



**Republic of Montenegro  
BROADCASTING AGENCY**

***MEDIA LAW***

***I BASIC PROVISIONS***

***Article 1***

*Media shall be free in the Republic of Montenegro.*

*Censorship of media is prohibited in the Republic of Montenegro.*

*The Republic of Montenegro shall provide and guarantee freedom of information at the level of the standards as contained in the international documents on human rights and freedoms (the United Nations, the OSCE, the Council of Europe, the European Union).*

*This Law shall be interpreted and implemented in compliance with the principles contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms and shall be governed by the case law practice of the European Court for Human Rights.*

***Article 2***

*The Republic of Montenegro (hereinafter referred to as: the Republic) shall guarantee the right of free founding and undisturbed work of media based on: the freedom of expression; freedom of investigation, collection, dissemination, publicising and receiving information; free access to all sources of information; protection of man's person and dignity and free flow of information.*

*The Republic shall guarantee equal participation in information to both domestic and foreign legal and natural persons in compliance with both this Law and the Broadcasting Law.*

***Article 3***

*The Republic shall provide a part of the funding for realisation of the citizens' right to be informed as granted by the Constitution and law, without any discrimination whatsoever and on the basis of programmes important for:*

- science and education development;*
- development of culture;*
- informing people with hearing and sight impairments.*

*With the aim to realise the rights referred to in the previous paragraph, the Republic shall provide a part of the funding for programming in Albanian and languages of other national and ethnic groups.*

*The Republican Budget shall prescribe the amount of necessary funds and the manner and conditions of their allotment shall be prescribed by the act of the Republican administrative body competent for the information issues (hereinafter referred to as: the competent Republican authority).*

***Article 4***

*Media shall freely publicise information and opinions on matters, events and persons, in compliance with the Constitution, law and ethical codes of the journalism.*

*The Court shall rule at the emergency procedure on any case of violation of the freedom of information, granted by the Constitution and law.*

*Information at the disposal of legislative, executive and judicial authorities, companies and institutions empowered with public authority, shall be accessible to the public in accordance with special law on free access to information.*

#### **Article 5**

*A monopoly shall not be allowed in performing media activities.*

*The protection against the monopoly in media activities shall be provided by a separate law.*

#### **Article 6**

*As by provisions set out herein, media shall be defined as either a press, radio and television, news agency services, teletext or some other form of editorially formulated programming published periodically by means of the transmission of voice, sound or picture in a manner accessible to the public.*

*All kinds of information (news, announcements, opinions, reports and other information) and authorial works publicised by the media with the aim to inform and satisfy cultural, educational and other needs of the public as by provisions set out herein shall be defined as programming.*

*Any bulletins, catalogues and other publications intended exclusively for advertising, business communication, educational process or internal work of legal entities, religious, non-governmental and other organisations, school publications, "Official Gazette of the Republic of Montenegro", official gazettes of local authorities and other official publications, as well as posters, leaflets, advertising materials and signs, video pages without live picture as by provisions set out herein shall not be defined as media.*

#### **Article 7**

*The Republic, local authorities or legal entity the majority share of which is owned by the state, or completely or in a greater part funded from the public revenues, shall not be the founder of media, except under the conditions prescribed by the Broadcasting Law.*

### **II MEDIA FOUNDATION**

#### **Article 8**

*A medium shall be founded by a Deed of Foundation, freely and without obtaining any approval and shall be entered into the Media Record (hereinafter referred to as: the Record) kept by the competent Republican authority. A broadcast medium shall be founded in a manner and according to the procedure prescribed by the Broadcasting Law.*

*Every legal and natural person shall have the right to access the Record as well as right to obtain data from the Record.*

#### **Article 9**

*Application for entering into the Record shall be submitted either by the founder or a person authorised by the founder.*

*In addition to the application, the Deed of Foundation of the medium shall be submitted along with the following data:*

- *name of the medium and*
- *residence or seat of the founder of the medium.*

*The founder of the medium shall be obliged to inform, in written form, the competent Republican authority about any change of data referred to in the paragraph 2 of this Article, not later than 15 days from the moment of change.*

*The application procedure and the manner of the Record keeping shall be prescribed by the competent Republican authority without additional conditions other than the ones prescribed by this Law.*

### **III MEDIA DISTRIBUTION**

#### **Article 10**

*Distribution of domestic and foreign media shall be free in the Republic.*

*The founder of a medium or printing company is obliged to immediately submit one copy of each printed issue to the State Archive of the Republic of Montenegro.*

#### **Article 11**

*On the basis of the State Attorney's proposal, the competent court may ban the distribution of the publicised media programming that: invites forceful destruction of the constitutional system and violation of the territorial*

*integrity of the Republic; infringes on the guaranteed human and citizen's freedoms and rights; or instigates national, racial or religious intolerance or hatred.*

#### **Article 12**

*On the basis of the State Attorney's proposal, the competent court may adopt, in compliance with the Article 11 of this Law, the decision on temporary banning of the publicised programming distribution until the decision on the ban comes into effect.*

*The court shall decide on the issue based on the proposal referred to in the previous paragraph not later than 24 hours from the moment of its submitting.*

*The competent court is obliged to forward immediately the decision on temporary banning to the founder, printing company and distributor.*

#### **Article 13**

*The court proceedings instituted upon the proposal for the banning shall be urgent.*

*The court inquest shall be held not later than 48 hours from the submission of the proposal thereof.*

*The inquest within the court proceedings instituted upon the banning proposal may be held in the absence of duly invited parties, which shall be clearly indicated to in the summons conveyed to the parties.*

*The court shall decide upon the banning proposal immediately after the completion of the inquest, announce the decision without delay and deliver it to the parties within 48 hours.*

#### **Article 14**

*Provided that the court rejects the banning proposal or revokes the decision on temporary banning of the publicised programming distribution, it shall decide that immediately, within 12 hours, all undertaken measures are to be abolished.*

*The appeal of the State Attorney against the court decision, referred to in the paragraph 1 of this Article, shall not delay the execution of the decision.*

#### **Article 15**

*Provided that the court rejects the banning proposal, it is obliged to determine the pecuniary compensation for the damage caused by the unfounded temporary ban.*

*Forced execution of the decision on the damage compensation, referred to in the paragraph 1 of this Article, may be requested not later than 30 days from the day the decision comes into effect.*

*The damage, referred to in the paragraph 1 of this Article, shall be compensated from the Budget of the Republic.*

*The person who has suffered the damage may request in the judicial procedure to be compensated for the difference up to the amount of the actual damage suffered.*

#### **Article 16**

*The appeal against the decision of the first-instance court upon the banning proposal shall be submitted not later than 48 hours from the moment of the delivery of the transcript of the decision.*

*The first-instance court shall forward to the Court of Appeals a timely and legitimate appeal with all documentation not later than 48 hours from the moment of receiving the appeal.*

*The Court of Appeals may summon the parties to a hearing.*

*The Court of Appeals shall decide upon the appeal not later than three days from the day of receiving the appeal with documents.*

#### **Article 17**

*If not otherwise provided by the provisions of the present Law, the provisions of the Law on Criminal Proceedings shall be applied in the proceedings for the distribution banning of the publicised programming.*

### **IV OBLIGATORY DATA PUBLICISING**

#### **Article 18**

##### **a) Imprint**

*The imprint of a medium shall contain the name of the medium and name or company and residence or seat of the founder and shall be clearly separated from the rest of the medium's content.*

*The imprint of a print medium shall also contain the name and seat of the printing company, the date of publication or re-publication and the number of printed issues.*

*The imprint of radio and TV programme shall be broadcast at the beginning and the end of daily broadcasting, or between midnight and 2 a.m. if the programme is broadcast permanently.*

*The imprint of news agency service shall be publicised at least once a day.*

*Short imprint of a print medium shall be at the margin of every page and shall contain the name of the medium and the date of publishing.*

*Short imprint of a TV programme shall contain the identification of the TV programme and shall be broadcast during the whole programme.*

*Short imprint of radio-programme shall include the name of the radio-programme and shall be broadcast at least once in every two hours of programme broadcasting.*

*Short imprint of news agency shall include name of the service and date and time of issuing information and shall follow every publicised information.*

*Short imprint of other media as well as of publications and information repositories that are not media shall be publicised in an appropriate way in compliance with previous paragraphs of this Article.*

#### **Article 19**

*On the appropriate place of every individual programming, the medium is obliged to publicise the following data:*

- 1) date of production (month and year), in case of broadcast media programming;*
- 2) name of the author of published programming, if it is not differently requested by the author;*
- 3) name of the legal or natural person that is the copyright owner;*
- 4) name of the legal or natural person that keeps used object of cultural heritage or archive material or its corresponding reproduction;*
- 5) name of the medium whose programming or a part programming was taken, unless otherwise stipulated by mutual contract.*

### **V RIGHTS AND DUTIES IN THE DOMAIN OF INFORMATION**

#### **Article 20**

*Founder of the medium shall be accountable for every publicised programming if it is not differently regulated by the provisions of this Law.*

*If a medium publicises the programming that violates legally protected interest of a person referred to in the information, or that insults the honour or integrity of individual, gives or conveys untrue statements about his life, knowledge and abilities, or insults his dignity in any other way, the person interested shall have the right to press legal charges with the competent court against the author and founder of the medium for the compensation of damage.*

#### **Article 21**

*Any information gathered in an illegal manner shall be publicized only in the interest of national security, protection of territorial integrity or public safety, prevention of disorder or criminal and health or moral protection, as well as the protection of reputation or rights of others, prevention of credential information disclosure or with the aim to protect the authority and impartiality of the judiciary.*

*A journalist or media shall not be held accountable if, in the course of their work, they obtain or publicise the information that is considered to be state, military, official or business secret, if there is an overriding interest of the public to be informed.*

*A journalist and other persons who, in the course of gathering, editing or publicising programme contents, obtain information that could indicate the identity of the source, shall not be obliged to disclose to the legislative, judiciary or executive authority or any other natural or legal person the source of information that wants to remain unknown.*

#### **Article 22**

*Media shall protect the integrity of minors.*

*Any media programming that could endanger health, moral, intellectual, emotional and social development of a child shall be previously clearly and visibly marked as such and distributed in a way with the least possibility for a child to use it.*

*Media are forbidden to publicise the identity of a minor involved in a criminal act, either in the capacity of a victim or a defendant.*

*As an exception from the paragraph 3 of this Article, the identity of a minor, sentenced for a criminal offence by a final judgement, may be publicised if there is an overriding interest of the public to be informed.*

#### **Article 23**

*It is forbidden to publicise information and opinions that instigate discrimination, hatred or violence against persons or group of persons based on their belonging or not belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation.*

*The founder of the medium and the author shall not be held accountable if the information referred to in paragraph 1 of this Article is part of scientific or authorial work the subject of which is a public issue and is publicised:*

- without intention to instigate discrimination, hatred or violence, especially if that information is a part of an objective news report;*
- with intention to critically indicate the discrimination, hatred or violence or any phenomena which represent or might represent instigation to such behaviour.*

#### **Article 24**

*It is forbidden to advertise the sale and purchase of human organs or tissues for transplantation or transfusion. A medium shall not advertise weapons, narcotics, tobacco products, traffic of commodities and providing services prohibited by law, medicines and medical treatments available only with the medical prescription, curing procedures and methods that are not in compliance with the provisions of separate law on health care. Any advertisement of medicines or medical treatments shall be clearly recognisable and marked as such. While advertising alcoholic beverages, media shall observe the provisions of a separate law.*

#### **Article 25**

*Both media and journalists are obliged to report on the court proceedings in an objective and true manner. If a medium publicises that criminal charges has been brought against a certain person, that person shall have the right, after the completion of the court proceedings, to request that information on the final suspension of proceedings, denying or acquitting the charges is publicised. The request referred to in the previous paragraph shall be submitted to the medium not later than 30 days following the date of effective dismissal of charges or the end of criminal proceedings. The medium is not obliged to publicise the information or a part of information, referred to in the paragraph 2 of this Article, if the request for publicising the information was not accompanied by a final decision on the suspension of criminal proceedings; i.e. a final judgement that the charges have been denied or that the defendant has been acquitted, and the authorised person fails to deliver them before the deadline set for the submitting the request expires. All other issues with regard to the publicising of information, referred to in the paragraph 2 of this Article, shall be dealt with in accordance with the provisions of this law related to the right to correction and reply.*

## **VI THE RIGHT TO CORRECTION AND REPLY**

#### **Article 26**

*Each natural or legal person is entitled to make of a correction or reply when he considers that, by means of the programme publicised, his right granted by the Constitution or law has been violated. Publicising a correction or reply may be requested not later than thirty days from the day of publicising the programming. When publicising of a correction or reply is requested, it shall be stated which programming the reply or correction refers to and the date of its publicising. Both the correction and the reply shall be publicised free of charge.*

#### **Article 27**

*As by the provisions set out herein, a correction shall be defined as information used to correct wrong or untrue statements in the programme publicised. As by the provisions set out herein, a reply shall be defined as information denying, essentially correcting or supplementing, using arguments, the statements in the programme publicised.*

#### **Article 28**

*The correction or reply shall be publicised without any modification or addition and in the same column or a broadcast medium's programme, which publicised the programming, related to the correction or reply. The correction or reply shall be publicised in the first or the second print medium issue at the latest or in the first or the second subsequent broadcast media programming at the latest - after the receipt of the reply or correction. A correction or a reply shall not disproportionately exceed the length of the programming or a part of the programming it refers to.*

#### **Article 29**

*Publicising correction or reply may be requested if the programming has also been publicised by the medium, which stopped working.*

*Submitter of the correction or reply may request, from the founder of the medium referred to in the previous paragraph or his legal successor the publicising, at his expense, of the correction or reply in some other medium, which is, according to the range and quality of programming distribution, similar to the medium that stopped working.*

#### **Article 30**

*Medium is obliged to publicise a correction or reply to the publicised programming, except in the following cases:*

- 1) if a reply or correction does not refer to the programming which was the reason for claiming their publicising or does not contain actual data referring to the claims publicised in the programming;*
- 2) if a correction or reply denies the content of a publicised programming whose authenticity was verified by a valid decision of a competent authority;*
- 3) if a correction or reply was submitted by a person the programming does not refer to;*
- 4) if a correction or reply to the same programming has already been publicised at the request of the authorised person or if the reaction of the authorised person of the same content as the submitted correction or reply has already been publicised in the same medium, in some other equally valid form (interview, statement, etc.);*
- 5) if new correction or reply to the same programme was submitted, with the same content as the earlier one, and the proceedings with regard to publicising of the earlier submitted correction or reply is not finished;*
- 6) if a correction or reply does not refer to the programming, which the person claims to be correcting or replying to;*
- 7) if the content of a correction or reply is such that its publicising would result in medium distribution banning, criminal or penal accountability, or civil legal accountability toward third persons.*
- 8) if a correction or reply was not signed by a person authorised by a legal person or if a natural person who submitted correction or reply failed to write his identity card number and residential address on it.*
- 9) if a correction or reply disproportionately exceeds the length of a related programming and a submitter thereof rejects the written claim of editor-in-chief of the medium requesting appropriate shortening of the correction or reply.*

*If the medium rejects to publicise a correction or a reply to the programming which violated someone's right; if it simultaneously publicises comment of the correction or reply; if it fails to duly and timely publicise correction or reply as to the provisions of this Law - a submitter of the correction or reply shall be entitled to institute a law suit in a competent court against the founder of the medium.*

#### **Article 31**

*The proceedings upon the complaint for publicising a reply or correction shall be urgent.*

*The complaint shall be lodged not later than 30 days from the deadline set for publicising the correction or reply.*

*In addition to the complaint, a copy or duplicate of printed issue or, if possible, sound or video recording of the broadcast programming shall be submitted.*

*Upon receiving the lawsuit, at the request of the court, the founder of the broadcast medium, which publicised the programming, is obliged to immediately forward sound or video recording of the programming, with the threat of deciding to his detriment if he fails to do that without having a justifiable reason.*

#### **Article 32**

*In the litigation related to publicising a correction or reply, the process shall be limited to establishing facts relevant to the obligation of the medium to publicise the correction or reply.*

*The court shall reject the complaint or refuse the legal suit if it establishes the existence of circumstances when the medium is not obliged to publicise the correction or reply in compliance with the provisions of this law.*

*If the court adopts the legal suit, the defendant shall be ordered to publicise the correction or reply in due time and the manner regulated by the provisions of the Article 28 of this Law.*

#### **Article 33**

*The parties may lodge an appeal against the court's judgement not later than five days from the date of delivery.*

*The first-instance court shall forward a timely and legitimate appeal, with related documents, to the Court of Appeals not later than two days from the date of receiving the appeal, which is to be decided on by the Court of Appeals not later than five days from the date of receiving the appeal.*

*The attested copy of the final judgement, which orders publicising of the correction or reply, shall be immediately forwarded to the medium.*

#### **Article 34**

*A medium is obliged to keep all texts or broadcast recordings for at least 30 days upon their publication and to make them available to persons who may claim their right to correction or reply by provisions of this Law.*

**Article 35**

*In the litigation related to publicising a correction or reply, the provisions of the Law on Legal Proceedings shall be applied, unless otherwise provided by the provisions of this Law.*

**X FOREIGN INFORMATION ACTIVITY**

**Article 36**

*Foreign media branch offices and foreign information institutions shall perform the foreign media activity in a manner and under the conditions prescribed by the provisions of this Law.*

**Article 37**

*As to the provisions of this law, a foreign medium branch office shall be defined as legal entity with at least two correspondents who perform information activity.*

*A founder of foreign medium, in solidarity with the branch office, shall be accountable for the obligations ensuing from its activities, which shall be separately regulated by the Deed of Foundation.*

**Article 38**

*Foreign media branch offices shall be entered into the Record of Foreign Media Branch Offices kept by the competent Republican authority.*

*Application for registration of foreign medium branch office shall be submitted by its founder.*

*In addition to the application for registration of the branch office, the following data and documents shall be submitted:*

- 1) deed of foundation of the branch office.*
- 2) name and seat of foreign medium;*
- 3) seat of the branch office in the Republic;*
- 4) name and surname of the person in charge of the branch office;*

*Head of the foreign medium branch office is obliged to inform, in writing, the competent Republican authority about any change of data referred to in paragraph 3 of this Article, not later than 15 days from the date of change.*

**Article 39**

*Foreign states, international organisations and foundations may found their information institutions in the Republic on the basis of the contract between a foreign country, an international organisation or foundation and the Government of the Republic of Montenegro.*

**Article 40**

*Foreign information institution shall have the status of legal entity and shall be entered into the record of foreign information institutions kept by the competent Republican authority.*

*In addition to the request for registration, the following data and documents shall be submitted:*

- 1) foundation contract;*
- 2) name and seat of the institution;*
- 3) name and surname of the head of institution and authorised person representing the institution;*
- 4) type and range of the institution's activity.*

*Head of the foreign information institution is obliged to inform the competent Republican authority, in written form, about any change of data referred to in paragraph 2 of this Article, not later than 15 days from the date of change.*

**Article 41**

*Supervision of the lawfulness of foreign information activity performing shall be conducted by the competent Republican authority.*

*Before starting the procedure for banning the work of a foreign medium branch office or foreign information institution, the competent Republican authority is obliged to send them a written warning that, while performing information activity, they have failed to act in compliance with the Deed of Foundation, domestic or international positive legal provisions that regulate this field as well as to define a deadline for irregularities to be eliminated.*

*Upon the proposal of the competent Republican authority, the competent court may ban the work of a foreign medium branch office or the institution if it establishes that its activity is not in compliance with the Deed of Foundation, international contract and this Law.*

## **VIII PENALTY PROVISIONS**

### **Article 42**

*A fine chargeable from ten-fold to thirty-fold minimum salary in the Republic shall be imposed on a founder of the medium if:*

- 1) it fails to publicise the data referred to in the Articles 18 and 19 in a manner prescribed by this Law;*
- 2) a medium fails to keep texts or broadcast recordings, for at least 30 days after publicising and make them available to the persons who as by provisions set out herein have the right to correction or reply (Article 34);*

### **Article 43**

*A fine chargeable from twenty-fold to fifty-fold amount of minimum salary in the Republic shall be imposed on a medium founder if:*

- 1) it publicises an information obtained in an unlawful way contrary to the Article 21, paragraph 1 of this Law;*
- 2) it fails to protect the integrity of minors pursuant to the provisions of the Article 22 of this Law;*
- 3) it publicises information and opinions contrary to the provisions of the Article 23 of this Law;*
- 4) it publicises an advertisement contrary to the Article 24 of this Law;*
- 5) it fails to publicise the information about the result of criminal proceedings based on the final judgement (Article 25, paragraph 2);*
- 6) under the conditions prescribed by the provisions of this Law, it fails to publicise or provide publication of the correction or reply of a natural or legal person to the previously publicised information, which has infringed someone's right granted by the Constitution or law (Articles 26 and 29);*

### **Article 44**

*A fine chargeable from five-fold to ten-fold amount of minimum salary in the Republic shall be imposed on a print medium founder or printing company on the grounds of the infringement of the law if it fails to forward the first issues of every printed item to the State Archive of the Republic (Article 10, paragraph 2).*

### **Article 50**

*A fine chargeable from ten-fold to twenty-fold amount of minimum salary in the Republic shall be imposed, on the grounds of the infringement of the law, on the foreign information institution if it fails to notify, in written form, the competent Republican authority about the change of data referred to in the Article 40, paragraph 3 of this Law. The infringement, referred to in paragraph 1 of this Article, shall also be sanctioned on the person accountable in the institution and chargeable in the amount ranging from five-fold to ten-fold minimum salary in the Republic.*

## **IX TRANSITIONAL AND FINAL PROVISIONS**

### **Article 46**

*The foreign media branch offices and foreign information institutions are obliged to conform their activities with the provisions of this Law within 60 days upon the date of coming into effect of this Law.*

### **Article 47**

*Ownership and management transformation of legal entities involved in print media and publishing activity founded by the Republic or local authority shall be completed not later than 12 months from the date of coming into effect of this Law in compliance with the provisions of the Law on Ownership and Management Transformation and the Privatisation Law.*

*The funds for covering the expenses of the transformation of companies referred to in the paragraph 1 of this Article shall be provided from the Budget of the Republic or by the local authority.*

*Conforming the organisation and activities of legal persons involved in the broadcasting activity founded by the Republic or a local authority, shall be performed according to the deadlines and in a way prescribed by the provisions of a separate broadcasting law.*

### **Article 48**

*Administrative and supervisory boards of legal entities involved in print media and publishing activity founded by the Republic or local authority shall be appointed by the competent assembly, upon the proposal of the Government of the Republic of Montenegro or competent local authority, respectively not later than 30 days from the date of coming into effect of this Law.*

*The members of administrative and supervisory boards of legal entities, referred to in the paragraph 1 of this Article, shall not be: Members of Parliament or Municipal Assembly members; officials of political parties; persons appointed by the Government of the Republic of Montenegro or executive local authorities; persons with personal*



*interest in legal entities involved in print media and publishing activity and whose membership in these bodies could result in conflict of interests.*

*Administrative boards of legal entities, referred to in the paragraph 1 of this Article, shall have seven members and supervisory bodies shall have three members out of which one third shall be the representatives of employees.*

*Administrative boards of legal entities, referred to in the paragraph 1 of this Article, are obliged to appoint, by means of secret vote for one among several candidates, directors of legal entities and editors-in-chief of media on the basis of public competition, not later than 60 days from the date of coming into effect of this Law.*

*The programme policy of a medium, founded by the legal entity referred to in paragraph 1 of this Article, shall be adopted by the Managing Board, upon the proposal of the editor-in-chief of the medium.*

*The editor-in-chief of the medium referred to in paragraph 5 of this Article shall be accountable for the realisation of programme policy to the Managing Board.*

*The term of office of the members of administrative and supervisory boards, directors and editors-in-chief of media shall end with the day of termination of ownership and administrative transformation of legal entities referred to in the paragraph 1 of this Article.*

#### **Article 49**

*If legal entities involved in print media and publishing activity founded by the Republic or local authorities fail to appoint the administrative bodies and accountable persons within the deadlines prescribed by the provisions of this Law, public interest protection measures shall be introduced which shall be suspended only upon the appointment of the administrative bodies and accountable persons or the completion of the ownership and management transformation.*

#### **Article 50**

*Regulations as for the enforcement of this Law shall be enacted within 60 days from the date of coming into effect of this Law.*

#### **Article 51**

*On the day of enactment of this Law, the following regulations shall no longer be valid:*

- The Public Information Law ("Official Gazette of the Republic of Montenegro", No 4/98);*
- Regulation of the conditions for performing foreign media activity in the Republic of Montenegro ("Official Gazette of the Republic of Montenegro", No 39/98);*
- Regulation of the recording procedure, entry and keeping of register of public media in the Republic of Montenegro ("Official Gazette of the Republic of Montenegro", No 8/98);*

#### **Article 52**

*This Law shall come into effect eight days after the date of its publishing in the "Official Gazette of the Republic of Montenegro" and it shall be implemented from May 1<sup>st</sup> 2003.*

**No: 01-2808/2  
Podgorica, September 17 2002**

***The Media Law was adopted on September 16<sup>th</sup>, at the fourth extraordinary session of the Parliament of the Republic of Montenegro in 2002, and publicised in the "Official Gazette of the Republic of Montenegro", No. 51/02.***



*Republika Crne Gora*  
**AGENCIJA ZA RADIO-DIFUZIJU**

**LAW ON AMENDMENT  
TO THE MEDIA LAW**

*Podgorica, September 2004*



Republic of Montenegro  
BROADCASTING AGENCY

**LAW ON AMENDMENT  
TO THE MEDIA LAW**

*Article 1*

*In the Media Law ("Official Gazette of the Republic of Montenegro, No. 51/02) in the Article 52 the words "and it shall be implemented from May 1<sup>st</sup> 2003" shall be deleted.*

*Article 2*

*This Law shall come into effect eight days after the date of its publishing in the "Official Gazette of the Republic of Montenegro".*

*Number: 01-2808/4  
Podgorica, November 13<sup>th</sup> 2002*

*The Law on Amendment to the Media Law was adopted on November 12<sup>th</sup> on the third session of the second regular sitting of the Parliament of the Republic of Montenegro in 2002, and publicised in the "Official Gazette of the Republic of Montenegro", No. 62/02*

*MEDIA LAW*  
*THE COMMENT*

## COMMENT OF THE LAW

I

*One of the basic mechanisms for intensifying democratic processes in the Republic of Montenegro is the adoption of the appropriate legal framework in the media sphere in compliance with the European standards. Free flow of information among all social subjects establishes an efficient balance between administration, media and public interests and creates basic preconditions for development of civil society. As long as an active dialogue between competent state authorities on the one hand and media community and non-governmental sector on the other has been established in the Republic of Montenegro, the basic preconditions were met for establishing the Working group for Drafting Broadcasting Law and Media Law. The task of this Working group has been to propose the legal framework for complete and feasible media system reform in compliance with the international standards.*

*The Working group, involved in drafting of the media regulation, has established an active co-operation with the Council of Europe, the European Union, the European Agency for Reconstruction, the European Media Institute, "Article 19" Organisation and other international organisations interested in this process in the Republic of Montenegro. The activities on preparing the mentioned laws have been presented to the public and all received comments, suggestions and opinions of the interested subjects in the Republic of Montenegro were considered. Public discussions have also been organised.*

*Having supported the adopted goals and work methodology of the Working group, with the aim to support the media legislation reform in the Republic of Montenegro, the Council of Europe and the European Agency for*

*Reconstruction adopted, in August 2001, the Joint Initiative for providing help in realisation of activities in this field.*

*The aim of the mentioned initiative is to formulate and implement the legislation in compliance with the Article 10 of the European Convention on Human Rights and Fundamental Freedoms and Case law of the European Court for Human Rights. The starting point of the adopted initiative is that the Council of Europe in direct co-operation with other international institutions and organisations, primarily with the European Commission and OSCE, will monitor and professionally assist the entire process along with giving opinions with regard to the compliance of the legislation text with the European standards related to the media freedom.*

*At this point, the most appropriate solutions for a variety of issues faced by the media in the Republic of Montenegro have been proposed through the media regulation drafting process. The solutions proposed by the Media Law mostly depend on the achieved level of democratisation in the media field and on the European standards. That will create clear basis for future position of our media system within the European context, which will, according to the opinion of the Law drafters, intensify the process of media democratisation.*

*During the drafting of the Media Law, the Working group had in mind that the purpose of democratic changes and reforms in the media sphere must be the reinforcing of confidence in all institutions of system. Therefore, an issue of readiness of political parties and other social segments to support quick and efficient transformation of media sphere, especially state owned broadcast media into the citizens' public broadcasting services, remained open for the Working group. Future success of the activities related to the existing laws' and other media system regulations improvement will depend upon that determination.*

*Namely, with coming into effect of this Law as well as of the Broadcasting law and Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro", a new phase of development of legal system in this field will start, which will set the foundations for complete regulation and harmonious functioning of media system.*

*Estimating that it is not possible to have complete insight into the range of changes proposed by the Media Law in relation to the former Public Information Law without understanding the solutions given by the Bill of Broadcasting Law and the Law on Public Broadcasting Services "Radio of Montenegro" and "Television of Montenegro", the Working group believes that these laws, with the need for the adoption of the Law on Free Access to Information, complete the wholeness of the information system in the Republic*

*of Montenegro and create better conditions for its further democratic development. Foreign experts engaged by the Council of Europe and European Media Institute, during two expert missions, have confirmed the fact that normative solutions of the Media Law represent significant democratisation of relations in this field.*

*The Secretariat of Information of the Republic of Montenegro believes that the essence of proposed legal solutions can be understood by analysing the accompanying documentation consisting of: the European Convention for the Protection of Human Rights and Fundamental Freedoms, Case Law of the European Court for Human Rights and Council of Europe resolutions and recommendations related to the media.*

## **II**

*With regard to the Constitution of the Republic of Montenegro, which guarantees the freedom of press and other forms of public information, as well as the right of citizens to express and publicise their opinions in media along with the right to publish newspapers and be informed by other media, the Media Law gives the concept and methodology of development of these fundamental constitutional principles. In accordance with that, the Media Law follows the logic of establishing an obligation for the Republic to provide and guarantee such rights and freedoms.*

*Section I BASIC PROVISIONS (Article 1 to 8) – defines concepts and guarantees freedom of information in the Republic of Montenegro on the level of standards contained in the international documents on human rights and freedoms (the United Nations, OSCE, the Council of Europe, the European Union). It also prescribes that the law should be interpreted and implemented in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms using the precedence case law of the European Court for Human Rights.*

*The law prescribes that the Republic shall guarantee the right to free founding and undisturbed work of media as well as equal participation in information to both domestic and foreign legal and natural persons.*

*The Republic becomes obliged to provide a part of funds for the realisation of the citizens' rights to be informed as granted by the Constitution and law, without any discrimination whatsoever and on the basis of programming important for development of science and education; development of culture; informing people with hearing and sight impairments.*

*With the aim to realise the citizens' rights to be informed in their own language (Article 68 of the Constitution of the Republic of Montenegro) the obligation of the Republic to provide a part of funds for programming in Albanian and languages and alphabets of other national and ethnic groups is prescribed in the fields important for development of science and education; development of culture and informing people with hearing and sight impairments.*

*The amount of necessary funds for realisation of the mentioned rights will be prescribed by the Budget of the Republic, and the manner and conditions of the allocation shall be determined in compliance with the act of the Republican administrative body competent for information issues.*

*An emergency procedure is prescribed for the court rule on any case of violation of the freedom of information, granted by the Constitution and law.*

*It is prescribed that any information at the disposal of legislative, executive and judicial authorities, companies and institutions, which are granted competencies of a public authority are to be accessible to the public in compliance with a separate law on free access to information. Detailed elaboration of this basic position, according to the suggestions of the Council of Europe and other organisations that have sent their opinions and suggestions, is to be provided by the separate Law on Free Access to Information.*

*Basic provisions of this Law ban the monopoly in the field of information and foresee regulation of monopoly protection in the field of information by separate laws.*

*According to the new law, any bulletins, catalogues and other publications intended exclusively for advertising, business communication, educational process or internal work of legal entities, religious, non-governmental and other organisations, school publications, "Official Gazette of the Republic of Montenegro", official gazettes of local*

authorities and other official publications, as well as posters, leaflets, advertising materials and signs, video pages without live picture shall not be defined as media unless it is regulated differently by this Law.

For the first time, in compliance with the European standards, the ban is introduced for the Republic, local authority and legal entity with the majority shares owned by the state or completely or mainly financed from the public revenues to be the founder of media. The exception exists only in cases regulated by the Broadcasting Law, referring to the public broadcasting services. That is the basis of unconditional and quick transformation of all media founded by the Republic or local authorities i.e. state owned media.

**Section II MEDIA FOUNDATION** (Article 8 to 9), regulates the foundation and registration of media. As opposed to the current legal solution, it is predicted that register entry does not represent the act of foundation and basis for the beginning of work for media, but it is used only for verifying the existence of new medium. The medium is founded by a Deed of Foundation, freely and without obtaining any approval and is entered into the Media Register kept by the competent Republican authority, which has the character of public register. In this way, the recommendations of the Council of Europe have been mainly respected in the sense of eliminating any unnecessary administrative obstacles that could endanger the right of free media founding and consequently the freedom of information and expression.

Broadcast media will be founded in a manner and according the procedure regulated by the Broadcasting Law.

**Section III MEDIA DISTRIBUTION** (Article 10 to 17) guarantees free distribution of domestic and foreign media in the Republic. It prescribes the possibility that the competent court, on the basis of the State Attorney's proposal, may ban the distribution of a publicised media programming that invites to forceful destruction of the constitutional system and violation of territorial integrity of the Republic, infringes on the guaranteed human and citizen's freedoms and rights, or instigates national, racial or religious intolerance or hatred. Such determination is in compliance with the Article 10, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The judicial procedure based on the proposal for banning the distribution of the publicised programming is described in detail along with the established right to damage compensation in case the court rejects the banning proposal and the damage is caused by the measures resulted from unfounded temporary ban.

**Section IV OBLIGATORY DATA PUBLISHING** (Article 18 and 19) prescribes the obligation for all media in the Republic to publicise an imprint and short imprint, which must be clearly separated from the rest of the content of the medium and must contain the basic data about the medium. In order to protect the copyright owner, the obligation of media is prescribed to state data, on the appropriate place, regarding the author of the publicised programming, legal or natural person that is the copyright owner and name of legal or natural person that keeps used object of cultural heritage or archive material or its corresponding reproduction.

**Section V RIGHTS AND DUTIES IN THE DOMAIN OF INFORMATION** (Article 20 to 25) prescribes that the founder of the medium is responsible for each information published in the medium. Furthermore, the interested person is granted the right to press legal charges in the competent court against the author and the founder of the medium for the compensation of damage, if the publicised information damages his interest protected by law.

Basic provisions prescribe that information obtained in an illegal manner may be publicised only when they are in the interest of national security, protection of territorial integrity or public safety, preventing disorder or crime and protection of health or morals, protection of reputation and the rights of others, preventing the confidential information disclosure or aimed at the preservation of the authority and impartiality of the judiciary, which is in compliance with the Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

It is foreseen that journalist will not be held accountable if, in the course of his work, he obtains or publicises the information that is considered to be state, military, official or business secret, if there is an overriding interest of the public to be informed. It is also foreseen that journalist and other persons who, in the process of gathering, editing or publicising programming, obtain information that can indicate identity of the source, is not obliged to disclose to the legislative, judicial or executive authority or any other natural or legal person, the information identifying a source of published information who wants to remain unknown.

*The Law prescribes the obligation of protection of minors in media with special rules on programming that could endanger health, moral, intellectual, emotional or social development of a child. Moreover, media must not publicise the identity of a minor under the age of 18 involved in a criminal act, either as a victim or a defendant. In compliance with the recommendations received, an exception has been prescribed that the identity of a minor, sentenced for a criminal offence, may be publicised if there is an overriding interest of the public to be informed.*

*Taking into consideration that media can give positive contribution to the fight against intolerance, especially by developing the culture of understanding among different ethnic, cultural and religious groups in the society, with the aim to prevent the hate speech and promote tolerance and understanding, media are forbidden to publicise information and opinions that instigate discrimination, hatred or violence against person or group of persons based on their belonging or not belonging to certain race, religion, nation, ethnic group, sex or sexual orientation.*

*The Law forbids advertising the sale or purchase of human organs or tissues for transplantation or transfusion. It is also forbidden to advertise weapons, narcotics, tobacco products, traffic of commodities and providing services prohibited by the law, medicines and medical treatments available with the medical prescription only, curing procedures and methods which are not in compliance with separate law on health care. It is prescribed that advertisements for all other medicines and medical treatment must be clearly recognisable as such and true.*

*While advertising alcohol beverages, media must observe the provisions of a separate law related to all sorts of advertising (media, billboards...)*

*The Law prescribes the obligation of media and journalists to inform about judicial proceedings in an objective and true manner. In case of publicising the information that criminal charges were brought against a certain person, that person has the right, after the completion of the court proceedings, to request the publicising of information on the final suspension of proceedings, denying or acquitting the charges.*

*Section VI THE RIGHT TO CORRECTION AND REPLY (Article 26 to 35), is based on the constitutional right to reply and correction (Article 36 of the Constitution of the Republic of Montenegro) as well as on the need of the individual to be granted adequate means of legal protection from information that contain incorrect statements referring to him. In this way, legal measures are provided against publicising information in media – including facts and opinions – that represent interference in private life of an individual or attack to his dignity, honour or reputation.*

*The Law prescribes in detail the responsibilities of media, manner and deadlines for the realisation of the right to reply or correction, as well as the court proceedings if a medium refuses to publicise the reply or correction of information or publicises them inconsistently with law. The proceedings upon the complaint for publicising a reply or correction is urgent and media are obliged to keep all texts and broadcast recordings for at least 30 days upon their publication and to make them available to persons who may claim the right to correction or reply on the basis of the provisions of this Law.*

*Section VII FOREIGN INFORMATION ACTIVITY (Article 36 to 41) represents the result of need to regulate the issues, which were until now, temporarily, regulated by the Regulation on Conditions for Performing Foreign Media Activity in the Republic of Montenegro ("Official Gazette of the Republic of Montenegro", No. 39/98).*

*The legal solutions in this field make information system completes and closer to the quality of information in the developed European countries, with precisely established rules and obligations of subjects in performing foreign media activity. The proposed solutions and their application enable better flow of information between the Republic of Montenegro and the international public.*

*The Law prescribes the conditions for performing information activity of foreign media branch offices and foreign information institutions.*

*The possibility is foreseen that foreign states, international organisations and foundations may found foreign information institutions on the basis of contract between a foreign country, an international organisation or foundation and the Government of the Republic of Montenegro.*

*The obligation is prescribed that these institutions are to be entered into a record with the Republican administrative body in charge of the information issues.*



*Section VIII PENALTY PROVISIONS (Article 42 to 45) – Having in mind the importance of the field that is being regulated and the need to emphasise the responsibility of all subjects participating in the information system, penalty provisions are prescribed for the infringement of this Law in practice. It is prescribed that the responsible subjects for incriminated actions within this provisions are: 1) legal entities involved in information activity and responsible persons within them; 2) source of information; 3) author of information, etc. The penalties are prescribed within general legal minimum and maximum of pecuniary penalties prescribed by the separate Republican law.*

*Section IX TRANSITIONAL AND FINAL PROVISIONS (Article 46 to 52), regulates the relations emerging from the day of coming of this Law into effect. This section prescribes that ownership and management transformation of legal entities involved in print media and publishing activity founded by the Republic or local authority is to be completed not later than 12 months from the date of coming into effect of this Law in compliance with the provisions of the Law on Ownership and Management Transformation and the Privatisation Law. Conforming the organisation and activities of legal entities involved in the broadcasting activity, founded by the Republic or local authorities will be completed within the deadlines and in a manner prescribed by a separate broadcasting law. In accordance with that, it is prescribed that the administrative and supervisory bodies of legal entities involved in print media and publishing activity founded by the Republic or local authority is to be appointed by the competent assembly, on the proposal of the Government of the Republic of Montenegro, i.e. competent local authority, not later than 30 days from the date of coming into effect of this Law. Detailed conditions for the appointment of members of these bodies are given.*

*If the administrative bodies and responsible persons are not appointed in the legal entities founded by the Republic or local authority within the deadlines prescribed by this Law, it is prescribed that measures for public interest protection will be introduced and will be suspended only upon the appointment of the administrative bodies and accountable persons or the completion of the ownership and management transformation.*

*The 60 days deadline is prescribed, from the day of coming of this Law into effect, for the adoption of regulations as for the enforcement of this Law.*

### **III**

*The implementation of this Law will require providing funds in the budget of the Republic for the realisation of the citizens' rights to be informed, granted by the Constitution and law, without any discrimination whatsoever, and on the basis of the programming referred to in the Article 3 of the Bill.*

*This law does not have retroactive effect and will come into effect eight days after the date of its publishing in the "Official Gazette of the Republic of Montenegro".*