

LAW ON PLANT HEALTH PROTECTION

I GENERAL PROVISIONS

Article 1

This Law shall regulate the plant health protection and biological measures for plant protection; measures for preventing the introduction and spread of harmful organisms and measures for suppression of harmful organisms on plants, plant products and other regulated articles, and other issues of relevance for plant protection.

Article 2

The plant protection related activities include:

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

Article 3

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

1. **Plants** shall be considered to mean living plants and their specified living parts, including seeds.
 - 1) As living parts of plants shall be considered:
 - fruit, in the botanical sense, other than that preserved by deep freezing,
 - vegetables, other than those preserved by deep freezing,
 - tubers, bulbs, rhizomes and other underground particles for reproduction,
 - cut flowers,
 - branches with leaves or needles,
 - cut trees retaining leaves or needles,
 - leaves, foliage,
 - tissue cultures,
 - live pollen,
 - bud-wood, cuttings, scions,
 - any other part of plants, in accordance with the law.
 - 2) Seeds shall mean seeds in the botanical sense, save for those not intended for planting.
 - 3) edible mushrooms.
2. **Plant products** shall mean products of plant origin, unprocessed or having undergone a simple preparation, in so far as these are not plants under the previous item of this Article.

3. **Plant passport** shall mean a document which attests to the fact that plants, plant products and regulated articles which are moved within the territory of the Republic of Montenegro (hereinafter referred to: the Republic), meet the phytosanitary requirements pursuant to this Law and the regulations passed on its basis.
4. **Plants intended for planting** shall mean:
 - 1) plants which are already planted and will remain planted or will be replanted;
 - 2) plants which are not yet planted but are intended to be planted thereafter.
5. **Biological plant protection** shall mean suppression of harmful organisms in agriculture and forestry making use of living natural enemies, antagonists or competitors and other self-replicating biotic entities.
6. **Titleholder of plants, plant products and other regulated articles** (hereinafter referred to as the "titleholder") is a natural or legal person who is the owner of such or who is involved in the production, processing, treatment, storing, sale, distribution other use of such.
7. **Phytosanitary certificate** (hereinafter referred to as: the phytocertificate) shall mean: a document which attests to the health status of a consignment issued by a competent official body for plant health, of the country of origin, and shall accompany a consignment which is imported, exported or in transit.
8. **Phytosanitary certificate for re-export** shall mean: a document which attests to the health status of a consignment which is issued by the competent official body for plant health of the exporting country and shall accompany the consignment which is re-exported.
9. **Phytosanitary measure** shall mean: any procedure which is carried out in order to protect plant health against the risks arising from the introduction and spread of harmful organisms, and to prevent occurrence of or diminish damage incurred by harmful organism.
10. **Phytosanitary inspection** shall mean an inspection of documents, identity and health check of plants, plant products or other regulated articles to determine if harmful organisms are present.
11. **Export** shall mean: any transport of consignments of plants out of the territory of the Republic to another country.
12. **Place of production** shall mean: any property or group of fields which is an individual production unit with all the associated facilities, machinery and equipment.
13. **Regulated articles** shall mean: fields, storage premises, processing premises, packaging, means of transportation, containers, soil or any other organism, object or material which may contain or spread a harmful organism and which requires the introduction of phytosanitary measures.
14. **Movement** shall mean: any movement of plants, plant products or other regulated articles within the territory of the Republic, other than movement within the place of production.
15. **Risk assessment of harmful organisms** is a biological, scientific, and economic assessment of evidence whether a harmful organism should be subjected to mandatory surveillance, and about the scope of sanitary measures to be undertaken.
16. **Consignment of plants** shall mean a quantity of plants, plant products and regulated articles being transported.
17. **Monitoring of the health status (monitoring)** is an ongoing inspection process for verifying the phytosanitary situation.
18. **Consignment of plants in transit** shall mean any consignment of plants that is in transit through the Republic and is not being imported into the Republic, which is subjected to the official procedure to prove that it is isolated and is not split up, mixed, or combined with other consignments, or repacked.
19. **Consignment of plants for re-export** shall mean any consignment of plants that is imported into the Republic and subsequently exported, other than those that were being exposed to or contaminated by harmful organisms, that may be stored, split up, combined with other consignments, or repacked
20. **Continuous surveillance** of harmful organisms shall mean: an official process which collects and records data on the presence of harmful organisms or their absence, on the basis of phytosanitary inspections, monitoring the health status, systematic surveys or other procedures and on the basis of other available sources.
21. **Planting or sowing** shall mean any process of placing the plants with the intention of insuring their future growth, replication and reproduction;

22. **Harmful organism** shall mean: any type, species or biotype of plant, animal or other pathogenic organisms that are harmful for plants and plant products.
23. **Introduction of a harmful organism** shall mean: any entry of a harmful organism into an area in which it is not yet present or is present to a limited extent and controlled
24. **Import shall mean:** any transport of consignments of plants into the territory of the Republic from another country.
25. **Country of origin** shall mean:
- 1) For plants: the country in which the plants were grown;
 - 2) For plant products: the country in which the plants from which plant products derived were grown.

II. PLANT HEALTH PROTECTION ACTIVITIES

Article 4

Plant health protection activities shall be performed by:

- competent public administration authorities;
- licensed scientific and research institutions are authorized by the administrative authority responsible for plant health protection (hereinafter referred to as: the authorized institutions);
- companies and entrepreneurs which meet the requirements and are registered for performance of professional and technical activities in the implementation of specific phytosanitary measures, in accordance with the law (hereinafter referred to as: the service providers), which are authorized by the administrative authority responsible for the plant health protection issues (hereinafter referred to as: the administrative authority), and
- titleholders of plants.

Article 5

Administrative authority shall be responsible for plant health protection in the Republic.

Administrative authority shall perform the administrative activities and related professional activities concerning the following:

- coordination and monitoring of the plant protection activities;
- implementation of international conventions, contracts and treaties related to plant health care and exchange of information with government authorities, organizing bodies, institutions and other persons involved in the plant protection activities;
- participation in international authorities and organizations related to plant health protection;
- reporting to the European Commission about plant health protection;
- preparation of reports, analyses, information and other material related to the occurrence and spread of harmful organisms, in accordance with the regulation and international contracts and treaties related to plant health protection;
- performance of the plant health protection activities;
- organization of the implementation of continuous surveillance over harmful organisms;
- assessment of the health status of plants with the purpose of ascertaining the occurrence and spread of harmful organisms in the country and abroad;
- laboratory investigations of the plants, plant products and regulated articles with the purpose of diagnosing the harmful organisms from Lists I.A, II.A, I.B and II.B;
- risk assessment in the event of the occurrence and identification of new harmful organisms, issuing of expert guidelines and measures;
- notification of exporting countries about the retained consignments of plants because of non-compliance with phytosanitary requirements;
- restriction or ban of the import into the Republic or transit of individual plant species across the territory of the Republic;
- provision of the expert platform for setting the boundaries of the zones for which the establishment of extraordinary health surveillance is necessary;

- establishment and keeping of the register and records;
- preparation of the programs of preventive measures undertaken with the purpose of preventing the introduction and spread of harmful organisms and taking care about their implementation;
- proposing the implementation of the measures for prevention, suppression and eradication of harmful organisms and coordination of their implementation;
- supervision over the performance of activities by the authorized persons;
- notification about the occurrence, mass infestation and spread of harmful organisms in the country and abroad;
- notification of the public about plant health protection and issuing of publications;
- establishment and maintenance of the information system related to plant health protection;
- conducting the phytosanitary inspection;
- issue of phytocertificates; and
- other activities laid down by the law.

Article 6

The titleholders of plants must

1. check growing plants, including cultivated areas (fields, plantations, tree nurseries, gardens, greenhouses), wild growing plants and plants, plant products and regulated articles which are owned or otherwise used or treated or used by them, in order to detect the occurrence or spread of harmful organisms.
2. notify a competent administrative authority or those providing public services in the field of plant health, of any new or unusual or suspected occurrences of harmful organisms
3. immediately take measures, determined by the administrative authority, to suppress or to prevent the spread or to eradicate harmful organisms.
4. keep records about the measure taken with regard to plant health protection.

If a titleholder does not carry out measures referred to in paragraph 1 item 3 of this Article, the administrative authority shall order their execution at the titleholder's expense.

With the purpose of timely alerting the titleholders of plants about the occurrence of harmful organisms and providing the recommendation for their suppression, the reporting and forecasting activities are performed.

The Ministry shall specify the program of reporting and forecasting activities referred to in paragraph 3 of this Article and main implementing parties of such Program.

Article 7

Administrative authority, authorized institutions, service providers and titleholders of plants shall, with the purpose of timely detecting the harmful organisms, reporting about their occurrence, spread and suppression, conduct the continuous surveillance and cooperate in respect of the implementation of continuous surveillance over the plants, plant products and regulated articles.

About any new and unanticipated occurrences of harmful organisms, persons referred to in paragraph 1 of this Article shall, without delay, notify the competent inspector or the administrative authority.

The obligation to notify shall also apply to all persons which by the essential nature of their profession take notice of or suspect the occurrence of new or unanticipated harmful organisms.

Administrative authority responsible for forestry issues, and legal and natural persons involved in the activities of plant health protection in forestry, shall act in accordance with this Law and the regulations that govern the forestry issues.

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

1) Harmful organisms, plants, plant products and regulated articles

Article 8

Harmful organisms shall be listed according to the risk to health of plants and plant products and existence of individual species of plants, and in relation to the risk of extensive economic damage they may cause.

Harmful organisms considered particularly dangerous to plants and plant products shall be classified in the following lists:

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

The Ministry shall specify the content of the lists referred to in paragraph 2 of this Article.

Article 9

Plants, plant products and regulated articles which may carry harmful organisms referred to in Article 8, paragraph 2 of this Law shall be classified in the following lists:

- List III.A, which relates to the ban on introduction of plants, plant products, and regulated articles;
- List III.B, which relates to the ban on introduction of plants, plant products, and regulated articles into a specific protected zone;
- List IV.A, which relates to special phytosanitary requirements, which shall be met in respect of introduction and movement of plants, plant products, and regulated articles;
- List IV.B, which relates to special phytosanitary requirements, which shall be met in respect of introduction of plants, plant products and regulated articles into specific protected zones and movement within such zones;
- List V.A, which relates to of plants, plant products, and regulated articles which must be checked before movement, contains:
 - a. List V.A.I which relates to plants, plant products, and regulated articles which must be checked before any movement in the territory of the Republic and must be accompanied by plant passports;
 - b. List V.A.II which relates to plants, plant products, and regulated articles which must be checked before introduction in specific protected zones and movement within such zones and must be accompanied by plant passports for specific protected zones;
- List V.B, which relates to plants, plant products, and regulated articles which must be checked before introduction, contains:
 - a. List V.B.I which relates to plants, plant products, and regulated articles which must be checked before introduction and which may transfer harmful organisms significant for the whole territory of the Republic,
 - b. List V.B.II which relates to plants, plant products, and regulated articles which must be checked before introduction in certain protected zones and which may transfer harmful organisms significant for certain protected zones;
- List VI, which relates to plants and plant products which may be subjected to special measures.

More detailed content of the Lists referred to in paragraph shall be prescribed by the Ministry.

The Lists referred to in Articles 8 and 9 of this Law shall be published in the "Official Gazette of the Republic of Montenegro".

Article 10

With the purpose of preventing the introduction and spread of harmful organisms, continuous monitoring over the plants, plant products and other regulated articles shall be implemented, as well as the phytosanitary measures laid down by this Law.

Phytosanitary measures shall be implemented in such scope as necessary to protect the health status of plants and ensure normal continuation of trade.

Phytosanitary measures shall be prepared, enacted and amended in accordance with international standards, guidelines and recommendations, scientific principles and facts related to plant health protection and economic justification. In case that there are no international phytosanitary guidelines, recommendations and standards, or they cannot reach needed level of plant health protection, phytosanitary measures shall be scientifically justified and based on the principles of the risk assessment and management.

In the risk assessment referred to in paragraph 3 of this Article, the following shall be taken into account:

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

Risk management shall include the study of economic justifiability in terms of the loss in production or sale in the event of the introduction and spread of harmful organisms, the costs of their suppression or eradication, as well as the economic justifiability of alternative approaches to risk reduction.

Phytosanitary measures in other country shall be considered as equivalent to the measures of the Republic if such other country demonstrates in an objective manner that it achieves the same or higher level of the plant health protection, compared with the level required in the Republic.

Article 11

A titleholder of plants or any other person who detects in the plants, plant products or regulated articles any new and unusual occurrence of harmful organisms, or suspects the presence of harmful organisms indicated in List I.A or List II.A, or List I.B or List II.B in the case of a protected zone, must immediately notify the competent inspector, or the administrative authority.

In the event of suspected infection with harmful organisms referred to in paragraph 1 of this Article, the competent authority shall take a sample and send it to a laboratory that performs diagnostic tests to confirm the infection with harmful organism.

The laboratory must ensure such a method of handling the samples as to avoid the risk of harmful organisms spreading and to ensure the identity of the sample.

The laboratory shall keep records of the samples and keep and communicate the data about the analysis that were conducted, in the prescribed manner.

The laboratory analyses referred to in paragraph 2 of this Article shall be conducted only by the accredited phytosanitary laboratories.

The Ministry shall determine the method of handling the samples and the method of keeping records of samples, keeping and communicating the data about the analyses that were conducted.

Article 12

When an infection with harmful organisms from List I.A and List II.A is ascertained, or, in the case of a protected zone, with harmful organisms from List I.B and List II.B, the administrative authority shall order the implementation of suitable phytosanitary measures with the purpose of preventing further spread or with the purpose of suppressing the harmful organisms, such as treatment, destruction or other method of elimination of harmful organisms, plant, plant products or regulated articles in which infection with harmful organisms has been ascertained.

In the event of an infection with harmful organisms referred to in paragraph 1 of this Article, the titleholder of plants shall protect plants, plant products and regulated articles against harmful organisms and prevent any contact with other plants, plant products and regulated articles on which harmful organisms can be transferred.

The extent of the source of infection with harmful organisms shall be determined by the administrative authority.

The administrative authority shall notify the titleholders of plants and authorized persons of the occurrence and risks of harmful organisms and provide information with regard to the relevant measures for the prevention of infection with harmful organisms.

The Ministry shall specify the phytosanitary measures referred to in Article 10 of this Law, and the measures referred to in paragraph 1 of this Article and the method of notification referred to in paragraph 4 of this Article.

The Ministry shall specify method of preparation, enactment and amendment of proposed and urgent phytosanitary measures, as well and manner of their notification in accordance with obligations arising from appropriate international agreements.

Article 13

The administrative authority shall keep records in a prescribed manner on occurrences and findings of harmful organisms and other necessary records on surveillance, for the purpose of providing information at the national and international levels.

More detailed contents, forms and methods of keeping records referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

It is forbidden to give or publish data on the occurrence of a newly discovered harmful organism from List I.A and List II.A in the Republic without the approval of the administrative authority.

The method of giving and publishing the data referred to in paragraph 3 of this Article shall be determined in more detail by the Ministry.

Article 14

A specific surveillance is a procedure of systematic collection and keeping of data about the infection with harmful organisms, which includes the inspection examinations, monitoring of health status of plants and systematic survey in the areas in which harmful organisms are present or there is a risk of their presence, or are not present.

The method of conducting and the persons who shall conduct specific surveillance over harmful organisms in respect of which the specific surveillance is conducted, shall be specified by the Ministry in the annual program.

When a harmful organism is detected, the administrative authority, namely the competent inspector shall ascertain its presence and, in relation to the species of harmful organism, order the suitable phytosanitary measures and notify titleholders in the place of infection.

The implementation of the ordered phytosanitary measures shall continue for as long as there is a risk of harmful organisms.

The boundaries of areas referred to in paragraph 1 of this Article, measures for detection, prevention of spread and suppression of harmful organisms, conditions for termination of the ordered measures and manner of notifying the titleholders of plants shall be prescribed by the Ministry.

Article 15

A zone in which one or more than one harmful organism which is established in one or more areas of the Republic have never occurred or established itself despite the favorable conditions for it to establish itself there, and in which, under the favorable conditions, for individual cultures, there is a danger that certain harmful organisms establish themselves despite the fact that such organisms have never occurred or established themselves in the Republic, may be defined as a protected zone.

It shall be considered that a harmful organism is established in a protected zone if it is known to occur there and there have been no phytosanitary measures for its eradication, or if such measures have proved ineffective over a period of at least two consecutive years.

In a protected zone, the administrative authority shall ensure the carrying out of regular and systematic surveys on the presence of organisms in relation to which the protected zone was recognized.

Protected zones referred to in paragraph 1 of this Article, more detailed conditions for carrying out systematic surveys within the boundaries of the protected zone, and lists of protected zones shall be prescribed by the Ministry.

2) Bans and Restrictions

Article 16

The introduction and spread in the territory of the Republic of harmful organisms indicated in List I.A and their spread through plants, plant products and regulated articles shall be banned.

The introduction and spread in the territory of the Republic of plants and plant products indicated in List II.A if they are infected with harmful organisms from such List and their spread through plants, plant products and regulated articles shall be banned.

Introduction into the protected zone and spread in the protected zone shall be banned in respect of:

- harmful organisms included in List I.B,
- plants or plant products as indicated in List II.B, if infected by harmful organisms included in such List,

The introduction and spread of harmful organisms other than included in Lists referred to in paragraphs 1 and 2 of this Article may be banned if there is a risk for health of plants in the territory of the Republic.

The measures for prevention or control of introduction and spread of harmful organisms referred to in paragraph 4 of this Article shall be specified by the Ministry.

Without prejudice to paragraphs 1 and 2 of this Article, the administrative authority may allow the introduction of plants on which low level of infection with harmful organisms included in Lists I.A and II.A is determined, provided that they are not intended for planting and sowing or that, based on the risk

assessment of harmful organisms for specific plants intended for planting and sowing, the tolerance limits are determined for harmful organisms included in List II.A, section II.

More detailed requirements and limits of tolerance for introduction of plants referred to in paragraph 6 of this Article shall be specified by the Ministry.

Article 17

The introduction in the territory of the Republic of plants, plant products and regulated articles indicated in List III.A shall be banned, if their origin is one of the countries included in such List.

The introduction of plants, plant products and regulated articles indicated in List III.B shall be banned into protected zones included in such List.

Without prejudice to paragraphs 1 and 2 of this Article, provided there is no risk of the spread of harmful organisms, the administrative authority may allow introduction of plants and plant products included in List III.A, or plants, plant product and regulated articles included in List III.B, if they were cultivated, produced, or used in near-border area of a neighboring country in order to be used at the nearby locations within the near-border area of the Republic.

The administrative decision on allowing the introduction of plants, plant products and regulated articles referred to in paragraph 3 must indicate the name of the location and the name of the user.

Plants, plant products and regulated articles referred to in paragraph 3 of this Article must be accompanied by evidence of their place of origin.

More detailed requirements for the introduction of plants, plant products and regulated articles referred to in paragraph 3 of this Article shall be specified by the Ministry.

Article 18

The introduction or movement of plants, plant products and regulated articles indicated in List IV.A shall be banned if prescribed phytosanitary requirements included in such List are not met.

The introduction of plants, plant products and regulated articles into specific protected zones indicated in List IV.B and movement within such zones shall be banned if prescribed phytosanitary requirements included in such List are not met.

Without prejudice to paragraphs 1 and 2 of this Article, provided there is no risk of the spread of harmful organisms, the administrative authority may allow introduction of plants and plant products included in List IV.A and List IV.B even if specific phytosanitary requirements are not met, if they were cultivated, produced, or used in near-border area of a neighboring country in order to be used at the nearby locations within the near-border area of the Republic.

The administrative decision on allowing the introduction of plants, plant products and regulated articles referred to in paragraph 3 must indicate the name of the location and the name of the user.

Plants, plant products and regulated articles referred to in paragraph 3 of this Article must be accompanied by written evidence of their place of origin.

The ban referred to in paragraph 1 and 2 of this Article shall not apply to small quantities of plants, plant products and regulated articles, included foodstuff and animal feedingstuffs if their owner or recipient intends to use them for non-industrial and non-commercial purposes, or use them during travel, provided there is no risk of the spread of harmful organisms.

The Ministry shall specify more detailed requirements for the introduction of plants, plant products and regulated articles referred to in paragraph 3 of this Article, and the small quantities for specific types of plants and plant products.

Article 19

Without prejudice to Articles 16, paragraph 1 to 3; Article 17 paragraphs 1 and 2; and Article 18 paragraphs 1 and 2 of this Law, provided the prescribed requirements are met, the introduction and movement of harmful organisms indicated in Lists I.A, II.A, I.B and II.B and plants, plant products and regulated articles indicated in Lists III.A, III.B, IV.A and IV.B shall be allowed, if:

- they have an introduction permit;
- they are used for trial and research purposes or for work on varietal selections;

The requirements, method of issuing, and the content of the application for the permit referred to in paragraph 1 of this Article shall be specified by the Ministry.

The administrative authority shall keep records of permits referred to in Article 16 paragraph 6, Article 17 paragraph 3, Article 18 paragraph 3, and Article 19 paragraph 2 of this Law.

Article 20

In order to prevent the introduction and spreading of harmful organisms and their suppression in the Republic, the Ministry may:

- ban, in a specific region, the cultivation of specific species, varieties and clones of plants;
- ban or restrict the importation into the Republic or transit of specific plant species through the territory of the Republic;
- ban or restrict the movement of specific plant species in the territory of the Republic;
- determine the boundaries of the regions under specific or extraordinary surveillance; and
- order other emergency measures in accordance with this Law.

3) Register of producers, processors, importers, distributors and the person who store plants, plant products and regulated articles

Article 21

Production, processing, importation, storing, and distribution of plants, plant products and regulated articles indicated in List V.A and List V.B may be performed by companies or other legal persons and entrepreneurs who are registered for performance of such activities and entered in the Register of producers, processors, importers, distributors and persons storing the plants, plant products and regulated articles (hereinafter referred to as: "the Register").

Article 22

Entry in the Register referred to in Article 21 of this Law is compulsory for:

- producers, processors, distributors and those involved in storing the plants, plant products and regulated articles indicated in List V.A;
- importers of plants, plant products and regulated articles indicated in List V.B;
- producers of specific plants, plant products and regulated articles indicated in List V.A and the relevant collection and distribution centers in the production area.

Article 23

Persons referred to in Article 22 of this Law shall employ on full-time basis a person who has graduated from the specialist studies, or the agricultural faculty, department for plant protection or plant production, who shall be responsible for production and health protection of plants, and who shall ensure implementation of obligations referred to in Article 24 of this Law.

The register shall be kept by the administrative authority.

Persons referred to in Article 22 of this Law, who cease to meet the requirements and obligations referred to in paragraph 1 of this Articles shall be removed from the Register.

The Ministry shall specify more detailed requirements for entry in the Register, the content and method of keeping the Register, the form, content and method of applying for entry in the Register, and the types of plants, plant products and regulated articles referred to in paragraph 1 indent 3 of this Article.

Article 24

Persons referred to in Article 22 of this Law shall, in particular:

- keep thorough records about production, processing and trade in plants, plant products and regulated articles which they buy for storage or planting on premises, processing or movement to other place;
- keep and regularly update the plan of the places where plants, plant products and regulated articles are grown, produced, stored, preserved or used;
- perform regular visual health checks of plants in the prescribed manner;
- without delay notify the administrative authority or competent inspector of all unusual occurrences and outbreaks of harmful organisms, symptoms or other particularities on plants and of the production and occurrence of banned plant species;
- report to the administrative authority in the prescribed time limit any changes of data kept in the Register;
- each year report to the competent inspector within the prescribed time limit the scope and place of production or processing of plants, plant products and regulated articles;
- co-operate with the administrative authority and competent inspector in ensuring plant health;
- retain the records for at least a year.

The Ministry shall prescribe the manner of keeping the records, carrying out plant health checks, time limits for communicating the data that is kept in the Register, and report of the place and scope of production or processing of plants and plant products referred to in paragraph 1 of this Article.

Article 25

Without prejudice to Article 22 of this Law, entry in the register shall not be compulsory for small producers or processors if their entire production or processing and sale of plants, plant products and regulated articles is intended for their own supply or for the final consumption by natural persons in the local market who are not professionally involved in plant production and processing and in the absence of any danger of the spread of harmful organisms.

The minister shall prescribe the criteria for determining small producers or processors and the scope of the local market.

IV. IMPORT, EXPORT AND TRANSIT OF CONSIGNMENTS OF PLANTS

1. Import

Article 26

The Ministry may, in accordance with conditions for foreign trade transactions and based on international recommendations and guidelines, available scientific proofs and risk assessment for plant health, impose

licenses for import and transit of plant shipments that may be carrier or transmitter of harmful organisms and diseases endangering plant health.

Consignment of plants may be imported only through specified points of entry with a customs office and phytosanitary inspection.

Without prejudice to paragraph 1 of this Article, consignments of wooden packing material may be imported also through points of entry provided only with a customs office.

Points of entry referred to in paragraph 2 of this Article must meet the prescribed technical conditions for carrying out phytosanitary inspections of consignment of plants.

The Ministry shall decide on appeals against the administrative decision on the issue of permit referred to in paragraph 1 of this Article, and on other individual administrative documents which are issued by the administrative authority in accordance with this Law.

The Ministry shall specify the method and requirements for issuing the permit referred to in paragraph 1 of this Article and technical requirements for phytosanitary inspections referred to in paragraph 4 of this Article.

Article 27

Consignments of plants from List V.B which are imported, their packaging and means of transportation shall be subject to customs supervision and mandatory phytosanitary inspection.

Customs procedure may not commence before phytosanitary inspection is completed, with the exception of the transit procedure and procedure of customs warehousing.

Wooden packing material which is used in importation for the transportation of goods other than plants, plant products and regulated articles included in List V.B shall not be subject to the phytosanitary inspection at a point of entry.

Phytosanitary inspection shall in particular ascertain whether:

- consignment is accompanied by the original phytosanitary certificate or phytosanitary certificate for re-export;
- consignment of plants from List I.A is not infected with harmful organisms and, if they are imported in specific protected zones, also harmful organisms from List I.B;
- consignment of plants from List II.A is not infected with harmful organisms from such part of the List and, if they are imported in specific protected zones, also harmful organisms from List II.B;
- consignment does not contain plants, plant products or regulated articles indicated in List III.A;
- consignment meets special phytosanitary requirements indicated in List IV. A, and, if they are imported in specific protected zones, also the special requirements from List IV.B.

Phytosanitary inspection may also be performed on consignments which are not included in List V.B.

The consignment of plants which is liable to phytosanitary inspection shall remain under customs supervision until the phytosanitary inspector confirms that phytosanitary inspection is completed.

Article 28

Phytosanitary inspection referred to in Article 27 of this Law shall include:

- check to determine whether the consignment, or a part of consignment, is accompanied by the prescribed phytocertificate;

- identity check by way of which, based on the whole or part of one or more representative samples, it is determined whether a consignment or its part contains plants, reported plants, plant products and regulated articles;
- check of the health status, by way of which, based on the whole or part of one or more representative samples, it is determined whether a consignment of plants, or a part or consignment of plants, including wooden packing material, and, if necessary, the means of transportation, meets the requirements referred to in Article 27 paragraph 5 of this Law.

Phytosanitary inspection of consignment of plants or its part shall also be performed in the following events:

- where there is a serious reason to suspect that a consignment of plants or its part, for which it was not reported that it contains plants, plant products and regulated articles from List V.B, contains such plants, plant products and regulated articles;
- where customs inspection reveals that a consignment of plants or its part contains the unreported plants, plant products and regulated articles from List V.B;
- where even after the phytosanitary inspection it is impossible to determine with certainty the identity of goods, in particular their gender, type or origin.

The Ministry shall specify the method of performing the phytosanitary inspection referred to in Article 27 paragraph 1 of this Law, determination of the type of plants, plant products and regulated articles referred to in Article 27 paragraph 6 of this Law, and the minimum number and size of the samples referred to in paragraph 1 indents 2 and 3 of this Article.

Article 29

Consignment of plants from List V.B which are imported and intended for use in trial, research or development work and for work on varietal selections must be subjected to phytosanitary inspection and must be accompanied by an import permit referred to in Article 19 paragraph 1 indent 1 of this Law and a phytosanitary certificate from the country of origin.

The Ministry shall specify in a regulation more detailed requirements and method of importing the consignment of plants referred to in paragraph 1 of this Article.

Article 30

If there is no risk of harmful organisms spreading, phytosanitary inspection of consignment of plants from List V.B shall not be mandatory if it is moved from one country to another, or from one place to another within the same country, and the transit is made through the territory of the Republic without its customs status being changed.

Article 31

Reduced scope of identity and health checks for a consignment of plants may be implemented in the following events:

- if the check already took place in the country from which such consignment is imported, based on the agreement made with the authority responsible for health protection of plants in such country;
- if it is so envisaged in the agreement concluded with the country from which such consignment is imported, based on the principle of reciprocity.

The Ministry shall specify the requirements and method of performing the check, and the type of plants, plant products and regulated articles referred to in paragraph 1 of this Article.

Article 32

Phytosanitary inspection referred to in Articles 27 and 28 of this Law and phytocertificate shall not be mandatory for small quantities of plant and plant products, which their owner or end user introduces in order to use them for non-industrial and non-commercial purposes during the travel, providing there is no risk of harmful organisms spreading, with the exception of plants and plant products from List III.A and List III.B.

Without prejudice to Articles 27 and 28 of the Law, provided there is no risk of harmful organisms spreading, the administrative authority may allow the introduction of plants and plant products from List V.B without phytosanitary inspection, if they are grown, produced or used in the near-border area of the neighboring country to be used in nearby locations in the near-border area of the Republic.

The permit which allows for the introduction of plants, plant products and regulated articles referred to in paragraph 2 of this Article must indicate the name of the location and the name of the user.

The Ministry shall specify the small quantities for specific types of plants, plant products and regulated articles referred to in paragraph 1 of this Article, and the method and requirements for the introduction of plants and plant products referred to in paragraph 2 of this Article.

Article 33

Plants, plant products and regulated articles from List V.B must be accompanied by original phytocertificate, or phytocertificate for re-export.

Phytocertificate referred to in paragraph 1 of this Article may be in electronic form, provided it meets the requirements laid down by the law.

Without prejudice to paragraph 1 of this Article, in the events determined by the Ministry, a copy of the phytocertificate certified by the competent authority may be acceptable.

For plants, plant products and regulated articles from List IV.A and List IV.B, the phytocertificate shall be issued by the competent authority of the country of origin. Phytocertificate may be issued in a country other than the country of origin where the special requirements can be met outside the place of origin.

Plants, plant products and regulated articles from List V.B, which are dispatched from the country of origin and in another country stored, split up, merged with other, or repacked, must, in addition to the original phytocertificate or a certified copy of it, be accompanied by a phytocertificate for re-export issued in such other country.

If the plants, plant products and regulated articles from List V.B were in succession imported in several different countries and if several phytocertificates for re-export were issued, appended to the last phytocertificate for re-export must be all formerly issued phytocertificates for re-export or their certified copies.

The Ministry shall specify the form and the content of the phytocertificate and the phytocertificate for re-export in compliance with the International Convention on Plant Protection.

Without prejudice to paragraph 7 of this Article, a phytocertificate issued in the exporting country that have ratified the International Convention on Plant Protection, may be acceptable under the conditions specified by the Ministry.

Phytocertificate and the phytocertificate for re-export shall be acceptable if more than 14 days expired between their issuance date and the day when the consignment in respect of which they are issued crossed the border of the country in which they were issued.

Article 34

Importers, transporters and their representatives and natural persons who import the consignments of the plants from List V.B shall be under obligation to, to the administrative authority or phytosanitary inspector, within the prescribed time, announce the consignment and submit the application for phytosanitary inspection of the consignment.

Importers, transporters or their representatives shall be under obligation to, in a single customs declaration or other official document serving the purpose of instigating the customs procedure, indicate that consignment is the consignment of the plants from List VB and include other prescribed data.

The Ministry shall specify the form of the application for phytosanitary inspection referred to in paragraph 1 of this Article and the method of indicating the declaration or other official document referred to in paragraph 2 of this Article, and the method and time limit for announcing the plant consignment and submitting the application for phytosanitary inspection.

Article 35

Checking of official documents and the inspection referred to in Article 27 of this Law, and the checks whereby it is confirmed whether the consignments contain the plants or plant products from List III.A and List III.B whose introduction is banned, shall be performed by the phytosanitary inspector.

Checking of the identity and health status of plants shall be performed by the phytosanitary inspector at the border crossing or other place in the immediate vicinity of the border crossing, as designated by the administrative authority and the administrative authority responsible for customs issues, provided it is not the end destination.

Phytosanitary inspection at the border crossing may let the responsible inspection at the place of destination, upon the consent of the latter, to in whole or in part perform the checking of the identity and health status, whether in the premises of the phytosanitary inspection or in other place in the immediate vicinity of the border crossing, as designated or approved by the administrative authority and the administrative authority responsible for customs issues, provided it is not the end destination. Where the approval is not granted, the checking of identity and health status shall be in whole performed by the phytosanitary inspector at the border crossing.

Checking of identity and health status may be also performed at the end destination, such as the place of production which was approved by the responsible authority and the administrative authority responsible for customs issues in whose territory the end destination is located, provided there are special guarantees and official documents demonstrating that there is no risk from harmful organisms spreading during the transportation of the consignments of plants.

The Ministry shall specify minimum requirements for performing the checking of health status and the events referred to in paragraph 4 of this Article, special guarantees and official documents related to the transportation of the consignment of plants to the destination or end destination, and minimum requirements for storing at the end destination.

Article 36

Phytosanitary inspector, after the inspection or phytocertificate checking was completed, shall place the mark whereby he shall allow the importation of the consignment of plants or the mark whereby it is visible that phytosanitary inspection was not completed at the point of entry. Along with the mark, the official name of the phytosanitary inspection and the date of submitting the application referred to in Article 34 paragraph 1 of this Law shall be placed.

Where the phytosanitary inspection finds that the requirements referred to in Article 27 paragraph 4 of this Law are not met, the phytosanitary inspector shall detain the consignment of plants and order one or more than one measure: ban on introduction into the territory of the Republic of the consignment of plants or its part; movement to a destination outside the Republic under the surveillance during their movement within the

Republic in accordance with the suitable customs procedure; removal of the infected part of the consignment of plants; introduction of quarantine surveillance until the findings of laboratory analyses or testing are known, and suitable treatment with the purpose of suppressing the harmful organisms other than those included in the Lists I.A, II.A, I.B and II.B, if the phytosanitary inspector assesses that the requirements will be met upon the treatment.

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

Phytosanitary inspector shall be under obligation to immediately notify the administrative authority of any events of detaining the consignment of plants due to incompliance with phytosanitary requirements, indicating the reasons for detention, with the purpose of notifying the competent authority in other country.

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

2. Export

Article 37

If a consignment of plants that is being exported originate in the Republic and the importing country or the country across the territory of which a consignment of plants is in transit requires that the consignment of plants is accompanied by the phytosanitary certificate, upon the request of the exporter or his authorized representative, a phytosanitary inspector shall carry out a phytosanitary inspection and, provided the prescribed phytosanitary requirements are met, issue the phytocertificate.

If a consignment of plants that is being exported does not originate in the Republic, but have been stored, repacked or split up in the Republic, and the importing country or the country across the territory of which a consignment of plants is in transit requires that the consignment of plants is accompanied by the phytosanitary certificate, upon the request of the exporter or his authorized representative, a phytosanitary inspector shall carry out a phytosanitary inspection and, provided the prescribed phytosanitary requirements are met, issue the phytocertificate for re-export.

Consignments of plants intended for export, means of transportation, packaging, and, if necessary, storage places, preparation facilities, and the estates in which they originate shall be liable for phytosanitary inspection referred to in paragraphs 1 and 2 of this Article.

If it is established in phytosanitary inspection that the requirements of the importing country of the country across whose territory the consignment was in transit, a phytosanitary inspector shall order the implementation of measures for meeting such requirements.

The Ministry shall specify the form of the request, the method and time limit for its submission, and the place and method for conducting the phytosanitary inspection referred to in paragraphs 1 and 2 of this Article.

3. Transit

Article 38

Phytosanitary inspection referred to in Article 27 paragraph 4 of this Law shall not be compulsory in the case of consignments of plants in transit.

Consignments of plants referred to in paragraph 1 of this Article must be packed so that there is no risk of harmful organisms spreading and it may not be stored, split up, repacked, combined with other consignments or repacked in the territory of the Republic.

If a consignment of plants is not packed in compliance with paragraph 2 of this Article or is re-loaded, a phytosanitary inspection referred to in Article 27 paragraph 4 of this Law shall be compulsory.

Without prejudice to the provisions of paragraph 1 of this Article, in the event of damage or a well-founded suspicion of the risk of the introduction or spread of harmful organisms, the Ministry may prescribe a specific treatment, or a compulsory phytosanitary inspection, the manner of inspection, the laboratory investigations, and implementation of phytosanitary measures.

V MOVEMENT OF CONSIGMENTS OF PLANTS

Article 39

A consignment of plants from List V.A.I which is intended for movement, the packaging in which it is packed, and if necessary the means of transportation in which it is transported, shall be subjected to the phytosanitary inspection in whole or based on a representative sample, in order to check whether it is infected with harmful organisms from List I.A section II, and, if the consignment is introduced in a specific protected zone, also the harmful organisms from List I.B in order to check:

- whether plants and plant products from List II.A section II contain specific harmful organisms indicated in such List, and if they are introduced into specific protected zones, also the harmful organisms from List II.B;
- whether a consignment of plants from List II.A section II complies with the special requirements indicated in such List, and if it is introduced into a specific protected zone, also the special requirements for List IV.B.

Plants and plant products, included the substrate for plant cultivation, shall be subjected to phytosanitary inspection referred to in paragraph 1 of this Article if grown, produced or used, or otherwise present in the premises of the producer or in collective storage places and distribution centers in the production area.

Phytosanitary inspection referred to in paragraph 1 of this Article shall be conducted regularly, at a suitable time, and at least once a year and at least visually.

If it is determined based on phytosanitary inspection that there is a risk of harmful organisms spreading from a consignment of plants, or that the requirements are not met for its movement, a phytosanitary inspector shall, in accordance with Article 12 paragraph 1 of this Law, order one or more of the following measures: suitable treatment; movement, under official supervision, into the areas where they shall not cause further risks, and movement, under official supervision, to the facilities for industrial processing, or destruction.

The Ministry shall specify the method of conducting the phytosanitary inspection and the requirements for implementation of measures referred to in paragraph 4 of this Article.

Article 40

Consignment of plants from List V.A may be moved only based on a completed phytosanitary inspection referred to in Article 39 of this Law, and with the plant passport issued.

Plant passport for consignments of plants from List V.A, shall be issued by:

- the persons referred to in Article 22 of this Law who have acquired the permit for issue of plant passport;
- authorized persons referred to in Article 4 paragraph 1 indents 2 and 3 of this Law;
- administrative authority when the persons referred to in paragraph 2 indents 1 and 2 of this Article do not acquire the permit for issue of plant passport.

Permit for issue of plant passport shall be issued by the administrative authority based on the request of the persons referred to in paragraph 2 indents 1 and 2 of this Article.

Administrative authority shall keep the Register of permits for issue of plant passports.

Plant passport shall be attached to the consignment of plants or its packaging or the means of transportation by way of which it is being transported.

The Ministry shall specify the requirements for issue and the method for issuing plant passport.

Article 41

Phytosanitary inspection referred to in Article 39 paragraph 1 of this Law and a plant passport shall not be mandatory in the case of small quantities of plants and plant products from List V.A, if they are produced by small producers referred to in Article 25 of this Law, and for animal feedingstuffs if not intended for trade, industrial purposes or to be used during travel, provided there is not risk from harmful organisms spreading.

Consignment of plants from List V.A, section II, shall not be liable to phytosanitary inspection referred to in Article 39 paragraph 1 of this Law, for the purposes of the inspection on infection with harmful organisms from Lists B.I and B.II, if they are taken out of the protected zone or are in transit across the protected zone.

For consignments of plants from List IV.B, which are being taken out or are in transit across the protected zone, special requirements related to the protected zone shall not be mandatory.

Article 42

Types of plant passport are:

- standard plant passport;
- plant passport for protected zone;
- replacement of a plant passport.

For specific types of products, the use of other marks to be considered plant passports may be approved.

The Ministry shall specify the types of products and other marks referred to in paragraph 2 of this Article, as well as the form and content of the plant passport.

Article 43

Consignment of plants from List V.A section II and seed from List IV.A, may be introduced or moved within the protected zone only if accompanied by a suitable plant passport.

For consignments of plants referred to in paragraph 1 of this Article, other than those originating in the protected zone, that are being moved across the protected zone to a destination outside such zone, plant passport for protected zone shall not be mandatory if they are moved in accordance with the requirements specified by the Ministry.

Article 44

If a consignment of plants which is accompanied by plant passport is being split up or is constituted of several separate consignments of plants which already have plant passports, or their parts are being combined into a single consignment of plants, as well as in the event when the health status of the

consignment of plants has changed, a replacement of plant passport shall be issued for a new consignment of plants.

If the health status has been changed in a consignment of plants referred to in paragraph 1 of this Article, phytosanitary inspection must be completed before issuing the replacement of plant passport.

Article 45

Plant passport shall not be issued if it is determined in the phytosanitary inspection that the requirements referred to in Article 39 paragraph 1 of this Law are not met.

If it is determined in the phytosanitary inspection that a consignment is infected with harmful organisms from Lists I.A, I.B, II.A and II.B, the plant passport may be issued for the remaining part of the consignment of plants which is not suspected of being infected with harmful organisms and if there is no risk of harmful organisms spreading.

Article 46

Plant passport shall also be issued for the consignments of plants from export, which are, besides in the List V.B also included in the List V.A, even if it was determined in the phytosanitary inspection that they meet the prescribed requirements.

After completing the phytosanitary inspection of the consignment of plants, the phytosanitary inspector shall allow the movement of the consignment of plants to a destination within the country with the phytocertificate of the exporting country in which it shall be indicated that it is replacing the plant passport.

If a consignment of plants referred to in paragraph 2 of this Article is split up or is combined from several consignments of plants, or several parts of consignments of plants are combined in a single consignment of plants, or if the health status of consignment of plants has changed, a replacement of plant passport shall be issued.

The Ministry shall determine the method of marking referred to in paragraph 2 of this Article.

Article 47

Persons who have acquired the permit for issue of plant passport shall be under obligation to meet the obligations referred to in Article 24 of this Law.

If the persons referred to in paragraph 1 of this Article cease to meet the requirements for issue of plant passports, or obligations, the administrative authority shall revoke the permit for issue of plant passports.

Permit for issue of plant passport may also be revoked upon the request of the person for issue of plant passport.

Article 48

Buyer of the consignment of plants, who uses it for plant production, shall be under obligation to retain the plant passport for a year after the date of purchasing the consignment of plants and shall keep records of plant passports.

VI BIOLOGICAL PLANT HEALTH PROTECTION

Article 49

An autochthonous species of organism is a species which is naturally present in a given ecosystem.

The introduction, cultivation and use of autochthonous species of organisms for the purpose of biological plant protection in a protected zone or outside it shall be allowed based on the program by way of which the methods of biological plant health protection and the main implementing parties are determined.

Program referred to in paragraph 2 of this Article shall be adopted by the Government of the Republic.

Main implementing parties referred to in paragraph 2 of this Article may be companies or other legal persons and entrepreneurs who meet the requirements in respect of the personnel and the equipment and are entered in the Register of the parties implementing the biological plant protection.

Entry in the Register of the parties implementing the biological plant protection shall be made based on a request.

The Ministry shall specify more detailed requirements referred to in paragraph 4 of this Article.

Register of the parties implementing the biological plant protection shall be kept by the administrative authority.

The Ministry shall specify the form, content and method of keeping the Register of the parties implementing the biological plant protection, and the content of request referred to in paragraph 5 of this Article

Article 50

Introduced species of organisms is a species which men introduce in the ecosystem in which it was not previously present.

Acceptable for biological plant health protection shall be only those introduced species which are included in the list determined by the Government of the Republic.

Permit for importation and use of the introduced species of organisms referred to in paragraph 2 of this Article shall be issued by the administrative authority upon the approval of the administrative authority responsible for environmental protection.

Permit referred to in paragraph 3 of this Article may be issued to scientific and research institutions, for the needs of trials, research or development, in accordance with paragraph 3 of this Article.

In order to acquire the permit referred to in paragraph 3 of this Article, the applicant must comply with the requirements in respect of the space, equipment, and professional personnel.

Content of the application for permit referred to in paragraph 3 and the requirements referred to in paragraph 5 of this Article shall be determined by the Ministry, in agreement with the administrative authority responsible for environmental protection.

VII ENSURING THE PERFORMANCE OF ACTIVITIES OF PUBLIC INTEREST

Article 51

The activities of public interest related to health protection of plants (hereinafter referred to as: the activities of public interest) shall include:

1. monitoring of the health status of plants, including wild growing plants, for the purposes of collecting the data about occurrence, intensity of attack, population dynamics, and spread of harmful organisms for plants, plant products, and keeping of records;

2. collection of biological, meteorological and other data for forecasting the spread of harmful organisms;
3. forecasting the occurrence of harmful organisms, their development and movement of the population, and determination of the optimum timeframe for their suppression;
4. detection of harmful organisms;
5. laboratory investigations of plants, plant products and regulated articles with the purpose of diagnosing the harmful organisms from Lists I.A, II.A, I.B and II.B;
6. drawing up basic documents with personnel and material requirements with the purpose of determining the limits of the protected zone and the zone under special surveillance;
7. reporting about the incurrence, infection and spread of harmful organisms;
8. assessment of the risk from harmful organisms;
9. assessment of the needs to implement the preventive measures and measures on suppression of harmful organisms;
10. implementation of the surveys related to plant health protection;
11. provision of expert recommendations to the titleholders of plants related to plant health protection;
12. training of the titleholders of plants, service providers and other entities in respect of harmful organisms, phytosanitary measures and method of performing the tasks related to plant health protection;
13. preparation, organization and implementation of the programs for further professional training of the persons involved in plant health protection;
14. participation in the preparation and implementation of programs referred to in Article 6 paragraphs 4 and Article 14 paragraph 2 of this Law;
15. provision of the data for information system;
16. activities on suppression of harmful organisms or destruction of plants, plant products or regulated articles for which measures of destruction have been ordered;
17. activities on disinfection, insect and rodent control for the requirements of plant health protection; and
18. other professional and technical activities in the implementation of phytosanitary measures prescribed by this Law.

Article 52

Activities of public interest referred to in Article 51 items 1 to 4 and items 6 to 15 of this Law shall be performed by authorized institutions.

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

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

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

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

Mutual rights and obligations referred to in paragraph 5 of this Article shall be regulated by a contract.

Activities of public interest referred to in paragraphs 1 and 2 of this Article, concerning the plant protection in forestry, shall be assigned to be performed by legal and natural persons involved in forestry, in accordance with this Law.

Article 53

Authorizations referred to in Article 52 paragraphs 4 and 5 of this Law shall be revoked if authorized institutions and service providers cease to meet the prescribed requirements for performance of the activities of public interest, or if the administrative authority finds that they are performing the activities or providing the services contrary to the regulations.

Supervision over the performance of the activities of public interest shall be exercised by the administrative authority.

VIII FINANCING, COMPENSATIONS AND COMPENSATION FOR DAMAGE

Article 54

The funds required for the activities of public interest referred to in Article 52 of this Law shall be provided from the Budget of the Republic.

Article 55

Legal and natural persons shall pay the compensation for:

- 1) laboratory analysis and testing of official samples of plants, plant products and other regulated articles, which are conducted at the request of the competent inspector with the purpose of determining the health status of plants, in the event when the result of the analysis or testing is unfavorable for such legal or natural person, unless the law provides otherwise;
- 2) phytosanitary inspection of plants, plant products and regulated articles related to the movement within the Republic;
- 3) phytosanitary inspection of plants, plant products and regulated articles which are being imported;
- 4) phytosanitary inspection of plants, plant products and regulated articles which are being exported;
- 5) implementation of the systematic monitoring of the titleholders of plants.

Compensations referred to in paragraph 1 items 2, 3 and 4 of this Article shall be the revenue of the Budget of the Republic.

The Ministry shall determine the level of compensations referred to in paragraph 2 of this Article.

Compensations referred to in paragraph 1 items 1 and 5 of this Article shall be the revenue of the authorized institutions, or accredited laboratories.

Cost of the implementation of phytosanitary measures at the premises of titleholders of plants shall be borne by the titleholders of plants.

Article 56

A titleholder of plants who produces or processes the plants or plant products shall be entitled to the compensation for damage if he has:

- immediately notified of the occurrence or suspected occurrence of a harmful organisms from List I.A. or from List II.A, or, for the protected zone, from List I.B or List II.B, or an organism other than those included in such Lists which poses a risk for the plants in the territory of the Republic and in respect of which the Ministry has ordered the implementation of the measures of eradication or prevention of their spread;
- implemented all the measures of plant health protection ordered by the phytosanitary inspector.

Compensation for damage shall be paid out of the Budget of the Republic.

Compensation for damage referred to in paragraph 1 of this Article shall not be paid if a harmful organism is detected during the phytosanitary inspection of plants, plant products and regulated articles which are being imported in the Republic.

Procedure for payment of compensation for damage shall be instigated at the request of the titleholder of the destroyed or otherwise removed plants, plant products or other regulated articles.

To the claim for the compensation for damage which is being submitted to the administrative authority, a titleholder of plants shall append the administrative decision by way of which the measures which have caused the damage have been ordered.

Level of the compensation for damage shall be determined by the commission to be appointed by the administrative authority.

Administrative authority shall issue the administrative decision on the merits of the claim and level of the compensation for damage.

The Ministry shall specify the more detailed criteria for determination of the level of compensation for damage.

IX COLLECTION, USE AND EXCHANGE OF DATA AND INFORMATION

Article 57

With the purpose of analyzing and monitoring the plant health protection measures and keeping and maintaining the data base, the administrative authority shall collect the data and information from the databases kept with the government authorities, local government authorities and other persons, and in particular the data and information from:

- the register of agricultural producers and processors;
- the records of producers and processors of agricultural and food products;
- the register of companies;
- the register of tax payers (fiscal number);
- central register of population (name and surname, unique personal identification number, place and address of residence);
- land cadastre (number, boundaries and area of the land lot, the owner, the user, etc);
- statistical data bases for the agricultural and forestry land and forests (data about the land owned by the Republic and legal grounds for its use);
- customs data based about imports and exports of consignments of plants;
- databases of the Republic Hydro-meteorological Office.

Administrative authority may also use the topographical-cadastre plans, maps, survey maps and digital ortho-photographic charts and plans.

Article 58

At the international level, the administrative authority shall exchange the data and information, in particular about:

- the authority of government authorities related to plant health protection;
- border crossing, namely points of entry in which it is allowed to import the consignments of plants into the Republic;
- lists of harmful organisms;

- infection with and occurrence of harmful organisms from the lists prescribed on the basis of this Law, in the territory of the Republic, where their presence was not previously known, and about the measures implemented with the purpose of preventing their spread or eradication measures;
- occurrence, over-replication or spread of harmful organisms, which constitute a potential risk;
- occurrence of harmful organisms in a protected zone, due to which such zone was declared to be a protected zone;
- results of the systematic surveys in the protected zone;
- regulations passed on the basis of this Law;
- events of the bans due to incompliance with phytosanitary requirements;
- other data and information in accordance with this Law, at the request of international bodies and organizations.

The data and information referred to in paragraph 1 of this Article shall be disseminated in accordance with international conventions and international treaties.

X INSPECTION SUPERVISION

Article 59

Inspection supervision of the implementation of this Law and regulations issued on its basis shall be exercised by the administrative authority through phytosanitary inspectors, in accordance with the law.

Without prejudice to paragraph 1 of this Article, inspection supervision concerning the forest plants, forest nurseries and reproduction material, with the exception of forest plants and forest reproduction material that is being imported, exported or is in transit, shall be exercised by the Ministry through forestry inspectors, in accordance with the law.

1. Powers of the phytosanitary inspector

Article 60

In addition to the powers of inspectors provided for in the law that governs the inspection supervision, a phytosanitary inspector shall also have a power to:

1. carry out inspection of plants, plant products and regulated articles and order the measure for prevention of occurrence, detection, suppression and eradication of harmful organisms;
2. monitor and supervise the implementation of the Program of Reporting and Forecasting Activities, Program of Biological Plant Protection, annual programs of specific professional supervision and carrying out public works based on the powers vested in him;
3. supervise and inspect the plants, plant products and regulated articles;
4. take samples of plants, plant products and regulated articles in order to determine whether they are infected with harmful organisms;
5. check whether the producers, processors, importers, exporters, persons who store the prescribed species of plants and plant products, and distributors, are entered in the Register;
6. check whether the persons entered in the Register meet the requirements for entry in the Register, and fulfill the obligations referred to in Article 24 of this Law;
7. check the importation, growing and use of the organisms for biological health protection of plants;
8. carry out phytosanitary inspection of plants, plant products and regulated articles.

In addition to the powers referred to in paragraph 1 of this Article, a phytosanitary inspector exercising inspection supervision at a border crossing shall also have a power to:

1. upon previous phytosanitary inspection of the consignment and the accompanying documentation, allow importation, transit or storing of the consignment of plants, by issuing an administrative decision whereby for each individual consignment of plants it is separately determined that, based

on the prescribed requirements, there are no phytosanitary obstacles for their importation, transit or storing;

2. inspect and control the consignments of plants intended for exportation, if they are reloaded or stored in the registered storage places under the prescribed conditions at the border crossing, issue the phytocertificate or mark the consignment in the prescribed manner;
3. take samples of the consignment of plants and send them for examination to the authorized institution or accredited laboratory or conduct necessary examinations in the laboratory at the border crossing;
5. check and control the compliance with technical requirements at border crossings, storage places, customs warehouses, and customs-free zones, in respect of phytosanitary inspection;
6. keep records of export, import and transit consignments when they cross the country border;
7. monitor occurrence of harmful organisms in neighboring countries and notify the administrative authority about the information acquired.

2. Administrative Measures and Actions

Article 61

In addition to the administrative measures and actions provided for in the law that governs the inspection supervision, a phytosanitary inspector shall also be under obligation to undertake the following administrative measures and actions:

1. ban the importation of plants, plant products and regulated articles which are infected with harmful organisms indicated in the lists prescribed under this Law and other harmful organisms;
2. ban the importation and movement of plants, plant products and regulated articles which do not meet the relevant conditions in compliance with this Law;
3. ban the cultivation of prescribed species of plants for a specified time at the place of production;
4. order suitable treatment of a consignment of plants which is being imported, exported or moved, if he ascertains that they are infected with specified harmful organisms;
5. order the removal of only the infected part of a consignment of plants if there is no risk of harmful organisms spreading;
6. order that a consignment of plants may not be handed over to an importer, transporter or user, until a phytosanitary inspection has been carried out or until the results of laboratory examinations or official tests are known;
7. order the destruction of a consignment of plants during importation or movement if there is a risk of harmful organisms spreading or if the conditions under this Law are not met;
8. temporarily ban activities of producers or processors in whole or in part and the issue of plant passports until it is established that the danger of the spread of harmful organisms has been removed;
9. ban the issue of plant passports in cases in which conditions for the issue of these are not met;
10. ban the importation, cultivation or use of organisms for biological plant protection if conditions under this Law are not met.

XI PENALTY PROVISIONS

Article 62

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

1. does not protect and prevent contact with other plants, plant products and regulated articles (Article 12 paragraph 2),

2. provides or publishes data on the occurrence of a newly discovered harmful organism in the Republic without the approval of the administrative authority (Article 13 paragraph 3);
3. declares a certain area the protected zone contrary to the provisions of Article 15 of this Law;
4. acts contrary to the provisions of Articles 16, 17, and 18 of this Law;
5. imports and moves harmful organisms from Lists I.A, I.B, II.A, II.B, and plants, plant products and regulated articles from Lists III.A, III.B and IV.A and IV.B without the import permit and does not use them for trial and research purposes or for work on varietal selections (Article 19);
6. imports consignments of plants from List V.B without phytosanitary inspection of their packaging and means of transportation (Article 27 paragraph 1);
7. moves consignments of plants from List V.A without being issued a phytosanitary certificate based on a phytosanitary inspection (Article 40 paragraph 1);
8. introduces or moves consignments of plants from List V.A, section II, and seeds from List IV.A, within a protected zone without relevant plant passport (Article 43 paragraph 1);
9. for a consignment of plants which is accompanied by a plant passport, issues a replacement of the plant passport without the phytosanitary inspection in the event that health status of the consignment of plants has changed when the consignment was split up or its parts were merged into a single consignment (Article 44, paragraphs 1 and 2);
10. issues a plant passport even if phytosanitary inspection demonstrates that the requirements referred to in Article 39 are not met (Article 45 paragraph 2);
11. uses for biologic health protection the introduced types of organisms which are included in the defined list (Article 50 paragraph 2).

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

Article 63

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

1. acts contrary to the provisions of Articles 6 and 7 of this Law;
2. does not notify a phytosanitary inspector or administrative authority of the occurrence of harmful organisms or the symptoms suggesting the infection with harmful organisms of plants, plant products and regulated articles from Lists I.A or List II.A, and for protected zone, from List I.B or List II.B (Article 11 paragraph 1);
3. does not protect plants, plant products and regulated articles and does not prevent contact of plants with harmful organisms from List I.A and List II.A, or in protected zones from List I.B and List II.B, with other plants, plant products and regulated articles to which harmful organisms are transmittable (Article 12 paragraph 2),
4. without authorization provides or publishes data on the occurrence of a newly discovered harmful organism from List I.A and List II.A in the Republic, without the approval of the administrative authority (Article 13 paragraph 3);
5. produces, processes, imports, stores and distributes plants, plant products and regulated articles from List V.A and List V.B and it is not entered in the Register (Article 21 paragraph 1);
6. does not meet the obligations referred to in Article 24 paragraph 1 of this Law;
7. imports consignments of plants from List V.B without phytosanitary inspection of their packaging and means of transportation (Article 27 paragraph 1);
8. imports consignments of wooden packaging materials across a border crossing without customs office, namely where there are no facilities for completion of phytosanitary inspection (Article 26, paragraph 3 and 4);
9. issues a plant passport without being granted approval to issue plant passports by the administrative authority (Article 40 paragraph 2 indent 1);
10. issues a plant passport without meeting the obligations referred to in Article 24 of this Law (Article 47 paragraph 1).

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

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

Article 64

A company or entrepreneur may be fined between hundred and two hundred times the labor price in the Republic if it:

1. introduces consignments of plants in the territory of the Republic from List II.A, or in the protected zones from List III.B, if they originate in the countries from such Lists (Article 17 paragraphs 1 and 2);
2. does not retain plant passports for the consignment of plants purchased to be used in plant production and does not keep records about them in a proper manner (Article 48).

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

For a violation under the first paragraph of this Article, a natural person shall be fined fifteen times the amount of labor price in the Republic.

XII TRANSITIONAL AND FINAL PROVISIONS

Article 65

Movement of consignments of plants, after the date of accession of the Republic to the European Union, shall be deemed to be the movement within Member States.

After the date of accession of the Republic to the European Union, transit for the purposes of Article 3 of this Law shall be considered to be the transportation of the goods subjected to customs supervision from one place to another place within the European

Article 66

After the date of accession of the Republic to the European Union, the administrative authority shall notify other European Union Member States and the European Commission of all measures implemented in compliance with this Law and regulations issued on its basis.

Article 67

Provisions of this Law concerning the plant passport shall apply beginning with the 1st of January 2009.

Article 68

Without prejudice to paragraph 3 of Article 52 of this Law, laboratory investigations shall be conducted, until the 1st of January 2009, by the existing scientific and research institutions involved in the health protection of plants, as designated by the Ministry.

Article 69

Implementing regulations for this Law shall be issued not later than two years following the effective date of this Law.

Article 70

Until the regulations on the basis of the powers arising from this Law are passed, the regulations on the basis of the Law on Plant Protection ("Official Gazette of FRY", No 24/98) shall apply, unless they are in contravention to this Law.

Article 71

On the effective date of this Law, the provisions of the Law on Plant Protection ("Official Gazette of FRY", No 24/98) concerning the protection of plants against harmful organisms, health check of plants in internal trade and trade across the country border, shall cease to apply, with the exception of the provisions concerning the agents for plant protection and nourishment; the Law on Protection of Plants from Diseases and Pests ("Official Gazette of RM, Nos. 4/92, 59/92, 17/92, and 27/94) shall also cease to apply.

Article 72

This Law shall take effect eight days after its publication in the "Official Gazette of the Republic of Montenegro".