

LAW ON INTERNAL TRADE

I. BASIC PROVISIONS

Article 1

This Law shall regulate internal trade (hereinafter referred to as: trade), trade requirements and forms, protection against unfair competition in trade, and supervision over the application of this Law.

Article 2

Trade, for the purposes of this Law, shall mean the purchase and sale of goods and provision of trade services.

Article 3

Trade, in accordance with this Law, may be conducted by a company or an entrepreneur (hereinafter referred to as: the trader).

Article 4

The trader shall conduct trade on the market, freely and under equal conditions, in accordance with the law, ratified international treaties, and good business practices, in the manner which is not detrimental to other traders, consumers, or general interests.

Article 5

Acts issued by government authorities, local self-government authorities, or organizations discharging public authorizations shall not restrict trader's right to free access to the market, and shall not grant preferential treatment to any individual traders or buyers.

Article 6

The provisions of this Law shall apply mutatis mutandis to:

- 1) persons registered for a production activity, who sell their products on the market;
- 2) non-government organizations which, with the aim of achieving the goals defined by their articles of association, sell specific goods;
- 3) natural persons engaged in agricultural production, when they sell their agricultural products on the market, and other natural persons engaged in a business activity whose products can be a subject matter of sale;
- 4) natural persons who, based on a contract with a registered trader, engage in the retail of specific goods for the trader.

II. TRADE

1. Types of Trade

Article 7

- (1) The trade shall be performed as wholesale, retail, or provision of trade services.
- (2) The trade referred to in paragraph 1 of this Article may be conducted electronically, in accordance with the specific law.

1) Wholesale

Article 8

Wholesale shall mean the purchase of goods with the aim of selling it further to the traders, professional users, and other entities, not including the natural persons – end users.

Article 9

- (1) Wholesale shall be conducted in special premises, warehouses, and other spaces for wholesale of goods, on the marketplace for wholesale of goods, and at other places which are in conformity with prescribed requirements.
- (2) Wholesale may be conducted without retaining the goods in the wholesaler's warehouse (transit trade).
- (3) For conducting the trade referred to in paragraph 2 of this Article, the sale space and/or warehouse shall not be required.

Article 10

Wholesale may also be conducted on commodity markets, in accordance with the law.

2) Special Forms of Wholesale

Exclusive Distribution

Article 11

- (1) By the contract on exclusive distribution, concluded between the supplier, manufacturer or wholesaler (hereinafter referred to as: the manufacturer) and the retailer (hereinafter referred to as: the distributor), the manufacturer shall undertake to supply specific goods, with the aim of its further sale in a specific geographic area, and the distributor shall undertake to further sell such goods on his behalf and for his account, according to the sale rules set by the manufacturer.
- (2) The manufacturer may supply the same type of goods to other retailers in the geographic area for which he has concluded a contract on exclusive distribution, provided other traders do not sell such goods in the geographic area for which he had concluded a contract on exclusive distribution.

Selective Distribution

Article 12

By the contract on selective distribution, the manufacturer shall allow that sale of goods is conducted only by the distributors who comply with the manufacturer's specific requirements in respect of the professional competence of persons, after-sale services for the goods, the appearance and site of business space.

Franchising

Article 13

By the contract on franchising, the franchisor - a manufacturer, specialized wholesaler, or a factory which has developed a form of providing external services, shall assign, for a financial compensation, to the franchisee – a retailer or a service factory, the right to use the franchise with the aim of selling specific types of goods, and/or services.

3) Retail

Article 14

Retail shall mean the purchase of goods with the aim of their further sale to end users.

Article 15

- (1) Retail shall be conducted in the sale premises or at other sale places conforming to the prescribed requirements.
- (2) Other sale places at which retail is conducted shall include: stands - stalls, kiosks, automatic sale machines, mobile shops (street sellers with hand carts, etc) and similar.
- (3) Other sale places in the context of paragraph 2 of this Article may be organized in closed space or in the open, at the marketplace or outside the marketplace in accordance with the self-government's specific regulation.
- (4) Trade at other sale places shall be deemed to include the opportune sale (performances, trade fairs, exhibitions, etc).

4) Special Forms of Retail

Distance Trade

Article 16

Distance trade shall mean the retail through the means of distance communication within a sale network organized by a trader.

Trade outside Business Premises

Article 17

- (1) Trade outside business premises shall mean the retail which is conducted by offering the goods for sale in person to any present natural persons without such persons' request.
- (2) A trader may conduct the sale referred to in paragraph 1 of this Article directly or through the persons whom he has authorized to sell the goods to the consumers.
- (3) The sale in the context of this Article may be conducted by the traders registered for this form of trade.

Public Auction Sale

Article 18

- (1) Trade may also be conducted by organizing the sale of goods to the best offeror based on the public announcement and public competition at a specific place and specific time (hereinafter referred to as: public auction sale).
- (2) Public auction sale may be permanent or temporary.

Article 19

The requirements for organizing a public auction sale, the types of goods to be sold through a public auction sale, and the manner and procedures of sale shall be prescribed by the Government upon a proposal of the Ministry.

Sale on the Marketplace

Article 20

- (1) On the marketplace one may sell fruits and vegetables, products derived from cattle and poultry and other agricultural products, small craft products, household products, and other goods whose properties allow them to be exposed for sale on a marketplace.
- (2) On the farmers' market one may sell fruits and vegetables, products derived from cattle and poultry and other agricultural products.
- (3) A separate space may be designated on the marketplace for selling the second-hand goods.
- (4) At the special-purpose marketplaces, one may sell: cattle, heating wood, second-hand motor vehicles, second-hand auto parts, etc.
- (5) At the marketplace one may sell the goods whose properties are such that no special conditions of handling and storing are required.

2. Trade Services

Article 21

Trade services, for the purposes of this Law, shall include: the agency, intermediation, representation, consignment, stock exchange services, the goods warehousing, shipment and delivery services, the goods quality and quantity control services, the advertising and promotional services, the services of organizing trade fairs and exhibitions, the marketplace services, and other services that are common in trade.

Article 22

- (1) Agency services referred to in Article 21 of this Law shall be deemed to be the activities related to the conclusion of a contract on the trade in goods, in the name and on behalf of a client.
- (2) Intermediation services shall be deemed to be the activities on establishing a contact between the interested parties with the aim of concluding a contract on the trade in goods related activities.
- (3) The intermediation services may be provided along with the agency services, and vice versa, without making any additional entries in the register.

- (4) The agency and intermediation services referred to in paragraphs 1 and 2 of this Article shall include the services related to circulation of the immovable and movable property which are fixed assets of companies and entrepreneurs.

Article 23

Agency services shall be deemed to be the activities of conducting the circulation of goods and services, in the name and on behalf of a third person, and conducting the after-sale service and other technical services with regard to product maintenance and repairs.

Article 24

- (1) Consignment services shall be deemed to be the activities related to the sale of movable property in one's own name and on behalf of a client (a company, entrepreneur, or natural person).
- (2) Consignment services shall be performed separately from other business activities performed by a consignor (a company or entrepreneur).
- (3) Consignment services, where the clients are natural persons, shall be allowed for all kinds of goods, not including the following goods:
 - 1) food;
 - 2) products for which excise taxes are payable in compliance with the regulations on excise and turnover taxes;
 - 3) pharmaceuticals, medical products, cosmetics and toiletries;
 - 4) electro-technical goods, machines and other goods for which it was prescribed that, when in circulation, they must be accompanied with a guarantee list, technical instructions, and a list of authorized service shops.
- (4) The goods in consignment sale must be accompanied with the evidence of procurement.

Article 25

The goods warehousing related services shall be deemed to be the activities related to the storing and safeguarding the goods assigned, and performance of other activities and tasks which are common for warehousing services.

Article 26

Shipping services (carrier services) shall be deemed to be the activities related to goods shipping and delivery, and performance of other activities and tasks which are common for goods shipping and delivery.

Article 27

Goods quantity and quality control services shall be deemed to be the activities of goods quality and quantity examination and identification, and performance of other activities and tasks which are commonly performed along with these activities.

Article 28

Advertising and promotional services shall be deemed to be the activities related to communicating the sale messages about the goods in trade.

Article 29

The activities related to trade fair organizing shall be the activities related to organizing domestic and international trade fairs and business exhibitions.

Article 30

- (1) The market place services shall be deemed to be the providing of a specifically regulated and organized space which is in conformity with the requirements for selling the products which can be sold in the marketplace.
- (2) The marketplace services shall be deemed to be: the lease of the space referred to in paragraph 1 of this Article for product exhibiting, sale, and warehousing, inward and outward processing, use of handling devices, and the activities of controlling the warehoused products quality and quantity, etc.
- (3) Only wholesale may be performed in the wholesale market and only retail may be performed on the retail market.
- (4) The trader who provides the marketplace services shall regulate the marketplace specifying in more detail the rules for exhibiting the goods and the method of sale, as well as other rules for the performance of trade, in accordance with the regulations.
- (5) The marketplace regulation referred to in paragraph 4 of this Article shall be approved by the responsible self-government authority.

III. CONDITIONS FOR CONDUCTING THE TRADE

Article 31

- (1) For conducting the trade, conformity must be ensured with the following:
 - 1) minimal technical requirements to be met by business premises and other places of sale, the equipment and resources for conducting the trade, or other requirements depending on the type and specific forms of trade, and specific requirements depending on the type of the selling facility, or the type of goods in retail;
 - 2) general sanitary and health requirements to be met by business premises, equipment and resources for conducting the trade, or by persons who are directly handling the goods which can affect human health, in accordance with specific regulations.
- (2) The requirements referred to in paragraph 1 item 1 of this Article shall be prescribed by the ministry responsible for internal trade (hereinafter referred to as: the Ministry).
- (3) The Ministry shall prescribe the type of goods, and the manner and conditions for conducting the retail referred to in Article 6 paragraph 1 item 4 of this Law.
- (4) The Ministry shall prescribe the type of goods and the manner of conducting the trade referred to in Article 17 of this Law.

Evidence of the Procurement of Goods

Article 32

- (1) The evidence of the procurement of goods which is the subject matter of trade shall be the invoice issued in the prescribed form.
- (2) The evidence of the procurement of goods which the subject matter of the consignment sale shall be a certification about takeover of goods which indicates the data about the identification of goods and the data about the client.

- (3) The agricultural producer shall, for the agricultural products from his own production which are the subject matter of trade, provide the certification of origin which is issued by the local self-government authority responsible for agriculture related matters.
- (4) Other natural persons engaged in a business activity whose products may become a subject matter of sale, for the purposes of Article 6 paragraph 1 item 3 of this Law shall obtain from the responsible authority the evidence of the origin of products, in accordance with the specific regulation.
- (5) The goods which are the subject matter of trade must comply with the requirements prescribed for placement on the market (declaration, mark, accompanying documents, etc).

Notification

Article 33

- (1) Unless otherwise provided by the law, the trader shall notify the commencement of the performance of trade to the responsible inspection authority and municipal administration authority responsible for economy related matters, at least eight days before the commencement of operation.
- (2) The Ministry shall prescribe the content of the notification form and the register for record keeping referred to in paragraph 1 of this Article.

Article 34

Conformity with the prescribed requirements for the performance of trade shall be verified by the responsible inspection authorities within the procedure of regular inspection supervision.

Working Hours

Article 35

The working hours and the daily and weekly working hours schedule and the working hours during state holidays of shops and other places of sale, and working hours of the marketplace, trade fairs, exhibitions, and other modes in which trade is periodically performed, shall be prescribed by the responsible local self-government authority.

Article 36

- (1) The trader shall indicate the information about working hours in a visible and clear manner.
- (2) The trader shall abide by the indicated working hours.

Records

Article 37

- (1) The trader shall keep records about procurement and wholesale of goods, retail of goods, and provision of trade services (hereinafter referred to as: the records).
- (2) The records shall be kept for every place of wholesale, shop and other place of sale and business premises in which trade services are provided.
- (3) The records must be accessible to the responsible inspection authorities in the course of control in the business premises in which control is being performed.
- (4) The records shall be kept based on the evidence of procurement of goods and production of finished products and documents about the services ordered (the bill-invoice, receipt note, work order, order form, and other evidence) and based on the evidence of the sale of goods and provision of trade

services (bill-invoice, till slip, and other evidence containing the prescribed data about the goods and services sold).

- (5) The content and manner of keeping the records referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

IV. UNFAIR COMPETITION

Article 38

The activities and actions of unfair competition shall be forbidden on the market.

Article 39

Unfair competition, for the purposes of this Law, shall be deemed to be such trader's activities which, contrary to goods business practice, are or may be detrimental to other trader or the buyer.

Article 40

Unfair competition shall be deemed to be, specifically:

- 1) advertising, announcement, or offering of goods by indicating the data or using the expressions which create or may create misconceptions on the market about such goods, thus placing a specific trader in a more favourable position;
- 2) telling untruths about other trader which are detrimental to his reputation and business;
- 3) the sale of goods with marks or data which are or may be misleading for the trader in respect of the origin, method of production, quantity, quality, or other properties of the goods;
- 4) concealing the flaws of goods or otherwise misleading the buyer;
- 5) taking actions focused on the termination of business relationships between other traders or aimed at preventing, or impeding such relationships;
- 6) unauthorized use of other trader's outside marks, which creates or may create misconceptions in the circulation of goods to the detriment of other trader who uses such marks in his business;
- 7) granting to other trader the authorization to use one's own outside marks, if that create or may create the misconceptions on the market;
- 8) unauthorized use of the services of a travelling salesman, trade representative, or other trader's agent;
- 9) winning over the buyers or users of services by giving or promising gifts or other material gain or benefit whose value is considerably beyond the value of common advertising gifts.

V. SUPERVISION

Article 41

- (1) Supervision over the application of this Law and the regulations adopted based on this Law shall be exercised by the Ministry.
- (2) Inspection supervision over the implementation of this Law shall be exercised by the Market Inspectorate.

Article 42

In addition to the administrative measures and actions prescribed by the law governing the inspection supervision, the responsible inspector shall take the following measures and actions:

- 1) temporarily close a facility or other place of sale in which wholesale or retail is performed, if:
 - not complying with the prescribed requirements for performance of trade,
 - not holding the evidence of procurement for the goods which is the subject matter of trade;
- 2) temporarily seize the goods which the subject matter of trade and for which the trader does not hold the evidence of procurement.

VI. PENAL PROVISIONS

Article 43

- (1) A fine amounting to from fifty to three hundred times the amount of minimal salary in Montenegro shall be imposed for the offense on a company, or other legal person and entrepreneur, if:
 - 1) performing the trade in business premises or other places of sale which are not in conformity with the prescribed requirements (Art.15, 19, and 31);
 - 2) performing consignment services for the types of goods which are forbidden by this Law (Article 24 paragraph 3);
 - 3) not holding the evidence of procurement for the goods which is a subject matter of sale (Article 24 paragraph 4);
 - 4) not providing the marketplace services in a prescribed manner (Article 30 paragraphs 1 and 2);
 - 5) not holding the evidence of procurement for the goods which is the subject matter of trade (Article 32 paragraphs 1, 2, 3, and 4);
 - 6) not submitting the notification of the commencement of performance of trade to the responsible authority (Article 33 paragraph 1);
 - 7) not keeping the records in the manner prescribed by this Law (Article 37);
 - 8) taking any of the actions which constitute the unfair competition practices (Article 40 paragraph 1 items 5, 6, 8, and 9).
- (2) For the offence referred to in paragraph 1 of this Article, a fine amounting to from ten to twenty times the amount of minimal salary in Montenegro shall be imposed on the responsible person in legal person and the natural person.
- (3) In addition to a fine for the offense referred to in paragraph 1 items 2, 3, 5, and 6 of this Article, the offender may be pronounced a protective measure of seizing the goods which are the subject matter of offense.
- (4) In addition to a fine for the offense referred to in paragraph 1 items 1 and 4 of this Article, the offender may be pronounced a protective measure of banning the performance of trade from three months to one year.

Article 44

- (1) A fine amounting to from thirty to fifty times the amount of minimal salary in Montenegro shall be imposed for the offense on a legal person, other company and entrepreneur, if:
 - 1) performing the trade outside the business premises contrary to this Law (Article 17);
 - 2) not performing consignment services separately from his other business activities (Article 24 paragraph 2);
 - 3) not organizing the wholesale market in a different space than the retail market (Article 30 paragraph 3);
 - 4) not regulating the marketplace (Article 30 paragraphs 4 and 5);
 - 5) not indicating and abiding by the working hours (Article 36).

- (2) For the offence referred to in paragraph 1 of this Article, a fine amounting to from three to fifteen times the amount of minimal salary in Montenegro shall be imposed on the responsible person in legal person, and the natural person.

Article 45

For the offence referred to in Article 43 paragraph 1 items 1, 4, 7, and 8, and Article 44 of this Law, the responsible inspector may pronounce and collect a fine on site to:

- 1) the entrepreneur, in the value of two to five amounts of minimal salary in Montenegro;
- 2) the responsible person in legal person and the natural person, in the value of one to three amounts of minimal salary in Montenegro.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 46

- (1) Bylaws for implementation of this Law shall be enacted within three months after the coming into force of this Law.
- (2) Pending the enactment of the regulations referred to in paragraph 1 of this Article, the regulations enacted based on the law referred to in Article 47 of this Law shall apply.

Article 47

The administrative proceedings which were not effectively completed until the coming into force of this Law shall be completed in accordance with the provisions of the Law on Circulation of Goods ("Official Gazette of SRM", Nos. 6/78, 8/79, 34/81, 15/83, 17/87, and 19/89), or the Law on Trade ("Official Gazette of FRY", Nos. 32/93, 50/93, 41/94, 29/96, and 37/02).

Article 48

On the day of coming into force of this Law, the Law on Circulation of Goods ("Official Gazette of SRM", Nos. 6/78, 8/79, 34/81, 15/83, 17/87, and 19/89), and application of the Law on Trade ("Official Gazette of FRY", Nos. 32/93, 50/93, 41/94, 29/96, and 37/02) shall cease to apply.

Article 49

This Law shall come into force eight days after its publication in the "Official Gazette of Montenegro".

SU-SK No. 01-424/9
Podgorica, 29 July 2008

Assembly of Montenegro
Signed by Mr. Ranko Krivokapić, president