstocks on the basis of the examination findings or on the basis of common knowledge about the value for cultivation and use of the varieties.

Domestic and domesticated varieties which are entered in the Register of Varieties and Rootstocks shall be kept in the plant genes bank in accordance with the regulations that govern plant genetic resources.

Article 52

The administrative authority shall remove a variety from the Register of Varieties and Rootstocks if:

- 1) The applicant so requests;
- 2) The maintainer of a variety or his authorized agent does not provide for the maintenance of such variety in the manner prescribed by this Law;
- 3) Fifteen years have expired after the entry date of such variety;
- 4) The maintainer of a variety or his authorized agent does not provide a sample of the planting material for the variety that is necessary for verification of certification, uniformity, and stability, and maintenance of standard sample or its regeneration.

A variety that is removed from the Register of Varieties and Rootstocks may be placed on the market for not more than three years after the date of removal from the Register of Varieties and Rootstocks.

Article 53

A variety entered in the Register of Varieties and Rootstocks shall be subject to mandatory examination of value for cultivation and use (VCU TEST) with the aim of being included in the List of Recommended Varieties and Rootstocks.

Examination of the variety referred to in paragraph 1 of this Article shall be made in accordance with Article 41 paragraph 2 of this Law.

The administrative authority shall determine a list of entered, namely removed varieties from the Register of Varieties and Rootstocks, and the List of Recommended Varieties and Rootstocks.

List of the Recommended Varieties shall be published in the "Republic of Montenegro Official Gazette".

Article 54

A fee shall be payable for recognition and entry in the Register of Varieties and Rootstocks.

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.

3. Maintenance of Varieties

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.

IX. INSPECTION SURVEILLANCE

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.

1. Authorizations of the Inspector

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.

2. Administrative Measures and Actions

Article 62

In addition to the administrative measures and actions prescribed by the law that governs inspection surveillance, when he finds that law or other regulation has been violated, the agricultural inspector shall take the following administrative measures and actions:

- 1) Ban the production of planting material, if it is not entered or is not removed from the Register of Producers;
- 2) Ban the production of planting material, if the application for implementation of expert supervision has not been submitted in accordance with Article 15 of this Law;
- 3) Ban the production, use and marketing of planting material for the varieties and rootstocks that were not entered in the Register of Varieties and Rootstocks, or were removed from the Register of Varieties and Rootstocks;
- 4) Ban the production, use and marketing the planting material contrary to the provisions of this Law;
- 5) Ban marketing of planting material outside the sales facility;
- 6) Seize and destroy the planting material which is produced, used, and placed on the market contrary to the provisions of this Law.

X PENAL PROVISIONS

Article 63

A fine amounting to between two hundred and three hundred times the amount of the lowest price of labor in the Republic shall be imposed on the authority, company, or other legal person or entrepreneur, if it:

- 1) Uses, for production of planting material, the categories of planting material other than those determined in Article 4 of this Law;
- 2) Is involved in production, marketing and importation of planting material, and is not entered in the Register referred to in Article 7 paragraph 1, 24 paragraph 1, and 28 paragraph 1 of this Law;
- 3) Is involved in production of planting material and does not meet the requirements referred to in Article 7 paragraph 1 of this Law;
- 4) Produces the planting material in contravention of Articles 11 and 12 of this Law;

- 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 (Article 52 paragraph 2);
- 10) Does not perform the tasks of maintaining the varieties according to the prescribed methods (Article 57 paragraph 3).

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed on the responsible person in the company, or other legal person, in the amount of the twenty times the amount of the lowest price of labor in the Republic.

For the infringement referred to in paragraph 1 of this Article, in addition to a fine, a protective measure of banning the conduction of business activity in the duration of six months may be imposed.

Article 64

A fine amounting to between one hundred and fifty and two hundred and fifty times the amount of the lowest price of labor in the Republic shall be imposed to the company, or other legal person or entrepreneur, if it:

- 1) Does not keep the book of records about production of planting material (Article 9 paragraph 1);
- 2) Does not submit to the administrative authority the application for production of planting material within the deadline and in the manner determined in Article 10, paragraphs 3 and 4 of this Law;
- 3) Does not employ, for the marketing activities, on full time basis a person with the prescribed educational background (Article 24, paragraphs 2 and 3);
- 4) Involves in marketing of planting material outside the sales facility (Article 26 paragraph 2).

For the infringement referred to in paragraph 1 of this Article a fine shall be imposed on the natural persons, as well as on the responsible person in the company and

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).

XI. TRANSITIONAL AND FINAL PROVISIONS

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".