



Republic of Montenegro
BROADCASTING AGENCY

MEDIA LAW

Podgorica, June 2004



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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 sing 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 1st 2003.

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The Media Law was adopted on September 16th, 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.