

15 Annex - Energy

60. LAW ON ENVIRONMENT

Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

DECREE
ON PROMULGATING THE LAW ON ENVIRONMENT
(Official Gazette of Montenegro 48/08 of 11 August 2008)

I hereby promulgate the Law on Environment passed by the Parliament of Montenegro at the seventh sitting of the first ordinary session in 2008 on 29 July 2008.

No: 01-1544/2

Podgorica, 4 August 2008

The President of Montenegro,
Filip Vujanović

LAW ON ENVIRONMENT

I. BASIC PROVISIONS

Subject matter of the Law

Article 1

This Law shall regulate environmental protection and sustainable development principles, subjects and instruments of environmental protection, public participation in environmental issues and other issues relevant to the environment.

Integrated Environmental Management

Article 2

Protection of the environment ensures coherent conservation of the quality of the environment, conservation of biological and landscape diversity, rational exploitation of natural resources and energy in an environmentally friendly way as the basic condition for healthy sustainable development.

The environment shall be particularly protected by the State.

Integrated environmental management shall ensure sustainable development in accordance with this Law and separate regulations.

Environmental Protection

Article 3

Environmental protection shall be implemented for the purpose of:

- 1) protecting human lives and health;
- 2) protecting flora, fauna and biological and landscape diversity, as well as preserving ecological stability;

- 3) protecting and improving the quality of specific environmental segments;
- 4) protecting the ozone layer and mitigating climate changes;
- 5) protecting and rehabilitating cultural and aesthetic values of the landscape;
- 6) preventing and reducing environmental pollution;
- 7) sustainable exploitation of natural resources;
- 8) rational exploitation of energy and stimulation of the use of renewable energy resources;
- 9) eliminating the effects of environmental pollution;
- 10) improvement of disrupted natural balance and reinstatement of its regenerative capacities;
- 11) realising sustainable production and consumption;
- 12) reducing the use of and substitution of hazardous and dangerous chemical substances that may endanger the environment and human health;
- 13) sustainable exploitation of natural resources without causing major damage to, and endangering the environment; and
- 14) improving the state of the environment and ensuring healthy environment.

Objectives referred to in paragraph 1 of this Article shall be achieved through the implementation of environmental protection principles and environmental protection instruments as prescribed by this Law and separate regulations.

Environmental Protection Principles

Article 4

Environmental protection principles are as follows:

1) Sustainable development principle

The Parliament of Montenegro (hereinafter referred to as the "Parliament"), Government of Montenegro (hereinafter referred to as the "Government"), and local self-governments shall, within their competences, promote sustainable development when adopting and passing strategies, plans, programmes, and regulations.

For the purpose of realising sustainable development, the requirements regarding environmental protection prescribed by this Law and separate regulations must be integrated in preparations and implementation of established policies and activities in all areas of economic and social development.

2) The principle of integrated approach to environmental protection

Integrated approach to environmental protection prevents, i.e. reduces the threat to the environment as a whole to the minimal level.

Requirements for the high level of environmental protection and enhancement of the quality of the environment must be integral part of all concepts aiming to achieve balanced economic development, and shall be ensured in accordance with sustainable development principle.

3) The principle of the conservation of natural resources

Natural resources shall be used under terms and in manner that provides conservation of geodiversity and biodiversity values, as well as the values of protected natural assets and regions.

Renewable natural resources shall be used under terms that provide their permanent and efficient renewal and constant enhancement of quality.

Non-renewable natural resources shall be used under terms that provide their long-term economical and rational exploitation, including the limitation on the exploitation of strategic or rare

natural resources and their substitution with other available resources, and composite or artificial materials.

4) Cooperation principle

Sustainable development shall be realised through the cooperation and joint activities of the Parliament, the Government, and local self-governments, as well as all other participants within their competences and liabilities, for the purpose of environmental protection.

The State shall ensure the cooperation and solidarity in resolving global and interstate environmental protection issues, particularly through international treaties, cooperation with other countries and conclusion of appropriate agreements, as well as by notifying other countries of cross-border impacts on the environment and ecological incidents, and by exchanging environmental information at the international level.

The Government and local self-governments shall, within the scope of their competences, participate jointly and with solidarity in the implementation of environmental protection, in order to ensure the implementation of efficient environmental protection measures in their area.

5) "Polluter pays" principle

The polluter, i.e. its legal successor, liable for pollution and damage inflicted to the environment shall pay damages and bear the costs of repairing the damage in accordance with law.

6) "Beneficiary pays" principle

Any person using natural resources shall cover the cost of their usage and recultivation of land in accordance with law.

7) Compulsory insurance

The polluter of the environment shall maintain insurance to cover the liability for potential damage caused by pollution.

8) Prevention principle

Each activity must be planned and implemented so as to: cause minimal changes to the environment, i.e. to pose minimal threat to the environment and people's health; reduce the strain on land and consumption of raw materials and energy in development, as well as in production, distribution, and use; include recycling capacities; prevent or limit the impact on the environment at the very source of the pollution.

9) Precaution principle

When it is not certain what effects a potential undertaking may have, all available procedures regarding the estimate of anticipated impacts, and preventive measures, must be implemented in order to avoid negative effects on human health and the environment.

When there is a threat of actual and irreparable damage to human health and the environment, the undertaking of necessary safety measures shall not be delayed, even if there is no complete scientific evidence for such threat.

The activity and/or undertaking for which there is scientific evidence or supposed probability of harmful and permanently harmful impact on the environment shall be abandoned, i.e. shall not be carried out.

10) Subsidiary liability principle

The State shall eliminate the effects of environmental pollution and minimize the damage in cases when the polluter is not identified, as well as when the damage is caused by environmental pollution originating from sources outside the state territory.

11) Incentives application principle

The state and local self-government bodies shall, within their competences, stimulate the activities regarding environmental protection that prevent or reduce the environmental pollution, as well as the undertakings in the environment that reduce the use of substances, raw materials and energy, minimize environmental pollution or exploit the environment within acceptable limits.

12) Access to information and public participation principle

Any person has the right to be informed of the state of the environment and to participate in the decision-making process whose implementation may have an impact on the environment.

Information on the state of the environment is public.

Separate laws

Article 5

Environmental protection and sustainable development shall be regulated by this Law and separate laws regulating specific segments of the environment.

Definitions

Article 6

For the purpose of this Law, the following terms mean:

- 1) "Environment" means natural environment: air, land, water, and sea, plants and animals; occurrences and activities: climate, ionizing and non-ionizing radiation, noise and vibrations; as well as manmade environment: towns, and other settlements, cultural and historical heritage, infrastructural, industrial, and other facilities.
- 2) "Environmental protection" means a set of activities, measures, conditions, and instruments used to monitor, prevent, mitigate, and limit environmental pollution, preserve and maintain natural balance and ensure sustainable use and enhancement of natural and manmade values.
- 3) "Environmental quality" means the state of the environment, i.e. segments of the environment, which is the result of the influence of natural occurrences and human activities and which is manifested in physical, chemical, biological, aesthetical, and other indicators.
- 4) "Environmental quality standard" means the prescribed quality of the environment or specific segments of the environment in a particular area.
- 5) "Integrated environmental protection management" is a set of related and harmonized decisions and measures for achieving homogeneous protection of the environment, avoiding and reducing threats to the environment, as well as improving and achieving efficient environmental protection.
- 6) "Sustainable development" means economic and social development of the society, which meets the needs of present and future generations at the same time and enables long-term conservation of the environmental quality and biological and landscape diversity.
- 7) "Sustainable management" means the exploitation of natural resources that does not reduce the quality and the quantity of the overall resource values, but maintains and enhances their potential.
- 8) "Natural resources" means parts of living or inanimate nature that are used or may be used by man in order to meet his needs.
- 9) "Natural asset" means the preserved part of the nature, which has a lasting ecological, scientific, cultural, educational, health and recreational, tourist and other importance.
- 10) "Protected natural asset" means the natural asset which enjoys special protection as an asset of public interest due to its specific values and features (geo-diversity, biodiversity, regions, landscape, etc.).
- 11) "Public natural asset" means the developed or undeveloped part of the natural wealth, i.e. air, water assets, coastal area, underground assets, forests, regions or areas, accessible to everyone in accordance with regulations.

60. LAW ON ENVIRONMENT

- 12) "Ecosystem" means the dynamic community of living things (biocenosis) and habitats (biotopes) that interact in certain area.
- 13) "National list of indicators" means the list of indicators used to determine the timetable for collecting data, format, source and method of data flow.
- 14) "Biodiversity (biological diversity)" means the diversity of living organisms of all ecosystems, as well as the diversity within a species and between species and their living communities.
- 15) "Environmental pollution" means the introduction of polluting substances or energy into the environment caused by human activity or natural processes that has or may have harmful effects on environmental quality and human health.
- 16) "Polluter" means any natural or legal person registered in the Polluters' Register, whose direct or indirect activity or omission of activity causes environmental pollution.
- 17) "Pollutants" means any natural or artificial substances, as well as occurrences and activities, that disrupt the natural composition, features, or integrity of the environment as a whole.
- 18) "Polluters' Register" means the register of all types of environmental polluters containing data on their location, production processes, pollutants that are used as raw material or are formed as semi-manufactured product, product, or by-product, timetable of pollutant discharge, discharge locations, and method and procedure of their disposal.
- 19) "Environmental capacity" means the ability of the environment or its part to receive certain quantity of pollutants per unit of time and to turn it into a hazardless form or dispose of it permanently, so that no irreparable damage (pollution) occurs.
- 20) "Waste" means any substance or object discarded by its owner or which the owner is obliged to discard.
- 21) "Chemical" means any substance in solid, gaseous, or liquid state which poses a threat to the environment and human health due to its hazardous and dangerous features.
- 22) "Encumbrances" means emissions of harmful substances, physical and biological factors (energy, noise, heat, light, etc.), as well as activities that endanger or may endanger certain segments of the environment.
- 23) "Environmental encumbering" means any undertaking or the effect of the undertaking on the environment or the impact of certain activity on the environment, which alone or in connection with other activities may cause or could have caused environmental pollution, reduction of the environmental quality, damage to the environment and threat to the environment or use of the environment.
- 24) "Monitoring" means systematic and regular observation, measurement and evaluation of the environmental parameters (water, air, soil, biodiversity, etc.) and the changes of the quality and quantity of the environment, emission of pollutants and exploitation of natural resources.
- 25) "Emission" means the release of pollutants and/or energy into the environment and its segments.
- 26) "Domino effect" means the series of connected effects that, due to their disposition and vicinity of a plant, or parts of the plant, or a group of plants, and the quantity of hazardous substances in those plants, increase the possibility of an incident or aggravate the consequences of an incident.
- 27) "Immision" means the concentration of pollutants and/or energy levels in the environment that is used to evaluate the environmental quality.
- 28) "Undertaking" means any operation or activity which may cause temporary or permanent degradation of the environment, and which refer to the use of land, construction or reconstruction of facilities, replacement and introduction of new technologies, exploitation of natural resources and execution of other works.

29) "Threat" means the certain level of probability that an activity, either directly or indirectly, may endanger the environment and human lives and health.

30) "Incident" means the unforeseen and uncontrolled event in the environment or the significant emission of one or more hazardous substances, i.e. their compounds into the environment.

31) "Hazardous substance" means the substance or the blend as defined by regulations, which is present in a plant as raw material, product, by-product or semi-manufactured product, including those substances that may emerge in case of incident.

32) "Environmental damage" is the damage inflicted to:

- plant and/or animal species and their habitats that has significant negative impact on realising and maintaining the appropriate state of the species or type of the habitat;
- waters that has significant negative impact on the ecological potential of waters, chemical and/or quantity status of waters, in accordance with separate regulations;
- soil, whose pollution, i.e. damage, endangers its ecological functions and human health, in accordance with separate regulations.

33) "Environmental degradation" means the process of reducing the quality of the environment which occurs due to natural or human activity, or which is the consequence of inaction on eliminating the causes of the reduction of quality or damage to the environment and natural or manmade values.

34) "Rehabilitation" means the set of prescribed measures and activities for compensating or reinstating the state of the environment as it was prior to the inflicted damage, i.e. prior to the environmental pollution.

35) "Information on the environment" means any information regarding the environment in writing, visual, audio, electronic or any other available form.

36) "The public" means one or more natural or legal persons, their associations, organizations or groups.

37) "Climate change" means the change of climate observed within comparable periods of time, which is caused directly or indirectly by human activities resulting in changes of the composition of global atmosphere and which affects natural climate oscillations.

38) "Climate system" means the system consisting of atmosphere, hydrosphere, biosphere and geosphere, and their interactions.

39) "Gas emission" means the release of greenhouse gases, i.e. their predecessors, into the atmosphere above certain area and in certain periods of time.

40) "Regional Economic Integration Organization" means the organization established by the countries of a certain region authorised and competent for the implementation of the Convention on Climate Change and its protocols.

41) "Reservoir" means one or more components of the climate system in which a greenhouse gas or its predecessor is stored.

42) "Plunge" means any process, activity or mechanism used to eliminate a greenhouse gas, aerosol or greenhouse gas predecessor from the atmosphere.

43) "Source" means any process or activity due to which a greenhouse gas, aerosol or greenhouse gas predecessor is released into the atmosphere.

II. ENVIRONMENTAL PROTECTION SUBJECTS

Subjects

Article 7

Environmental protection shall be provided by state bodies, state administration bodies, local self-governments, national and foreign legal and natural persons, non-governmental organizations, citizens, and civic associations, within the scope of their rights and duties.

Liabilities of the Subjects

Article 8

The environmental protection subjects shall, within the scope of their rights and duties, ensure the control and prevention of any kinds of pollution and degradation of the environment, i.e. their reduction to the minimal degree, as well as the rehabilitation and reconstruction of parts or segments of the environment whose quality is damaged due to the pollution and other kinds of degradation, thus providing for sustainable use of natural resources as the basic precondition for sustainable development.

The environmental protection subjects shall cooperate and maintain mutual communication in accordance with separate regulations.

Performance of activities

Article 9

When performing their activities, national and foreign legal and natural persons shall ensure rational use of natural resources, incorporation of environmental protection costs within investment and production costs, and implementation of regulations, i.e. undertaking of environmental protection measures in accordance with this Law and other regulations.

Environmental Protection Agency

Article 10

The expert and related administrative activities regarding environmental protection shall be performed by the administrative body competent for environmental protection affairs (hereinafter referred to as the "Agency").

When performing the activities referred to in paragraph 1 of this Article, the Agency shall: issue licences, conduct monitoring, produce analyses and reports, carry out inspections, and maintain communication with relevant national and international bodies and organizations, as well as with the public, and perform other activities determined by this Law and separate regulations.

The Agency shall cooperate with international bodies and organizations of other countries dealing with environmental protection, and in particular with the European Environment Agency and International Atomic Energy Agency, and participate in the work of professional networks within European Union, as well as with similar agencies from other countries.

The funds for the Agency shall be provided from the budget of Montenegro and donations.

Funds of the Environmental Protection Fund

Article 11

The funds for the preparation, implementation and development of programmes, projects, and other activities contributing to conservation, sustainable use, protection, and enhancement of the environment, energy efficiency, as well as to realisation of objectives and methods of sustainable development and civil rights to the environment, shall be provided from the Environmental Protection Fund.

Non-governmental Organizations

Article 12

Non-governmental organizations shall participate in the conservation of the environment in accordance with their programmes and in manner defined by separate regulations.

The State shall encourage the participation of non-governmental sector in decision-making process and realisation of the decisions relevant to the environmental protection.

III. SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PROTECTION DOCUMENTS

Documents

Article 13

Sustainable development and environmental protection documents are:

- National Sustainable Development Strategy;
- National Environmental Protection Programme;
- Local environmental protection plans;
- Strategies, plans, and programmes which shall be adopted, i.e. are adopted, in accordance with separate regulations of specific areas for certain segments of the environment and encumbrances.

National Sustainable Development Strategy

Article 14

National Sustainable Development Strategy (hereinafter referred to as the “Strategy”) directs, on a long-term basis, economic and social development and environmental protection towards sustainable development.

The Strategy sets the guidelines for the long-term activities, and defines objectives and measures for their implementation taking into account the current situation and assumed international obligations.

The Strategy and development documents

Article 15

The Government shall adopt the Strategy for the four-year period.

Development documents for specific areas and activities shall not be in opposition to the Strategy.

National Environmental Protection Programme

Article 16

National Environmental Protection Programme (hereinafter referred to as the “Programme”) shall determine the objectives of environmental protection and set the priorities for their implementation.

The Programme referred to in paragraph 1 of this Article shall be adopted by the Government for the four-year period.

The Programme referred to in paragraph 1 of this Article shall ensure the implementation of the Strategy in the field of environmental protection.

The Programme shall include in particular: measures and activities for environmental protection, method for the implementation of measures, sequence of the realisation of measures, deadlines for the implementation, persons in charge of the implementation of measures, projects, estimate of funds needed for the implementation of the Programme, analysis of effects, as well as other issues relevant to the implementation of this document.

Local environmental protection plans

Article 17

Local environmental protection plan (hereinafter referred to as the “Plan”) shall elaborate the measures prescribed by the Programme that refer to a certain area, in accordance with specific local characteristics and features of the area for which the Plan shall be adopted.

The Plan sets the objectives and tasks relevant to the environmental protection and sustainable development on the local level.

Content of the Plan

Article 18

The Plan shall contain in particular:

- 1) terms and measures for environmental protection, and priority measures for the protection of segments of the environment and specific regions;
- 2) subjects liable for the implementation of the measures prescribed by the Plan;
- 3) environment monitoring mechanisms and assessment of the need for establishment of the network for additional monitoring of the state of the environment in the area for which the Plan shall be adopted;
- 4) method of the implementation of regulatory measures in emergency cases of environmental pollution of the area for which the Plan shall be adopted;
- 5) deadlines for undertaking specific prescribed measures; and
- 6) financing sources for the implementation of prescribed measures and estimate of necessary funds.

The Plan shall be adopted by the Parliament of the Local self-government for a four-year period.

Local administration body competent for environmental affairs shall submit the Plan to the Agency within one month from the day of its adoption.

Reporting on the state of the environment

Article 19

The report on the state of the environment in Montenegro shall be prepared, for the four-year period, for the purpose of monitoring the realisation of objectives defined by sustainable development and environmental protection documents referred to in Articles 14 and 16 hereof, strategic documents, plans and programme documents relating to specific segments of the environment and encumbrances, and other documents regarding environmental protection, as well as for the purpose of getting a complete insight into the state of the environment.

Detailed content of the report referred to in paragraph 1 of this Article shall be determined by the state administration body competent for environmental protection affairs (hereinafter referred to as the "Ministry").

The report on the state of the environment on the territory of Montenegro shall be prepared based on the National List of Indicators for environmental protection and other data in accordance with the regulation referred to in paragraph 2 of this Article.

National List of Indicators for environmental protection referred to in paragraph 3 of this Article shall be determined by the Government upon the motion of the Agency.

The report on the state of the environment referred to in paragraph 1 of this Article shall be prepared by the Agency and submitted to the Ministry.

Reporting of local self-governments on the state of the environment

Article 20

The report on the state of the environment for the territory of a local self-government shall be prepared for a four-year period for the purpose of monitoring the realisation of objectives defined by plans and programme documents relating to specific segments of the environment and encumbrances, as well as other documents relating to environmental protection, and for the

purpose of getting a complete insight into the state of the environment on the territory of a local self-government.

The Report on the state of the environment referred to in paragraph 1 of this Article shall contain adequate data in accordance with the regulation referred to in Article 19 paragraph 2 hereof, and other data necessary for the preparation of this Report, depending on specific characteristics of the area for which the Report is prepared.

The Report referred to in paragraph 1 of this Article shall be submitted to the Agency within one month from the day of its adoption.

IV. ENVIRONMENTAL PROTECTION INSTRUMENTS

Instruments

Article 21

Environmental protection instruments are:

- 1) environmental quality standards;
- 2) technical standards of environmental protection;
- 3) strategic environmental assessment;
- 4) environmental assessment;
- 5) environmental protection measures for projects which do not require environmental assessment;
- 6) integrated prevention and control of pollution;
- 7) prevention and control of incidents involving hazardous substances;
- 8) regional plans;
- 9) Environmental Management System (EMAS);
- 10) emergency measures in cases of pollution when acceptable pollution limits are exceeded; and
- 11) other instruments of environmental protection determined by separate regulations.

Application of instruments referred to in paragraph 1 of this Article shall be defined by separate regulation.

Environmental quality standards

Article 22

The environmental quality standards that include borderline levels of pollution for specific segments of the environment, as well as for particularly valuable, sensitive or endangered areas, shall be regulated by law.

The standards referred to in paragraph 1 of this Article which are not regulated by law shall be determined by the Government.

The procedures and deadlines for achieving environmental protection standards and potential deviations from environmental quality standards may be determined by the regulation referred to in paragraph 2 of this Article.

Technical standards of environmental protection

Article 23

The technical standards of environmental protection for specific products, facilities, plants or installation, equipment and production procedures that may pose a threat to or endanger the environment, shall be determined by separate regulations.

The technical standards referred to in paragraph 1 of this Article shall determine borderline levels of emissions relating to production procedure and usage of facilities, plants, installations, and equipment, as well as borderline values of product components.

The technical standards referred to in paragraph 2 of this Article determine: the method of manufacturing, producing, labelling, handling and using the products; the method of using facilities, installation, equipment and production procedures; the method of determining and monitoring the quality of products, facilities, installation, equipment, and production procedures and homologation procedure; the method of cost accounting for determining and monitoring the quality of products, facilities, installation, equipment, and production procedures, as well as the procedure relating to products, facilities, plants, installations, and equipment when they are not in use.

The technical standards referred to in paragraph 3 of this Article shall be determined by the Government.

Prevention and containment of incidents involving hazardous substances

Article 24

The prevention of incidents applies to the facilities in which or, by the operation of which, hazardous substances are produced, processed, stored, created as by-products in the production process, used as raw materials in the production, i.e. technological process, transported within the facility and/or stored for the purpose of production process, i.e. may emerge in the case of major incident.

The regulation adopted by the Government shall determine in detail the list of types of hazardous substances within the meaning of paragraph 1 of this Article, the method of determining quantities, acceptable quantities and the criteria for categorization and characterization of hazardous substances, as well as other issues relevant to the procedure of incident prevention.

Obligation in case of incident

Article 25

Any person having the information regarding an incident shall, without delay, inform the Agency and other competent bodies of the incident, and undertake measures to prevent, reduce and eliminate the effects of the incident within the range of their capacities.

The legal person and entrepreneur liable for the incident shall, without delay, organise and undertake regulatory measures and procedures in response to the incident and engage work force and means in accordance with separate regulation.

The obligation referred to in paragraph 2 of this Article applies also to legal persons and entrepreneurs who are not liable for the incident, if the consequences of the incident occur in the area of their activities.

Proclamation of the endangered state

Article 26

In case of an incident, depending on the scale of the incident and the assessment of its consequences that pose a threat to human health and the environment, the endangered state of the environment shall be proclaimed and the public shall be informed of the undertaken measures.

The endangered state of the environment referred to in paragraph 1 of this Article shall be proclaimed by the Ministry or the local self-government body.

For the incidents having cross-border impacts, the endangered state of the environment shall be proclaimed by the Government.

Undertaking of remedial measures and subsidiary liability

Article 27

For the purpose of eliminating and containing the pollution caused by an incident, the legal person and entrepreneur referred to in Article 26 paragraph 2 hereof, shall undertake urgent remedial measures as prescribed by the protection plans, at their own expense.

If the polluter liable for an incident should be subsequently identified, the subject who bore the costs of eliminating the effects of environmental pollution may claim reimbursement.

Environmental Protection Programme

Article 28

Any legal person or entrepreneur engaged in the activity which requires the Environmental Assessment, or for which the necessity for Environmental Assessment arises, shall adopt the Environmental Protection Programme.

The Programme referred to in paragraph 1 of this Article contains in particular: location description, detailed description of the production process, list of impacts on the environment, and list of measures for prevention and reduction of environmental pollution.

Detailed content of the Programme referred to in paragraph 1 of this Article shall be determined by the Ministry.

Environmental Management System (EMAS)

Article 29

In order to be incorporated into the system of environmental protection management and control and for the purpose of communicating the information on impacts of specific activities on the environment to the public, legal persons and entrepreneurs may join the European Union Ecological Management System (hereinafter referred to as the "EMAS System").

EMAS System Registry

Article 30

The registry of legal persons and entrepreneurs registered with the EMAS System shall be administered by the Agency.

The method of incorporating a legal person and entrepreneur into the EMAS System, the conditions that a legal person and entrepreneur have to meet in order to be incorporated, the method of collecting data on incorporated legal persons and entrepreneurs, and the content and method of administering the Registry referred to in paragraph 1 of this Article, shall be determined by Government regulation.

Separate instruments

Article 31

Strategic environmental assessment, environmental assessment, integrated prevention and containment of pollution, regional planning, and environmental protection measures for projects that do not require environmental assessment, shall be administered in accordance with separate regulation.

V. MONITORING OF THE STATE OF THE ENVIRONMENT

Monitoring

Article 32

The State shall provide continuous control and monitoring of the state of the environment (hereinafter referred to as the "monitoring"), in accordance with this Law and separate laws.

The monitoring is an integral part of the uniform Environmental Information System.

The Government shall adopt the Monitoring Programme upon the motion of the Agency for the one-year period.

The Monitoring Programme referred to in paragraph 3 of this Article includes the monitoring programmes for specific segments of the environment and areas adopted in accordance with separate regulations.

The State shall provide the funds for conducting the monitoring.

The local self-government may organize the monitoring of the environment on the territory of the Municipality in accordance with law.

The data collected by the monitoring referred to in paragraph 6 of this Article shall be submitted by the local self-government to the Agency.

Local self-governments shall provide funds for the monitoring referred to in paragraph 6 of this Article.

Content and method of conducting the monitoring

Article 33

The monitoring shall be conducted by systematic measuring, testing, and assessing of the indicators of the state of the environment and environmental pollution, which includes the monitoring of natural factors, i.e. changes of the state and characteristics of the environment, including cross-border monitoring.

The monitoring referred to in paragraph 1 of this Article, includes the monitoring of:

- imissions, i.e. the quality of air, water, sea, soil, and plant and animal life, as well as the exploitation of raw mineral materials;
- environmental pollution, i.e. emissions into the environment;
- impact of the environmental pollution on human health;
- impact of important sectors on the segments of the environment;
- natural phenomena, i.e. the monitoring and supervising of meteorological, hydrological, erosion, seismological, radiological, and other geophysical phenomena;
- the state of nature conservation;
- the state of noise and waste, early indication of pollution incidents, as well as obligations assumed through international treaties; and
- other occurrences affecting the state of the environment.

The types of emissions, imissions, natural and other phenomena, which are the subject of monitoring, the number and disposition of measuring locations, the network of measuring locations, the scale and frequency of measurements, the environmental pollution indicators, the methodology of sampling and measurement, the deadlines and method of delivering data, and the method of communicating the information to the public, shall be determined by the Government regulation.

Conduct of the Monitoring

Article 34

The monitoring shall be conducted by the Agency.

For the direct conduct of monitoring activities, the Agency may engage other legal and natural persons.

The criteria and conditions for conducting the monitoring activities shall be defined by the Government regulation.

Monitoring conducted by the polluter

Article 35

The legal person and entrepreneur that is the beneficiary of the facility which causes environmental pollution, shall organize the monitoring of emissions and other sources of pollution in accordance with law.

The polluter shall submit the data collected by the monitoring referred to in paragraph 1 of this Article, to the competent body of the local self-government on whose territory it is located, and to the Agency.

The polluter shall allocate and provide funds for the monitoring of emissions, as well as for other measurements and monitoring of the impact of its activities on the environment.

Emergency measures in cases when pollution exceeds acceptable limits determined by monitoring

Article 36

If during the monitoring and control of the state of the environment, the pollution, which exceeds the acceptable limits and which may endanger human lives and health or cause a large-scale environmental pollution, is detected, the persons conducting the monitoring shall immediately inform the Agency.

On receiving the information referred to in paragraph 1 of this Article, the Agency shall communicate the information to the public without any delay and request the competent body or the polluter to undertake emergency measures in order to eliminate the threat.

Emergency measures referred to in paragraph 1 of this Article, their implementation and method of communicating the information to the public, shall be determined by separate regulation.

VI. ENVIRONMENTAL PROTECTION INFORMATION SYSTEM AND COMMUNICATION OF INFORMATION TO THE PUBLIC

Establishment of the Information System

Article 37

The Environmental Protection Information System (hereinafter referred to as the "Information System") shall be established for the purpose of efficient identification, classification, processing, monitoring and recording of natural resources and environmental management.

Content of the Information System

Article 38

The Information System contains data and information on the state of the environment, encumbrances and impacts on the environment, and in particular the data on:

- 1) the state of the environment and its segments collected and processed in accordance with this Law, separate regulations and National List of Indicators;
- 2) emissions of pollutants into the environment;
- 3) natural and regional features;
- 4) natural phenomena;
- 5) natural resources and exploitation of natural resources;
- 6) areas identified as protected or endangered by separate regulations;
- 7) biological diversity;
- 8) impacts of the environmental pollution on human health;
- 9) waste and waste management;

- 10) chemicals;
- 11) industrial and ecological incidents;
- 12) polluters of the environment;
- 13) organizations within the EMAS System;
- 14) legislative, administrative, organizational, and strategic measures;
- 15) sustainable development indicators;
- 16) expert and scientific researches of national and international institutions;
- 17) environmental protection plans and programmes and implemented measures;
- 18) exchange of information with other information systems, etc.

The Information System is managed by the Agency.

The Information System ensures access to other information systems and harmonization of all relevant information and data both at national and international level.

The Ministry shall determine the detailed content, method of managing and maintaining the Information System, methodology of entering and processing the data, structure, common bases, categories and levels of data collection, as well as the content of the data regularly and obligatorily communicated to the public.

Obligatory transfer of data to the Information System

Article 39

All subjects of environmental protection referred to in Article 7 hereof shall, on the Agency's request, transfer the data and information necessary for managing the Information System.

Polluters' Register

Article 40

The Register of environmental polluters (hereinafter referred to as the "Polluters' Register") shall contain the data on sources, type, quantity, manner and location of discharge, transport and disposal of pollutants and waste in the environment.

The Integral Polluters' Register shall be administered by the Agency based on local Polluters' Registers administered by local self-governments.

The Ministry shall determine the detailed content and method of administering the Register referred to in paragraph 1 of this Article, liable persons, and method and deadlines for the collection and transfer of data on emissions, i.e. discharge, and other data relevant to the administration of the Register.

Communication of Information to the public

Article 41

The Agency shall collect and publish the information in particular referring to:

- texts of international treaties, conventions or agreements and the European Union law;
- regulations regarding the environment;
- plans and programmes regarding the environment;
- reports on the state of the environment;
- data acquired through the monitoring of the environment;
- environmental assessment and assessment of threats regarding certain segments of the environment.

Legal protection right

Article 42

Any legal or natural person has the right to legal protection according to law if it considers that its right to healthy environment is infringed due to the nature, location and impact of the undertaking or activities of another legal person and entrepreneur.

In the legal protection proceedings, the court is empowered to:

- 1) order the polluter to undertake all necessary measures, including the termination of certain activities;
- 2) oblige the polluter to pay adequate compensation for the damage;
- 3) determine necessary provisional measures and order the polluter to apply them;
- 4) issue other adequate ruling in accordance with law.

VII. LIABILITY FOR DAMAGE INFLICTED TO THE ENVIRONMENT

Liabilities of legal and natural persons

Article 43

Any legal and natural person shall ensure environmental protection in performing their activities by:

- application and implementation of environmental protection regulations;
- sustainable use of natural resources, assets, and energy;
- introduction of energy efficient technologies and use of renewable natural resources;
- using environmentally friendly products, processes, and technologies;
- undertaking preventive measures and repairing the consequences of damage and endangerment of the environment;
- keeping records on consumption of raw materials and energy, discharge of polluting substances and energy, classification, characteristics and quantities of waste, as well as on other data and their transfer to the competent bodies;
- controlling the activities and operation of plants that may pose a threat or endanger the environment and human health; and
- other measures in accordance with law.

Activities harmful to the environment and liability for the damage inflicted to the environment

Article 44

The polluter performing the activities that pose a threat to the environment and human health (hereinafter referred to as the "harmful activities") is liable for the damage inflicted to the environment in accordance with the principles of liability for damage caused by harmful activities.

The harmful activities referred to in paragraph 1 of this Article and the criteria for the assessment of immediate threat shall be determined by the Government regulation.

Compensation

Article 45

Any person suffering the damage caused by environmental pollution is entitled to claim compensation in accordance with general regulations on compensation for damage.

Actions for compensation are urgent.

Obligation of undertaking measures and notification

Article 46

The Agency, i.e. state administration body competent for the protection and rescue in case of immediate threat of damage, is empowered to:

- request the polluter to provide data on immediate threat of damage or on cases suspected of immediate threat of damage;
- request the polluter to undertake necessary activities and measures for the prevention of environmental damage, i.e. threat to the protected species;
- give instructions to the polluter regarding necessary preventive activities and measures to be undertaken; and
- undertake necessary activities and measures for the prevention of harmful effects in cooperation with other bodies competent for undertaking interventions.

Establishment of endangered area

Article 47

Upon the motion of the Ministry, the Government is empowered to establish the endangered environment area in respect of the threat of damages resulting from harmful activities.

On grounds of the endangerment of the environment, the Government is empowered to ban any new undertakings that may increase the level of threat to the environment in certain area.

Obligation of development and implementation of the rehabilitation programme

Article 48

The polluter shall develop the rehabilitation programme for repairing the environmental damage caused by excessive emissions, within the determined deadline and in accordance with separate regulation.

The deadline referred to in paragraph 1 of this Article shall be determined by the decision passed by the Agency.

The polluter shall obtain the Agency's approval for the rehabilitation programme referred to in paragraph 1 of this Article, and, if the Agency considers it necessary, also the opinion of other competent bodies.

The Ministry shall determine the activities and measures for repairing the environmental damage, types of rehabilitation programmes, the volume and methodology of developing the rehabilitation programme, and other issues relevant to the implementation of the rehabilitation programme, in cooperation with other competent bodies.

Emergency procedures

Article 49

If the polluter is incapable of implementing all the measures for prevention and limitation of environmental damage, urgently and without delay, for the purpose of limiting further harmful impact of the facilities on the environment, the Agency shall undertake all necessary measures for prevention and limitation of further damages by engaging another legal person at the expense and responsibility of the polluter.

The power referred to in paragraph 1 of this Article includes temporary limitation of the activities, and if necessary suspension of the activities of the polluter.

Rehabilitation programme for endangered areas

Article 50

If the polluter is not identified, and the rehabilitation programme for the endangered area needs to be developed, the Agency shall provide the preparation and development of the rehabilitation programme, in cooperation with other competent bodies.

The Government shall determine the sequence and priorities of endangered areas for which the rehabilitation programme referred to in paragraph 1 of this Article shall be developed and implemented, and provide the resources for its implementation.

Compulsory insurance for damages

Article 51

The polluter shall maintain insurance to cover liability for potential damage inflicted to the environment, i.e. immediate threat of damage, in accordance with law.

The separate regulation may determine other financial security for covering the liability for damage caused by environmental pollution.

Subsidiary bearing of costs for measures undertaken for repairing the environmental damage

Article 52

In case of environmental pollution, whose effects shall be repaired in accordance with the regulation referred to in Article 48 paragraph 4 hereof, if the polluter is not identified, the funds for repairing the damage caused by pollution shall be provided from the state budget and the local self-government budget.

If the polluter referred to in paragraph 1 of this Article is subsequently identified, the local self-government and the State may claim compensation for expenses incurred in the activities of repairing the damage caused by environmental pollution, in accordance with law.

Cross-border pollution

Article 53

In the case of cross-border environmental pollution or encumbrance originating from the sources outside the State territory, the funds for repairing the damage caused by such pollution shall be provided from the state budget.

VIII. NATIONAL PLANS FOR SPECIFIC ENVIRONMENTAL DOMAINS

National plan for climate change mitigation

Article 54

Protection of the environment against the negative impacts of climate change shall be realised in accordance with the National Plan for Climate Change Mitigation (hereinafter referred to as the "National Climate Change Plan") and National Plan for Combating Desertification and Soil Pollution (hereinafter referred to as the "National Plan for Combating Desertification").

The National Climate Change Plan referred to in paragraph 1 of this Article, includes in particular:

- national inventory of green-house gas emissions;
- analyses and projections of green-house gas emission and reduction of emission;
- information and cartographic presentation of monitoring, researches and systematic observation of climate changes;
- Action Plan and measures for climate change mitigation;
- mechanism of clean development;
- economic analysis of proposed measures for prevention and mitigation of climate changes;

- bodies, institutions, and other legal persons responsible for the implementation of National Plan, Action Plan and measures for prevention and mitigation of climate changes;
- description of activities for raising public awareness, and for education and professional training of scientific, technical, and management staff, and of achieved results;
- information on realisation of obligations arising from international agreements ratified by the State regarding climate change, etc.

The National Climate Change Plan referred to in paragraph 1 of this Article shall be developed for the six-year period.

Development of National Climate Change Plan and its objectives

Article 55

The National Climate Change Plan shall be adopted by the Government.

The National Climate Change Plan shall be developed by the Ministry in cooperation with state administration bodies, local self-government bodies, and other scientific and professional institutions.

The objectives of the National Climate Change Plan shall be taken into account when developing other strategic documents defining the policy and objectives of land use, economic development, exploitation of natural resources and environmental protection.

The detailed content and methodology of the development of National Climate Change Plan referred to in Article 54 paragraph 2 hereof, as well as the reporting on its realisation, shall be determined by the Ministry.

National Plan for Combating Desertification

Article 56

Pursuant to principles and objectives of national and social development, international cooperation and integrations, the Government shall adopt the National Plan for Combating Desertification and corresponding Action Plan.

The objective of the National Plan referred to in paragraph 1 of this Article is to identify factors contributing to desertification and contamination of soil, and the necessary measures for combating desertification.

The National Plan referred to in paragraph 1 of this Article shall be adopted for the six-year period.

Action Plan is the set of measures and activities for the implementation of the National Plan referred to in paragraph 1 of this Article, with specified deadlines and main contractors.

The detailed content and methodology of the development of the National Plan and Action Plan referred to in paragraph 1 of this Article, as well as the reporting on their realisation, shall be determined by the Ministry in cooperation with state administration body competent for agricultural, forestry and water management affairs.

IX. FINANCES

Finances

Article 57

The State, i.e. the local self-government shall, within their competences, provide the funds for stimulating environmental protection and enhancement.

Financing sources

Article 58

The funds for financing environmental protection shall be provided from:

- the state budget;
- local self-government budgets;
- Environmental Protection Fund; and
- other sources in accordance with separate regulations.

International sources

Article 59

The funds for financing environmental protection may also be provided from:

- international and national loans, donations and aid;
- instruments, programmes and funds of the European Union, United Nations and international organizations; and
- foreign investments intended for environmental protection.

Provision of funds

Article 60

The funds for environmental protection may also be provided from private sources through concession system, public and private partnerships, and other adequate models of such financing, in accordance with separate regulations.

Use of funds

Article 61

The funds allocated for environmental protection shall be used for conservation, protection and enhancement of the state of the environment, in accordance with strategies, programmes and plans.

Local self-government rates

Article 62

The local self-government may, within the scope of its rights and duties, levy a rate on environmental protection and enhancement in accordance with its needs and specific qualities.

The local self-government shall determine the amount of the rate referred to in paragraph 1 of this Article, the method of payment, as well as the relief for certain categories of tax payers, in accordance with law.

Funds collected by virtue of rates referred to in paragraph 1 of this Article shall be allocated specifically to environmental protection and enhancement in the territory of the local self-government.

Economic incentives

Article 63

Tax, customs and other relieves or exemptions may be provided, under terms and in manner determined by separate regulations, for legal persons and entrepreneurs using environmentally friendly technologies and products, and trading in products whose impact on the environment is more favourable than that of other similar products, i.e. for those legal persons and entrepreneurs using renewable energy sources (sun, wind, biogas, and similar), equipment and facilities that directly serve the purpose of environmental protection.

The separate regulations may provide relieves for services and products for which the return of packaging material is organised, or whose negative impact on the environment is reduced in another way, and whose use contributes to evasion and reduction of waste.

The Government may subsidize or otherwise aid the activities significantly contributing to the reduction of negative impacts on the environment.

X. ECOLOGICAL LABEL

Ecological label

Article 64

Ecological label is designed for products intended for general consumption, except for food products, beverages, and pharmaceutical products, which in comparison with similar products are less harmful to the environment during production, distribution, trade, consumption, and disposal, or are made of recycled waste.

Ecological label is also designed for environmentally friendly processes and services.

Legal person and entrepreneur may be entitled to use the ecological label for products, processes or services, if their production, operation and provision reduce:

- 1) consumption of energy resources;
- 2) emission of hazardous and dangerous substances;
- 3) waste generation;
- 4) consumption of natural resources, etc.

The Ministry shall determine detailed terms and procedure of granting the right to use the ecological label, the costs of granting procedure, and the appearance and method of usage of ecological label for products, processes, and services.

Granting and divesting ecological label

Article 65

The Ministry shall adopt the Act on granting the right to the use of ecological label.

The right to use the ecological label shall be granted for the period of maximum three years.

Any interested party shall submit the request for ecological label to the Ministry.

The evidence of satisfying the requirements referred to in Article 64 hereof shall be provided along with the request.

The applicant shall bear the costs of granting the right to the use of ecological label.

The right to the use of ecological label shall be divested if the product, process or service ceases to satisfy one of the conditions for label granting.

XI. SUPERVISION

Administrative supervision

Article 66

Supervision of the implementation of this Law and related regulations shall be administered by the Ministry, unless otherwise provided by this Law.

The Ministry shall supervise the legality and effectiveness of the Agency operation.

The inspection control of the implementation of this Law and related regulations shall be administered by the Agency, in accordance with this Law and the Law on Inspection Control.

Rights and duties of inspectors

Article 67

The inspectors shall control in particular:

- state of the environment as prescribed by this Law and related regulations, and separate regulations;
- adoption and implementation of sustainable development documents and environmental protection documents, as well as environmental protection instruments;
- application of environmental quality standards and emission standards;
- satisfying of conditions for incorporation into the EMAS System, i.e. activities of legal and natural person within EMAS System in accordance with prescribed conditions;
- implementation of the monitoring of the state of the environment;
- transfer of the prescribed data and reports for the needs of Environmental Protection Information System and integral Polluters' Register;
- development, implementation and monitoring of the rehabilitation programme measures;
- whether the ecological label for products, processes, and services is used as prescribed;
- implementation of obligations arising from ratified international treaties in the field of environmental protection; and
- implementation of other prescribed measures and conditions of environmental protection.

Inspector's authorities

Article 68

For the purpose of eliminating identified irregularities, the ecological inspector, in addition to rights and duties regulated by the Law on Inspection Control, has the right and duty to:

- order the keeping of required records;
- order the elaboration of incident risk assessment, as well as the undertaking of adequate preventive measures and other measures for environmental protection against hazardous substances, in accordance with law;
- order the monitoring of the state of the environment as prescribed;
- ban the use of ecological label that is in opposition with the provisions of this Law;
- order implementation of environmental protection measures in accordance with this Law; and
- order the implementation of other obligations prescribed for the purpose of environmental pollution prevention.

XII. PENAL PROVISIONS

Article 69

Any legal person and entrepreneur shall pay a fine to the amount of a hundredfold to three-hundredfold amount of the minimum wage in Montenegro, if it fails to:

- 1) inform the Agency and other competent bodies of the incident (Article 25 paragraph 1);
- 2) organize the monitoring of emissions and other sources of pollution (Article 35 paragraph 1);
- 3) submit the monitoring data to the competent local self-government body and the Agency as prescribed and within prescribed deadlines (Article 35 paragraph 2);
- 4) inform the Agency of the pollution exceeding the acceptable limits, which may endanger human lives and health or cause major environmental pollution (Article 36 paragraph 1);

5) transfer the data and information necessary for administering the Information System to the Agency (Article 39);

6) develop rehabilitation programme for the purpose of repairing the environmental damage caused by excessive emissions within the deadline determined by the Agency, and if it fails to acquire the Agency's approval for the rehabilitation programme (Article 48 paragraphs 1 and 3);

7) maintain the insurance to cover liability for potential environmental damage (Article 51 paragraph 1); and

8) use the ecological label as prescribed (Article 64).

The liable person of the legal person shall pay the fine for the offence referred to in paragraph 1 of this Article, to the amount of fivefold to twenty-fold amount of the minimum wage in Montenegro.

The natural person shall pay the fine for the offence referred to in paragraph 1, item 1 of this Article, to the amount of fivefold to twenty-fold amount of the minimum wage in Montenegro.

XIII. TRANSITIONAL AND FINAL PROVISIONS

Harmonization of the activities of legal entities

Article 70

The legal entities shall harmonise their activities with this Law within one year from the day of its entry into force.

Harmonization of the regulations

Article 71

The regulations regulating specific segments of the environment shall be harmonised with this Law within one year from the day of its entry into force.

Adoption of documents

Article 72

The National Environmental Protection Programme referred to in Article 16 hereof shall be adopted by the Government within one year from the day of entry into force of this Law.

The local Environmental Protection Plan referred to in Article 17 hereof shall be adopted by the Parliaments of local self- governments within one year from the day of entry into force of this Law.

The National List of Indicators referred to in Article 19 hereof shall be adopted by the Government within one year from the day of entry into force of this Law.

Establishment of the Agency

Article 73

The Agency referred to in Article 10 hereof shall be established within thirty days from the day of entry into force of this Law.

Secondary legislation

Article 74

The secondary legislation for the implementation of this Law shall be adopted within one year from the day of entry into force of this Law.

The secondary legislation adopted on the basis of the Law on Environment (Official Gazette of the Republic of Montenegro 12/96) shall apply until the legislation referred to in paragraph 1 hereof is adopted, unless it is contrary to this Law.

Establishment of the Fund

Article 75

The payments for ecological rates shall be made to the budget of Montenegro until the Environmental Protection Fund is established.

Initiated procedures

Article 76

The procedures initiated in accordance with the Law on Environment (Official Gazette of the Republic of Montenegro 12/96) prior to the entry into force of this Law shall be completed pursuant to that law.

Cessation

Article 77

Exclusive of Article 35 indent 2 and Articles 36, 38, 39, 40, and 41, the Law on Environment (Official Gazette of the Republic of Montenegro 12/96) shall be repealed on the day of entry into force of this Law.

Entry into force

Article 78

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.

SU-SK No: 01-737/9

Podgorica, 29 July 2008

The Parliament of Montenegro

The President

Ranko Krivokapić