

03 Annex - Right of establishment and freedom to provide services

19. LAW ON POSTAL SERVICES

Pursuant to the Article 88 item 2 of the Constitution of the Republic of Montenegro

Decree on Promulgating the Law on Postal Services

I hereby promulgate the Law on Postal Services, adopted by the Parliament of the Republic of Montenegro at the Fourth Session of the First Regular Sitting in 2005, on 28 July 2005

Number: 01/-1482/2

Podgorica, July 29th 2005

The President

of the Republic of Montenegro

Filip Vujanović

Law on Postal Services

Official Gazette of the Republic of Montenegro 46/2005

Of 3 August 3 2005

I. BASIC PROVISIONS

Article 1

The Law on Postal Services regulates the conditions and the manner of carrying out universal postal service and other postal services, authorizations of regulatory authority for postal affairs, and others issues related to postal services.

Article 2

The regulation of relations in the area of postal services is based on the following principles:

- 1) creating conditions for meeting the needs for postal services ;
- 2) the provision of universal postal service in Montenegro of the prescribed quality and at affordable prices for all users in the territory of Montenegro, taking account of the technological progress, market development and changes in users' demand;
- 3) carrying out postal services in compliance with national and international standards and rules;
- 4) ensuring the development of postal affairs;
- 5) the promotion of competition in the area of postal affairs;
- 6) the promotion of cost-effectiveness and efficiency in the area of postal affairs;
- 7) ensuring the quality and application of standards in carrying out postal services, as well as inviolability, security and secrecy of postal items;
- 8) enabling equal access to postal network and postal services for the users of postal services and for postal operators;
- 9) the protection of interests of the postal services users .

Article 3

The universal postal service shall be available to all users in the whole territory of Montenegro under equal terms.

Article 4

In this Law, the following terms shall have the following meanings:

- 1) **postal service** is the service of collection, processing, transport and delivery of postal items in compliance with the adopted standards;
- 2) **universal postal service** means postal services of the prescribed quality and standard, provided on an on-going basis, without discrimination, under equal terms and at affordable price to all users throughout the territory of the Republic;
- 3) **reserved postal service** is a part of the universal postal service, limited in weight and price and performed by the universal postal operator;
- 4) **non-reserved postal service** covers postal services from the scope of universal postal service exceeding the determined limits in weight and/or price of the reserved service, as

19. LAW ON POSTAL SERVICES

- well as the commercial postal services;
- 5) **commercial postal service** is the postal service outside the scope of the universal postal service;
 - 6) **value added service** is the commercial postal service with special requirements with respect to quality and manner of transport regarding the time and place of reception and delivery, speed of transport, electronic tracing of mail from reception to delivery, etc.;
 - 7) **electronic service** is the service that encompasses the reception, processing, transport and delivery by electronic means of all electronically certified postal items;
 - 8) **postal operator** is the provider of postal services registered for the provision thereof and appropriately licensed in accordance with this Law;
 - 9) **universal service provider** is the provider of postal services with the obligation to offer universal postal service and the right to perform reserved postal service;
 - 10) **postal item** is the addressed postal item transported by postal operator and delivered to the address indicated at the postal item or on its wrapping, and includes letters, parcels and postal orders;
 - 11) **letter-post item** is the postal item including the correspondence, printed matters, goods and other objects;
 - 12) **correspondence** is the communication in a written form between the sender and the recipient (books, catalogs, magazines, and daily and periodic press are not considered correspondence);
 - 13) **direct mail** is the communication consisting of advertising, marketing or publicity material of equal contents, except for the recipient's name, address and other identification criteria, as well as other modifications that do not change the nature of the message, which is dispatched to a large number of recipients (bills, invoices, financial statements and other communication that do not have identical contents are not considered direct mail);
 - 14) **unaddressed item** is the correspondence consisting of advertising, marketing or promotional material of equal contents, which is dispatched to a large number of unaddressed recipients;
 - 15) **parcel** is the postal item containing goods and other objects;
 - 16) **postal order** is the document transported by way of postal network and serving as a basis for the delivery of remitted money to the recipient;
 - 17) **recorded item** is the postal item for which a postal operator keeps special records and issues a receipt on its acceptance;
 - 18) **registered item** is the recorded item for which delivery the service user may demand a evidence on its delivery;
 - 19) **writs in the courts** is the recorded postal item which makes an integral part of the return receipt in the legal proceedings, administrative and offense procedures;
 - 20) **insured item** is the recorded item, insured against loss, damage and reduction of contents, up to the value indicated by the sender;
 - 21) **secogramme** is an open postal item the contents of which is adjusted to and intended for the blind or poor-sighted persons;
 - 22) **postal network of universal service provider** is a set of postal buildings, equipment and other facilities, which area is mutually connected into a single technological whole, for the purpose of providing universal postal service;
 - 23) **postal network access points** are physical buildings or equipment, including mail boxes, at public places or at the postal operator's premises, where postal service users may hand over postal items into the postal network;
 - 24) **postal network unit** is a part of the postal network in which postal services are performed (a postal network unit of the universal service provider must be designated by the name and postal code);
 - 25) **mail box** is the postal network facility for the collection of unregistered postal items;
 - 26) **home letter box** is the postal network facility for the delivery of postal items;
 - 27) **collection box** is the postal network facility used for the delivery to and taking over of postal items from service users living far from settlements;
 - 28) **mail acceptance** is the process of collecting postal items that are handed over on access points;
 - 29) **mail delivery** is the process of delivering postal items to the designated address;

30) **postal service user** is the natural or legal person using postal services.

II. POSTAL SERVICES

Article 5

Universal postal service is the service of public interest for the Republic.

Universal postal service referred to in paragraph 1 of this Article may be provided by a legal person based on a special license.

For the purposes of accomplishing the public interest referred to in paragraph 1 of this Article, the Government may establish the universal postal operator.

The universal postal operator is the only operator authorized to use the name "post".

1. Universal Postal Service

Article 6

The universal postal service shall include reception, processing, transport and delivery of:

- 1) letter mail items weighting up to 2 kg;
- 2) parcels weighting up to 10 kg;
- 3) postal orders;
- 4) secogramme;
- 5) registered and insured postal items.

The universal postal service referred to in paragraph 1 this Article of shall include postal services in national and international postal traffic.

The universal postal service shall also include the delivery of parcels with the weight of up to 20 kg in international postal traffic.

The dimensions, packing and other terms for performing the service referred to in paragraphs 1 and 3 of t his Article must comply with the provisions of the Universal Postal Union Acts and general conditions for performing postal services.

Article 7

Universal postal service may be provided by the universal postal operator as legal person that meets the requirements prescribed by the Law, on the basis of the special license.

Universal postal service is developed in accordance with the technical and economic development and the users' needs.

Article 8

Conduct of universal postal service is provided at least one reception and one delivery of postal items under the conditions prescribed by the Agency, shall be provided to all users, every working day, but not less than five days in a week.

In exceptional cases and subject to the geographic conditions, the independent regulatory body (hereinafter: Regulatory Body) may determine other conditions for the provision of the universal postal service.

Article 9

Universal postal operator shall provide universal postal service as well as other postal services under conditions proscribed by this Law.

By provision of universal postal service, all users shall be provided with access to postal network or universal postal operator at the proscribed distance from their place of residence, including mailboxes, in public places and in official premises of postal operator.

Universal postal operator shall provide proscribed density of access points adequate to the users' needs and in accordance with technological and economic development.

19. LAW ON POSTAL SERVICES

In order to provide proscribed density of access points pursuant to the paragraph 3 of this Article, universal postal operator may sign an agreement with natural or legal person on conduct of certain activities under the domain of universal postal service.

Natural or legal person, referred to in the paragraph 4 of this Article, shall be responsible for all damages which may be caused by its provision of universal postal services to the users of postal services.

Universal postal operator shall deliver postal items even when the universal postal service is not paid or is underpaid, if the address of the sender is indicated, under determined general conditions for conduct of postal services.

Article 10

Universal postal operator shall:

- 1) cooperate with international organizations, foreign administrations and authorized companies in the field of postal services and carry out tasks related to exercise of rights, obligations and responsibilities in the implementation of international conventions and other agreements in the field of international postal services;
- 2) organize and carry out calculation of services in international postal traffic with foreign administrations and companies;
- 3) perform tasks regarding issuance, sale and withdrawal of postage stamps and postal money-orders of the Republic.

The Ministry competent for postal affairs (hereinafter: Ministry) shall determine the conditions and the manner of issuance of postage stamps.

Article 11

The funds for covering possible loss based on performance of the universal postal service by universal postal operator shall be provided in compliance with this Law.

Article 12

Universal postal operator shall provide the access to the postal network to other postal operators under conditions stipulated by this Law and general conditions for provision of postal services.

More detailed conditions and prices referred to in the paragraph 1 of this Article shall be determined by the universal postal operator with the approval of the Regulatory Body.

Conditions referred to in the paragraph 2 of this Article shall be published in the "Official Gazette of the Republic of Montenegro".

Price to the access to universal postal operator network shall be determined based on the actual network access costs.

Article 13

Access to the universal postal operator network shall be acquired upon the request.

The manner and the conditions of the access to the universal postal operator network shall be determined by the contract between the universal postal operator and other operators.

Universal postal operator may reject access to the network if it jeopardizes provision of the universal postal services.

All disputed related to the access to the postal network referred to in the paragraph 3 of this Article shall be resolved by the Regulatory Body.

2. Reserved Postal Service

Article 14

The reserved postal service shall include:

- 1) reception, processing, transport and delivery of letter-post items weight up to 100 g and at the price lower than the triple postage rate of the first grade of weight and the fastest degree of transport;

- 2) reception, transport and delivery of postal orders;
- 3) direct mail, under the conditions referred to in the item 1 of this paragraph;
- 4) reception, processing, transport and delivery of writs in the court regardless of the limits.

The reserved postal service referred to in paragraph 1 of this Article shall be provided by universal postal provider and it shall include postal services in both national and international postal traffic.

3. Commercial Postal Service

Article 15

Commercial postal service shall encompass postal service performed on the free market and it shall not represent part of the universal postal service.

Commercial postal service referred to in the paragraph 1 of this Article may be performed by natural and legal persons, on the basis of registration on meeting the requirements specified in the Article 48 of this Law.

III. CONDITIONS FOR PERFORMANCE OF POSTAL SERVICE

Article 16

Postal services are provided in accordance with this Law, general and special conditions for the provision of postal services and rules and regulations of the Universal Postal Union.

The acts of the Universal Postal Union shall be published by the Regulatory Body in the "Official Gazette of the Republic of Montenegro".

Article 17

General conditions for the provision of postal services shall specify the conditions for and manner of performing postal services, the time limits for the transport and delivery of mail and the density of universal postal operator network access points.

General conditions referred to in the paragraph 1 of this Article shall be determined by the Ministry.

Article 18

Special conditions for the provision of postal services shall specify the conditions for and manner of performing postal services by a specific postal operator in accordance with the general conditions.

The conditions referred to in the paragraph 1 of this Article shall be determined by the universal postal operator and other postal operators with approval of the Regulatory Body.

Special conditions of the universal postal operator shall be published in the "Official Gazette of the Republic of Montenegro" and special conditions of other postal operators must be displayed at the prominent place within the business premises.

Article 19

The Regulatory Body may request modification of the special conditions referred in the Article 18 of this Law if this is necessary for the protection of the postal service users or promotion of competition.

Postal operator shall perform changes of special conditions regarding the provision of the paragraph 1 of this Article upon the request of the Regulatory Body.

Article 20

The postal services shall be performed, as a rule, based on the Contract on access.

Article 21

User of postal services may use postal services through the authorized person in compliance with the general regulations on letter of authorization.

The letter of authorization may be issued for delivery of all postal items or for an individual postal item.

19. LAW ON POSTAL SERVICES

The letter of authorization, certified by competent authority, shall be valid for the period indicated therein, while the letter of authorization recorded by the postal operator shall be valid only for the services of that operator and for the period indicated therein.

IV. PRICES OF THE POSTAL SERVICES

Article 22

The prices of postal services must be uniform for services of the same type within the whole area of the Republic.

Notwithstanding paragraph 1 of this Article, postal operator may approve the lower price to the users that dispatch large volumes of postal items or to those that dispatch postal items from various senders to the same user, and the lower price must be determined by the price list of postal services.

The prices of universal postal service must be affordable to users of postal services.

The prices of commercial postal services shall be determined by the provider of postal services and these prices shall be unique in the whole area the services are provided.

Article 23

Universal postal operator shall set the prices of universal postal services in compliance with the criteria determined by the Ministry.

Prices of reserved postal services shall be determined by the Ministry, at the proposal of universal postal operator.

The prices referred to in the paragraph 2 of this Article regarding international postal traffic shall be established based on the criteria determined by the regulations of the Universal Postal Union.

Postal operators shall submit the prices of postal services to the Regulatory Body within eight days from the day they are set.

V. PAYMENT OF POSTAL SERVICES

Article 24

As a rule, the postal services shall be paid in advance according to the currently valid price list displayed on a visible and accessible place in the premises of the postal operator.

When required by a special regulation, the user of postal services shall also pay, in addition to the price referred to in paragraph 1 of this Article, the amount set by that special regulation.

Secogrammes shall be exempted from charges for postal services, except in the case of the air transport.

The payment of postal services shall be indicated on the postal item in the following manner:

- applicable postage stamps;
- impression of the canceling machine;
- affixing the electronic seal;
- designation that the postage has been paid, in accordance with the provisions of agreements between postal operators and users.

VI. ACCOUNTING

Article 25

Postal operators shall be obliged to submit financial report and other data to the Regulatory Body in compliance with the Law.

The type of data referred to in the Article 1 of this Article and manner of their submission shall be determined by the Regulatory Body.

Universal postal operator must provide separate accounting for reserved services and unreserved services.

19. LAW ON POSTAL SERVICES

Within the accounting of unreserved services, universal postal operator must ensure separate accounting for universal postal services.

In the case when incomes based on the reserved and those based on the unreserved postal services do not cover their costs, the costs shall be paid in compliance with this Law.

Accounting statements of universal postal operator shall be subject to regular annual audits and with financial statements submitted to the Regulatory Body.

Article 26

Universal postal provider must not subsidize commercial postal services with the income arising from reserved postal service.

VII. COMPETENCES

Article 27

The Government of the Republic of Montenegro (hereinafter: Government) shall:

- 1) set the strategy of postal services development;
- 2) determine the conditions and manner of use of the network of universal postal service operator in the event of extraordinary circumstance;
- 3) pass legislation in accordance with this Law;
- 4) perform other duties in accordance with the law.

The strategy of postal services development adopted by the Government for the period of ten years shall include: principles development of postal services and postal market liberalization.

Goals and tasks of the strategy regarding development of postal affairs and liberalization of postal market shall be implemented in the medium-terms programs adopted by the Government for the periods of five years.

The medium-terms programs referred to in the paragraph 3 of this Article shall set up: necessary financial means and the resource of financial means for implementation of goals and tasks of the strategy referred to in the paragraph 1 of this Article.

Article 28

The Ministry shall:

- 1) prescribe
 - general conditions for the provision of postal services;
 - list of postal services;
 - technical requirements that must be met by the facilities and equipment of postal network, as well the conditions and instructions for design, construction, exploitation, maintenance and quality control of the postal network;
 - conditions and manner of issuance of postage stamps;
- 2) cooperate with international organizations and administrations for the purpose of ensuring implementation of the international conventions and other agreements in the area of the international postal traffic;
- 3) set the rates in compliance with this Law;
- 4) set the prices of the reserved postal services;
- 5) determine fulfillment of technical requirements, equipment and facilities of the postal network;
- 6) decide on complaints in the second-degree procedures;
- 7) perform other duties in compliance with the Law.

VIII. POSTAL ITEMS

1. Basic requirements that postal items must fulfilling

Article 29

Postal items have to meet requirements anticipated by this Law, general conditions for the provision of postal services as well as regulations of the Universal Postal Union.

19. LAW ON POSTAL SERVICES

Each postal item shall have designated, legibly and clearly, address of the recipient containing all necessary data.

For national postal traffic, the mail shall be addressed in Cyrillic or Latin alphabet, in compliance with the Law, and for international postal traffic, in Latin alphabet or in the alphabet of the destination country where the name of destination post office and destination country must also be written in Latin alphabet.

The address of the sender shall be mandatory in all registered items, unless the envelope carries the designation "For Advertisement", "Bid", etc.

Postal items must be packed to provide confidentiality of data contents in a manner complied with general conditions for implementation of postal services.

Article 30

Certain postal items shall have to meet requirements anticipated by special laws or regulations adopted pursuant to the Law, particularly the following:

- 1) for postal items in national postal traffic containing objects the transfer of which requires approval of competent state bodies, the sender shall be obliged to attach such approval;
- 2) for postal items in international postal traffic, the contents of which is subject to custom inspection or foreign exchange control – it should be treated in compliance with customs or foreign exchange regulations.

Article 31

Postal item shall be deemed to be the property of the sender until it is delivered to the recipient or other authorized person.

Article 32

Acceptance of mail shall be carried out in post offices, through mailboxes or by courier in business premises of a user or by electronic means.

Article 33

Postal operator, as a rule, shall deliver mail personally to the recipient or authorized person.

Registered postal items also may be delivered to an adult household member, person employed in the household, i.e. business premises of the recipient under conditions and according to the procedure established by general conditions for provision of postal services. Other postal items can be delivered by putting them into home letter boxes.

In case of an unsuccessful delivery of registered postal item, the recipient shall be left with a notice on arrival of postal item.

If the recipient is left with a notice on arrival of postal item before the expiry of the transport and delivery deadline, it shall be deemed that the postal operator fulfilled his obligation of the transport and delivery of the postal item within the prescribed deadline.

If the recipient or person referred in paragraphs 1 and 2 of this Article refuses to accept the registered postal item, the person delivering the postal item shall put the date and reason for refusal of acceptance of postal item on the postal item and return receipt and return the postal item to the sender.

Postal item found to be undeliverable to both recipient and to sender within deadlines prescribed in general conditions shall be deemed to be an undeliverable postal item.

The manner of procedure for undeliverable mail shall be established by general conditions.

2. Letter Boxes

Article 34

Owner of an apartment, condominium or business building is obliged to install and maintain house letter boxes at the entrance of the building, yard or in other adequate manner.

19. LAW ON POSTAL SERVICES

House letter box must be marked with the name and surname of the owner or beneficiary of the building as well as the number of the apartment in the condominium or business building in accordance with special regulations.

Postal operator shall warn, in writing, the owners referred to in paragraph 1 of this Article if they fail to meet their obligations and give them period of 15 days to correct the failure.

Postal operator shall not be obliged to deliver postal items in case of failure to act according to paragraph 3 of this Article.

House letter boxes must be placed so to enable safe delivery and provide mail confidentiality.

Article 35

Universal service provider shall set up mailboxes in public areas and communication lines, upon the approval of the competent body, in compliance with special regulations.

Article 36

Users of postal services whose facilities are placed outside settlements may receive mail from collective mailboxes.

Conditions and procedure for delivery of postal items to collective mailboxes shall be governed in compliance with special conditions of postal operator.

Article 37

The acceptance and delivery of postal items shall be done in compliance with this Law, general conditions for provision of postal services and international postal regulations and special conditions established by postal operators.

3. Content of Postal Items

Article 38

The following is prohibited to be sent in postal items:

- 1) narcotics and psychotropic substances unless the sender and recipient are authorized for their transfer i.e. use;
- 2) explosive, easily inflammable, radioactive and other dangerous substances;
- 3) live animals, except animals whose transport is allowed by general conditions for the provision of postal services;
- 4) articles which are prohibited to import and transfer in the country of destination;
- 5) articles which, by the nature or packing thereof, may be dangerous for postal operator's employees or may jeopardize or damage other postal items, transportation facilities or postal equipment;
- 6) other substances i.e. articles which delivery is forbidden by other regulations.

If the postal operator finds or has justified doubt that the postal item contains substances, i.e. articles referred to in the paragraph 1 items 1) and 2) of this Article, it shall be obliged to submit such postal item to the competent state authority or authorized official.

The manner of procedure concerning the postal items containing substances referred to in paragraph 1 of this Article shall be governed by general conditions for carrying out of postal services.

Article 39

The sender shall be held liable for all damages his/her postal item cause to other postal items, objects, equipment, postal personnel and other persons, as follows:

- 1) if the postal item contained articles which sending was prohibited by the law;
- 2) if the sender did not comply with the rules specified in the law, regarding manner of sending of certain articles that were in his/her postal item;
- 3) if the postal item was not packed in a manner proscribed by general and special conditions for the conduct of postal services.

4. Confidentiality of Postal Items

Article 40

Postal operators are obliged to provide confidentiality of postal items.

Persons employed at the postal operator shall not disclose any information regarding postal items to unauthorized persons. Postal operators may acquire data on postal items only to the degree necessary for the performance of postal services.

Exceptionally, the obligation to maintain secrecy may be violated in compliance with the Law.

Article 41

Postal operators may use personal data of postal service users that are an integral part of the address designated at the postal item for the needs of market research in order to provide better quality of postal services.

Article 42

Postal operators shall provide inviolability of postal items in conducting postal services.

Inviolability of postal items may be violated only in cases and under conditions determined by the law.

Article 43

Postal operator may, as a rule, open and inspect content of postal items upon the approval of the sender and/or recipient.

Notwithstanding paragraph 1 of this Article, postal operator shall be obliged to open and inspect content of postal items without approval of the sender or recipient, in the presence of a Commission, in the following cases:

- 1) when postal item cannot be handed over to the recipient or returned to sender (undeliverablemail);
- 2) when there is grounded suspect that the postal item includes prohibited articles referred to in the Article 38 of this Law;
- 3) when postal item is damaged as to its the content is in danger;

in other cases determined by the law.

At the opening and inspection of postal items referred to in the paragraphs 2 and 3 of this Article, an adult citizen must be present as witness.

The manner of opening and inspection of mail shall be determined by general conditions for provision of postal services.

5. Complaints

Article 44

The user of postal services shall have the right to file a complaint if he/she considers that registered postal item has not been delivered to the recipient, or was delivered with delay, or the specially arranged service was not performed, or was not performed entirely, within three months as of the day of delivery of postal item.

Complaints due to damage or reduced contents of the registered postal item shall have to be filed by the user of postal services immediately upon delivery of postal item, or on the next working day at latest.

Postal operator shall be obliged to provide a written reply to the complaint within 15 days as of the file date for postal items in national postal traffic, and within 30 days for postal items in international postal traffic.

In case when the recipient fails to file the complaint referred to in the paragraph 2 of this Article within the provided period, he/she shall lose the rights belonging to him/her by the provisions of this Law in the event of damage or reduction of postal item.

6. Liability for Caused Damage

Article 45

In international postal traffic, postal operator shall be held liable for the damage caused within the limits stipulated in the Universal Postal Union Acts and other international postal regulations.

In national postal traffic, postal operator shall be held liable for damage that arises in the process of transfer of registered postal items due to the following:

- 1) loss, damage or reduction of contents of postal item;
- 2) expiry of transfer and delivery of postal item deadline;
- 3) unperformed, incomplete or wrongly performed postal services.

Postal operator shall be free from liability for damage caused if it provides evidence that:

- 1) transfer of postal item was carried out in compliance to general conditions;
- 2) damage occurred due to force majeure;
- 3) damage occurred due to negligence of sender with respect to the choice of type of postal service or security of its contents;
- 4) damage occurred after delivery of postal item to the competent state body, i.e. authorized official in compliance with Article 38, paragraph 2 of this Law;
- 5) the user of postal services filed an untimely complaint;
- 6) damage occurred in the procedure of performing acts and activities by the competent state authorities;
- 7) postal item had the same weight as marked on the postal item on the occasion of delivery, and if the elements of its closing were not damaged.

Article 46

Postal operator shall be obliged to indemnify the user of postal services for the following:

- 1) loss or complete damage of insured postal item – the insured value of the postal item increased by ten times price paid for the transfer of insured postal item;
- 2) loss or wrong payment of postal money order - the amount of money order value increased by ten times price paid for transfer of money order;
- 3) partial damage or reduced contents of insured postal item – the amount in the value of established part of damage or reduction of contents, but not higher than the amount that would be paid based on the item 1 of this paragraph;
- 4) unperformed, incomplete or wrongly performed postal service of transfer of registered postal item – five times the price paid for performed postal service,
- 5) expiry of deadline for transfer of registered postal item – the price paid for performed postal service.

In cases referred to in the items 1,2 and 3 paragraph 1 of this Article, the user of postal services shall be entitled to reimbursement of paid postal service.

Postal operator in no case shall be held liable for lost profit.

Article 47

Claims of postal operator and users of the postal services shall become superannuated at the expiry of the period of 12 months.

Superannuated claims referred to in the paragraph 1 of this Article shall be applied:

- 1) for the claims based on the overpaid or underpaid postage or other costs – from the day of payment;
- 2) for the claims regarding purchase – after 15 days from the day of the expiry of the term for transfer and delivery of postal item;
- 3) for the claims arising from the partial loss, damage or reduction of the content of postal item or for the claims arising from the exceeding of deadline for transfer and delivery of postal item;
- 4) for the claims arising from the loss of postal item – after 30 days from the day of the expiry of the term for transfer and delivery of postal item;

5) in all other cases of claims from the day when the requirements for claiming were met.

Superannuation shall be terminated after submitting the written claim for payment to the postal operator. Superannuation shall again be valid after submitting the written answer upon the request to the applicant/other authorized person and when documents submitted with the request are returned to him/her.

Superannuation may not start before 30 days from the day when the postal operator received an answer expires, upon the request for claiming the indemnification based on the damage.

Subsequent requests on the same subject shall not terminate superannuation.

IX. LICENSES AND REGISTRATIONS FOR CONDUCT OF POSTAL SERVICES

Article 48

Postal services shall be provided on the basis of licenses, i.e. registrations on fulfilling requirements for provision of postal services.

Universal postal service shall be provided by legal entity based on special license.

Certain postal services in the domain of universal postal service shall be provided by a legal person licensed for provision of such service in the whole territory of the Republic.

Commercial postal services shall be provided by natural and legal persons granted with registrations on fulfilling requirements for provision of these services.

Article 49

Licenses and registrations referred to in the Article 48 of this Law shall be issued by the Regulatory Body.

Provisions of the Law on General Administrative Procedure shall apply in the procedure of issuance of licenses and registrations unless otherwise stipulated by this Law.

Complaint regarding documents referred to in the paragraph 1 of this Article may be filed to the Ministry.

An administrative dispute may be initiated against decisions of the Ministry referred to in the paragraph 3 of this Article.

Article 50

For provision of the universal postal service, special license shall be issued based on the request containing data on the applicant.

Applicant referred to in the paragraph 1 of this Article, in the procedure for obtaining special license shall submit the following evidences:

- 1) on registration for provision of postal services;
- 2) on legal basis for the use of postal network;
- 3) on fulfillment of technical and other requirements in compliance with the regulations.

Article 51

For provision of certain postal services in the domain of universal postal service, license shall be issued based on the request, that must contain the following:

- 1) data on the applicant;
- 2) types of postal services the applicant intends to provide;
- 3) period for which the license is requested.

Applicant referred to in the paragraph 1 of this Article, in the procedure for obtaining a license, shall submit the following evidences:

- 1) on registration for provision of postal services;
- 2) on legal basis for the use of postal network;
- 3) on fulfillment of technical and other requirements in compliance with the regulations.

Article 52

Special license and license shall particularly include:

- 1) provisions on rights and duties for provision of universal postal service, that is postal services in the domain of the universal postal service;
- 2) data on holder of the license;
- 3) duration of the license;
- 4) special rights and duties of the holder of the license.

Article 53

Special license shall be issued for the period of up to 20 years and it may not be transferred to other person, expire or change at the request of its holder.

Article 54

License shall be issued for the period of up to 10 years and it may, at the request of the postal operator, be extended in a manner and under conditions it was issued.

The license may be changed at the request of the postal operator or on an official duty.

The Regulatory Body shall change the license on an official duty, if this is necessary for compliance with the international documents, regulations or in order to provide proscribed conduct of universal postal service.

Transfer of licenses to other persons shall not be allowed.

Holder of the license shall inform, in written, the Regulatory Body on every change and termination of conduct of postal services, within 15 days from the day the change occurred or conduct of postal services terminated.

Article 55

Licenses and decisions shall lapse at the request of the holder of the license, that is decision and upon expiry of the period it was issued on.

Article 56

License, that is decision shall be revoked by the Regulatory Body if the holder of the license, that is decision:

- 1) obtained the license, that is decision based on the false data;
- 2) does not fulfill requirements based on which the license, that is decision was obtained;
- 3) does not provide postal services in a manner and under conditions determined in the license, that is decision;
- 4) does not act in compliance with the resolution of the postal inspector;
- 5) does not fulfill financial obligations towards the Regulatory Body in proscribed period;
- 6) performs postal services at the dumping prices.

Article 57

Decision of fulfillment of requirements referred to in the Article 48 paragraph 4 of this Law for conduct of commercial postal services shall be issued based on the request of natural or legal person and it shall contain the following:

- 1) data on applicant;
- 2) type of commercial postal service it intends to conduct;
- 3) area in which the service would be provided;
- 4) period for which the decision is issued.

Decision referred to in the paragraph 1 of this Article shall be issued for period of five years.

Article 58

For obtaining licenses and decisions referred to in the Article 48 of this Law, single instance fee shall be paid.

19. LAW ON POSTAL SERVICES

In addition to the fee referred to in the paragraph 1 of this Article, holders of the licenses and decisions shall pay annual fee for provision of postal services.

The amount of the fees referred to in paragraphs 1 and 2 of this Article shall be determined by the Ministry.

Article 59

Funds obtained from collection of fees referred in the Article 58 of this Law shall represent income of the Regulatory Body and they shall be paid at the special account of the Regulatory Body (Compensation Fund), and they shall be used in the following purposes:

- 1) for financing activities of the Regulatory Body;
- 2) for covering possible losses in provision of universal postal services of the universal postal operator;

Manner and allocation of funds referred to in the paragraph 1 of this Article shall be determined by the Statute of the Regulatory Body.

Article 60

If possible losses from provision of universal postal service may not be covered by the funds from the Compensation Fund, missing funds shall be provided from the Budget of the Republic.

Procedure for gaining rights on cover of expenses (losses) from the funds from the Budget of the Republic shall be proscribed by the Ministry, in cooperation with the Ministry of Finances.

If the revenues from the Compensation Fund exceed the expected expenses for each financial year (according to the report of the auditor), the surplus shall be paid to the Budget of the Republic.

X. REGULATORY BODY

Article 61

Activities of the independent regulatory body regarding postal services shall be conducted by the Agency for Telecommunications established by the Law on Telecommunications (Official Gazette of the Republic of Montenegro 59/00) with competences determined by that and this Law, and with the name Agency for Telecommunications and Postal Affairs (hereinafter: Agency).

Article 62

Pursuant to this Law, the following shall be the competences of the Agency:

- 1) issuance and revoke of licenses and decisions on conduct of postal services in compliance with this Law;
- 2) monitoring of prices regarding their equality and their availability and taking measures for prevention of irregularities regarding prices;
- 3) giving approvals on the conditions and prices for the access to the network of universal postal operator;
- 4) giving approval on special requirements for provision of postal services;
- 5) monitoring of development of postal services;
- 6) keeping register of postal operators;
- 7) performing other duties in compliance with this Law.

Article 63

Register of postal operators shall contain the following:

- 1) company, that is name of natural and legal person;
- 2) name and last name of authorized person in legal person;
- 3) identification number, registration number, account number and seat, that is address of the company or entrepreneur;
- 4) data on issued licenses, decisions, types of postal services, area in which they are provided, as well as other data contained in licenses and decisions;
- 5) data on fulfillment of requirements of postal operators in compliance with this Law;
- 6) data on sentenced fines due to the violations determined by this Law.

XI. SUPERVISION

Article 64

Supervision over implementation of this Law, as well as regulations adopted for implementation of this Law shall be conducted by the Ministry in compliance with the special law.

Supervision inspection within competences from this Law shall be conducted by the postal inspector, in compliance with the special law.

XII. PENALTY PROVISIONS

Article 65

Legal person and entrepreneur shall be sentenced a fine in the in the amount of tenfold to three-hundredfold of the lowest wage in the Republic, if:

- 1) without authorization uses the name "POST" (Article 5 paragraph 4);
- 2) applies special conditions without approval of the Regulatory Body (Article 18 paragraph 2);
- 3) prices of postal services are not displayed, that is published in prominent place in the premises of the postal operator (Article 24 paragraph 1);
- 4) fails to submit to the Regulatory Body financial report and other data regarding conduct of postal activities (Article 25 paragraphs 1 and 2);
- 5) universal postal operator does not keep separate accounting of reserved and non-reserved postal services (Article 25 paragraph 3);
- 6) universal postal operator fails to provide special accountancy monitoring of universal postal service within accountancy monitoring of non-reserved services (Article 25 paragraph 4);
- 7) conducts transfer of prohibited postal items (Article 38 paragraph 1);
- 8) in provision of postal services, violates confidentiality of postal items (Article 40 paragraph 1);
- 9) provides postal services without proscribed license or decision (Article 48);
- 10) provides postal services that are not determined by the license or decision (Article 52 paragraph 1 and Article 57 paragraph 1 item 2);
- 11) provides postal services in a manner which is contrary to the conditions determined by the license or decision (Article 52 paragraphs 3 and 4 and Article 57 paragraph 1 items 3 and 4);
- 12) transfer the license or decision to other natural or legal person (Article 54 paragraph 4);
- 13) does not settle the fee for conduct of postal services (Article 58 paragraphs 1 and 2).

For the violation referred to in the paragraph 1 of this Article, authorized person in legal person shall be sentenced by a fine in the amount of threefold to twenty-fold of the lowest wage in the Republic.

XIII. TRANSITIONAL AND FINAL PROVISIONS

Article 66

Regulations regarding implementation of this Law shall be adopted within six months from the day of the entry into force of this Law.

Applicable regulations, if they are not contrary to this Law, shall be applied to adoption of the regulations referred to in the paragraph 1 of this Article.

Article 67

Postal operators shall comply their organization and business activities with this Law within one year from the day this Law enters into force.

Article 68

Universal postal service shall be provided by the Post of Montenegro Ltd. Podgorica to adoption of the regulation referred to in the Article 5 paragraph 3 of this Law.

Special license for provision of universal postal service, the Post of Montenegro Ltd. Podgorica shall be obliged to obtain within the period of one year from the day this Law enters into force.

19. LAW ON POSTAL SERVICES

Article 69

The Agency for Telecommunications shall continue its work under the name the Agency for Telecommunications and Postal Affairs.

The Agency for Telecommunications and Postal Affairs shall comply its Statute and its organization with the provisions of this Law, within the period of three months from the day this Law enters into force.

Article 70

The Law on Postal, Telegraphic and Telephone Services (Official Gazette of the SFRY 2/86 and 26/90) shall terminate by entry into force of this Law.

Article 71

This Law shall enter into force on the eight day from the day it is published in the Official Gazette of the Republic of Montenegro.