

# **LAW ON CONSUMER PROTECTION**

The Law was published in the Official Gazette of Montenegro 2/2014, 6/2014, 43/2015, 70/2017 and 67/2019.

## **PART ONE BASIC PROVISIONS**

### **Subject matter**

#### **Article 1**

This Law regulates the protection of consumer rights in purchasing and in other forms of trade in products on the market, and in particular: the protection of economic interests, legal protection, informing and education, association of consumers for the protection of their interests, and other matters relevant to consumer protection.

### **Consumer and Trader**

#### **Article 2**

(1) For the purposes of this Law, the consumer shall mean a natural person who concludes a legal transaction or acts in the market outside his trade, business, craft or professional activity.

(2) For the purposes of this Law, the trader shall mean a person who, independently or through another person acting on his behalf or for his account, concludes a legal transaction or acts in the market within his trade, business, craft or professional activity.

### **Application of other regulations**

#### **Article 3**

(1) The provisions of this Law shall apply to relations between the consumer and the trader unless otherwise prescribed by a special law harmonised with the EU *acquis*.

(2) The obligations between the consumers and traders shall be subject to provisions of the law governing obligations, unless otherwise regulated by this Law.

### **Binding nature**

#### **Article 4**

(1) The consumer may not waive the rights conferred upon him on the basis of this Law.

(2) The provisions of agreements between consumers and traders that are contrary to the provisions of this Law, and to the detriment of the consumer, shall be null and void.

(3) In case of dispute, the provisions of this Law shall be construed in favour of the consumer.

### **Choice of foreign law**

#### **Article 5**

(1) The choice of foreign law as applicable law may not deprive a consumer residing in Montenegro of the protection he is entitled to in accordance with this Law.

(2) The provisions of this Law shall apply to the protection of consumer rights in the case of agreements on tourism services referred to in Article 90 of this Law for which foreign law is the applicable law if the subject matter of the agreement is real estate located in the territory of Montenegro.

(3) The provision of paragraph 2 of this Article shall also apply to the agreement that does not relate directly to the real estate, if the trader performs activities in Montenegro or otherwise focuses them in Montenegro, and the agreement has been concluded within the framework of that activity.

## Definitions

### Article 6

(1) The terms used in this Law shall have the following meanings:

- 1) **producer** means a person that manufactures goods, as well as the importer of goods or other person that presents himself as a producer by putting his name, trademark, or other mark on the goods;
- 2) **product** means a good or a service, including immovable property, rights and obligations;
- 3) **goods** means any tangible movable item, including water, gas, thermal energy and electricity, if sold in a limited volume or limited quantity, except for the items that are sold in the enforcement proceedings or other enforced proceedings;
- 4) **bulk commodities** means commodities which are not pre-packaged and are measured in the presence of the consumer;
- 5) **selling price of a product** means final price for a certain product, or a certain amount of products including the value added tax (hereinafter referred to as "VAT"), other taxes and duties;
- 6) **unit price** means final price, including VAT, other taxes and duties, per unit of measurement, in accordance with the law (kilogram, litre, meter, square meter, cubic meter or other measuring units usually used in Montenegro);
- 7) **durable medium** means any instrument which enables the consumer to store the information for personal use, in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored (paper, CD and DVD discs, USB flash sticks, memory cards or computer hard disc, e-mail, etc.);
- 8) **means of distance communication** means any means that may be used for the conclusion of a contract between the trader and the consumer without their simultaneous physical presence in one place, such as: addressed and unaddressed printed materials, standard letters and post-cards, press advertising with an order form, catalogue, telephone with and without human intervention, radio, videophone, videotext, telefax, television, internet, email, etc.;
- 9) **operator of a means of distance communication** means any person who within his or her activities or profession enables the trader to use one or more means of distance communication;
- 10) **commercial practice** means any act, omission, course of conduct or representation, commercial communication, including advertising and marketing, by a trader directly connected with the promotion, sale or supply of a product to consumers;

- 11) **code of conduct** means a rule or set of rules that are not regulated by the law or an act of a state administration body or a local self-government body that stipulates the behaviour of traders who undertake to be bound by the code in relation to one or more particular commercial practices or business sectors;
- 12) **code owner** means any entity, including a trader or group of traders, which is responsible for the formulation and revision of a code of conduct and/or for monitoring its implementation;
- 13) **professional diligence** means the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers, in accordance with good business practice and the general principle of good faith;
- 14) **to materially distort the economic behaviour of consumers** means using a commercial practice to impair the consumer's ability to make an informed decision, thereby causing the consumer to take a transactional decision that he would not have taken otherwise;
- 15) **undue influence** means exploiting a position of power in relation to the consumer so as to apply pressure, in a way which significantly limits the consumer's ability to make an informed decision, irrespective of whether force or threat were used;
- 16) **invitation to purchase** means a commercial communication which indicates main characteristics of the product and the price in a way appropriate to the means of the commercial communication used and thereby enables the consumer to make a purchase;
- 17) **transactional decision** means any decision taken by a consumer concerning whether, how and on what terms to conclude a transaction, make payment in whole or in part for, retain or dispose of a product or to exercise a contractual right, whether the consumer decides to act or to refrain from acting;
- 18) **regulated profession** means a professional activity or a group of professional activities, access to which or the pursuit of which, or one of the modes of pursuing which, is conditional directly or indirectly, upon possession of specific professional qualifications, in accordance with law;
- 19) **digital content** means data which are produced and supplied in digital form;
- 20) **financial service** means a banking service, crediting service, insurance service, voluntary pension insurance service, investment service, housing savings service and payment operations service;
- 21) **public auction** means a method of sale where goods or services are offered by the trader to consumers, who may attend the auction in person or through an intermediary, and which is done through a transparent bidding procedure run by the auctioneer, where the most successful bidder is bound to purchase the goods or service;
- 22) **ancillary contract** means a contract under which the consumer is provided the services related to a contract and which are provided by a trader or a third party, based on a contract with the trader, in particular:
- timeshare contract; or
  - long-term holiday product contract; or
  - distance contract; or
  - off-premises contract;
- 23) **sales contract** means a contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer, including a contract having as its object both goods and services, and the consumer pays or undertakes to pay the agreed price;
- 24) **service contract** means a contract by which the trader provides or undertakes to provide a service to the consumer and the consumer pays or undertakes to pay the agreed price;
- 25) **goods made to the consumer's specifications** means non-prefabricated goods made on the basis of an individual choice of or decision by the consumer;

26) **business premises** means immovable retail premises where the trader carries out his activity on a permanent basis or movable retail premises where the trader carries out his activity.

2) All terms used in this Law to denote natural persons in masculine gender shall imply the same terms in feminine gender.

## **PART TWO**

### **PROTECTION OF CONSUMERS' ECONOMIC INTERESTS**

#### **Title I**

#### **BASIC PROVISIONS ON SALE OF GOODS**

#### **SECTION A**

#### **PRODUCT INFORMATION**

#### **Information on goods and services**

#### **Article 7**

- (1) The trader must not offer or put in circulation the goods without the information about the goods (hereinafter referred to as the "information on goods"), in accordance with the law.
- (2) Unless otherwise defined by a special law, the information on goods shall comprise:
  - 1) the name under which the goods are sold, and the trade name, if any;
  - 2) the name and head office of the producer;
  - 3) the name and head office of importer, if the goods are imported;
  - 4) the name of the country of origin of goods, and
  - 5) information on quantity, composition, quality, type and model of goods, date of production, expiry date, method of use, maintenance and storage of goods, and information on possible risks related to proper and improper use of goods, depending on the nature of goods.
- (3) Data in the information on goods must be printed and written in a legible, clear, intelligible and easily identifiable manner.
- (4) Data in the information on goods referred to in paragraph 2 of this Article must also be indicated in Braille on certain products and in certain facilities.
- (5) The list of products and the method of displaying the information referred to in paragraph 4 of this Article, and the types of the facilities in which the data in the information on goods must also be indicated in Braille shall be prescribed by the state administration body in charge of consumer protection (hereinafter referred to as the "Ministry").
- (6) Removing or modifying data in the information on goods, and displaying of false data shall be prohibited.
- (7) The provisions of paragraphs 1 to 6 of this Article shall also apply to services in a way that the information on services, including the warnings on risks related to the provision of service, shall be displayed in the place where the service is provided, and/or offered, or in another manner accessible to the consumer.

## **Method of displaying information**

### **Article 8**

(1) The trader shall display the information on goods on each item, and for small size goods or goods inappropriate for displaying information, on the collective packaging and/or the place of sale.

(2) In the case of bulk goods, the information referred to in paragraph 1 of this Article, shall be displayed at the place of sale.

(3) The trader shall ensure that the information on goods or services, other information, documents of conformity and other documentation (user manual, installation manual, guarantee card, technical instructions, a list of authorised service centres, a warning about a possible danger in the use, etc.) accompanying the goods or services are identical to the original and written in a legible, clear, understandable and easily noticeable manner in the Montenegrin language.

(4) The information, other information, documents of conformity and other documentation referred to in paragraph 1 of this Article may also be written in another language including signs and pictograms easily understandable to the consumer.

## **Labelling used, repaired or defective goods**

### **Article 9**

(1) The trader shall physically separate the goods that are used, repaired or defective, or the goods whose service properties and characteristics are otherwise limited, and at the place where they are offered display legibly, clearly, coherently and visibly that it is "defective goods", "damaged", "close to expiration date" etc.

(2) If the goods referred to in paragraph 1 of this Article are sold in the place intended solely for the sale of that kind of goods, the indication referred to in paragraph 1 of this Article shall be displayed at the point of sale.

(3) The trader shall inform the consumer about the nature of defect, or limitations of service properties and characteristics of goods.

(4) The burden of proof that the consumer was provided all the necessary information referred to in paragraph 3 of this Article shall be on the trader.

## **Special cases of goods labelling**

### **Article 10**

(1) The trader shall visibly mark the goods that are displayed in the retail outlet and are not intended for sale as "not for sale", "sample" or "exhibit".

(2) The trader shall visibly mark the sold goods that are located in the retail outlet as "sold".

## **SECTION B**

### **DISPLAYING PRICES**

#### **Displaying the price of products**

##### **Article 11**

(1) The trader shall, legibly, clearly, coherently and visibly for the consumers, display the selling price and the unit price, for the products that are being sold or offered for sale, in accordance with this Law, except in the case of auction sale and sale of works of art and antiques.

(2) The unit price shall not be necessary to display if it is identical to the selling price of product.

(3) The unit price is not necessary to display when such displaying has no purpose because of the nature or purpose of the product, or if it could cause confusion among consumers.

(4) For bulk products, only the unit price shall be displayed.

- (5) If a particular type of pre-packaged goods can be expressed in net weight and net drained weight, it is sufficient to display only the unit price of the net drained weight.
- (6) When a part of a complex product is sold or offered for sale as a separate product, the trader shall display the price for that part of the product in addition to the price for the whole product.
- (7) The selling price and the unit price shall be displayed in Euro.
- (8) Except for the prices referred to in paragraphs 1 and 6 of this Article, other prices shall not be displayed on the product or at the point of sale, except in the case of sale benefits related to reduced prices, in accordance with this Law.
- (9) The list of food and non-food products or groups of products, for which it is not necessary to display the unit price in addition to the selling price, including the conditions and manner of product sale in accordance with paragraph 3 of this Article, shall be prescribed by the Ministry.

### **Manner of displaying the price**

#### **Article 12**

- (1) The trader shall display the established price on goods or on the packaging or in a place where the goods are being sold or offered, as well as on the goods in window.
- (2) The price on the goods shall be displayed in a way that:
  - 1) it is not misleading to the consumer with regard to the goods to which it relates;
  - 2) it does not damage the goods.
- (3) The trader shall establish the price of product or service provided in the price list or tariff.
- (4) If the trader offers a part of the service he provides (half serving when offering food in hospitality facilities and other facilities), the trader shall be obliged to indicate the price for that service.
- (5) The price list or tariff shall be displayed in the place where the service is provided or offered, or in another manner that is easily accessible to the consumer.

### **Adhering to displayed prices**

#### **Article 13**

The trader shall adhere to the displayed and established prices.

### **Displaying prices for sale benefits**

#### **Article 14**

- (1) If the product is sold or offered at a reduced price referred to in Articles 30 and 31 of this Law, the trader shall, in legible, clear, intelligible and easily noticeable manner for the consumer, display the price applicable before the reduction and the reduced price.
- (2) If the price referred to in paragraph 1 of this Article changes several times, the reduced price shall be expressed in relation to the lowest price applicable in the last 30 days.

### **Displaying the price in advertising**

#### **Article 15**

When advertising the prices of products, the trader shall display prices in accordance with this Law and the law regulating advertising.

### **Gas stations and car parks**

## **Article 16**

The trader shall:

- 1) display the unit price of fuel at gas stations in a manner that will allow a person driving a motor vehicle towards the gas station to notice the price easily and in a timely manner;
- 2) display the selling price for the service of parking of motor vehicles or renting of parking spaces, in a manner enabling a person driving a motor vehicle towards the car park to notice the price easily and in a timely manner;
- 3) ensure that when providing services of parking of motor vehicles or renting of parking spaces, availability of free spaces may be easily and timely noticed.

## **SECTION C OTHER OBLIGATIONS OF THE TRADER**

### **Fulfilment of the contract**

#### **Article 17**

When selling the product the trader shall deliver the product to the consumer:

- 1) in the requested amount, when that amount is available, unless otherwise defined by the law;
- 2) in the exact measure or quantity;
- 3) of prescribed or agreed quality, and if the quality has not been prescribed or agreed, of the usual quality;
- 4) together with information on goods or services, certificates of conformity, other documentation and information, in accordance with the law;
- 5) at the price calculated in accordance with the prescribed or determined criteria, or at the agreed price;
- 6) in a manner and within a deadline set by the law or the contract.

### **Presentation of features and characteristics of a product**

#### **Article 18**

- (1) At the request of the consumer, the trader shall present him with features and characteristics of the offered product.
- (2) The trader shall, on request, present the consumer with the product and/or manner of its use, if the nature of the product allows it.

### **Invoice**

#### **Article 19**

- (1) A trader shall issue to the consumer an invoice for the purchased product.
- (2) The invoice referred to in paragraph 1 of this Article shall be clear, understandable, easily legible, in the Montenegrin language and of prescribed content, in accordance with the law.
- (3) For products that are delivered within the meaning of Article 24 of this Law, the invoice must also specify the place and date of delivery.
- (4) In the invoice for the goods that have been used, repaired or are defective, or the goods whose service properties and characteristics are otherwise limited, it must be indicated that those are that kind of goods.

(5) If the consumer was granted discount when purchasing a product, the price for that product exclusive of discount, the amount of discount in percentage and the amount to be paid must be indicated on the invoice.

(6) The trader shall, along with the invoice for the product purchased, return to the consumer difference between the amount of the invoice and received money in any denomination.

### **Offer of repair and maintenance of product**

#### **Article 20**

- (1) For repair or maintenance of a product whose value exceeds EUR 40.00, the trader shall deliver to the consumer the offer with specification of description of works, necessary material and parts for repair.
- (2) If during repair and maintenance of the product, the need arises for additional work and installation of additional material and parts, which would increase the cost of service by more than 10%, the trader shall obtain prior written approval from the consumer, given personally or by means of distance communication.
- (3) The accepted offer referred to in paragraph 1 of this Article shall be signed by the trader and the consumer, and one copy thereof shall be given to the consumer.
- (4) Along with the invoice for rendered service referred to in paragraphs 1 and 2 of this Article the trader shall issue the specification of completed works, used material and parts for repair.

### **Availability of spare parts and service**

#### **Article 21**

When offering and selling the technical goods, the trader shall inform the consumer in writing on the availability of:

- 1) spare parts, connecting devices and similar parts, during or after termination of production or import of goods;
- 2) technical servicing or maintenance and repair during and after termination of production or import of goods.

### **Material for packaging**

#### **Article 22**

(1) The trader shall provide the consumer with the appropriate material for packaging in accordance with the type and properties of goods.

(2) The weight of the packaging material shall not be taken into account when calculating the net weight of the goods.

(3) The trader may, at the request of the consumer, provide special packaging and shall previously inform the consumer about the price of special packaging, provided that the price of the packaging may not exceed the selling price of the material used for packaging.

(4) Bags and handbags used for carrying purchased products and bearing fully or partly a logo, mark, slogan and/or the name of the manufacturer or trader shall be considered as promotional material. Such packaging may not be charged by the trader .

### **Documentation accompanying the goods**

#### **Article 23**



(1) The trader shall along with the goods deliver to consumer the documentation accompanying the goods (use manual, installation instructions, guarantee card, etc.), as well as other documents provided by the manufacturer.

(2) The documentation referred to in paragraph 1 of this Article shall be issued in accordance with technical and other regulations and must be written legibly, clearly and in an easily understandable manner.

(3) The translation of documentation referred to in paragraph 1 of this Article must be identical to the original text.

### **Delivery of product**

#### **Article 24**

- (1) If the trader offers delivery of products to the address and place determined by the consumer, and delivery is made for a compensation, he shall previously inform the consumer on the price and the manner of delivery.
- (2) If the consumer has not been previously informed about the price and manner of delivery, it shall be deemed that the delivery (transportation, postal charges, etc.) is to be made free of charge, and that the product is to be delivered to the address and place determined by the consumer.
- (3) The burden of proof that the trader previously informed the consumer on the price and manner of delivery shall be on the trader.
- (4) The trader shall, without delay, deliver a product after it has been paid for, unless otherwise agreed.

### **Notice of Outstanding Pecuniary Claims**

#### **Article 24a**

The trader may not charge for the issuance of notice for the purpose of collection of pecuniary claims.

### **Consumer complaint**

#### **Article 25**

- (1) The consumer shall be entitled to file complaint to the trader from which the product was purchased, in case of lack of conformity of the product with the contract, regarding the guarantee issued, about the invoice for the purchased products and for other similar reasons, in accordance with the law.
- (2) The purchase of the product referred to in paragraph 1 of this Article may be established on the basis of invoice for the purchased product, sales contract, guarantee card or in another appropriate manner (excerpt from the fiscal cash register, business and other relevant documentation).
- (3) The complaint referred to in paragraph 1 of this Article shall be submitted on paper or on another durable medium accessible to the consumer.
- (4) Trader shall, in the selling facility in a visible place, display information on the manner and place of filing complaint, or he shall, when concluding the contract, inform the consumer thereof in another appropriate manner.
- (5) The burden of proof that the obligation referred to in paragraph 4 of this Article has been fulfilled shall be on the trader.
- (6) The trader shall maintain records on complaints referred to in paragraph 1 of this Article and keep it for at least two years from the day he received the consumer complaint.

- (7) The records referred to in paragraph 6 of this Article shall contain information on the complainant and date of receipt of complaint, product, subject-matter and claim from the complaint, as well as the date of issuing of confirmation referred to in Article 27 paragraph 4 of this Law, and shall be kept in the form of hardbound book with numbered pages or in electronic form.
- (8) The trader shall be obliged to ensure the presence of a person authorized to receive the complaints at a place for submission of complaints during the working hours.

### **Time limit for submission of complaint**

#### **Article 26**

The consumer may submit the complaint:

- 1) In case of lack of conformity of the product with the contract, within the time limits referred to in Article 49 of this Law;
- 2) In case of provided guarantee, within the time limit set out in the guarantee card;
- 3) about the invoice immediately and no later than eight days from the day of payment of the invoice, and for services referred to in Article 35 of this Law within 15 days from the day of receipt of invoice.

### **Resolution of complaints**

#### **Article 27**

- (1) The trader shall be obliged to respond to the consumer without delay and no later than eight days from the receipt of complaint, in writing, on paper or on another durable medium accessible to the consumer, with his opinion on the content of the complaint, containing the proposal for its resolution.
- (2) If the complaint is not resolved immediately, the trader shall be obliged to issue a written confirmation of receipt of complaint to the consumer.
- (3) The burden of proof that the consumer was issued the confirmation referred to in paragraph 2 of this Article shall be on the trader.
- (4) The confirmation referred to in paragraph 2 of this Article must contain data from the records referred to in Article 25 paragraph 7 of this Law, as well as the date of issuing the confirmation.

## **SECTION D**

### **SALES BENEFITS**

#### **Types of sales benefits**

#### **Article 28**

- (1) Sales benefits shall mean selling or offering product on more favourable terms compared to regular or previous offer, more specifically: price reduction (discount, clearance sale, special offer and promotional sale), specific sales conditions, promising rewards, addition product free of charge (accompanying gift), participation in prize contests, and other benefits, in accordance with the law.
- (2) The trader shall be obliged to adhere to the established and posted conditions of sale benefits.

## **Prohibited advertising**

### **Article 29**

- (1) The advertising of goods and services that misleads or may mislead the consumer shall be prohibited; advertising that discriminates between the consumers on the grounds of sex, race, national or religious affiliation or disability, offends the dignity of the consumer, encourages violence or behaviour that is detrimental to the safety and health of consumers or to the environment shall be prohibited.
- (2) The advertising that endangers the health, mental or moral development of minors shall be prohibited.
- (3) It shall be prohibited to use comparative, fraudulent and untruthful propaganda and advertising messages, which in a misleading way promote products or services, augmenting the effects they have or the results arising from their use. The use of dubious claims regarding nutrition and the impact that products, especially food products, can have on people and human health, creating the illusion of a positive effect, which has not been scientifically confirmed, shall be prohibited.

## **Discount and clearance sale**

### **Article 30**

- (1) Discount of the product price shall mean the sale of product at reduced price.
- (2) Clearance sale of the product shall mean the sale of the product at reduced price in case of discontinuance of trading in the retail outlet or discontinuance of trading in a particular product in the retail outlet.
- (3) Clearance sale referred to in paragraph 2 of this Article may be organized on condition that the trader shall not continue with trading in the same retail outlet, or trading in the same product within the time period which may not be shorter than three months from the end date of clearance sale.
- (4) If the percentage of price reduction is indicated in a range, the trader shall be obliged to determine the highest percentage of reduction at the beginning of the discount or clearance sale for at least one fifth of the value of all products put on sale at a discount or on clearance sale.
- (5) Paragraph 4 of this Article shall not apply to the trade carried out in accordance with the provisions of this Law on the conclusion of off-premises and distance contracts.
- (6) The prices of products at a discount or on clearance sale shall be displayed in accordance with Articles 11 to 15 of this Law.

## **Special offer and promotional sale**

### **Article 31**

- (1) Special offer sale shall mean the sale of specific quantity of specific product of specific producer at specific time at specific location, at reduced price.
- (2) Promotional sale shall mean the special offer sale to promote new product.
- (3) The product referred to in paragraphs 1 and 2 of this Article must be marked legibly, clearly, coherently and in an easily noticeable manner with words "special offer", or "special offer sale", or "promotion" or "promotional sale".

- (4) The prices of products on special offer or promotional sale shall be displayed in accordance with Articles 11 to 15 of this Law.

### **Special conditions of sale**

#### **Article 32**

- (1) Special conditions of sale shall mean sale benefits that a trader is granting specifically for:
- 1) specific groups of consumers (owners of consumer card, retired persons, students, children of specific age etc.);
  - 2) specific products (payment by instalments, discount etc.).
- (2) The trader shall be obliged to display the special conditions of sale in a legible, clear, understandable and easily noticeable manner at the point of sale or at the point of offer.

### **Special sale benefits**

#### **Article 33**

- (1) The provisions of this Law on conformity of goods and guarantees shall apply *mutatis mutandis* to products obtained as a reward or for participating in a prize contest, as well as to accompanying gifts.
- (2) The trader who promises the accompanying gift to the consumer during advertising of a product shall be obliged to deliver such product to the customer within the time limit and in the manner specified in the advertisement and/or in accordance with the law.
- (3) Any delivery of a product or provision of a service not previously ordered, to a consumer, shall be considered to be a promotional gift from the trader.
- (4) If the goods with limited service properties and characteristics are the object of sales benefits, the trader is obliged to point out such fact on the goods in the manner referred to in Articles 8 and 9 of this Law.
- (5) For the goods at a discount, on clearance sale or promotional sale due to expiration of shelf life, the expiration date of expiration of shelf life must be displayed in a legible, clear, coherent and easily noticeable manner.

### **Informing and advertising of sale benefits**

#### **Article 34**

- (1) Advertising of sales benefits must contain:
- 1) type of sales benefits;
  - 2) precise and clear identification of the product to which the sales benefits relates;
  - 3) period of duration of benefit, with an indication of starting date and end date, if any;
  - 4) total costs related to obtaining or collecting product, including delivery, or an indication that the costs shall be borne by the consumer, if any;
  - 5) other conditions related to exercising the right to sales benefits.
- (2) If a voucher, coupon or some other means for exercising the right to benefits is issued, in addition to the information referred to in paragraph 1 of this Article, this means shall also contain information on the issuing party, as well as pecuniary value or the amount of reduction.
- (3) If it is not possible to have at the same time in the offer all the information referred to in Article 1 paragraphs 2 to 5 of this Article, the trader shall be obliged to provide, free of charge, such data to the consumer in another manner before the purchase of product provided in that offer.

**Title II**  
**SERVICES OF PUBLIC INTEREST**

**The rights of consumers to use services of public interest**

**Article 35**

(1) The services established by the law such as the distribution and supply of electricity, gas, thermal energy and water, waste water treatment and disposal, cleaning in cities and other settlements, municipal waste disposal, maintenance of graveyards and burial services, chimney sweeping servicing and other communal services, transport of passengers, electronic communication services, postal and other services shall be considered as services of public interest.

(2) The consumer shall be entitled to:

1) access to and use of service of public interest under equal conditions, if it is technically possible and without discrimination;

2) access and uninterrupted use of service of public interest under conditions laid down by the law or contract;

3) bill containing all information that enables the consumer to check the calculation of provided services;

4) billing control free of charge;

5) change of provider of service of public interest free of charge, if possible.

(3) The bill referred to in paragraph 2 point 3 of this Article must also contain the amount of outstanding due debts for the prior periods, with separately disclosed amount of the debts which are more than two years old, including the amount of interest and the period it relates to if the interest has been charged.

(4) The trader shall, upon the request of the consumer, within eight days from the date of submitting the request, provide a detailed report on the outstanding due debts referred to in paragraph 3 of this Article.

**Terms of use**

**Article 36**

(1) Prior to the provision of the service of public interest, the trade shall inform the consumer of terms of use, and in particular of:

1) established price or tariff, types of compensations for utilization and maintenance if the trader also provides the maintenance service, with indicated discounts the customer is entitled to and special tariff items or elements, and of the charges and time period for connection to the distribution network;

2) method for having insight into the current prices, or tariff, and maintenance rates;

3) method of exercising the right to compensation, or reimbursement of paid amount if the provided service does not correspond to the prescribed or agreed quality.

(2) The trader shall publish the terms referred to in paragraph 1 of this Article and changes thereto, in at least one daily newspaper distributed throughout Montenegro and display it in its business premises.

(3) The trader referred to in paragraph 1 of this Article shall, prior to determining the prices of services of public interest, ask for the opinion of the organisations for the protection of consumers (hereinafter referred to as the "consumer organisations") which are entitled to file a collective action referred to in Article 168 of this Law.

(4) The consumer organisations shall provide the opinion referred to in paragraph 3 of this Article, upon the trader's request, within 15 days from the day of receipt of the request.

- (5) The trader shall inform the consumer of the changes in prices and other terms referred to in paragraph 1 of this Article no later than 30 days prior to the commencement of their application.
- (6) The price of service of public interest shall be calculated on the basis of actual consumption, if technically possible, using the established tariff or price list.

### **Conclusion of the contract for the provision of public service and connection to a distribution network**

#### **Article 37**

(1) The trader shall conclude the contract on the provision of service of public interest referred to in Article 35 paragraph 1 of this Law with the consumer in writing.

(2) The trader providing the service of public interest referred to in Article 35 paragraph 1 of this Law shall enable to the consumer the connection to the distribution network and the use of connection and network under the terms which are known and negotiated in accordance with the law, without discrimination and under equal terms.

### **Quality of service of public interest**

#### **Article 38**

The trader shall provide the quality of service of public interest, in accordance with the law and contract.

### **Modernization of a distribution network**

#### **Article 39**

The trader providing the service of public interest through the distribution network may not calculate in the price of the service the costs of construction, reconstruction and modernization of distribution network, unless the law stipulates otherwise.

### **Electricity, gas, water and heating**

#### **Article 40**

The trader who is offering or advertising provision of service of supply of electricity, gas, water or heating services, shall be obliged to clearly indicate in the offer or in the advertisement the unit price, the price of other accompanying elements, in accordance with the special rules, which are not calculated according to consumed quantity, as well as the price for connection to the distribution network.

### **Prohibition of suspension of provision of service and enforced collections**

#### **Article 41**

(1) If the amount of the bill is disputed in the judicial, out-of-court or administrative proceedings, and the consumer regularly pays the indisputable bill amounts, the trader shall not limit the provision of the service to the consumer or disconnect the consumer from the distribution network until those proceedings are finalised.

(2) If the trader has limited the provision of the service or performed the disconnection from the distribution network, he shall, without delay, continue to provide the service to the consumer or connect the consumer to the distribution network at no charge until the proceedings referred to in paragraph 1 of this Article are finalised.

(3) The trader shall not have the right to make the provision or the continuation of provision of the service and reconnection to the distribution network conditional on the payment of the consumer's debts which are more than two years old.

(4) If the consumer disputes the outstanding due debts, the trader shall not have the right to initiate the enforced collection procedure until judicial, out-of-court or administrative proceedings are finalised.

(5) A request to pay the debts in respect of which it has been found, in the proceedings referred to in paragraph 1 of this Article, that the consumer is not obliged to pay them, shall be an unfair commercial practice for the purposes of this Law.

(6) The provisions of paragraphs 1 and 2 of this Article shall also apply where the trader has initiated the enforced collection procedure against the consumer.

(7) The proceedings within the meaning of paragraphs 1 and 2 of this Article shall also mean other proceedings laid down in the general conditions or other rules of the trader who provides the service of public interest.

### **Customer service**

#### **Article 42**

- (1) The trader providing the service of public interest shall ensure the customer service to provide required information to the consumers and to receive complaints in accordance with Article 25 of this Law.
- (2) The consumer shall be entitled, apart from the complaint referred to in Article 25 of this Law, to also file the complaint in relation to the access to services of public interest, including the connection to distribution network, as well as the complaint in relation to the use and quality of service of public interest.
- (3) The trader referred to in paragraph 1 of this Article shall be obliged to display the working hours of customer service in its business premises in a legible, clear, coherent and easily noticeable manner or to otherwise inform the customer thereof, whereas the working hours of the customer service must be organised on working days, including Saturdays, in the morning and afternoon intervals.
- (4) The burden of proof that he fulfilled the obligation referred to in paragraph 3 of this Article shall be on the trader.
- (5) Articles 25, 26 and 27 of this Law shall apply *mutatis mutandis* to the method of submission of complaint, displaying information on the method and place of submission of complaint, burden of proof on displaying the information, maintaining records of consumer complaints, obligation of the person authorized for receipt of complaints, as well as obligation of issuing confirmation on receipt of complaint, if the complaint is not resolved immediately, and contents of the records and confirmation and time periods for decision making on consumer complaints referred to in paragraph 1 of this Article.

### **Title III**

#### **CONFORMITY WITH THE CONTRACT AND THE GUARANTEE**

#### **Conformity with the contract**

#### **Article 43**

(1) The trader shall deliver to the consumer the goods which are in conformity with the contract of sale.

(2) For the purpose of paragraphs 1 and 3 of this Article and Article 44-53 of this Law, contract of sale shall also include the contract for the supply of future goods, i.e. the goods to be manufactured or produced.

(3) Delivered goods shall be presumed to be in conformity with the contract if:

- 1) they comply with the description given by the trader and possess the qualities of the goods which the trader has presented to the consumer as a sample or model, unless the sample or model has been presented only for information purposes;
- 2) they are fit for any particular purpose for which the consumer requires them and which was known or must have been known to the trader at the time of the conclusion of the contract;
- 3) they are fit for the purposes for which goods of the same type are normally used;
- 4) they have the characteristics and properties that are explicitly or acquiescently agreed or stipulated;
- 5) they show the quality and performance which are normal in goods of the same type and which the consumer can reasonably expect, given the nature of the goods and taking into account any public statements on the specific characteristics of the goods made about them by the trader, the producer or their representatives, particularly in advertising or on labelling.

### **Liability for the lack of conformity**

#### **Article 44**

(1) The trader shall be liable for the lack of conformity with the contract which was present in the moment of passing of the risk to the consumer, irrespective of whether they knew about the lack of conformity.

(2) The trader shall be liable for the lack of conformity of goods with the contract which appears after passing of the risk to the consumer, if it derives from the cause which existed before the passing of the risk to the consumer.

(3) The trader shall not be liable for the lack of conformity of the goods if, at the time of the conclusion of the contract, the consumer was aware or could not be unaware of the lack of conformity of the goods with the contract, or if the cause of the lack of conformity was in materials supplied by the consumer.

(4) The trader shall be liable for the lack of conformity of the goods which could have been easily noticed by the consumer, if the trader declared that the goods are in conformity with the contract.

(5) The trader shall not be bound by public statements, in regard to the characteristics of goods, referred to in Article 43 paragraph 3 point 5 of this Law, if:

- 1) he was not, and could not have been, aware of the statement in question;
- 1) by the time of conclusion of the contract the statement had been corrected;
- 2) the consumer's decision to conclude the contract could not have been influenced by the statement.



## **Incorrect installation or assembly**

### **Article 45**

(1)The trader shall be liable for the lack of conformity of the delivered goods which resulted from incorrect installation or assembly performed by the trader or by another person under his responsibility, if assembly forms part of the contract.

(2)The trader shall liable for the lack of conformity of the goods if the incorrect installation or assembly of goods is due to a shortcoming in the installation or assembly instructions.

## **Legal effects of the lack of conformity**

### **Article 46**

(1)If the goods delivered do not conform with the contract, the consumer shall be entitled to demand from the trader to remedy this non-conformity, free of charge, by repair or replacement, or to demand an appropriate price reduction or to rescind the contract, with the return of paid amount.

(2)In the first place, the consumer shall be entitled to choose whether they will have the lack of conformity remedied by repair or replacement, unless the chosen remedy is not possible or it represents a disproportionate burden for the trader.

(3)A disproportionate burden for the trader within the meaning of paragraph 2 of this Article shall be present if in comparison with the alternative remedy, it imposes excessive costs on the trader, taking into account:

- 1) the value the goods would have if they conformed with the contract,
- 2) the significance of the conformity in particular case, and
- 3) whether the alternative remedy could be completed without significant inconvenience to the consumer.

(4)The trader shall complete repair or replacement within a reasonable time but not longer than 15 days from the day of submission of request, without any significant inconvenience to the consumer, taking account of the nature of the goods and the purpose for which the consumer acquired the goods.

(5) If the consumer is unable to exercise his right to repair or replacement, or if the trader has not completed the repair or replacement within the time limit referred to in paragraph 4 of this Article, or if it is not possible to complete the repair or replacement without significant inconvenience to the consumer, the consumer shall be entitled to require a reduction of the price or have the contract rescinded with reimbursement of the amount paid.

(6) The costs necessary to have the goods brought into conformity with the contract (costs of labour, material, taking over and delivery) shall be paid by the trader.

(7) The consumer may not rescind the contract if the lack of conformity of the goods is minor.

(8) The rights referred to in paragraph 1 of this Article shall be without prejudice to the right of the consumer to demand from the trader compensation for the damage arising from the lack of conformity in accordance with the general rules on liability for the damage.

## **Freedom of choice**

### **Article 47**

(1) The consumer shall be entitled to demand repair, replacement, reduction of price or termination of the contract with the reimbursement of paid amount according to his choice, if he informs the trader of the lack of conformity within 90 days from the day of taking over the goods.

(2) If the consumer exercises the right referred to in Article 46 paragraph 1 of this Law by replacement of the product, the trader shall be obliged to replace the product several times, i.e. until the consumer is ensured the conformity in accordance with Article 43 of this Law.

(3) Notwithstanding Article 46 paragraph 5 of this Law, the consumer shall have the right to demand a price reduction or termination of the contract with the reimbursement of the amount paid even where the repair or replacement has been carried out at least twice within 90 days from the expiry of the period referred to in paragraph 1 of this Article."

(4) The consumer's choice referred to in paragraph 1 of this Article shall be subject to the provisions of Article 46 paragraphs 4 to 8 of this Law.

## **Liability of the producer**

### **Article 48**

(1) If the trader is liable to the consumer for a lack of conformity of the goods resulting from an act or omission by the producer or another person in the contractual chain, the trader shall be entitled to request from the producer or another person in the contractual chain the reimbursement of the expenses incurred due to a lack of conformity of goods.

(2) The producer or another person referred to in paragraph 1 of this Article, the procedure and conditions for exercising the right to reimbursement of the expenses, shall be determined in accordance with the law governing obligations.

## **Time limits and burden of proof**

### **Article 49**

(1) The trader shall be liable for the lack of conformity if the lack of conformity of the goods with the contract within two years as from the date on which the risk passed to the consumer.

(2) Any lack of conformity which becomes apparent within six months from the date on which the risk passed to the consumer shall be presumed to have existed at the time when the risk passed unless this presumption is incompatible with the nature of the goods or the nature of the lack of conformity.

(3) In the case of the sale of second-hand goods, the trader and the consumer may agree on a shorter time period for the liability of the trader for the lack of conformity than that laid down in paragraph 1 of this Article, but which may not be less than one year.

(4) The consumer shall be obliged to inform the trader on the lack of conformity of the goods with the contract within 90 days from the date on which he detected such lack of conformity, but not later than before the expiry of the time period referred to in paragraph 1 of this Article.

(5) If the consumer fails to inform the trader of the lack of conformity of the goods with the contract within the time limits referred to in paragraph 4 of this Article, the consumer shall lose the rights he is entitled to on this basis.

- (6) The rights of the consumer who informed the trader of the lack of conformity in a timely manner shall end after the expiry of a period of two years, counting from the date of sending of notification on the lack of conformity to the trader, unless, due to fraud of the trader, he was prevented from exercising his rights.

### **Extension of time limits in case of repair and replacement**

#### **Article 49a**

(1) In case of minor repair, the time limits referred to in Article 47 paragraphs 1 and 3 and Article 49 of this Law shall be extended for the period during which the consumer was deprived of the use of the goods.

(2) In the event of replacement of the goods or their substantial repair, the time limits referred to in Article 47 paragraphs 1 and 3 and Article 49 of this Law shall start to run again from the replacement or from the return of the repaired goods.

(3) If only a part of the goods has been replaced or substantially repaired, the time limits referred to in Article 47 paragraphs 1 and 3 and Article 49 of this Law shall start to run again only in respect of that part.

#### **Article 50**

- deleted -

### **Guarantee and guarantee card**

#### **Article 51**

(1) If a trader or a producer has undertaken, without additional charge, to reimburse to the consumer the amount paid, to replace or repair the goods, or to handle the goods otherwise, if the goods do not conform to the content of the guarantee statement or advertisement that referred to such goods (the guarantee), he shall be obliged to do so.

(2) The guarantor referred to in paragraph 1 of this Article shall be obliged to issue a guarantee card at the time of conclusion of the contract or delivery of the goods to the consumer.

(3) The guarantee card shall be issued in writing, on paper or on another durable medium accessible to the consumer, and shall contain information from the guarantee statement, set out in legible, clear, intelligible and easily noticeable manner, and in particularly the information on:

- 1) the name and address of the guarantor,
- 2) the goods to which the guarantee relates, the contents of the guarantee and the conditions for exercising the rights from the guarantee;
- 3) the fact that the guarantee shall not affect the rights of the consumer in the case of a lack of conformity of the goods with the contract;
- 4) the duration and territorial scope of the guarantee of the guarantee;
- 5) the date of delivery of goods to the consumer.

(4) The burden of proof that the guarantee card was provided to the consumer shall be on the trader.

(5) If the guarantor fails to issue the guarantee card or the guarantee card has not been issued in accordance with paragraphs 2 and 3 of this Article, the consumer shall be entitled to request that the guarantee be honoured in accordance with the provided guarantee statement and the advertising related to the goods.

(6) The guarantor shall not state in the guarantee a warranty period which is shorter than the period referred to in Article 49 paragraph 1 of this Law.

### **Misuse of the term 'guarantee'**

#### **Article 52**

When concluding the sales contracts for goods and advertising the sales, the trader shall refrain from using the term 'guarantee' or any similar expressions having such meaning, if, under the sales contract, the consumer is not granted any rights in addition to the rights he already enjoys under the provisions on conformity, in accordance with this Law.

### **Method of exercising the rights from the guarantee**

#### **Article 53**

The consumer shall exercise the rights under the guarantee with the trader or the manufacturer according to his choice, in accordance with Articles 25 to 27 of this Law.

### **Application *mutatis mutandis* of provisions to other products**

#### **Article 54**

The provisions of Articles 43 to 53 of this Law shall apply *mutatis mutandis* to other products within the meaning of Article 6 point 2 of this Law.

## **Title IV**

### **CONSUMER CONTRACTUAL RELATIONS**

#### **Application**

#### **Article 55**

Articles 56 to 74j of this Law shall apply to contracts concluded between the trader and the consumer, including the contracts for the supply of water, gas and electricity.

#### **Exceptions to the application**

#### **Article 56**

The provisions of Article 55, Articles 57 to 60 and Articles 71 to 74 of this Law shall not apply to the contracts:

- 1) on the provision of social services, including social housing, childcare, support to persons or families in need of permanent or temporary assistance, including long-term care;
- 2) on the use of health care in accordance with the laws governing health care, compulsory health insurance and health care of aliens in Montenegro;
- 3) on the games of chance with cash deposit, including lottery games, games in casinos and betting games;

- 4) on financial services;
- 5) on the acquisition or transfer of rights to real estate;
- 6) on the construction of new buildings or reconstruction of existing buildings, as well as the lease of residential and other premises;
- 7) on the organisation of travel in accordance with the provisions of the law governing the organisation of travel;
- 8) concluded before the competent or other authorized entity, which is obliged, before conclusion of the contract, to provide the consumer with an expert examination of the contract and inform him of its legal consequences;
- 9) on the periodical delivery of food, drinks or other products intended for daily use in the household which are through retail sales delivered at regular time intervals to the consumer's home or workplace;
- 10) on the provision of passenger transport services, with the exception of Articles 58, 60b and 72 of this Law;
- 11) concluded by means of vending machines or automated sales premises.

### **Obligation to provide information**

#### **Article 57**

(1) Prior to the conclusion of a contract or acceptance of a corresponding offer by the consumer, the trader shall inform the consumer in a clear and comprehensible manner about:

- 1) the essential characteristics of the goods or service, to the extent possible with regard to the goods, service and the medium used for transmission of information;
- 2) the name and head office of the trader, a telephone number, if any, and the e-mail address;
- 3) the selling price of the goods or services, if the nature of the goods or services does not make it possible that the price is realistically calculated in advance, the manner in which the price is calculated and, if applicable, the costs of transport, delivery or postal services, and the possibility of their collection if these costs cannot be calculated in advance;
- 4) if applicable, the terms of payment, terms of delivery of goods or provision of services, the time limit for delivery of the goods or provision of the service and the manner of resolving consumer complaints;
- 5) the issuance of guarantees for the conformity of goods or service and legal deficiencies of fulfilment with the conditions of use;
- 6) the instructions and documents referred to in Article 8 paragraph 3 of this Law;
- 7) after-sales services and the terms of use of such services, if the trader provides such services;
- 8) the duration of the contract and, where the contract is concluded for an indefinite period or where the contract is to be extended automatically, the conditions for cancellation or termination of the contract;
- 9) if applicable, the functionality of the digital content, including the necessary measures of technical protection of such content;
- 10) where applicable, the interoperability of the digital content with the computer equipment or software equipment which the trader is aware of or should be aware of.

(2) Paragraph 1 of this Article shall also apply to the contracts having as their object the digital content which is not supplied on a tangible medium.

(3) Paragraph 1 of this Article shall not apply to day-to-day transactions between the trader and the consumer performed at the time of their conclusion.

## **Fee for the use of a means of payment**

### **Article 58**

(1) The trader cannot charge the consumer a fee for the use of a specific means of payment in excess of the cost borne by the trader for the use of such means of payment.

(2) Paragraph 1 of this Article shall also apply to digital content contracts.

## **Deadline for contract execution**

### **Article 59**

(1) The trader shall execute the sales contract without delay and no later than 30 days from the date of conclusion of the contract, unless otherwise agreed.

(2) If the trader cannot execute the contract within the period referred to in paragraph 1 of this Article, it shall inform the consumer thereof in writing without delay, and the consumer may set the subsequent deadline to the trader for the execution of the contract or terminate the contract by a written statement.

(3) In the event of termination of the contract referred to in paragraph 2 of this Article, the trader shall reimburse to the consumer the amount paid, without delay and no later than 8 days after the date of receipt of the written statement on termination of the contract, including default interest in accordance with the law.

(4) The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to contracts for the supply of water, gas or electricity to be sold in an unlimited volume or unlimited quantity, the contracts for the supply of thermal energy, or the contracts having as their object the digital content which is not supplied on a durable medium.

## **Passing of risk in a sales contract**

### **Article 60**

(1) The risk of accidental loss of or damage to the goods in a sales contract shall pass to the consumer at the time of delivering the goods to the consumer or the person designated by the consumer and other than the carrier.

(2) If the carrier was designated on the proposal of the consumer, the risk of accidental loss of or damage to the goods shall pass to the consumer at the time of handing the goods over to the carrier.

(3) Paragraphs 1 and 2 of this Article shall not apply to contracts referred to in Article 59 paragraph 3 of this Law.

## **Sending a product without being ordered by the consumer**

### **Article 60a**

(1) A supply of goods or provision of services which have not been ordered by the consumer for which the trader requests payment shall be an unfair commercial practice for the purposes of this Law.

(2) If the trader sends some goods which have not been ordered or performs a service which has not been ordered to the consumer for promotional or other purposes, the consumer shall not be obliged to make any payment.

(3) The provision of the trader's general conditions, the offers, purchase orders or other documents submitted to the consumer by the trader with the goods or services which have not been ordered by the consumer, stipulating that the silence of the consumer constitutes an acceptance of the offer, shall be null and void.

(4) The provisions of paragraphs 1, 2 and 3 of this Article shall also apply to digital content contracts.

(5) The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to tacit renewal of the contract.

### **Additional payment**

#### **Article 60b**

(1) The trader shall seek the express consent of the consumer for additional payment, except for the payment agreed as consideration for the main performance of the trader, prior to the conclusion of the contract with the consumer or acceptance of the offer.

(2) If the consumer has not given the express consent, but the trader used the option of tacit acceptance by the consumer, the trader shall immediately, upon the consumer's request, reimburse the additional amount paid on the basis of such option.

(3) The provisions of paragraphs 1 and 2 of this Article shall also apply to digital content contracts.

### **Costs of telephone communication**

#### **Article 60c**

(1) If the trader has established a telephone line through which consumers can contact him/her in connection with the concluded contract, he shall ensure that the consumer pays the call at a rate that is not higher than the basic rate.

(2) The provisions of paragraph 1 of this Article shall also apply to digital content contracts.

## **Title V**

### **OFF-PREMISES CONTRACTS AND DISTANCE CONTRACTS**

#### **SECTION A**

#### **INFORMING THE CONSUMERS PRIOR TO THE CONCLUSION OF OFF-PREMISES AND DISTANCE CONTRACTS**

### **Pre-contractual information**

#### **Article 61**

(1) The distance contract means a contract concluded between a trader and a consumer under an organized system of sale or provision of service without the simultaneous physical presence of the trader and the consumer in the same place where, until the conclusion of the contract and for the conclusion thereof, one or more means of distance communication are exclusively used.

(2) The off-premises contract means a contract between a trader and a consumer which has been concluded:

1) with the simultaneous physical presence of the trader and the consumer in the same place that does not represent the business premises of the trader, and where the consumer has made an offer;

2) in the business premises of the trader or through the means of distance communication immediately after the trader has approached the consumer in person in the place which is not his business premises;

3) during an excursion organised by the trader with the intention or purpose of promotion or sale of the goods or services to the consumer.

(3) Prior to the conclusion of an off-premises contract or distance contract and prior to the acceptance of the offer, the trader shall provide the consumer, in a clear and comprehensible manner, with the information about:

- 1) the main characteristics of the goods or services, to the extent appropriate with regard to the goods or services as well as the medium used for the transmission of information;
- 2) the name and head office, telephone number and, if available, e-mail address;
- 3) if applicable, the name and head office of the trader on whose behalf and/or for whose account he acts;
- 4) the address of the place of business or the address of the place of business of the trader on whose behalf and/or for whose account he acts and to which the consumer may address his complaints, if the place of business is different from the head office referred to in point 2 of this paragraph;
- 5) the selling price of the goods or services, and if the nature of the goods or services does not make it possible that the price is calculated in advance, the manner in which the price is calculated and, if necessary, the costs of transport, delivery or postal services, and the information that these costs can be charged, if they cannot be calculated in advance;
- 6) the costs of the use of means of distance communication for the purpose of concluding the contract, if these costs are not calculated at the basic rate;
- 7) the terms of payment, terms of delivery of goods or provision of services, the time of delivery of goods or the provision of service and, if any, the manner of resolving the consumer complaints by the trader;
- 8) the conditions, deadlines and the procedure for exercising the right to unilateral termination of the contract and the form for the unilateral termination of the contract referred to in Article 74c paragraph 1 of this Law;
- 9) the obligation of the consumer to bear the cost of returning the goods in case of unilateral termination of the contract referred to in Article 74c of this Law, or about the cost of returning the goods, in case of distance contracts, if the goods, by their nature, cannot normally be returned by post;
- 10) the obligation of the consumer to pay the trader a part of the price in proportion to the reduced value of the goods, if he/she unilaterally terminates the contract whose execution has started in accordance with Article 68 of this Law;
- 11) the conditions under which the consumer loses the right to unilateral termination of the contract under Article 74c of this Law, in cases where pursuant to Article 74j of this Law, that right is excluded, and the preconditions under which the consumer loses the right to unilateral termination of the contract;
- 12) the responsibility for the conformity of the goods;
- 13) the services or support if offered to the consumer after the sale and the terms of use of such services or support, if offered by the trader, as well as about the possible guarantees issued with the goods or service;
- 14) the code applied by the trader and the manner of obtaining an insight into the code;
- 15) the duration of the contract, if the contract is concluded for a definite period, and the terms of cancellation or termination of a contract concluded for an indefinite period, or which is extended automatically;
- 16) the minimum period in which the consumer is bound by the contract, if any;
- 17) the deposit or other financial collateral that the consumer is required to pay or obtain at the request of the trader, and the terms of payment of that deposit, or the terms of obtaining other financial collateral;
- 18) where applicable, the functionality of the digital content and the necessary measures of technical protection of these contents;



19) where applicable, the interoperability of the digital content with a computer or software equipment which the trader is aware of or should be aware of;

20) the possibilities and proceedings for out-of-court resolution of disputes, and the instruments for compensation and the manner in which the consumer can use them.

(4) Paragraph 1 of this Article shall also apply to contracts which have the digital content not supplied on a durable medium as their subject matter.

(5) The information referred to in paragraph 3 of this Article shall form an integral part of off-premises contracts or distance contracts and may not be changed unless explicitly agreed otherwise by the parties.

(6) The trader shall submit the information referred to in paragraph 3 of this Article to the consumer in the Montenegrin language, which does not exclude the possibility of submitting it in another language as well.

(7) If the trader does not inform the consumer of additional costs referred to in paragraph 3 points 5 and 9 of this Article, the consumer shall not be obliged to bear those costs.

### **Costs of the subscription contract**

#### **Article 62**

(1) If the off-premises contract or the distance contract has been concluded for an indefinite period of time or the subscription has been agreed by it, the total price referred to in Article 61 paragraph 3 point 5 of this Law shall be determined on the basis of the total costs in a given accounting period.

(2) If the contract referred to in paragraph 1 of this Article provided for a fixed fee, the method of calculating the price referred to in paragraph 3 of this Article shall also include total monthly costs.

(3) If the price referred to in paragraph 2 of this Article cannot be realistically calculated, the trader shall inform the consumer in advance prior to the acceptance of the offer on the method of calculating the price.

(4) If the trader does not inform the consumer about the additional costs referred to in paragraphs 1, 2 and 3 of this Article and Article 61 paragraph 3 points 5 and 9 of this Law, the consumer shall not be obliged to bear those costs.

### **Information regarding the public auction**

#### **Article 63**

If an off-premises contract or a distance contract is concluded on the basis of public auction, the information referred to in Article 57 paragraph 1 points 1 and 2 and Article 61 paragraph 3 points 3 and 4 of this Law may be replaced by the information on the organizer and the auctioneer.

### **Burden of proof**

#### **Article 64**

The burden of proof concerning the fulfilment of the obligation referred to in Articles 61, 62 and 63 of this Law shall be borne by the trader.

### **Manner of informing the consumer about the right to unilateral termination**

#### **Article 65**

(1) The information referred to in Article 61 paragraph 3 points 8, 9 and 10 of this Law may be given in the form of an information sheet on the right of unilateral termination of the contract under Article 74c paragraph 1 of this Law.

(2) In the case referred to in paragraph 1 of this Article, the trader shall be obliged to submit to the consumer a properly completed sheet.

(3) The sheet referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

## **SECTION B**

### **PRECONDITIONS FOR THE CONCLUSION OF OFF-PREMISES CONTRACTS**

#### **Submission of information**

##### **Article 66**

In the event of conclusion of off-premises contract, the trader shall submit the information referred to in Article 61 paragraph 3 of this Law to the consumer in writing on paper or, with the consent of the consumer, on another durable medium, written in a legible and comprehensible manner.

#### **Submission of the contract and written confirmation**

##### **Article 67**

(1) In the event of conclusion of off-premises contract, the trader shall submit a copy of the contract or a written confirmation of an orally concluded contract on paper or, with the consent of the consumer, on another durable medium to the consumer.

(2) The contract or the confirmation referred to in paragraph 1 of this Article shall also include the confirmation of the prior consent of the consumer referred to in Article 74j point 13 of this Law.

#### **Provision of the service at the request of the consumer**

##### **Article 68**

(1) If the consumer requests to start the provision of the contracted service or supply of water, gas or electricity sold in unlimited volume or unlimited quantity, or supply of thermal energy, before the expiry of deadline for unilateral termination of the contract referred to in Article 74c of this Law, the request shall be submitted in writing on paper or on another durable medium.

(2) In case of the request for the provision of the service before the expiry of deadline for unilateral termination, the trader shall require that the consumer submit such request in accordance with paragraph 1 of this Article.

#### **Repair or maintenance services**

##### **Article 69**

(1) If the contract concluded outside the business premises, at the express request of the consumer, relates to repair or maintenance services, and the amount that the consumer is required to pay does not exceed 200 euros, and stipulates that the contracting parties perform their contractual obligations without delay, the trader shall submit the information referred to in Article 61 paragraph 3 points 2 and 3 of this Law, and the information about the price or the method of calculating the price with an estimate of the total costs, to the consumer on paper or, with the consent of the consumer, on another durable medium.

(2) The trader may deliver the information referred to in Article 57 paragraph 1 and Article 61 paragraph 3 points 8 and 11 of this Law orally only with the express consent of the consumer.

(3) In the event of conclusion of the contract referred to in paragraph 1 of this Article, the trader shall state all the data and information referred to in Article 61 paragraph 3 of this Law in the written confirmation of the orally concluded contract.

## **SECTION C**

### **PRECONDITIONS FOR THE CONCLUSION OF DISTANCE CONTRACTS**

## **Submission of information**

### **Article 70**

(1) The trader shall, prior to the conclusion of a distance contract, adapt the information referred to in Article 57 paragraph 1 points 1 and 2 and Article 61 paragraph 3 of this Law, to the means of distance communication used and ensure that it is communicated in plain and intelligible language, and that it is legibly written if given on a durable medium.

(2) If the contact is concluded through a means of distance communication which allows a limited space or limited time to display the information, the trader shall inform the consumer through this means in particular on the information referred to in Article 57 paragraph 1 points 1, 2 and 3, Article 61 paragraph 3 points 8 and 11 and Article 62 paragraphs 1, 2 and 3 of this Law.

(3) If, for the purposes of conclusion of the contract, the trader contacts the consumer by phone, he shall disclose, at the beginning of the conversation, his identity or the identity of the person on whose behalf and/or for whose account he acts, as well as the commercial purpose of the call, and provide the information referred to in paragraph 2 of this Article.

## **Conclusion of the distance service contract by phone**

### **Article 71**

(1) In the event of conclusion of the distance service contract by phone, the trader shall submit the offer to the consumer on a durable medium in a way that will clearly identify the moment of receipt of the offer.

(2) The contract referred to in paragraph 1 of this Article shall be deemed concluded after the signed offer or written consent is sent to the trader by the consumer.

## **Electronic ordering**

### **Article 72**

(1) In the event of making the offer to conclude the contract by electronic means on the basis of which the consumer is obliged to make a certain payment, the trader shall inform the consumer in a clear and transparent manner, directly before the consumer places the order, about the information referred to in Article 57 paragraph 1 points 1, 2 and 3, Article 61 paragraph 3 points 2 and 3 and Article 62 paragraphs 1, 2 and 3 of this Law.

(2) The trader shall, in the event referred to in paragraph 1 of this Article, enable the consumer to make a clear statement at the time of placing the order that he is aware of the obligation to pay.

(3) If the ordering procedure requires the activation of a box on the screen or a similar function, this box on the screen or a similar function shall be marked in an easily visible manner with the words "order with obligation to pay" or a similar unambiguous expression which explains that the order includes the obligation to pay.

(4) If the trader fails to perform the obligations under paragraphs 1, 2 and 3 of this Article, the contract shall be null and void, that is, the order placed shall not be binding on the consumer.

## **Information on the website**

### **Article 73**

The trader shall clearly and legibly indicate on the website, no later than at the beginning of the ordering process, the possible delivery restrictions and accepted means of payment.

### **Performance of the service at the request of the consumer**

#### **Article 73a**

(1) If the consumer requests the performance of the contracted service or the supply of water, gas or electricity sold in unlimited volume or unlimited quantity, or supply of thermal energy, to begin before the expiry of deadline for unilateral termination of the contract referred to in Article 74c of this Law, such request must be expressly stated.

(2) In case of the request for the performance of the service before the expiry of deadline for unilateral termination, the trader shall require that the consumer makes such an express request.

### **Relationship with regulations governing electronic commerce**

#### **Article 73b**

The provisions of Articles 70 to 73a of this Law shall be without prejudice to the provisions on the conclusion of contracts and delivery of the subject-matter of the contract ordered electronically in accordance with the law which regulates electronic commerce.

### **Confirmation of the concluded contract**

#### **Article 74**

(1) The trader shall submit the confirmation of the contract concluded on a durable medium to the consumer after the conclusion of the distance contract, no later than at the time of delivery of goods or at the beginning of service provision.

(2) The confirmation referred to in paragraph 1 of this Article shall contain in particular the information about the data and information referred to in Article 57 paragraph 1 points 1, 2 and 3 and Article 61 paragraph 3 of this Law, unless this information has already been communicated to the consumer on a durable medium before conclusion of the contract, as well as the confirmation of the prior consent of the consumer referred to in Article 74j paragraph 1 point 13 of this Law.

## **SECTION D**

### **RIGHT TO UNILATERAL TERMINATION OF THE CONTRACT**

#### **Period for unilateral termination of the contract**

##### **Article 74a**

(1) Except in the cases provided for in Article 74j of this Law, the consumer shall be entitled to unilaterally terminate an off-premises contract or a distance contract without giving the reasons within 14 days from the date of the submission of the goods to the consumer or the third party designated by the consumer and other than a carrier.

(2) In the event of conclusion of the sales contract, the period referred to in paragraph 1 of this Article begins to run from the date on which the goods which are the subject of this contract have been delivered to the consumer or the third party designated by the consumer and other than a carrier.

(3) If the consumer has ordered several items of goods through a single order that need to be supplied separately, or the goods delivered in several items or shipments, the period referred to in paragraph 1 of this Article begins to run from the date of delivery of the last item or shipment of goods to the consumer or the person referred to in paragraph 2 of this Article.

(4) If a regular delivery of goods over a certain period has been agreed, the period referred to in paragraph 1 of this Article begins to run from the date on which the first item or the first consignment of goods has been delivered to the consumer or a person referred to in paragraph 2 of this Article.

(5) In the event of conclusion of a service contract, the contract for the supply of water, gas or electricity which is sold in unlimited volume or unlimited quantity and the supply of thermal energy, as well as the conclusion of the contract which has the digital content not supplied on a durable medium as its subject matter, the period referred to in paragraph 1 of this Article shall start to run from the date of signing the contract.

### **Termination of consumer rights due to failure to provide information**

#### **Article 74b**

(1) If the trader has not informed the consumer on the right to unilateral termination of the contract in accordance with this Law, the consumer's right to unilateral termination of the contract shall terminate upon the expiration of 12 months from the expiry of the period for unilateral termination of the contract under Article 74a of this Law.

(2) If the trader has delivered the information referred to in paragraph 1 of this Article to the consumer within 12 months from the expiry of the period referred to in Article 74a of this Law, the right to unilateral termination of the contract shall terminate upon the expiry of 14 days from the date on which the consumer has received the information.

### **Manner of exercising the right to unilateral termination of the contract**

#### **Article 74c**

(1) The consumer shall, before the expiry of the period for unilateral termination of the contract referred to in Article 74a of this Law, inform the trader about the decision to terminate the contract in the form for the unilateral termination of the contract or by any other unambiguous statement of termination.

(2) The form referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

(3) If the trader on its website enables the consumer to unilaterally terminate the contract, the consumer may terminate the contract by filling in and sending the form for the unilateral termination or another statement of termination.

(4) In the event referred to in paragraph 3 of this Article, the trader shall, without delay, submit to the consumer the confirmation of receipt of the statement of unilateral termination on a durable medium.

(5) The consumer shall send the statement of termination of the contract before the expiry of the period for termination of the contract referred to in Articles 74a and 74b of this Law.

(6) The burden of proof that the right to unilateral termination of the contract has been exercised in accordance with this Article shall be borne by the consumer.

### **Consequences of unilateral termination of the contract**

#### **Article 74d**

(1) If the consumer has exercised the right to unilateral termination of the contract, the contracting parties shall not be obliged to carry out the obligations under the off-premises contract or the distance contract, or, if the offer to conclude the contract has been made by the consumer, the trader and the consumer shall not be obliged to conclude a contract.

(2) In the event of termination of the contract referred to in paragraph 1 of this Article, each contracting party shall return to the other party what it has received under the contract.

(3) The consumer shall not be obliged to reimburse the costs arising from the exercise of the right to unilateral termination of the contract referred to in Article 74a of this Law, except for the costs referred to in Article 74g of this Law.

### **Obligations of the trader in the event of unilateral termination of the contract**

#### **Article 74e**

(1) If the consumer has exercised the right to unilateral termination of the contract referred to in Article 74a of this Law, the trader shall, without delay, and no later than 14 days from the date of receipt of the consumer's notice of termination of the contract in accordance with this Law, reimburse to the consumer all that has been paid according to the contract.

(2) Notwithstanding paragraph 1 of this Article, the trader shall not be obliged to refund the additional costs incurred by the consumer's choice of the means of transport different from the lowest price of standard transport offered by the trader.

(3) In the sales contract, unless the trader has offered to take over the goods returned by the consumer, the trader shall refund the amount paid after the return of the goods or, after submission of evidence that the consumer has sent the goods to the trader, if the trader has been informed in such a way before the receipt of the goods.

(4) The trader shall refund the amount paid under paragraph 1 of this Article in the means of payment paid by the consumer, unless the consumer has expressly accepted other means of payment, provided that the consumer is not obligated to pay additional costs for such refund.

### **Obligations of the consumer in the event of unilateral termination of contract**

#### **Article 74f**

(1) The consumer shall return the goods without delay, and no later than 14 days from the date of notifying the trader of the decision to terminate the contract, unless the trader has offered to take over the goods returned by the consumer.

(2) The obligation under paragraph 1 of this Article shall be considered fulfilled on time, if before the expiry of the period referred to in paragraph 1 of this Article, the consumer sends the goods, or delivers them to the trader or the person authorised by the trader to receive the goods.

### **The cost of returning the goods**

#### **Article 74g**

(1) The consumer shall only bear the cost of returning the goods from Article 74f paragraph 1 of this Law, unless the trader has agreed to bear the costs, or if the trader has failed to inform the consumer that he is obliged to bear these costs.

(2) If, in the off-premises contract, the goods have been delivered to the address of the consumer at the time of the conclusion of the contract, the trader shall collect the goods at his own expense if those goods, by their nature, cannot normally be returned by post.

(3) The consumer shall be liable for any impairment of the value of goods arising in the handling of goods, other than the impairment of value needed to determine the nature, characteristics and functionality of the goods.

(4) Notwithstanding paragraph 3 of this Article, if the trader has not informed the consumer on the right to unilateral termination of the contract in accordance with Article 61 paragraph 3 point 4 of this Law, the consumer shall not be responsible for the impairment of the value of goods.

#### **Proportional payment Article 74h**

(1) If the consumer unilaterally terminates the contract after an explicit request for the provision of services or performance of the contract for the supply of water, gas, electricity sold in unlimited volume or unlimited quantity and the supply of thermal energy before the expiry of the period for unilateral termination of the contract, he shall pay the trader a part of the agreed price in proportion to the service provided or the goods delivered until the moment of notifying the trader about the unilateral termination of the contract.

(2) In the event referred to in paragraph 1 of this Article, a proportional amount of the price that the consumer is obliged to pay, shall be calculated on the basis of the agreed price, or if that price is inappropriate, on the basis of the market value of the goods delivered or the service provided.

(3) If the service contract or a contract for the supply of water, gas or electricity sold in unlimited volume or unlimited quantity and the supply of thermal energy is terminated unilaterally, the consumer shall not be obliged to pay a part of the price in proportion to the goods delivered or the service provided during the period for unilateral termination of the contract if the trader has not provided the consumer with the information referred to in Article 61 paragraph 3 points 8 and 10 of this Law, or if the consumer has not expressly requested that the provision of the service starts before the expiry of the period for unilateral termination of the contract.

(4) If the consumer unilaterally terminates the contract having as their object the digital content which has not been supplied on a durable medium, the consumer shall not be obliged to pay a part of the price or the cost in proportion to the performance of the trader for the duration of the period for unilateral termination of the contract, unless he has given an express consent that the execution of the contract begins before the expiry of the period of 14 days, and if he has not confirmed that he is aware of the fact that giving such a consent shall mean a loss of the right to unilateral termination of the contract or if the trader has failed to inform him in accordance with this Law.

#### **Impact of unilateral termination of contract on ancillary contracts Article 74i**

If the consumer unilaterally terminates the contract in accordance with this Law, any ancillary contract shall be terminated, with a fee which the consumer is obliged to pay in accordance with this Law.

#### **Exclusion of the right to unilateral termination of contract**

##### **Article 74j**

The consumer shall not have the right to unilaterally terminate the contract under Articles 74a to 74i of this Law, where:

- 1) the service contract has been fully executed by the trader, and the execution has started with the prior express consent of the consumer and his confirmation that he is aware of the fact that he will lose the right to unilateral termination of the contract;
- 2) the subject of the contract is the goods or the service whose price depends on changes in the financial market which are beyond the influence of the trader, and which can occur during the period of the consumer's right to unilateral termination of the contract;
- 3) the subject of the contract is the goods manufactured under the specification of the consumer or which are tailored to the consumer;
- 4) the subject of the contract is perishable goods or goods with a close expiration date;

- 5) the subject of the contract is the sealed goods which for medical or hygienic reasons are not suitable for return, if they were unsealed after the delivery;
  - 6) the subject of the contract is the goods which are after the delivery, due to their nature, inseparably mixed with other things;
  - 7) the subject of the contract is the delivery of alcoholic drinks whose price has been agreed at the time of concluding the contract and the delivery can take place after 30 days, if the price depends on the changes in the market which are outside the influence of the trader;
  - 8) the consumer has specifically requested a visit of the trader for the performance of emergency repairs or maintenance, unless during such a visit, in addition to the services that the consumer has expressly requested, the trader has also provided other services, or delivered other goods that are not essential for carrying out urgent repairs or maintenance tasks;
  - 9) the subject of the contract is the delivery of sealed audio or video recordings or computer software which were unsealed after the delivery;
  - 10) the subject of the contract is the delivery of a daily newspaper, a periodical or magazine, except for the subscription contracts for these publications;
  - 11) the contract has been concluded at a public auction;
  - 12) the subject of the contract is the provision of accommodation other than for residential purpose, transport of goods, car rental services, catering or services related to leisure activities if the contract provides for a specific date or period of performance;
- the subject of the contract is the delivery of digital content not supplied on a durable medium if the execution of the contract has started with the prior express consent of the consumer and with his confirmation that he is aware of the fact that the consent means a loss of the right to unilateral termination of the contract.

## **Title VI**

### **DISTANCE CONTRACTS ON FINANCIAL SERVICES**

#### **Notion**

#### **Article 75**

(1) For the purposes of this Law, distance contract on financial services shall mean a contract between the trader and the consumer, whose subject matter is the provision of financial services under an organised distance product sale scheme of the trader who, before and at the time of the conclusion of the contract, makes exclusive use of one or more means of distance communication.

(2) If based on the contract referred to in paragraph 1 of this Article the consumer is successively provided a certain service or a series of separate services of the same nature, the provisions of Articles 76 to 89 of this Law shall apply only to the initial contract.

(3) If no initial contract was concluded for the provision of a certain type of service or a series of separate services referred to in paragraph 3 of this Article, the provisions of Articles 76 to 81 of this Law shall apply only when that service is provided for the first time.

(4) If certain type of service referred to in paragraph 4 of this Article has not been provided in the period of one year, the next service of the same type shall be deemed to be the first service and the provisions of Articles 76 to 81 of this Law shall apply to it.

#### **Prior information**



## **Article 76**

- (1) In good time before the conclusion of the contract referred to in Article 75 of this Law, the trader shall provide the consumer with information on himself as a trader, on the service that is the subject matter of the contract, the particulars of the contract, as well as the manner of dispute settlement.
- (2) The information referred to in paragraph 1 of this Article shall contain the information referred to in Articles 77 to 80 of this Law.
- (3) The trader shall, in the information referred to in paragraph 1 of this Article, in a legible, clear, understandable, easily noticeable manner and in the way appropriate to the means of distance communication that is used for the conclusion of the contract, indicate the commercial intent.
- (4) In the case of using the telephone, the trader shall state his identity and the commercial purpose of the call at the beginning of the conversation.
- (5) In the case referred to in paragraph 4 of this Article, with the explicit consent of the consumer, the person who contacts the consumer on behalf of the trader providing financial services shall inform him about their identity, the nature of their relationship with the trader providing financial services, the information referred to in Article 78 points 1, 2 and 5 and Article 79 point 1 of this Law, and that other information is available to him on request and of what nature this information is.
- (6) The fulfilment of obligations referred to in Article 81 of this Law shall not release the trader of the obligation referred to in paragraphs 4 and 5 of this Article.
- (7) Information on contractual obligations provided to the consumer prior to the conclusion of the contract shall be in conformity with the contractual obligations that may result from the application of the law applicable to that contract if it were concluded.
- (8) In addition to information referred to in paragraphs 1 to 7 of this Article and Articles 77 to 80 of this Law, the trader shall also inform the consumer about other information in accordance with the legislation governing certain financial services that are the subject matter of the contract between the consumer and the trader providing financial services.

## **Information on trader**

### **Article 77**

- (1) Information on the trader that provides financial services shall comprise: name, activity, address of his place of residence or head office, other address relevant to the relationship with the consumer, as well as his registration number and number of the register in which he has been entered.
- (2) If, in respect of the activity of the trader that provides financial services, certain licences or approvals are issued by competent authorities, the information referred to in paragraph 1 of this Article shall comprise the name of the authority that issued the licence or approval, period for which it is issued, as well as the content of the licence or approval.
- (3) If the trader that provides financial services in Montenegro has his representative, the information referred to in paragraph 1 of this Article shall also comprise the name of the representative, as well as the other address that is relevant to the relationship of the consumer with that representative.
- (4) If the trader referred to in paragraph 1 of this Article concludes the contract with the consumer through a person who is not his representative, the information referred to in paragraph 1 of this Article shall also comprise the name of that person, capacity in which he acts, as well as the head office or other address relevant to the relationship of the consumer with that person.

## **Information on financial service**

### **Article 78**

The information on the financial service that is the subject matter of the contract shall contain:

- 1) the main characteristics of the financial service;
- 2) the total price to be paid by the consumer for that service, including the taxes, duties, fees and other charges, or if the amount of the total price cannot be determined, the elements for the calculation of the total price enabling the consumer to determine the price himself;
- 3) indication that the financial service involves financial instruments related to a special risk arising from specific features of that instrument, or the financial service that is offered, if applicable;
- 4) indication that the price or results of the financial service depend on fluctuations in the financial market outside the trader's control, and an indication that the price hitherto and results of the financial service are no indicators for future price and future results of that financial service, if applicable;
- 5) information on the possibility that the consumer is required to pay additional taxes or costs, in accordance with tax regulations, that are not paid to the trader providing financial services, or that are not paid via the the trader providing financial services;
- 6) any limitations of the period for which the information is valid;
- 7) the manner and terms of payment and fulfilment of financial services, and
- 8) information on any additional cost the consumer is required to pay for the use of the means of distance communication.

## **Information on the particulars of the contract**

### **Article 79**

The information on the particulars of the contract shall comprise:

- 1) information on the right of the consumer to unilaterally terminate the contract referred to in Article 82 of this Law and the conditions and the period in which that right may be exercised, the amount which the consumer may be required to pay in accordance with Article 85 paragraph 3 of this Law, as well as the consequences of non-exercise of the right to unilaterally terminate the contract;
- 2) the minimum duration of the contract on financial service, if the service is to be performed permanently or recurrently;
- 3) information on the right of the contractual parties to unilaterally terminate the contract or cancel the contract before the expiry of the period for which the contract was concluded, as well as the information on the penalties or other forms of compensation imposed by the contract in such cases;
- 4) practical instructions for exercising the right of the consumer to unilateral termination referred to in Article 82 of this Law, including the address to which the notification on termination shall be delivered;
- 5) the State whose law is applicable to the regulation of the relations between the trader providing financial services and the consumer prior to the conclusion of the contract;
- 6) the contractual provisions stipulating the law applicable to the contract on financial service, as well as the court competent for the resolution of disputes arising from that contract, and

- 7) information on the language(s) in which the contract and prior information have been made, and the information on the language(s) in which the service provider, with the agreement of the consumer, shall communicate with the consumer during the duration of the contract.

### **Information on the manner of dispute settlement**

#### **Article 80**

Information on the manner of dispute settlement shall comprise the information whether:

- 1) out-of-court settlement of disputes and compensation of damage are envisaged, as well as the method and conditions for their use, and
- 2) a guarantee fund or another form of compensation to consumers not covered by special regulations on credit institutions and capital market is envisaged.

### **Form of prior information**

#### **Article 81**

(1) The trader providing financial services shall submit to the consumer all the contractual terms and conditions, as well as the prior information referred to in Article 76 of this Law on paper or on another durable medium accessible to the consumer in good time before the conclusion of the contract or pre-contract.

(2) If, at the consumer's express request, the contract was concluded using a means of distance communication which does not enable submitting the contractual terms and conditions referred to in paragraph 1 of this Article and the prior information referred to in Article 76 of this Law to the consumer in accordance with paragraph 1 of this Article, the trader providing financial services shall fulfil the obligation set out in paragraph 1 of this Article immediately after the conclusion of the contract.

(3) The trader providing financial services shall, at the request of the consumer, during the contractual relationship, submit a copy of the contract concluded.

(4) The consumer shall be entitled to change the means of distance communication used, unless this is incompatible with the contract concluded or the nature of the financial service provided to him.

### **The right to unilateral contract termination**

#### **Article 82**

(1) The consumer may, without giving any reason, unilaterally terminate the contract on financial services concluded using a means of distance communication within 14 days from the day of the conclusion of the contract, or in the case of contracts relating to life insurance and voluntary pension insurance, within 30 days from the day of receiving the notification that the contract has been concluded.

(2) In the case referred to in Article 81 paragraph 2 of this Law, the period for termination of the contract shall begin to run from the day on which the consumer is submitted the contractual terms and conditions and the information.

(3) The consumer shall not be entitled to unilateral termination of the contract referred to in paragraph 1 of this Article if:

- 1) the contract concluded is the contract on financial services whose price depends on fluctuations in the financial market outside the control of the trader providing financial services, which may

occur during the period for termination of contract referred to in paragraph 1 of this Article, such as services related to: buying and selling of foreign currency; money market instruments; transferable securities; shares in investment funds; futures including comparable cash-settled instruments, forward interest-rate agreements; interest-rate, currency and equity swaps and options to acquire or dispose of these instruments, including equivalent cash-settled instruments, and in particular options on currency and on interest rates;

- 2) the contract concluded is the contract on travel and baggage insurance or other short-term insurance policies of less than one month's duration;
- 3) the contract has been fully fulfilled at the consumer's express request before the consumer has exercised his right to termination of the contract referred to in paragraphs 1 and 2 of this Article;
- 4) it is a loan agreement that may be terminated in accordance with Articles 70 and 101 paragraph 3 of this Law.

### **Form of unilateral termination of contract**

#### **Article 83**

(1) The contract shall be terminated by delivering notification on paper or on another durable medium available to the consumer, dispatched before the deadline for unilateral termination of the contract referred to in Article 82 of this Law expires, provided that the consumer shall follow the instructions for exercising the right to unilateral termination given in the prior notification referred to in Article 76 of this Law.

(2) The contract shall be considered terminated in the moment when the trader receives notification on termination.

(3) The contract shall be terminated in a timely manner if the notification on termination is dispatched before the deadlines laid down in Article 82 paragraph 1 of this Law expire.

### **Beginning of performance of the contract**

#### **Article 84**

(1) The trader providing financial services may begin the performance of the contract before the expiry of the period for unilateral termination referred to in Article 82 of this Law, only with the explicit approval of the consumer.

(2) The trader providing financial services shall not have the right to require fulfilment of obligation of the consumer arising from the contract before the expiry of the period for unilateral termination of the contract.

### **Consequences of unilateral contract termination**

#### **Article 85**

(1) In the case of unilateral termination of contract referred to in Article 82 of this Law, the consumer shall not be liable for damages resulting from the termination of the contract and shall not be obliged to pay damages or other compensation, expenses, interest, or penalty for termination of the contract.

(2) In the event of the termination of the contract referred to in paragraph 1 of this Article, the contractual parties shall return to each other what they have received on the basis of the contract.

(3) If the return referred to in paragraph 1 of this Article is not possible, the consumer shall pay the price of the part of service that was provided to him until the moment of termination of the contract.

(4) The price of the part of service referred to in paragraph 3 of this Article shall be proportionate to the service provided and must not be such to be construed as a penalty or compensation for termination of the contract.

(5) The trader providing financial services shall not be entitled to require the consumer to pay the price referred to in paragraph 3 of this Article if he cannot prove that the consumer was previously informed about the amount payable in accordance with Article 79 point 1 of this Law.

(6) The trader providing financial services shall not be entitled to require the consumer to pay the price of the part of service that he provided without the explicit approval of the consumer, before the expiry of the period for unilateral termination of the contract in accordance with Article 84 paragraph 1 of this Law.

(7) If the consumer terminates the contract, the trader providing financial services shall, without delay and no later than within 30 days from the day of receiving the notification on termination of the contract, return to the consumer everything he has received from the consumer on the basis of that contract, reduced by the amount of the price referred to in paragraph 3 of this Article.

(8) If the consumer terminates the contract in accordance with Article 82 of this Law, he shall, without delay and no later than within 30 days from the day the notification on termination was dispatched, return to the trader providing financial services what he has received from the trader on the basis of that contract.

### **Impact of termination of contract on financial service on other contracts**

#### **Article 86**

If the consumer exercises his right to unilateral termination of the contract referred to in Article 82 of this Law, termination of that contract shall also terminate another contract which was concluded, based on or in relation to the contract on financial service, by the consumer with the trader providing financial services or a third party on the basis of an agreement between the third party and the trader providing financial services.

### **Consequences of unfulfilled obligations of trader**

#### **Article 87**

(1) If the trader providing financial services does not fulfil a certain obligation referred to in Articles 76 to 85 of this law, the consumer is entitled to terminate the contract at any time.

(2) In the case referred to in paragraph 1 of this Article, the consumer shall not pay the trader providing financial services for the damage incurred to him/her due to termination of the contract, nor for other compensation, costs, interests or penalty for termination of the contract.

### **Burden of proof**

#### **Article 88**

(1) In the case of dispute related to the distance contract on financial services, the trader shall be obliged to prove that he complied with Article 76 of this Law and that the consumer consented to conclude the contract and agreed that the trader begin providing the agreed service before the expiry of the period for unilateral termination of the contract referred to in Article 82 of this Law.

(2) Any contractual provision providing that the burden of proof referred to in paragraph 1 of this Article lies with the consumer shall be considered an unfair contractual provision in accordance with Article 102 of this Law.

### **Application *mutatis mutandis***

#### **Article 89**

The provisions of this Law relating to the limitation of use of means of distance communication, misuse of the consumer's payment card and the prohibition of sending the product without the consumer's order referred to in Articles 63, 72 and 73 of this Law shall apply *mutatis mutandis* to contract, rights and obligations referred to in Articles 75 to 88 of this Law.

## **Title VII**

### **CONTRACTS ON TOURIST SERVICES**

#### **Notion**

##### **Article 90**

- (1) Timeshare contract shall mean the contract of a duration of more than one year under which a consumer, for consideration, acquires the right to use one or more overnight accommodation for more than one period of occupation, where in calculating the duration of the contract any provision in the contract allowing for tacit renewal or other form of prolongation of the contract shall be taken into account.
- (2) Long-term holiday product contract shall mean a contract of a duration of more than one year under which a consumer, for consideration, acquires the right to obtain discounts or other benefits in respect of accommodation, in isolation or together with travel or other services, where in calculating the duration of the contract any provision in the contract allowing for tacit renewal or other form of prolongation of the contract shall be taken into account.
- (3) Resale contract shall mean a contract under which a trader, for consideration, assists a consumer to sell or buy a timeshare or other long-term holiday product.
- (4) Exchange contract shall mean a contract under which a consumer, for consideration, joins an exchange system which allows that consumer access to overnight accommodation or other services in exchange for granting to other persons in the exchange system temporary access to the benefits of the rights deriving from that consumer's timeshare contract.
- (5) The provisions of paragraphs 1, 2, 3 and 4 of this Article and Articles 91 to 101 of this Law shall be without prejudice to the application of the rules:
  - 1) of general contract law;
  - 2) relating to the registration of immovable or movable property, as well as the rules relating to the use of immovable property;
  - 3) relating to conditions of establishment, authorisation or licensing;
  - 4) determining the legal nature of the rights which are the subject of the contracts covered by this Article.

### **Advertising and information**

#### **Article 91**

- (1) When advertising the contracts referred to in Article 90 of this Law the trader shall specify the possibility of obtaining the prior information referred to in Article 92 of this Law, and indicate where it can be obtained.

- (2) If the conclusion of the contracts referred to in Article 90 of this Law, is offered to a consumer in person, at a promotion or sales event, the trader shall clearly indicate in the invitation the commercial purpose and the nature of the event.
- (3) The information referred to in paragraph 2 of this Article shall be available to the consumer at any time during the event referred to in paragraph 2 of this Article.
- (4) A timeshare or a long-term holiday product shall not be promoted or offered in the market as an investment.

#### **Prior information**

##### **Article 92**

- (1) The trader shall provide the consumer, in a clear and comprehensible manner, with accurate and complete information in a standard information form for contracts on:
  - 1) timeshare;
  - 2) long-term holiday product;
  - 3) resale;
  - 4) exchange.
- (2) The information referred to in paragraph 1 of this Article shall be provided by the trader to the consumer within a reasonable time before the consumer is bound by the contract or the offer to conclude the contract.
- (3) The information by means of the information form referred to in paragraph 1 of this Article shall be provided to the consumer, free of charge, and delivered in written form, on paper or on another durable medium which is easily accessible to the consumer.
- (4) The trader shall draw up the information referred to in paragraph 1 of this Article in the Montenegrin language or in one of the official languages of the State in which the consumer is resident or a national, at the choice of the consumer, and, if he is resident or a national of a Member State of the European Union, in the official language of that State as well provided it is an official language of the European Union.
- (5) Standard information form referred to in paragraph 1 of this Article and the data it contains shall be prescribed by the state administration body in charge of tourism affairs.

#### **Form of contract**

##### **Article 93**

The contracts referred to in Article 90 of this Law shall be concluded in writing, on paper or on another durable medium which is easily accessible to the consumer.

#### **Language of the contract**

##### **Article 94**

- (1) The contracts referred to in Article 90 of this Law shall be drawn up in the Montenegrin language or one of the official languages of the State in which the consumer is resident or a national, at the choice of the consumer, and, if he is resident or a national of a Member State of the European Union, in the official language of that State as well provided it is an official language of the European Union.
- (2) If the consumer resides in Montenegro or the trader carries out his activities in the territory of Montenegro, the contracts referred to in Article 90 of this Law shall be drawn up in the Montenegrin language.
- (3) In the case of a timeshare contract concerning one specific immovable property, the trader shall provide the consumer with a certified translation of the contract in the Montenegrin language or an official language of the Member State in which the immovable property is situated.
- (4) If the immovable property is situated in a Member State of the European Union, the contract shall be translated in the official language or one of the official languages of that State, provided it is an official language of the European Union.

#### **Content of the contract**

##### **Article 95**

- (1) The information referred to in Article 92 of this Law shall form an integral part of the contracts referred to in Article 90 of this Law and shall not be altered unless the contractual parties expressly agree otherwise or the changes result from unusual or unforeseeable circumstances beyond the trader's control, the consequences of which could not have been avoided even if all due care had been exercised.
- (2) The trader shall deliver the changes in the information referred to in Article 92 of this Law to the consumer in writing, on paper or on another durable medium easily accessible to the consumer, before the contract is concluded.
- (3) The changes in the information referred to in Article 92 of this Law shall expressly be mentioned in the contract.
- (4) In addition to the information referred to in Article 92 of this Law, the contract referred to in Article 90 of this Law shall include:
  - 1) data on the identity, place of residence or head office of the contractual parties;
  - 2) data on the place and time of conclusion of the contract;
  - 3) signatures of the contractual parties.
- (5) Before the conclusion of the contract referred to in Article 90 of this Law, the trader shall inform the consumer of the right to unilateral termination of the contract referred to in Article 96 of this



Law and the length of the termination period, and the ban on advance payments during the termination period referred to in Article 99 of this Law.

- (6) The contractual provisions on the right to unilateral termination of the contract, termination period and the ban on advance payments during the termination period shall be signed separately by the consumer.
- (7) A standard form for unilateral termination of the contract referred to in Article 96 of this Law shall form an integral part of the contract referred to in Article 90 of this Law.
- (8) The trader shall give two copies of the contract to the consumer at the time the contract is concluded.
- (9) The content of the standard form for unilateral termination of the contract referred to in paragraph 7 of this Article shall be prescribed by the state administration body in charge of tourism affairs.

### **Right to unilateral termination of the contract**

#### **Article 96**

- (1) The consumer shall have the right to terminate the contract referred to in Article 90 of this Law, without giving any reason, and within a period of 14 days from the day:
  - 1) of the conclusion of the contract or of any binding preliminary contract, or
  - 2) when the consumer receives a copy of the contract or any binding preliminary contract if that period is later than the date referred to in point 1 of this paragraph.
- (2) The period referred to in paragraph 1 of this Article shall expire:
  - 1) after one year and 14 days from the day referred to in paragraph 1 of this Article, if the information and the standard information form referred to in Article 92 of this Law have not been filled in by the trader and delivered to the consumer in writing, on paper or on another durable medium accessible to the consumer,
  - 2) after three months and 14 days from the day referred to in paragraph 1 of this Article, if the information and the standard information form referred to in Article 92 of this Law have not been delivered to the consumer in writing, on paper or on another durable medium accessible to the consumer.
- (3) When the trader has filled in and provided to the consumer in writing, on paper or on another durable medium accessible to the consumer, the standard information form for unilateral termination of the contract within one year from the day referred to in paragraph 1 of this Article, the period for unilateral termination of the contract referred to in Article 89 of this Law shall start from the day the consumer receives that form.

- (4) If the information, including the standard information form referred to in Article 92 of this Law, has been delivered to the consumer in writing, on paper or on another durable medium accessible to the consumer, within three months from the day referred to in paragraph 1 of this Article, the period for unilateral termination of the contract shall start from the day the consumer receives such information.
- (5) If the exchange contract is offered to the consumer together with and at the same time as the timeshare contract, a single unilateral termination period shall apply to both contracts, and it shall be calculated according to the provisions that apply to the timeshare contract.

#### **Modalities for exercising the right to unilateral termination of contract**

##### **Article 97**

- (1) The consumer shall unilaterally terminate the contracts referred to in Article 90 of this Law by notifying the trader in writing, on paper or on another durable medium before the expiry of the period for unilateral termination of the contract, where the consumer may use the standard form for unilateral termination of the contract referred to in Article 95 paragraph 7 of this Law.
- (2) The contract shall be deemed terminated in a timely manner if the notification referred to in paragraph 1 of this Article is sent before the period for unilateral termination of the contract has expired.

#### **Consumer rights in the case of unilateral termination of the contract**

##### **Article 98**

The consumer shall not pay for the costs or for any other value for the services that have been provided to him under the contract before he exercised the right to unilateral termination of the contract referred to in Article 96 of this Law and shall not be held liable for the damages incurred by the trader due to unilateral termination of the contract.

#### **Advance payment**

##### **Article 99**

- (1) It shall be prohibited to require the consumer, before the expiry of the period for unilateral termination of the contract referred to in Article 96 of this Law, to make advance payment, provide a guarantee, make a reservation of money on accounts, explicitly acknowledge debt or carry out any other financial transaction to the benefit of the trader or any third party.
- (2) It shall be prohibited to require the consumer, in the case of resale contracts, to make any advance payment, provide a guarantee, make a reservation of money on accounts, explicitly acknowledge debt or carry out any other financial transaction to the benefit of the trader or any third party before the actual sale takes place or the resale contract referred to in Article 90 paragraph 3 of this Law is otherwise terminated.

#### **Specific provisions relating to long-term holiday product contracts**

##### **Article 100**

- (1) Payment of the agreed price of the long-term holiday product may be requested by the trader solely on the basis of the staggered payment schedule provided for by the contract.

- (2) All payments on the basis of paragraph 1 of this Article, including payment of membership fee, shall be divided into yearly instalments, each of which shall be of equal value.
- (3) For each payment on the basis of the contract referred to in paragraph 1 of this Article, the trader shall send to the consumer a written request for payment, on paper or on another durable medium accessible to the consumer at least fourteen days in advance of each due date.
- (4) Payment on the basis of the long-term holiday product contract that is not based on the staggered payment schedule shall be prohibited.
- (5) From the second instalment payment onwards, the consumer may terminate the long-term holiday product contract without incurring any charges or penalty by giving notice to the trader within fourteen days of receiving the request for payment of each instalment.
- (6) The right referred to in paragraph 5 of this Article shall not affect the rights of the consumer to terminate the contract on the basis of this Law or other laws.

### **Termination of ancillary contracts**

#### **Article 101**

- (1) By unilateral termination of the timeshare or long-term holiday product contract, any exchange contract related to it or any other ancillary contract shall be terminated, at no cost to the consumer.
- (2) If for the purpose of full or partial payment of the price of some of the contracts referred to in Article 90 of this Law the consumer was granted a credit by the trader, or by a third party on the basis of an agreement between that party and the trader, termination of any of those contracts shall mean termination of the credit agreement.
- (3) In the case of termination of the credit agreement referred to in paragraph 3 of this Article, the consumer shall not be obliged to pay to the creditor compensation of damage, or other compensation, costs, interest or penalty.
- (4) Ancillary contract shall be terminated when the trader receives the notification referred to in Article 97 of this Law, regardless of whether the ancillary contract has been concluded with the trader or a third party on the basis of an agreement between that party and the trader.
- (5) If the ancillary contract has been concluded with a third party, the trader shall inform that party of the termination of the contract.
- (6) The trader or a third party with whom the consumer concluded the ancillary contract shall return to the consumer everything he had paid on the basis of the ancillary contract within 30 days from the day of receiving the notification referred to in Article 97 of this Law.

### **Title VIII**

## **UNFAIR PROVISIONS IN CONSUMER CONTRACTS**

### **Notion of unfair contractual provisions**

#### **Article 102**

(1) A contractual provision which has not been individually negotiated shall be regarded as unfair if, contrary to the principle of conscientiousness and integrity, it causes imbalance in the rights and obligations of the contractual parties to the detriment of the consumers.

(2) A contractual provision shall always be regarded as not individually negotiated where it has been drafted in advance by the trader, and the consumer has therefore not been able to influence the substance of the provision, particularly in the context of pre-formulated standard contract of the trader (hereinafter referred to as the "pre-formulated contract").

(3) The fact that certain aspects of a contractual provision or that one specific contractual provision have been individually negotiated, while an overall assessment of the contract indicates that it is nevertheless a pre-formulated contract of the trader, shall not exclude the possibility that other provisions of the contract are assessed as unfair in accordance with paragraph 1 of this Article.

(4) The burden of proof that a specific contractual provision in a pre-formulated contract has been negotiated individually shall lie with the trader.

(5) The provisions of paragraphs 1, 2, 3 and 4 of this Article and Articles 103 to 108 of this Law shall not apply to contractual provisions which transpose into a contract the legal provisions of coercive nature, or which transpose into a contract the provisions and principles of international agreements binding on Montenegro.

### **Consequences of unfair contractual provisions**

#### **Article 103**

(1) An unfair contractual provision in a consumer contract shall be deemed null and void.

(2) A null and void contractual provision shall not nullify the contract if the contract is capable of continuing in existence without the nullified provision.

### **Unfair provisions in contracts**

#### **Article 104**

Contractual provisions that may be deemed unfair in accordance with Article 102 of this Law shall be in particular the provisions:

- 1) that limit or waive liability of the trader for damages caused by the death or bodily injury of the consumer, if the damage is a consequence of the trader's actions;
- 2) that limit or exclude the rights of the consumer against the trader or a third person in the event of total or partial non-performance of the contract, including a provision excluding the option of offsetting a consumer's debt against a debt owed by the trader to the consumer;
- 3) binding the consumer to fulfil contractual obligations, while the fulfilment of contractual obligations of the trader is subject to the circumstances whose realization depends on his own will alone;
- 4) entitling the trader to retain all payments made by the consumer after the consumer has decided not to sign or fulfil the contract, while the same right is not given to the consumer if the trader decides not to sign or fulfil the contract;

- 5) obliging the consumer to pay damages for failure to fulfil the contract that exceed the actual damage;
- 6) entitling the trader to terminate the contract at his discretion, while the same right is not given to the consumer;
- 7) entitling the trader, in case of contract termination, to retain the sums paid for services not yet rendered;
- 8) entitling the trader to terminate a contract of indeterminate duration without allowing a reasonable notice, except in cases where there are justified reasons for termination;
- 9) enabling the extension of a contract of fixed duration for an indefinite or definite period even if the consumer does not, before expiration of the contract, state that he or she wishes to extend the contract, if the deadline fixed for the consumer to express this desire not to extend the contract is unreasonably early;
- 10) imposing certain obligations on the consumer without having acquainted the consumer with such provision before the conclusion of the contract;
- 11) entitling the trader to unilaterally change without a valid reason contractual provisions stipulated in the contract;
- 12) entitling the trader to unilaterally change without a valid reason the characteristics of the product that is the subject matter of the contract,;
- 13) by which the price of goods or services is determined at the time of delivery of goods or performance of service, or a provision allowing the trader to increase the price, without recognising the consumers right to terminate the contract if the actual price is higher than the one agreed at the time of the conclusion of the contract;
- 14) giving the trader the right to determine whether the product is in conformity with the contract;
- 15) granting an exclusive right to the trader to interpret all or certain contractual provisions;
- 16) excluding or limiting liability of the trader for obligations undertaken on his behalf by an agent, or a provision by which the fulfilment of these obligations is subject to the fulfilment of certain formalities;
- 17) obligating the consumer to fulfil his contractual obligations even though the trader has not fulfilled his contractual obligations;
- 18) allowing the trader to transfer his rights and obligations under the contract to a third person without prior consent from the consumer, if by this the consumer is placed in a less favourable position, and
- 19) excluding, limiting or hindering the consumer's right to exercise his rights under the contract before a court of law or another competent body or organisation, and in particular a provision obliging the consumer to settle disputes through arbitration that is not provided for by the applicable law or a provision preventing the presenting of evidence benefiting the consumer, or a provision by which the burden of proof is transferred to the consumer if, according to the applicable law, the burden of proof would lie with the trader.

#### **Circumstance taken into account when assessing the contract**

#### **Article 105**

When assessing whether or not a certain contractual provision is fair, the nature of the product or service that are the subject-matter of the contract shall be taken into account, as well as all the circumstances preceding and existing at the time of conclusion of the contract, other contractual

provisions and any other contract that may present the primary contract in relation to the contract being assessed.

### **Prohibiting assessment of certain contractual provisions**

#### **Article 106**

- (1) It shall be prohibited to assess the unfair nature of the contractual provisions concerning the subject matter of the contract and the price if those provisions are legible, clear, unambiguous, understandable and easily noticeable.
- (2) Notwithstanding paragraph 1 of this Article it shall be allowed to assess contractual provisions that refer to the formation and change of prices, as well as the payment method.

### **Contractual provisions in writing**

#### **Article 107**

If the contract is to be in writing the provisions must be written clearly in accordance with the law or agreement of contractual parties, the provisions of the contract must be written in a legible, clear, unambiguous, understandable and easily noticeable manner.

### **Interpretation of the contract**

#### **Article 108**

- (1) Unclear, ambiguous, or incomprehensible contract provisions shall be interpreted in favour of the consumer.
- (2) The provision referred to in paragraph 1 of this Article shall not apply in the procedures initiated in accordance with Article 118 of this Law.

## **PART THREE**

### **UNFAIR COMMERCIAL PRACTICES**

#### **Scope of application**

##### **Article 109**

- (1) The provisions of Articles 110 to 117 of this Law shall apply to business-to-consumer commercial practices before, during and after the conclusion of a legal transaction in relation to a product.
- (2) The provisions of Articles 110 to 117 of this Law shall be without prejudice to the application of the rules and regulations:
  - 1) of contract law, and in particular the rules on the validity, formation or effect of a contract;
  - 2) regulating health and safety requirements for products;
  - 3) determining the jurisdiction of courts, and
  - 4) determining the conditions of establishment or authorisation scheme of regulated professions, and application of deontological codes of conduct or other specific rules, the purpose of which is to maintain high level of professional integrity of these professions.
- (3) The provisions of Articles 110 to 117 of this Law shall not apply to the certification and establishment of the standard of fineness of articles of precious metal.

(4) If certain aspects of unfair commercial practice are regulated by special legislation, the provisions of Articles 109 to 117 of this Law shall not apply to those aspects.

### **Notion of unfair commercial practice**

#### **Article 110**

(1) For the purposes of this Law, a commercial practice shall be considered as unfair if:

- 1) it is contrary to the requirements of professional diligence, and
- 2) it materially distorts or is likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed to, or of the average member of the group of consumers when a commercial practice is directed to a particular group of consumers.

(2) In particular, unfair commercial practices referred to in paragraph 1 of this Article shall be considered to be: misleading commercial practice referred to in Articles 112, 113 and 114 of this Law; aggressive commercial practice referred to in Articles 115, 116 and 117 of this Law, as well as the trader's practice referred to in Article 41 paragraph 5 and Article 60a paragraph 1 of this Law.

(3) Commercial practices which are likely to materially distort the economic behaviour of a clearly identifiable group of consumers who are particularly vulnerable to the commercial practice, or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, shall be assessed from the perspective of the average member of that group of consumers.

(4) The provision of paragraph 3 of this Article shall not apply to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.

### **Prohibition of unfair commercial practices**

#### **Article 111**

Unfair commercial practices shall be prohibited.

### **Notion of misleading commercial practice**

#### **Article 112**

(1) A commercial practice shall be regarded as misleading if it contains information making it untruthful, or in any other way deceives or is likely to deceive the average consumer with regard to any of the circumstances referred to in paragraph 2 of this Article, which causes or is likely to cause him to take a transactional decision that he would not have taken otherwise.

(2) Existence of misleading commercial practice may relate to the following circumstances:

- 1) the existence or nature of the product;
- 2) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product;
- 3) the extent of the trader's commitments, the motives for the particular trader's practice and the nature of the sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product;
- 4) the price of the product or the manner in which the price is calculated, or the existence of a specific price advantage;
- 5) the need for a service, part, replacement or repair;

- 6) the nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, membership of associations or connection to some other entities, ownership of industrial, commercial or intellectual property rights, his awards and distinctions;
  - 7) the consumer's rights, including the right to replacement or reimbursement, in accordance with the provisions of this Law regulating conformity with the contract and guarantee, as well as the risks the consumer may face.
- (3) A commercial practice shall also be regarded as misleading if, in its factual context, taking account of all features and circumstances of the case, it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves:
- 1) any marketing of a product, including comparative advertising, which creates confusion with any products, trademarks, trade names or other distinguishing marks of competitors in the market,
  - 2) non-compliance by the trader with commitments contained in codes of conduct binding on the trader, provided that the commitment is not aspirational but is firm and is capable of being verified, and provided that the trader indicated in a commercial practice that he is bound by the code.

### **Misleading omissions**

#### **Article 113**

(1) A commercial practice shall be regarded as misleading if, in its factual context, taking account of all features and circumstances of the case, and the limitations of the communication medium, it omits material information that the average consumer needs to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, as well as:

- 1) hiding material information or providing information in an unclear, unintelligible, ambiguous or untimely manner;
- 2) failing to identify the intent of the commercial practice, which is not already apparent from the context.

(2) When the trader is using the communication medium imposing limitations of space or time, and when assessing whether important information has been omitted, these limitations and other measures that the trader undertook in order to deliver that information to the consumer in another manner shall be taken into account.

(3) In the case of an invitation to purchase, the following information shall be regarded as material, if not already apparent from the context:

- 1) the main characteristics of the product, to an extent appropriate to the product and the communication medium that is used;
- 2) the head office and the identity of the trader, such as his name and, where applicable, the address and the identity of the person on whose behalf he is acting;
- 3) the price of the product, or where the nature of the product does not allow for the price to be calculated in advance, the manner in which the price will be calculated, as well as, where likely that additional charges will be payable, postal charges and freight and delivery charges, and if these charges cannot be calculated in advance, indication that such additional charges are payable;
- 4) the arrangements for payment, delivery, other elements of performance of the contract and the complaint handling policy, if they depart from the requirements of professional diligence, and
- 5) the existence of the right of termination or cancellation of the contract, in the case of products or legal transactions involving those rights.

(4) The information that the trader shall provide to the consumer in commercial communication, including advertising and marketing of the products, in accordance with this Law or another law shall also be regarded as material information referred to in paragraphs 1, 2 and 3 of this Article.



## **Misleading commercial practices**

### **Article 114**

The following shall be in all circumstances considered misleading commercial practice:

- 1) false claim that the trader is a signatory to a code of conduct;
- 2) displaying trust marks, quality marks or similar marks without the necessary authorisation;
- 3) false claim that the code the trader applies has been approved by an authorised organisation;
- 4) false claim of the trader that his activity, commercial practice or a product has been approved, endorsed or authorised by the competent body or the appointed or authorised organisation, or that his commercial practice or a product fulfils the requirements for issuing such approval, endorsement or authorisation;
- 5) making an invitation to purchase products at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that he will not be able to supply, or to procure another trader to supply those products or equivalent products at the price for a period that is, and in quantities that are, reasonable having regard to the product, the scale of advertising of the product and the price offered;
- 6) making an invitation to purchase products at a specified price, while the trader refuses to show the advertised item to consumers or to take the consumer's order or refuses to deliver the product within a reasonable time, or demonstrating a defective sample of the product, with the intention of promoting a different product;
- 7) falsely stating that a product will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice based on all relevant circumstances,
- 8) undertaking to provide after-sales services to the consumer with whom the trader has communicated prior to making a purchasing decision in a language which is not an official language of the country where the trader is located, and then making such service available in another language in which the communication has not been made prior to the purchasing decision, without clearly warning the consumer of this before concluding the contract;
- 9) falsely stating or otherwise creating an impression that a product can legally be sold;
- 10) presenting rights given to consumers in law as a distinctive feature of the trader's offer;
- 11) using editorial content in the media to promote a product, without clear and unambiguous information in the content, images or by sounds, based on which the consumer may clearly establish that promotion is paid for;
- 12) false claims about the nature and extent of the risk to personal safety of the consumer or his family if the consumer does not purchase the product;
- 13) promoting a product similar to a product made by a particular manufacturer in such a manner as to deliberately mislead the consumer into believing that the product is made by that same manufacturer when it is not;
- 14) establishing, operating or promoting a pyramid promotional scheme where a consumer gives certain consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the pyramid scheme rather than from the purchase or consumption of products;
- 15) falsely claiming that the trader is about to cease trading or move premises;
- 16) claiming that products are able to facilitate winning in games of chance;
- 17) falsely claiming that a product is able to cure illnesses, dysfunction or malformations;
- 18) passing on inaccurate information on market conditions, or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions;

- 19) the trader's claim in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent;
- 20) describing a product as "gratis", "free", "without charge" or similar if the consumer has to pay anything other than the unavoidable cost of responding to the offer and the cost of delivery or receiving of the item;
- 21) including in marketing material an invoice or another document seeking payment which gives the consumer the impression that he has already ordered the marketed product when he has not;
- 22) falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, craft or profession, or falsely representing the trader as a consumer;
- 23) creating the false impression that after-sales service in relation to a product is available also in the territory of another state.

### **Aggressive commercial practices**

#### **Article 115**

For the purposes of this Law, a commercial practice shall be regarded as aggressive if, in its factual context, taking account of all features and circumstances of the case, by harassment, coercion, including the use of physical force or threat, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to the product and thereby causes him, or is likely to cause him to take a transactional decision that he would not have taken otherwise.

### **Harassment, coercion and undue influence**

#### **Article 116**

In determining whether a commercial practice uses harassment, coercion, including the use of physical force or threat, or undue influence, account shall be taken of:

- 1) timing, location, nature and duration of commercial practice and persistence that the trader showed;
- 2) the use of threatening or abusive language or behaviour of the trader;
- 3) the exploitation by the trader of any consumer's misfortune or circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to the product;
- 4) any onerous or disproportionate non-contractual barriers imposed by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate or to cancel a contract or to switch to another product or another trader;
- 5) any threat to take any action that cannot legally be taken.

### **Commercial practices which are in all circumstances considered aggressive**

#### **Article 117**

The following commercial practices shall be considered aggressive:

- 1) creating the impression that the consumer cannot leave the trader's premises until a contract is concluded;
- 2) conducting personal visits to the consumer's home, contrary to the consumer's request to leave his home or that no visits are made in future, except in circumstances and to the extent justified to enforce a contractual obligation in accordance with the law;
- 3) making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media, except in circumstances and to the extent justified to enforce a contractual obligation in accordance with the law;

- 4) requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a consumer from exercising his contractual rights;
- 5) including in an advertisement a direct exhortation to children to buy advertised products, or persuade their parents or other adults to buy advertised products for them;
- 6) demanding immediate payment or payment in instalments for, the return or safekeeping of products which the consumer has not ordered;
- 7) explicitly informing a consumer that if he does not buy the product, the trader's job or livelihood will be in jeopardy;
- 8) creating the false impression that the consumer has already won, will unconditionally win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either there is no prize or other equivalent benefit, or taking any action in relation to claiming the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost.

## **PART FOUR PROTECTION OF CONSUMER RIGHTS**

### **Title I PROTECTION OF COLLECTIVE INTERESTS OF CONSUMERS**

#### **Action for the protection of the collective interests of consumers**

##### **Article 118**

- (1) An action may be filed against a trader who uses unfair contractual provisions, commercial practices, or in any other way violates the rights of consumers stipulated by this Law or other law, whereby he undermines the collective interests of consumers, for termination of such activities (hereinafter referred to as the "collective action").
- (2) Collective action may be filed against an individual trader or group of traders from the same economic sector who violate, by their activities, the rights of consumers laid down by this Law or other law, impairing thereby the collective interests of consumers, or against the chambers and interest associations of traders who promote such activities, or against an owner of the code promoting the use of unfair commercial practices.
- (3) The provisions of paragraphs 1 and 2 of this Article and Articles 119 to 130 of this Law shall be without prejudice to the application of the general rules for determination of the applicable law in international disputes.

#### **Persons authorized to institute proceedings (authorized persons)**

##### **Article 119**

- (1) Collective action may be filed by:
  - 1) Ministry, other state administration bodies and autonomous organisations and independent legal persons in charge of the protection of consumer rights in accordance with the law;
  - 2) consumer organisation referred to in Article 169 paragraph 1 of this Law.
- (2) Collective action may be filed by chambers and interest associations of traders (business, craftsmen, etc.).
- (3) Consumer organisations referred to in Article 169 paragraph 1 of this Law shall also be authorized to institute the proceedings for the protection of the collective interests of consumers before the competent body of another Member State of the European Union.

## **Procedures preceding the institution of court proceedings**

### **Article 120**

(1) Prior to filing an action for the protection of the collective interests of consumers, the authorized person shall warn in written form the person whom it intends to take the action against that, if he does not cease the conduct whereby he undermines the collective interests of consumers, a collective action shall be filed against him.

(2) The authorized person may not file a collective action prior to the expiry of period of 14 days from the day of delivery of the warning referred to in paragraph 1 of this Article.

(3) The petition for ordering an interim measure may be filed prior to the expiry of period referred to in paragraph 2 of this Article.

## **Special rules of proceedings**

### **Article 121**

(1) For adjudication in the proceedings upon the collective action, actual jurisdiction shall pertain to the court of general jurisdiction.

(2) For adjudication in the proceedings upon the collective action, territorial jurisdiction shall pertain to the court in line with the location of defendant's headquarters, or any part thereof or a business unit, if a dispute arises from business operation of that part or business unit.

(3) If the defendant has no headquarters, nor its part or a business unit in Montenegro, the territorial jurisdiction shall pertain to the court in the territory of which the treatment took place whereby the collective interests of consumers were violated or harm caused.

(4) In the proceedings upon the collective action, the amount of the subject-matter of the dispute shall be determined by the court.

(5) The court shall determine the value of the subject-matter of the dispute in the amount up to EUR 5,000 regardless of the actual economic significance of the dispute.

(6) Should the reduction of the value of the subject-matter of the dispute occur, particular care will be paid to the complexity and scope of the dispute, the number of persons against whom the proceedings are conducted and the importance of the claim from the point of the public interest.

## **Existing litigation proceedings and related litigation proceedings**

### **Article 122**

(1) While the proceedings upon the collective action are underway, other proceedings for the protection of the collective interests of consumers with respect to the same claim against the same defendant may not be instituted.

(2) Other authorized person may join the plaintiff in the proceedings underway, as an intervener without the right to reimbursement.

(3) Instituting or conducting the proceedings on the collective action shall not prevent the consumer who suffers adverse consequences due to the trader's unlawful conduct to initiate, before the competent court, the proceedings for compensation of damages, for the cancellation or nullification of the contract concluded under the influence of the conduct undermining the collective interests of the consumers, or any other proceedings for the exercise of the rights he is entitled to under this Law or other laws.

## **Court decision**

### **Article 123**

(1) If the collective action is well-founded, the court shall, by a decision adopting the action, find a violation of this Law or other laws in accordance with Article 118 paragraphs 1 and 2 of this Law, describe it accurately and, in respect of the defendant:

- 1) order them to terminate the conduct referred to in Article 118 paragraphs 1 and 2 of this Law, and order them, if possible, to take measures necessary to eliminate adverse consequences caused by their conduct;
- 2) prohibit such or similar conduct in the future, whereby the collective interests of consumers are harmed;
- 3) order them to publish, at their own expense, the decision in full or in part if its publication can contribute to reduce or completely eliminate the adverse consequences of the conduct referred to in Article 118 paragraph 1 of this Law;
- 4) order them to publish, at their own expense, a corrective statement of prohibited advertising, when applicable.

(2) The court shall, by a decision accepting the claim, set the deadline for the enforcement of that decision.

#### **Effect of the court decision**

##### **Article 124**

(1) Enforcement of the final court decision referred to in Article 123 of this Law may be requested, in addition to the prosecutor and other authorized persons referred to in Article 119 of this Law, also by any consumer who has a legal interest.

(2) If the court prohibits the use of certain unfair provisions in the contract, the trader who was a party to the proceedings upon the collective action may not invoke such provisions from previously concluded contracts.

#### **Special provisions for the proceedings relating to unfair commercial practices**

##### **Article 125**

- (1) If the collective action proceedings have been instituted due to the unfair commercial practices referred to in Articles 109 to 117 of this Law, in determining whether a commercial practice is unfair, it shall not be taken into account whether that practice has caused damage or whether it is likely to cause damage to anyone, or whether the person against whom the proceedings are conducted is guilty of the unfair commercial practice.
- (2) If the collective action proceedings have been instituted due to misleading commercial practice referred to in Articles 112, 113 and 114 of this Law, the court shall require the defendant, if appropriate considering the circumstances of the case and taking into account justified interests of the defendant and of the other party to the proceedings, to furnish evidence as to the accuracy of factual claims made within the commercial practice within seven days.
- (3) If the evidence is not submitted within the period referred to in paragraph 2 of this Article or if the court finds that the evidence submitted is incomplete or insufficient, the factual claims made within the commercial practice shall be considered as inaccurate.

#### **Binding force of the court decision**

##### **Article 126**

In the proceeding upon an individual action, filed under Article 122, paragraph 3 of this Law, against the same defendant who was the defendant in the proceedings upon the collective action, which was adopted, the court shall decide in accordance with the final decision from the proceeding upon the collective action.

## **Register of judgments**

### **Article 127**

- (1) Ministry shall keep an electronic register of collective actions filed and decisions adopted.
- (2) Court shall submit to the Ministry the collective action immediately upon receipt, and the decision immediately after the adoption.
- (3) Register of decisions shall be public, and access available free of charge.
- (4) Detailed contents and manner of keeping the register of actions filed and decisions adopted shall be prescribed by a regulation of the Ministry.

## **Interim measures**

### **Article 128**

- (1) The court may, before a final decision is adopted, under the conditions prescribed by the law governing security measures, order an interim measure ordering the cessation of the conduct harming the collective interests of consumers.
- (2) The court may order an interim measure even if the trader has not yet commenced the conduct harming the collective interests of consumers but the commencement of such conduct is imminent.

## **Appropriate application**

### **Article 129**

If not otherwise provided by this Law, in the proceedings upon the action referred to in Article 118 of this Law, the competent court shall accordingly apply the provisions of the law governing litigation proceedings and of the law governing the enforcement and security.

## **Active legitimation of bodies from other EU member states**

### **Article 130**

- (1) If the conduct of a trader, a part thereof or a business unit, or a group of traders with headquarters in Montenegro, is contrary to the provisions of this Law and other laws containing provisions on consumer protection, or such conduct originates from Montenegro and affects or may affect the position of consumers in another Member State of the European Union, the proceedings on collective action may be initiated by an authorized person of that State.
- (2) Persons referred to in paragraph 1 of this Article shall be authorized to institute the proceedings on collective action, if they are included in the list of persons authorized to institute proceedings for the protection of the collective interests published in the *Official Journal of the European Union*.
- (3) The list referred to in paragraph 2 of this Article shall be submitted by an authorized person to the court together with the action for the protection of the collective interests of consumers in the form of a copy of the *Official Journal of the European Union* in which that list was published.
- (4) Authorized persons referred to in this Article may file an action in accordance with Article 120 of this Law after consultation with the Ministry, as well as in the event that the Ministry does not respond to the request for consultation within 15 days.

## **Title II**

### **LEGAL PROTECTION OF PROPERTY**

#### **SECTION A**

#### **RIGHT TO DAMAGES**

##### **Compensation for damage caused on a product that was handed over for repair**

### **Article 131**

(1) In the case of destruction, loss or damage on the product handed over for repair, the consumer shall be entitled, at his/her option, to request damages in the amount of the actual value of the product on the date of handover of the product for the repair or the repair of the damaged product.

(2) In the case of destruction, loss or damage on the product handed over for repair, and on the basis of the non-compliance with the contract, as well as under the warranty, the consumer shall be entitled, at his/her option, to request the delivery of a new product or the payment of damages in cash value equal to the price paid for that product or the repair of the damaged product.

(3) Right referred to in paragraphs 1 and 2 of this Article shall be exercised by the consumer by filing a request with the person that caused the destruction, loss or damage on the product, who is obliged to comply with the request within eight days from the date of filing of the request.

(4) Provisions of paragraphs 1 and 3 of this Article shall apply to the provision of other services in connection with the product (dry cleaning, laundry services, etc.).

### **Compensation for damage caused by the use of a defective product**

#### **Article 132**

(1) A manufacturer who places the product on the market shall be liable, in accordance with this Article, for the damage caused by a defect of the product.

(2) Manufacturer referred to in paragraph 1 of this Article shall be considered any person as defined by the provisions on the liability of the manufacturer of a deficient product of the law governing obligations.

(3) Product referred to in paragraph 1 of this Article, shall mean any movable, on its own or incorporated into another movable or an immovable, including electricity and other forms of energy.

(4) For the purpose of paragraph 1 of this Article, damage shall mean damage caused by:

1) death or bodily injury, and

2) damage to or destruction of a part of the property, that is not a defective product and that is normally intended for personal use and that was used by the injured party mostly for this purpose.

(5) Injured party shall be entitled to compensation of material damage in the case referred to in paragraph 4 point 2 of this Article, provided that the amount of damage exceeds EUR 500.

(6) Provisions of paragraphs 1 to 5 of this Article shall not exclude the exercise of the right to damages on the basis of general rules on liability for the damage.

(7) Provisions of this Article shall not apply to damage caused by a nuclear accident, as determined by international agreements binding on Montenegro.

## **SECTION B**

### **OUT-OF-COURT RESOLUTION OF CONSUMER DISPUTES**

#### **Bodies for out-of-court resolution of consumer disputes**

##### **Article 132a**

(1) Out-of-court resolution of consumer disputes means a method of resolution of disputes between the consumer and the trader carried out by a body for out-of-court resolution of consumer disputes (hereinafter referred to as the "dispute resolution body") for the purpose of concluding settlement or adopting non-binding or binding decisions.

(2) The dispute resolution body may be established as a legal person or without legal personality when it operates as part of the trader.

(3) The procedure of resolving an out-of-court consumer dispute may be initiated solely by the consumer.

(4) The head office of the dispute resolution body shall be considered to be the place:

- 1) in which it has been registered, if it has been established as a legal entity;
- 2) in which the trader, as part of which the dispute resolution body operates, has its head office, if it has been established without legal personality.

#### **Application of other regulations Article 132b**

The provisions of the law governing the mediation procedure shall apply in a subsidiary manner to matters related to out-of-court resolution of consumer disputes not regulated by this Law.

#### **Obligations of the dispute resolution body Article 132c**

(1) The dispute resolution body shall be obliged to:

- 1) enable access to information on the procedures for out-of-court resolution of disputes on the website, and regularly update the information;
- 2) allow the consumers to submit a petition for initiation of a consumer dispute by electronic means;
- 3) enable, at the request of the parties in a consumer dispute, access to information referred to in point 1 of this paragraph on a durable medium;
- 4) enable the exchange of information between the parties in a consumer dispute by electronic means or, if necessary, by post;
- 5) resolve domestic and cross-border consumer disputes;
- 6) when resolving consumer disputes, ensure that the processing of personal data is carried out in accordance with the law governing the protection of personal data.

(2) The dispute resolution body shall allow the consumers to submit a petition for initiation of a consumer dispute in person, by mail, by fax or in any other appropriate manner.

#### **Rejection of the petition for initiation of the procedure Article 132č**

(1) The petition for initiation of the procedure for consumer dispute resolution shall be rejected by the dispute resolution body if:

- 1) the consumer has not previously requested the resolution of complaint from the trader;
- 2) the petition is considered to be prohibited, ill-intentioned, or submitted by a person who does not have a legal interest to initiate the procedure;
- 3) the dispute is being or has already been resolved by another dispute resolution body;



4) the consumer did not file a petition within one year from the date of submitting written complaint to the trader;

5) the resolution of such a type of dispute would seriously undermine the operation and the purpose of the dispute resolution body;

6) if the value of the subject matter of the dispute is less than 30 euros.

(2) The dispute resolution body shall decide on the admissibility of the petition for initiation of the procedure within three weeks from the date of receipt of the petition for initiation of consumer dispute.

(3) If the dispute resolution body rejects the petition for initiation of the consumer dispute, it shall deliver a reasoned decision on rejection to the parties in the procedure within three weeks from the date of receipt of the proposal.

(4) The requirement referred to in paragraph 1 point 1 of this Article shall be deemed fulfilled if the consumer has already submitted complaint under Articles 25, 26 and 27 of this Law in the same case.

### **Expertise, independence and impartiality**

#### **Article 132ċ**

(1) Out-of-court resolution of consumer disputes within the dispute resolution body may be conducted by a person who:

1) has VII-1 level of educational qualification;

2) has at least five years of work experience;

3) has completed an appropriate training programme for the implementation of out-of-court resolution of disputes;

4) has never been convicted of criminal offence making him unworthy to conduct the procedure of out-of-court settlement of consumer disputes.

(2) The person referred to in paragraph 1 of this Article:

1) may not receive reimbursement or remuneration for work in a way that is related to the outcome of the proceedings;

2) may not receive or seek instructions from the parties in a consumer dispute and their representatives;

3) shall be obliged, during the consumer dispute, to take into account and to inform, without delay, the dispute resolution body of the circumstances that could have an impact on their independence and impartiality, or whose occurrence may cause a conflict of interest in relation to a party to the proceedings;

4) shall be appointed for a period of at least three years and may be reappointed.

(3) The term of office of the person referred to in paragraph 1 of this Article shall terminate:

1) by the expiry of the period of time for which he has been appointed;

2) at his own request;

3) after demonstrated incompetence or inactivity in the performance of his duties;

4) by the abuse of office;

5) by the loss of capacity to work.

(4) The dispute resolution body shall be obliged to ensure professional training of persons in charge of conducting the procedure of out-of-court resolution of consumer disputes.

(5) The programme and method of taking examination for professional training of persons in charge of conducting the procedure of out-of-court resolution of consumer disputes and the form of certificate on examination passed shall be prescribed by the Ministry.

#### **Recusal of the persons who conduct the proceedings** **Article 132d**

(1) If the person conducting the procedure receives a reward or a remuneration from a third person having interest in the outcome of the proceedings, seeks or receives instructions from the parties or their representatives, or his private interest affects independent and impartial performance of his duties, the party to the proceedings shall inform, without delay, the dispute resolution body which will replace the person who conducts the proceedings.

(2) In the event referred to in paragraph 1 of this Article, the dispute resolution body shall be obliged to designate another person to conduct out-of-court resolution of consumer dispute.

(3) If it is not possible to replace the person who conducts the proceedings referred to in paragraph 1 of this Article, the dispute resolution body shall advise the parties to initiate the proceedings before another dispute resolution body.

(4) If there is no other dispute resolution body, the dispute resolution body conducting the procedure shall inform the parties of the circumstances referred to in paragraph 1 of this Article following which the parties may give consent that the person conducting the proceedings shall continue the initiated proceedings.

#### **Decision-making in the collegial body** **Article 132dž**

(1) For the purpose of out-of-court resolution of consumer disputes, a collegial body for the dispute resolution may be set up whose members are the persons conducting out-of-court resolution of consumer disputes.

(2) The dispute resolution bodies in which persons conducting the procedure are part of the collegial body shall ensure that the collegial body referred to in paragraph 1 of this Article, apart from other members, is composed of an equal number of the representatives representing the interests of consumers and of the representatives representing the interests of traders.

(3) The body referred to in paragraph 1 of this Article must have an odd number of members.

#### **The requirements for the dispute resolution bodies at traders** **Article 132ď**

(1) The dispute resolution bodies in which the proceedings for the resolution of consumer disputes are conducted by the persons employed by the trader or the persons receiving the remuneration from

the trader shall ensure that, in addition to fulfilment of the requirements laid down in Article 132c paragraph 1 of this Law, the person conducting the proceedings:

- 1) is a member or within the selection procedure is appointed a member by a collegial body for the resolution of disputes;
- 2) holds a term of office of at least three years;
- 3) submits a written statement that he/she will not work for the trader, professional organisation or business association of which the trader is a member within three years from the termination of the performance of the function in the dispute resolution body.

(2) The trader shall provide financial resources necessary for smooth operation of the dispute resolution body.

(3) The dispute resolution body must not have any hierarchical or functional link with the trader and must have financial resources provided by a special budget, which is separate from the trader's budget, to fulfil its tasks.

#### **The requirements for the dispute resolution bodies at interest associations Article 132e**

(1) If the person who conducts the procedure of consumer protection is employed by, or receives the remuneration exclusively from, an interest association in which the trader is a member, the interest association shall provide financial resources in a separate budget dedicated to the conduct of the proceedings.

(2) Paragraph 1 of this Articles shall not apply if the person who conducts the proceedings is a member of the collegial body referred to in Article 132dž of this Law.

#### **Transparency Article 132f**

(1) The dispute resolution body shall inform the interested parties through the website, in a clear and understandable manner, about:

- 1) the contact details (e-mail address, postal address);
- 2) the fact that it is listed in the list of bodies authorised to resolve disputes referred to in Article 132nj of this Law;
- 3) the number and date of adoption of the decision of out-of-court resolution of dispute;
- 4) the given names and surnames of the persons who conduct the procedure of out-of-court resolution of consumer disputes, manner of their appointment and the length of their term of office;
- 5) appropriate knowledge and experience, independence and impartiality of the persons conducting the procedure of out-of-court resolution of consumer disputes, if they are employed or paid exclusively by the trader, and the details of the trader if they receive any remuneration or salary from the trader;
- 6) membership in the networks of the bodies for cross-border resolution of consumer disputes;
- 7) the type of disputes for the resolution of which it is authorised;
- 8) the languages in which a petition for the initiation of the proceedings may be submitted, as well as the languages in which the proceedings are conducted;
- 9) the regulations and rules that the dispute resolution body applies to the resolution of dispute (law, implementing act, principles, rules, code of ethics);

10) the requirements that the parties to the proceedings are required to meet, including the obligation of the consumer prior to try to resolve the dispute with the trader in accordance with this Law before the initiation of the proceedings;

11) a possibility that the party may at any time before the decision is adopted withdraw from the dispute;

12) the costs of proceedings paid by the parties, if the party is obliged to pay these costs;

13) average length of the proceedings;

14) legal consequences of the outcome of the proceedings for out-of-court resolution of the consumer dispute, including the sanctions for non-compliance with the decisions of the dispute resolution body if they are binding on the parties;

15) the conditions under which the decisions of the dispute resolution body have a character of enforceable instrument.

(2) The information referred to in paragraph 1 of this Article shall be submitted upon request in writing, on paper or on another durable medium.

### **Publication of annual reports**

#### **Article 132g**

(1) The dispute resolution body shall publish an annual report on its activities on its website or through other appropriate means of information, which shall contain information on domestic and cross-border disputes and in particular:

1) the information and data on the types of disputes it resolves or in whose resolution it is involved;

2) the number of petitions for the initiation of out-of-court resolution of consumer disputes;

3) the systemic or significant problems that occur frequently and lead to disputes between consumers and traders, which may be accompanied by recommendations as to how such problems can be avoided or resolved, in order to raise traders' standards, encourage the exchange of best practices and information on problems found;

4) the number of rejected petitions for the initiation of out-of-court proceedings for the resolution of consumer disputes, as well as the percentage share of the reasons for rejection of the petitions referred to in Article 132č of this Law in the total number of rejected petitions;

5) the percentage of binding and non-binding decisions in the favour of the consumer or in the favour of the trader and the disputes resolved by settlement;

6) the percentage of proceedings that were discontinued, and the reasons for the discontinuation of those proceedings, if known;

7) the average length of proceedings;

8) the degree of enforcement of the decisions or recommendations of the dispute resolution body, if these data are known, including the outcomes of the proceedings;

9) the information on the co-operation of the dispute resolution body within the networks of the bodies for cross-border resolution of consumer disputes;

10) the information on professional training of the persons conducting the procedure in accordance with Article 132ć of this Law, if necessary,

(2) The report referred to in paragraph 1 of this Article shall be submitted upon the request of the interested person, on paper or on another durable medium.

### **Efficiency of proceedings**

#### **Article 132h**

(1) The dispute resolution body shall ensure the efficiency of the proceedings in such a way that:

1) the procedure may be conducted electronically or directly before the dispute resolution body and that the procedure is accessible to the parties, regardless of where they are located;

2) the parties may participate in the procedure without being obliged to retain a lawyer or another person to represent them but they shall be provided the right to independent legal advice, to be represented or assisted by a third party at any stage of the procedure;

3) the procedures of out-of-court resolution of disputes are free of charge or available at affordable prices to the consumers;

4) the dispute resolution body shall, without delay, after the receipt of a complete petition for the initiation of the procedure, inform the parties concerned;

5) the procedure shall be finalised within 90 days from the date of receipt of a complete petition for the initiation of the procedure.

(2) If the decision is to be made in a complex dispute, the period referred to in paragraph 1 point 5 of this Article, may be extended up to 180 days, with prior submission of written reasons for such extension.

(3) The dispute resolution body shall promptly notify the parties of any extension of the period referred to in paragraph 2 of this Article and of the expected length of time that will be needed for the finalisation of the dispute.

### **Adversarial principle and fairness Article 132i**

(1) The dispute resolution body shall ensure that the parties to the procedure:

1) have the possibility to express their opinion, within a reasonable period of time, on the circumstances of the case, as well as on all allegations, evidence, documents and statements of the other party, as well as on the possible findings and opinions of the experts, and to give their comments on them;

2) are informed that they are not obliged to retain a lawyer or another person to represent them in the procedure, but that they may seek independent legal advice or assistance by a third party at any stage of the procedure;

3) are notified about the outcome of the proceedings by submitting a reasoned decision in writing on paper or on another durable medium.

(2) In the procedure in which a non-binding decision is made:

1) the parties have the right to withdraw from the procedure at any stage if they are dissatisfied with the way in which the procedure is conducted, of which the dispute resolution body shall inform them before the procedure commences, unless a special regulation provides for mandatory participation of the trader in the procedure of out-of-court dispute resolution, in which case the notification shall only be given to the consumer;

2) before accepting the proposed solution or acting in accordance with the proposed solution, the parties shall be informed that:

a) they have the choice as to whether to accept or refuse the proposed solution of the dispute,

b) the participation in the proceedings does not preclude the possibility of legal protection in the ordinary court proceedings,

c) the proposed solution of the dispute may be different from the decision which would be rendered by a court, by applying appropriate rules of the procedure;

3) before accepting the proposed solution or acting in accordance with that solution, the parties shall be informed of the legal consequences of the acceptance or actions;

4) before agreeing to a proposed amicable settlement, the parties must be allowed a reasonable period for its consideration.

(3) The settlement concluded before a dispute resolution body has the effect of court settlement.

(4) The dispute resolution body shall not approve the settlement which is contrary to compulsory regulations or public morality.

(5) If the dispute resolution body conducts the procedure in which its decision is binding on the trader, once the consumer has accepted the proposed solution of the dispute, paragraph 2 of this Article shall apply only to the consumer.

#### **Binding decision - voluntariness, legality and the action for annulment** **Article 132j**

(1) The agreement by which the consumer and the trader undertake to resolve the dispute before a certain body for dispute resolution shall not be binding on the consumer, if it has been concluded prior to the occurrence of the dispute, and if the consumer waives the right to court protection in civil proceedings on the basis of that agreement.

(2) If the dispute resolution bodies apply the procedure resulting in a binding decision, that decision may be binding on the parties only if the parties have expressly accepted that consequence.

(3) If the dispute resolution bodies apply the procedure resulting in a binding decision, it shall ensure that:

1) in a situation where there is no conflict of laws, the binding decision shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement and which are in force in the State where the consumer and the trader have their habitual residence or head office;

2) in a situation involving a conflict of laws, the binding decision shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement and which are in force in the State in which the consumer is habitually resident.

3) in a situation involving a conflict of laws, where the applicable law is determined in accordance with Article 5(1) to (3) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations, the binding decision shall not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the State in which the consumer is habitually resident.

(4) An action for annulment may be filed before the court against a binding decision, which has the force of a final judgment and which is enforceable.

(5) The parties may not waive in advance their right to request annulment of the decision.

(6) If it finds that the claim is founded, the court shall annul the decision and, depending on the reason for annulment, may return the case to the dispute resolution body for a repeat procedure.

(7) The provisions on the setting aside of arbitral awards shall apply *mutatis mutandis* to the proceedings upon the action for annulment of decision, in accordance with the law governing arbitration.

#### **Limitation periods and preclusion periods** **Article 132k**

(1) The parties which have tried in accordance with this Law to resolve the dispute before the dispute resolution body shall not lose the possibility to initiate judicial, arbitration or other proceedings due to the expiry of limitation period or preclusion period.

(2) The initiation of the proceedings before the dispute resolution body shall mean that the statute of limitations is terminated.

(3) If the procedure before the dispute resolution body is finalised without the settlement, or without passing a binding decision, and the consumer within 60 days of termination of the proceedings files a claim for the purpose of the establishment and security, the statute of limitations shall be

considered terminated by the moment of the initiation of the procedure before the dispute resolution body.

(4) If a time limit for filing a claim is laid down by a special regulation, it shall be suspended for the duration of the arbitration proceedings, and continue to run on the fifteenth day following the finalisation of the procedure before the dispute resolution body.

(5) The procedure of out-of-court dispute resolution shall be finalised on the date of submission of the decision to the consumer.

### **Informing the consumer by the trader**

#### **Article 132i**

(1) The traders who undertake to or are under the law obliged to resolve consumer disputes through a dispute resolution body shall inform the consumers thereof properly.

(2) The information referred to in paragraph 1 of this Article shall contain the postal address and the website address of the dispute resolution body.

(3) The trader shall display the information referred to in paragraph 1 of this Article in a visible place in the trader's business premises and on its website, in a manner that is clear, comprehensible and easily accessible to the consumer.

(4) When a dispute cannot be resolved through a written complaint sent by the consumer to the trader, the trader shall in reply to a written complaint provide the consumer with the information on the bodies referred to in paragraphs 1 and 2 of this Article, with a written statement on whether he accepts the procedure before these bodies.

### **Providing assistance to consumers**

#### **Article 132j**

(1) The Ministry and the European Consumer Centre of Montenegro shall publish a list of the bodies for the resolution of consumer disputes on the websites and, where appropriate, on paper or on another durable medium at the official premises.

(2) The Ministry and the European Consumer Centre of Montenegro shall provide information to consumers on the access to the dispute resolution bodies that operate in the European Union member states and which are competent for resolution of cross-border disputes arising from a cross-border sales contract or service contract.

### **Cooperation and exchange of information**

#### **Article 132m**

(1) The dispute resolution bodies shall cooperate and exchange information related to the resolution of domestic and cross-border disputes, and experience of best practices as regards the resolution of those disputes.

(2) The dispute resolution bodies, state administration bodies and administrative authorities competent for consumer protection shall exchange information on experience in specific business sectors in which the consumers most often initiate procedures.

(3) The exchange of information referred to in paragraph 2 of this Article shall include carrying out appropriate assessment and delivering information in possession of the competent authorities in case when delivering such information is necessary to resolve individual disputes.

(4) The cooperation and mutual exchange of information between the dispute resolution bodies shall be conducted in accordance with the legislation governing the protection of personal data and the protection of business secret.

(5) The dispute resolution body, those engaged in dispute resolution and the persons who resolve consumer disputes, shall, in the performance of the duties and tasks in accordance with the law, keep confidential the information and the data they obtain in their work, except if such data and information is necessary for the enforcement of the decisions of the dispute resolution body or enforcement of conclusions of settlement.

### **Information to be submitted for the authorisation of the dispute resolution body Article 132n**

(1) In order to initiate out-of-court settlement of consumer disputes, the dispute resolution body shall submit to the Ministry a request for the authorisation and inclusion in the list of authorised dispute resolution bodies.

(2) The request referred to in paragraph 1 of this Article shall specify:

- 1) name, address of the head office and contact details (telephone number, fax, website address);
- 2) information and the sources of financing;
- 3) given name and surname, identity card number, professional knowledge and experience in the resolution of consumer disputes, work experience and duration of term of office of the persons who will conduct the procedures of consumer disputes;
- 4) manner of ensuring the compensation and remuneration for work of the persons who will conduct the procedures of consumer disputes;
- 5) types and amounts of fees and advance payments, if it has been provided for that they are to be paid;
- 6) the language in which a petition for the initiation of the procedure may be submitted and/or the procedure may be conducted;
- 7) a statement on the type of disputes covered by the procedure and the average length of the procedure;
- 8) reasoned statement that the dispute resolution body meets the conditions for resolution of consumer disputes;
- 9) information on the manner of achieving the independence, impartiality and transparency referred to in Articles 132d to 132e of this Law, if the dispute resolution body has been established at the trader or at an interest association;
- 10) the grounds on the basis of which the dispute resolution body may reject the petition for initiation of the procedure in accordance with Article 132č of this Law.

(3) In the event of changes to the information referred to in paragraph 2 of this Article, the dispute resolution body shall notify the Ministry within 15 days following the occurrence of the change.

### **Authorisation and revocation of authorisation for the resolution of disputes**



## **Article 132nj**

(1) After establishing that the dispute resolution body meets the requirements stipulated by this Law, the Ministry shall adopt a decision authorising that body for out-of-court resolution of disputes and registering it in the list of dispute resolution bodies.

(2) The Ministry shall publish the decision referred to in paragraph 1 of this Article on its website.

(3) A body which is not authorised for resolution of disputes may not use, in consumer relations and in advertising, the terms “alternative dispute resolution” and “out-of-court resolution of disputes”, or terms on the basis of which it can be concluded or which can otherwise create an impression that it is a body authorised for resolution of consumer disputes.

(4) If the Ministry determines that the dispute resolution body does not meet the conditions stipulated in this Law, it shall notify the dispute resolution body about the conditions that are not met and order that the deficiencies identified be corrected in the given time period.

(5) If the dispute resolution body does not comply with the order of the Ministry within three months from the date of receipt of the order, the Ministry shall adopt a decision on revocation of the authorisation and delete the body from the list of dispute resolution bodies.

(6) The Ministry shall regularly maintain the list of bodies authorised for dispute resolution.

## **Cooperation with the European Commission**

### **Article 132o**

(1) The Ministry shall submit the adjusted list of the bodies authorised for dispute resolution to the European Commission.

(2) The list of the bodies referred to in paragraph 1 of this Article shall include in particular:

- 1) the name and contact details of the dispute resolution body;
- 2) the amount of fees and advance payments, if they are to be paid;
- 3) the language or languages in which a petition for the initiation of the procedure may be submitted and/or the procedure may be conducted;
- 4) the types of disputes which the dispute resolution body decides upon;
- 5) binding nature of decisions;
- 6) the need for the physical presence of the parties or of their representatives, if necessary, including a statement by the dispute resolution body on whether the procedure can be conducted as an oral or a written procedure;
- 7) the grounds on which the dispute resolution body may reject the petition for initiation of the procedure in accordance with Article 132č of this Law.

(3) The Ministry shall provide for the availability of the list of notified dispute resolution bodies of the European Union member states, received from the European Commission, on its website and/or it shall ensure that the list is also available on an appropriate durable medium.

(4) The Ministry shall publish and submit to the European Commission a report on the development and functioning of the dispute resolution bodies, at least once in four years.

(5) The report referred to in paragraph 4 of this Article shall in particular indicate:

- 1) best practice of the dispute resolution bodies;
- 2) statistics on the problems hampering the functioning of the dispute resolution bodies in domestic and cross-border disputes, if such problems have been identified;
- 3) recommendations on the improvement of the efficiency and effectiveness of the functioning of the dispute resolution bodies.

## **Exceptions to the application**

## **Article 132p**

The provisions of Article 132c to 132o of this Law shall not apply to:

- 1) procedures before the bodies for the resolution of consumer disputes in which disputes are resolved by persons employed by the trader and who receive the remuneration exclusively from the trader, except if those persons meet the conditions set out in Articles 132c to 132o of this Law and special conditions relating to independence and transparency set out in Article 132d of this Law.
- 2) procedures for the resolution of consumer complaints referred to in Articles 25 to 27 of this Law;
- 3) disputes between the consumer and the trader who provides non-economic services of public interest;
- 4) disputes between traders;
- 5) negotiations between the consumer and the trader conducted without the independent participation of a third party;
- 6) disputes arising from health services provided by health professionals and medical institutions to patients for the purpose of assessment, maintenance or treatment of their health condition, including the prescription, dispensation and provision of medicines and medical products;
- 7) public institutions of education;
- 8) procedures in which the court is making an attempt to resolve disputes by reaching judicial settlement.

## **Contact point of the Platform for online resolution of consumer disputes**

### **Article 132r**

The contact point of the Platform of the European Union for online resolution of consumer disputes shall be published by the Ministry on its website.

## **SECTION C**

### **BOARD FOR OUT-OF-COURT RESOLUTION OF CONSUMER DISPUTES**

#### **Functional independence**

### **Article 133**

(1) In the areas where the dispute resolution bodies authorised by the Ministry have not been established, out-of-court resolution of consumer disputes shall be conducted by the Board for out-of-court resolution of consumer disputes (hereinafter referred to as the "Board") at the Chamber of Commerce of Montenegro (hereinafter referred to as the "Chamber"), which is a functionally independent body.

(2) Professional and administrative and technical tasks for the Board, and the premises and other technical conditions for the operation of the Board shall be ensured by the Chamber.

(3) The obligations of the Board, procedure before the Board and competences of the Ministry relating to the work of the Board shall be governed by the provisions of Articles 132a to 132l, Article 132m paragraph 4 and Article 132nj of this Law.

#### **Members of the Board**

#### **Article 134**

(1)The Board shall consist of 10 members from among whom the Chairperson and Vice-Chairperson are appointed.

(2)The members of the Board shall be elected by the Chamber and consumer organisations, in equal proportions, on the basis of a public announcement.

(3)List of members of the Board shall be published by the Chamber in the *Official Gazette of Montenegro* and on its website.

(4)Chairperson of the Board from among the members of the Board shall be appointed by the head of the Ministry, at their proposal, and the Vice-Chairperson shall be appointed by the Chairperson of the Board from among the members of the Board.

(5)The Chairperson of the Board, or in his absence the Vice-Chairperson, shall represent and organize the work of the Board.

(6)The members of the Board shall be elected for a term of four years with the possibility of re-election.

(7)A person who has VII-1 level of educational qualification and at least two years of professional experience may be elected as the Board member, provided that he has the capacity to exercise rights and has not been convicted of a crime that makes him unfit to perform arbitration affairs.

(8)More detailed criteria for the selection of Board members, the method of instituting proceedings and proceedings before the Panel shall be prescribed by the Ministry.

#### **Independence, impartiality and confidentiality**

##### **Article 135**

(1) The members of the Board shall conduct the proceedings independently and impartially and must not act as representatives of the parties to the proceedings or organisations that nominated them for membership in the Board or receive or seek instructions from them, relating to the subject-matter of the dispute.

(2)The members of the Board shall maintain the confidentiality of data obtained in the course of work in the Board, and after the termination of the proceedings, in accordance with the law.

(3) The members of the Board may not testify in civil court proceedings on information or documents obtained through the proceedings before the Board.

(4)The members of the Board shall at the time of appointment sign a declaration accepting the obligations referred to in paragraphs 1 to 3 of this Article.

(5)The members of the Board shall be liable for damage caused by the violation referred to in paragraph 2 of this Article.

#### **Termination of the term of office**

##### **Article 136**

(1)The term of office of a Board member shall cease:

- 1) by expiration of his term of office;
- 2) if he has been convicted of a criminal offense and sentenced to unconditional imprisonment of at least six months, or of a criminal offence which makes him unworthy of performing the duties of arbitration;
- 3) at the request of a member;
- 4) after demonstrated incompetence or inaction in the performance of his duties;
- 5) by abuse of power;
- 6) by loss of working capacity for the performance of the tasks in the Board;
- 7) by death.

(2) In the cases referred to in paragraph 1 points 2 to 6 of this Article, the Chairperson of the Board shall notify the Chamber or the consumer organisation that the conditions for termination of the term of office have been met.

(3) In the event of termination of the term of office of a Board member, a new member shall be appointed within 60 days from the day of termination of the term of office in accordance with this Law.

### **Institution of proceedings and exemptions**

#### **Article 137**

- (1) The proceedings before the Board may be initiated only by the consumer.
- (2) The Board shall not decide on the dispute if the claim is related to:
  - 1) death, bodily injury or impairment of health;
  - 2) the provision of health or legal services;
  - 3) transfer of title to real estate;
  - 4) value of the dispute exceeding EUR 10 000;
  - 5) the case for which another law regulates the procedure for out-of-court resolution.

### **Refusal to take decision due to the existence of special bodies**

#### **Article 138**

- (1) The Board shall decline jurisdiction for deciding on the action if the dispute arises from a consumer contract for which a special body for out-of-court resolution of consumer disputes has been established, and refer it to that authority.
- (2) Information on the types of consumer disputes decided upon by the bodies referred to in paragraph 1 of this Article shall be published by the Board on its website.

### **Agreement on dispute resolution**

#### **Article 139**

- (1) Previous agreement between a consumer and a trader on acceptance of out-of-court protection shall not be binding on the consumer to institute proceedings before the Board.
- (2) If the consumer institutes a dispute, but it is not obvious that he is aware that the procedure may result in adoption of a binding decision, the Board shall notify the consumer thereof and enable him, if he does not agree therewith, to withdraw the action.
- (3) The trader may be bound by a contract to accept the Board's decision as binding, if the consumer institutes proceedings before the Board.

### **Attempt to settle a dispute directly with the trader**

#### **Article 140**

- (1) The consumer shall, prior to the filing of the action to the Board, attempt to resolve the dispute directly with the trader.
- (2) If the consumer has not tried to resolve the dispute in accordance with paragraph 1 of this Article, the Chairperson of the Board shall dismiss the consumer's action.
- (3) The requirement referred to in paragraph 1 of this Article shall be deemed to have been fulfilled even if the consumer has already filed a complaint in the same case, in accordance with Article 25 of this Law.

### **Action and review of its admissibility**

#### **Article 141**

- (1) The procedure before the Board shall be initiated by filing a complaint in writing or in an electronic form.

(2) With the exception of the cases referred to in Article 132č of this Law, the Board shall dismiss the complaint if:

1) the value of the dispute exceeds 10 000 euros;

2) it is determined that the case is not suitable for decision-making in the procedure before the Board, particularly if it is a highly complex dispute or if detailed examination of the witnesses is required or if the fee for the opinion of the expert which is necessary for issuing a decision is substantially disproportionate to the value of the claim.

(3) The Board shall decline jurisdiction for decision-making upon action if the dispute arises from a consumer contract for which a dispute resolution body has been established and it shall refer the action to that body.

### **Statement of defence**

#### **Article 142**

The Board shall submit a copy of the action to the trader within five business days from the receipt of the action and invite them to file, within 15 days from the day of delivery of the action, a statement of defence in which they should declare themselves on the claim and facts and evidence contained in the action.

### **Appointment of the Panel**

#### **Article 143**

(1) A Panel, composed of three members, shall decide in the dispute.

(2) The Chairperson of the Board shall appoint two members of the Panel, one from a list of members selected by the Chamber and the other from a list of members selected by the consumer organisation, within five business days from the day of receipt of the statement of defence.

(3) The appointed members of the Panel shall appoint, by mutual agreement, the third member who shall act as the Chairperson of the Panel.

(4) If the members of the Panel do not appoint the Chairperson of the Panel within five days from the appointment, the Chairperson of the Panel shall be appointed by the Chairperson of the Board.

(5) Notwithstanding paragraph 1 of this Article, the parties may agree that the dispute be settled by a Board member who serves as Panel, appointed by the Chairperson of the Board.

### **Recusal of a Panel member**

#### **Article 144**

(1) Recusal of a Panel member may be requested if there are circumstances that can cause justifiable doubt as to his impartiality or independence, unless a member of the Panel has notified the parties to the proceedings of the circumstances, and none of the parties has objected to his election upon notification.

(2) A Panel member shall promptly inform the Chairperson of the Board of any circumstances which may cause justified doubt as to his independence or impartiality.

(3) The motion to recuse an appointed member of the Panel may be filed by each party.

(4) The Chairperson of the Board shall, after hearing the Panel member whose recusal is sought, adopt without delay a decision on the motion to recuse.

(5) The Panel, including the member in respect of whom the recusal procedure was initiated, may continue the proceedings until the moment of adoption of the decision on the recusal, but cannot take a final decision on the subject-matter of the dispute.

(6) If the recusal of a Panel member who is the Chairperson of the Board is sought, the decision on recusal shall be taken by the Board.

### **Binding decision**

#### **Article 145**

(1) The decision of the Panel shall have the force of a final court judgment and shall be enforceable, if the trader declared before or after the commencement of the proceedings to accept the Board's decision as binding.

### **Non-binding decision**

#### **Article 146**

(1) Previous agreement between the consumer and the trader on the acceptance of out-of-court protection shall not bind the consumer to initiate the procedure before the Board.

(2) If the consumer initiates the dispute and is not aware that the procedure may be finalised by adopting a binding decision, the Board shall notify the consumer thereof and allow him to withdraw the action if he does not agree therewith.

(3) If the conditions set out in Article 145 paragraph 1 of this Law have not been met and if the settlement has not been reached in the proceedings, the Panel shall issue a recommendation (a non-binding decision).

(4) The recommendation shall not affect the consumer's right to seek protection of his rights in judicial proceedings.

(5) No appeal or action for annulment or another remedy may be filed against a nonbinding decision of the Panel.

### **Discontinuance of proceedings**

#### **Article 147**

(1) The Panel shall discontinue the procedure without making a decision in the case at dispute if:

- 1) the decision on the claim is not possible on the basis of the proposed evidence;
- 2) it considers that the continuation of the procedure is not necessary because the dispute has been resolved in some other way;
- 3) the consumer has withdrawn the action.

(2) The Panel shall take a decision on discontinuation of proceedings on action and inform the parties to the proceedings, in writing and without delay, of the discontinuance and reasons therefor.

### **Publishing decisions**

#### **Article 148**

(1) The trader shall notify the Board within 30 days from the day of receipt of the decision whether or not he has executed his obligation established by the Board's decision.

(2) If the trader fails to provide a notification or provides a negative answer within the period referred to in paragraph 1 of this Article, the Board shall announce, in the scope specified by the Council, a summary of the decision on the website of the Board, revealing only the identity of the trader but not of the consumer.

(3) If the trader provides subsequently evidence that the court decision on the same matter differs substantially from the Board's decision, the summary of the Board's decision shall be deleted from the website.

(4) The Board shall also announce summaries of its most important decisions without revealing identities of parties thereto in order to present its activities and thus facilitate access to its practice and influence raising public awareness of consumer rights.

**Article 149**

- deleted -

**Article 150**

- deleted -

**Costs**

**Article 151**

- (1) Every party to the proceeding shall bear own costs (representation costs, travel costs, etc.).
- (2) By the means of derogation from paragraph 1 of this Article, if it is about a binding decision based on which the trader obliged to compensate to the consumer the costs he incurred in relation to the proceeding.
- (3) The fee for the procedure before the Board shall amount to 20 euros, and for the disputes whose value is less than 100 euros, the fee shall not be paid.
- (4) If it is found that the unfounded complaint constitutes an abuse of rights, the Board shall order a plaintiff to pay an additional fee in the amount of 50 euros.
- (5) The Chairperson of the Board may, upon the Council's proposal, decide that the consumer is to be relieved of costs of expertise, which will be provided for from the Board's budget within available financial capabilities.

**Fees**

**Article 152**

- (1) Members of the Board shall be entitled to a bonus and fees for working in the Council, and the Chairperson and the Vice-Chairperson of the Board shall also be entitled to a reward for managing the Board.
- (2) The funds referred to in paragraph 1 of this Article shall be provided from the budget of Montenegro and from the funds referred to in Article 151 paragraphs 3 and 4 of this Law.
- (3) The amount of compensation and remuneration shall be determined by the Government.

**Progress Report of the Board**

**Article 153**

- (1) The Board shall provide annual progress report to the Ministry not later than 31 March of current year for the previous year.
- (2) The report referred to in paragraph 1 of this Article shall be published on the website of the Ministry.

**PART FIVE**

**IMPLEMENTATION OF CONSUMER PROTECTION**

**Title I**

**NATIONAL CONSUMER PROTECTION PROGRAMME**

## **Contents of the National Programme**

### **Article 154**

- (1) The National Consumer Protection Programme (hereinafter referred to as the “National Programme”) shall determine the policy of consumer protection, priority activities and conditions for implementation thereof.
- (2) The National Programme shall be adopted by the Government for a period of three years.
- (3) The Government shall adopt Action Plan for a period of one year for the purpose of implementation of the National Programme.
- (4) Action Plan for the initial year of the implementation of the National Programme shall be adopted simultaneously with adoption of the National Programme, and for the next year, simultaneously with adoption of annual report on the implementation of the National Programme for the previous year.

## **Implementation of the National Programme**

### **Article 155**

- (1) Action Plan shall specify activities, tasks, scope, actors and dynamics relating to the implementation, the required funds, and other conditions for the implementation of the National Programme.
- (2) The Ministry shall provide the Government with annual report on the implementation of the consumer protection policy of the National Programme, not later than 30 days following the day of expiry of the period for which it was adopted.
- (3) The annual report in paragraph 2 of this Article shall be submitted to the Parliament of Montenegro.

## **Implementation of individual activities under the National Programme**

### **Article 156**

- (1) Implementation of individual activities specified by the National Programme may be assigned to consumers’ organisations or other legal or natural persons on the basis of a public announcement.
- (2) The public announcement for implementation of activities referred to in paragraph 1 of this Article shall be placed by the Ministry or another public administration authority, providers of consumer protection.
- (3) More detailed conditions for assignment and implementation of activities referred to in paragraphs 1 and 2 of this Article shall be established by the Government.

## **Title II**

### **CONSUMER PROTECTION SYSTEM**

#### **SECTION A**

#### **PROVIDERS OF CONSUMER PROTECTION**

##### **Cooperation between providers of consumer protection**



#### **Article 157**

- (1) Providers of consumer protection are: Government, Ministry, other state administration authorities responsible for implementation of the consumer protection policy, Consumer Protection Council (hereinafter referred to as the "Council"), local self-government units, Chamber and other associations of participants on the market and consumer organisations.
- (2) The providers of consumer protection referred to in paragraph 1 of this Article shall work with each other in order to develop the system and implement the consumer protection policy.

### **SECTION B**

#### **CONSUMER PROTECTION AT NATIONAL LEVEL**

##### **Competences of the Ministry**

#### **Article 158**

- (1) The Ministry shall cooperate with other providers of consumer protection to protect consumers' rights and interests.
- (2) The Ministry shall:
  - 1) monitor implementation of this Law and other laws containing provisions on consumer protection;
  - 2) propose improvements and development of the consumer protection policy;
  - 3) propose National Programme, monitor implementation thereof and submit to the Government and the Parliament of Montenegro annual report on the implementation of the National Programme;
  - 4) cooperate with other providers of consumer protection;
  - 5) cooperate with the authorities of other countries which are competent for consumer protection, and with international consumer protection organisations;
  - 6) cooperate with the network of the European consumer centres and the competent authorities of the countries of the European Economic Area (hereinafter referred to as the "EEA") in accordance with the law governing the provision of services;
  - 7) perform also other activities in accordance with the law.
- (3) The Ministry shall publish the information received in accordance with paragraph 2 point 6 of this Article on the website.
- (4) The information referred to in paragraph 3 of this Article relate to:
  - 1) conditions for access and provision of services applicable in the EEA countries, and in particular the services relating to consumer protection;
  - 2) means of legal redress in the event of a dispute arising between the service provider and user of the service;
  - 3) contact details of the organisations or associations competent for consumer protection, including the network of the European consumer protection centres, that are able to provide assistance to service providers and users.
- (5) At the request of the consumer, the Ministry shall also provide other information relevant to cross-border use of the services referred to in paragraph 4 of this Article.
- (6) At the request of the competent authorities of the EEA countries, the Ministry shall provide the information referred to in paragraph 4 of this Article without delay.

## **Competences of other state administration authorities**

### **Article 159**

Other state administration authorities performing other consumer protection activities in accordance with the law, within the competences laid down by the law shall:

- 1) monitor implementation of this and other laws governing relations which are important for consumer protection;
- 2) participate in the preparation of the National Programme and Action Plan, implement planned activities and, within 15 days after the expiry of the period for which the Action Plan was adopted, provide the Ministry with the report on the implementation of activities relating to consumer protection, and
- 3) perform other activities in accordance with the Law.

## **Monitoring of data on the Law enforcement**

### **Article 160**

- (1) The Ministry, other state administration authorities and local government authorities, and other authorities competent for enforcement of this and other laws containing provisions on consumer protection shall maintain a database for supervision, including the records of received consumers' complaints and solutions thereto.
- (2) Courts competent for ruling on consumer disputes shall maintain a register of consumers' disputes.
- (3) The authorities and courts referred to in paragraphs 1 and 2 of this Article shall provide the Ministry with records on supervision, received consumers' complaints, solutions thereto and the data on consumer disputes, on a prescribed form.
- (4) More detailed contents and method of maintaining records and forms for provision of the data referred to in paragraph 1 of this Article shall be specified by the Ministry.
- (5) More detailed contents and method of maintaining records and forms for provision of the data referred to in paragraph 2 of this Article shall be specified by the Ministry competent for judiciary matters.

## **Consumer Protection Council**

### **Article 161**

- (1) The Government shall establish a Consumer Protection Council (hereinafter referred to as the "Council") for the purpose of giving proposals for decisions on expert matters and for providing expert assistance in the procedure for making decisions and preparing regulations relating to consumer protection.
- (2) Members of the Council shall be appointed among the providers of consumer protection referred to in Article 157, paragraph 1 of this Law and among independent experts in the field of consumer protection.
- (3) The president and other members of the Council shall be appointed by the Government for the period of four years.
- (4) The Ministry shall perform expert and administrative activities for the Council.
- (5) Activities of the Council shall be public.

- (6) More detailed contents, the requirements for appointment and dismissal of members of the Council, and other matters of importance for the Council's work, shall be regulated by the Founding Act.
- (7) The documents referred to in paragraph 6 of this Article shall be published in the Official Gazette of Montenegro.

## **Competences of the Council**

### **Article 162**

In performing the activities referred in Article 161, paragraph 1 of this Law, the Council shall particularly:

- 1) monitor the status of consumer protection in the market and propose appropriate measures and activities;
- 2) give opinion on the need for changes and amendments to existing and for adopting new regulations in the field of consumer protection, and review draft regulations adopted in this field;
- 3) participate in drafting of the National Programme and cooperate under preparation of the Action Plan, monitor implementation and participate in the preparation of annual report on the implementation of the National Programme, and propose certain measures regarding: protection of health, safety and economic interests of consumers, improved legal protection, improved information and education, and raising awareness of the importance of consumer protection;
- 4) adopt the Code of Conduct.

## **SECTION C**

### **CONSUMER PROTECTION AT LOCAL LEVEL**

#### **Competences of local self-government units**

### **Article 163**

- (1) Local self-government units shall participate in the consumer protection in their respective areas by undertaking measures and activities under their competences, and particularly:
  - 1) encourage actions of consumers' organisations, particularly organizing of consumer counselling, for the purpose of better information, counselling and education of consumers to enable them to exercise their rights and implement of their interests;
  - 2) plan activities in the field of consumer protection in their respective areas in accordance with the consumer protection policy;
  - 3) participate in the implementation of the National Programme and the Action Plan and provide the Ministry with a report on the implementation of the Action Plan and provide the Ministry with a report on the implementation of the Action Plan within 15 days after expiry of the period for which the Action Plan was adopted;
  - 4) provide the Ministry with annual report on the implementation of the consumer protection policy in their respective areas, not later than 31 January of current year for the previous year, and
  - 5) perform other activities laid down by the Law.
- (2) Local self-government units shall support the work of consumers' organisations, particularly by providing premises and other conditions for their work.

## **SECTION D**

### **CONSUMERS' ORGANISATIONS**

#### **Forms of consumers' associations**

##### **Article 164**

- (1) For the purpose of protecting their rights and interests, consumers may establish consumers' organisations in accordance with the Law.
- (2) The consumers' organisations shall protect consumers' interests in all or in some fields and may act at national and/or local level.
- (3) Consumers' organisations may associate into unions for the purpose of achieving a better influence on the consumer protection policy, and for the purpose of representation and participation in authorities and organisations at national and/or local level and in international consumers' organisations.

#### **Register of consumers' organisations**

##### **Article 165**

- (1) The register of the consumers' organisations and unions of consumers' organisations shall be maintained by the Ministry.
- (2) A consumers' organisation shall be entered into the register referred to in paragraph 1 of this Article provided that it is:
  - 1) established in accordance with the law governing the work and actions of non-governmental organisations;
  - 2) established for the purpose of protection of consumers' rights and interests, and
  - 3) independent pursuant to Article 167 of this Law.
- (3) Entry into the register referred to in paragraph 2 of this Article shall be performed on the basis of a request containing:
  - 1) the number of the certificate of registration with the Register of Non-governmental Organisations maintained by the competent authority, and
  - 2) name and surname of the person authorised to represent the organisation.
- (4) Together with a request for registration, a consumer organisation shall submit:
  - 1) a copy of the Memorandum of Association;
  - 1) a copy of the Statute, and
  - 2) a statement that the consumer organisation is independent under this Law, signed by an authorised person.
- (5) The Ministry shall evaluate fulfilment of requirements laid down by paragraph 2 of this Article and provides the applicant with a confirmation of entry into the register referred to in paragraph 1 of this Article within 15 days from receiving the request referred to in paragraph 3 of this Article.
- (6) The register referred to in paragraph 1 of this Article shall be kept in the form of a book with hard covers with numbered pages or electronically, and in addition to information referred to in paragraph 3 of this Article, it shall contain information about the authorisation referred to in Article 169 of this Law.

- (7) An organisation which ceases to fulfil the requirements referred to in paragraph 2 of this Article or which fails to provide the annual report referred to in Article 166, paragraph 3 of this Law shall be deleted from the register of consumers' organisations.
- (8) Provisions of paragraphs 2 to 7 of this Article shall apply to unions of consumers' organisations.
- (9) More detailed procedure of registration and deleting from the register, and the contents and method of maintaining the register of consumers' organisations, shall be laid down by the Ministry.

### **Activities of consumers' organisations**

#### **Article 166**

- (1) A consumers' organisation shall:
  - 1) inform and advise consumers for the purpose of informing and educating them regarding their rights and obligations, assist consumers in resolving disputes with traders and protect collective interests of consumers, in accordance with this Law;
  - 2) maintain records of received consumer's notifications and procedures undertaken for solutions thereto;
  - 3) give remarks and proposals under the procedure of adoption of regulations relating to consumer protection by participating in public debates;
  - 4) participate in preparation of the National programme and implementation thereof;
  - 5) review and perform comparative analyses of products via appointed or authorised organisations, or organisations appointed to perform conformity assessment, in accordance with the Law, with mandatory public presentation of results thereof;
  - 6) cooperate with appropriate national and international bodies and consumer protection organisations;
  - 7) perform other activities relating to consumer protection, in accordance with the Law.
- (2) Consumers' organisations may organise counselling centres for the purpose of implementing activities referred to in paragraph 1, point 1 of this Article.
- (3) Consumers' organisations shall make publicly available their annual progress report and submit it to the Ministry not later than 31 March of current year for the previous year.
- (4) The annual report referred to in paragraph 3 of this Article shall also include the information about financing: overview of all income, sources of income and expenditures incurred by the consumers' organisation.

### **Independence of consumers' organisations**

#### **Article 167**

- (1) In implementing of consumers' rights and interests, consumers' organisations and associations thereof shall be independent from the Government bodies at national and local levels, interests of traders, political parties and unions.
- (2) Persons who have a status of civil servants and servants of local self-governments units, persons holding managerial positions at traders', and persons holding managerial positions in a political party or a union organisation, may not hold a managerial position in management bodies of consumers' organisations and associations thereof.
- (3) Consumers' organisations may not use grants provided by traders and other market participants, except for participation fees for organizing seminars or similar activities pursuant to Article 168 of this Law.
- (4) The statute governs the independence of consumers' organisations.

## **Financing of consumers' organisations**

### **Article 168**

- (1) Consumers' organisations may be financed from:
  - 1) membership fees;
  - 2) participation fees for organizing seminars, conferences, round tables and other activities in the field of consumer protection;
  - 3) funds from the budget of Montenegro allocated to activities relating to consumer protection, on the basis of a public advertisement;
  - 4) donations,
  - 5) other sources in accordance with the Law.
- (2) Consumers' organisations entered into the register referred to in Article 165 of this Law and which actually act towards and have achieved results in the field of protection of consumers' interests shall have the right to apply to the public advertisement referred to in paragraph 1, point 3 of this Article.
- (3) More detailed criteria, the method and the procedure for financing referred to in paragraph 1 of this Article shall be laid down by the Government.
- (4) Consumers' organisations shall use the funds referred to in paragraph 1, points 2, 3 and 4 of this Article for the purpose such funds were provided for, in a transparent manner, in accordance with the Law.

## **Authorisation to file a collective petition**

### **Article 169**

- (1) A collective petition referred to in Article 118 of this Law may be filed by a consumers' organisation which:
  - 1) has been in the register referred to in Article 165 of this Law for minimum one year;
  - 2) has minimum one graduated lawyer as staff member with minimum three years of work experience, and
  - 3) actually acts in and has achieved results in the field of protection of consumer interests.
- (2) The fulfilment of the requirements referred to in paragraph 1, points 2 and 3 of this Article shall be evaluated by the Ministry.
- (3) Actual actions of and the results achieved by a consumers' organisation shall be evidenced particularly by the report referred to in Article 166, paragraph 3 of this Law.
- (4) The Ministry shall establish, by 30 April of current year, a list of consumers' organisations which are authorised to file petitions referred to in Article 118 of this Law.
- (5) The list referred to in paragraph 3 of this Article and the list of consumers' organisations whose authorisations have been revoked shall be published on the website of the Ministry.
- (6) The Ministry shall provide the European Commission the list referred to in paragraph 3 of this Article within 15 days from the day of establishment thereof.

## **Revocation of authorisation**

### **Article 170**

- (1) Authorised consumers' organisations shall, without delay, inform the Ministry about all changes that may affect the authorisation referred to in Article 169 of this Law.
- (2) The Ministry shall delete from the list referred to in Article 169, paragraph 4 of this Law a consumers' organisation in the event of:
  - 1) the provision of inaccurate data of importance for issuing authorisation;
  - 2) discontinuation of fulfilment of the requirements laid down by this Law;
  - 3) the organisation's request, and
  - 4) discontinuation of the organisation's work.

### **Title III**

## **INFORMATION AND EDUCATION OF CONSUMERS**

### **Information and education about basic rights**

#### **Article 171**

- (1) Consumers shall have the right to information and education on the basic consumer rights.
- (2) The right of consumers to education for the purpose of acquiring knowledge about rights, obligations and ways of exercising the rights necessary for appropriate and reliable choice and use of products, getting acquainted with responsibilities of consumers in the market, and about the method of exercising the rights and provision of legal assistance for consumer protection, shall be implemented in educational institutions (pre-school institutions, primary and secondary schools, universities), consumer organisations and by the media.

#### **Curricula**

#### **Article 172**

- (1) The Ministry shall participate in the preparation of curricula for consumer protection within educational curricula, together with the state administration authorities responsible for educational matters.
- (2) The authorities referred to in paragraph 1 of this Article and consumers' organisations shall cooperate with educational institutions and implement other activities of providing information and education in the field of consumer protection.

### **PART SIX**

## **ADMINISTRATIVE - LEGAL PROTECTION OF CONSUMERS**

### **Request for consumer protection**

#### **Article 173**

(1) If a trader fails to respond to a consumer's complaint within the period referred to in Article 27 paragraph 1 of this Law, the consumer may file a request for the protection of his rights under this Law (hereinafter referred to as the "consumer's appeal") to the administrative authority competent for inspection supervision over the enforcement of this Law or to another competent authority referred to in Article 174 paragraphs 2 and 3 (hereinafter referred to as the "competent authority") that shall take measures in accordance with this Law.

(2) If the trader rejects a complaint, a consumer may file an appeal to the competent authority or seek the protection of his rights in out-of-court or judicial proceedings.

(3) If upon the appeal referred to in paragraph 2 of this Article the competent authority, by direct insight and/or by taking other prescribed actions, without the involvement of experts and organisations, can establish that the consumer's rights under this Law have been violated, particularly the rights relating to prices, product conformity with the contract, guarantee, damage to the product given for repair, unfair contract terms and unfair commercial practices, it shall take measures in accordance with the law and order the trader to act on the consumer's complaint in accordance with this Law.

(4) Where in the procedure referred to in paragraph 3 of this Law, it cannot be established that there has been a violation of the rights relating to conformity of products, guarantee and damage to the product given for repair, violation of such rights may be proved by expert examination conducted by the competent expert organisations or by engaging a certified expert witness.

(5) If the competent authority, on the basis of the actions undertaken under paragraphs 3 and 4 of this Article, is not able to determine there has been a violation of consumer rights under this Law or if it finds that there has not been a violation of consumer rights under this Law, it shall issue a decision thereon and advise the consumer that he may seek the protection of his rights in judicial or, if the related conditions provided in this Law have been met, in out-of-court proceedings.

(6) The consumer may file an appeal to the decision referred to in paragraph 5 of this Article in accordance with the law governing administrative procedure.

#### **Costs of expert examination Article 173a**

(1) In the case of the consumer's appeal filed for the purpose of proving violation of the rights relating to the product conformity with the contract, where the lack of conformity occurred within six months from the date on which the risk passed to the consumer, and the trader considers that the lack of conformity did not exist at that moment, the costs of expert examination shall be borne by the trader.

(2) If the lack of conformity of the product occurred after the expiry of the period referred to in paragraph 1 of this Article, but not later than 2 years from the date on which the risk passed to the consumer, the costs of expert examination shall be borne by the consumer or the trader depending on the results of the expert examination.

(3) In the case of the consumer's appeal filed for the purpose of proving violation of the rights relating to the rights arising from the guarantee or damage on the product given for repair, the costs of expert examination shall be borne by the consumer or the trader depending on the results of the expert examination.

#### **Article 173b**

The Ministry shall make annual reports on cooperation and actions taken by the competent authorities upon consumers' appeals and submit them to the European Commission.



## **PART SEVEN**

### **SUPERVISION**

#### **Article 174**

- (1) Supervision over enforcement of this Law and regulations adopted hereunder shall be performed by the Ministry and the state administration authority responsible for tourism affairs.
- (2) Inspection supervision over enforcement of this Law shall be performed by the administrative authority competent for inspection supervision, other state administration authorities through competent inspections, independent legal persons authorised to perform inspection supervision, and competent local government authorities through local inspectors, within the local government's competences.
- (3) Notwithstanding paragraph 2 of this Article, the supervision over the implementation of this Law shall also be performed by independent organisations and independent legal persons through authorised officers, in accordance with the law.
- (4) The list of authorities referred to in paragraphs 2 and 3 of this Article, which are competent for inspection supervision over the enforcement of this Law and other laws including provisions on consumer protection, shall be established by the Government by a separate act, on the Ministry's proposal, in accordance with the law governing inspection supervision, and by separate laws.

#### **Article 175**

(1) In addition to the administrative measures laid down in the law governing the inspection supervision, the competent inspector shall, by a decision, order the trader to remove the established irregularity and determine the period within which the irregularity must be eliminated, if he has found during inspection supervision that:

- 1) the goods displayed in the retail outlet, which are not intended for sale or have been sold, are not marked in the manner prescribed by this Law (Article 10);
- 2) the price of the goods is displayed in a way that damages the goods (Article 12 paragraph 2 point 2);
- 3) the price per unit of fuel or the price of parking services, or of renting of the parking space is not displayed or available in a manner and under the conditions prescribed by this Law (Article 16);
- 4) he has not delivered a product to the consumer in a manner and under the conditions prescribed by this Law (Article 17);
- 5) he has not acted upon the request of the consumer in the manner prescribed by this Law (Article 18);
- 6) he has not issued an invoice to the consumer for the purchased product or has not issued it in the prescribed manner and of the prescribed content or has not returned the difference between the amount of invoice and received money in any denomination (Article 19);
- 7) he has not acted in the manner prescribed by this Law regarding the repair or maintenance service (Article 20);
- 8) he has not informed the consumer about the availability of spare parts, connection devices and related parts and the technical service or the maintenance and repair, in a manner and under the conditions prescribed by this Law (Article 21);

- 9) has not provided the appropriate packaging material or if he has calculated the weight of the material in the net weight of the goods or has failed to comply with the requirements with respect to special packaging, or has charged for the bags that are used to carry the purchased products and which have fully or partially a logo, sign, slogan and/or the name of the manufacturer or the trader (Article 22);
- 10) if he has not submitted to the consumer the documentation accompanying the goods and other documents provided by the manufacturer in the manner and under the conditions prescribed by this Law (Article 23);
- 11) while delivering the product to the consumer, he has not acted in the manner and under the conditions prescribed by this Law (Article 24);
- 12) when issuing the notice he has acted contrary to this Law (Article 24a);
- 13) in the retail outlet he has not displayed the information or has not otherwise informed the consumer about the manner and place of filing a complaint in accordance with this Law (Article 25 paragraph 4);
- 14) he does not maintain and does not keep the records of consumer complaints in accordance with this Law (Article 25 paragraphs 6 and 7);
- 15) the person authorized to receive complaints in accordance with this Law is not present (Article 25 paragraph 8);
- 16) he has not responded within the prescribed period and in the prescribed manner to the consumer complaint or has not issued a written confirmation of receipt of the complaint of the prescribed content (Article 27);
- 17) he has not clearly and visibly displayed the special conditions of sale at the point of sale or at the point of offer (Article 32);
- 18) he has not enabled the consumer to exercise the rights on the basis of conformity and the rights on the basis of the guarantee for the products obtained as a prize or through participation in the contest, as well as the accompanying gifts (Article 33 paragraph 1);
- 19) he has not allowed the consumer access to and use of service of public interest or to change the provider of public service under the conditions prescribed by this Law, or if he has not issued a bill or has not issued a bill in the prescribed manner and of the prescribed content or has not allowed free inspection of the bill or failed to submit, upon the request of the consumer, a detailed report of outstanding due debts in the manner, under the conditions and within the time limit prescribed by this Law (Article 35);
- 20) he has not informed the consumer, prior to the provision of a service of public interest, about the terms of use or has not displayed these terms or change in the terms in the prescribed manner or has not asked for an opinion on the price of the service of public interest from the consumer organisation or has not informed the consumer about a change in the price and other conditions within the prescribed time limit or has not calculated the price of the service of public interest according to actual consumption, if possible, that is, according to the consumption, according to the established rate or price list (Article 36 paragraphs 1, 2, 3, 5 and 6);
- 21) he has not concluded a contract on the use of the service of public interest referred to in Article 35 paragraph 1 of this Law in a written form or has not allowed the consumer a connection to the distribution network, the use of the connection and network in the manner and under the conditions prescribed by this Law (Article 37);
- 22) the quality of the service of public interest that is provided is not in accordance with the law and the contract (Article 38);
- 23) he has calculated the costs of construction, reconstruction and modernization of the distribution network into the price of the service of public interest to the consumer contrary to this Law (Article 39);
- 24) he has not clearly stated in the offer or advertisement the price per unit of measurement, the prices of other related elements in accordance with specific rules, which are not calculated

- according to the amount consumed, as well as the price for connection to the distribution network (Article 40);
- 25) he has limited the provision of the public service to the consumer or has disconnected him from the distribution network in the course of the proceedings in which the bill is disputed or has not, without delay, continued to provide the service, or connected the consumer free of charge to the distribution network until the end of the proceedings, while the consumer regularly pays the undisputed amounts of the bills, or has made the provision or the continuation of provision of the service and reconnection to the distribution network conditional on the payment of the consumer's debts which are more than two years old or he has initiated the procedure of enforced collection before the end of the proceedings in which the consumer disputes the outstanding due debts (Article 41 paragraphs 1, 2, 3 and 4);
  - 26) he has not provided for the consumer service in the manner and under the conditions stipulated by this Law (Article 42);
  - 27) he has not enabled the consumer to exercise the rights on the basis of lack of conformity, in the manner and within time limits in accordance with this Law (Articles 46, 47, 49, 49a and 54);
  - 28) he has not fulfilled the guarantee under the conditions contained in the guarantee statement and the advertisement related to these goods (Article 51 paragraphs 1, 5 and 6, and Article 54);
  - 29) he has not issued a guarantee card to the consumer in the manner and under the conditions prescribed by this Law (Article 51 paragraphs 2 and 3 and Articles 53 and 54);
  - 30) has abused the term "guarantee" and the terms with this meaning when concluding the sales contract and advertising for sale purposes (Articles 52 and 54);
  - 31) prior to the conclusion of a contract or acceptance of a corresponding offer he has not informed the consumer in a clear and comprehensible manner about the data required by this Law (Article 57 paragraphs 1 and 2);
  - 32) he has charged the consumer a fee for the use of a specific means of payment in the amount which exceeds the cost borne by the trader for the use of such means of payment (Article 58);
  - 33) he has not executed a sales contract without delay, and no later than 30 days from the date of conclusion of the contract, unless otherwise agreed, or in the event of termination of the contract he has not reimbursed the paid amount to the consumer within the time limit, under the conditions and in the manner prescribed by this Law (Article 59 paragraphs 1 and 3);
  - 34) he uses the provisions of the general conditions, the offers, purchase orders or other documents submitted to the consumer by the trader along with the goods or service not ordered by the consumer, stipulating that the silence of the consumer means an acceptance of the offer (Article 60a paragraphs 3 and 4);
  - 35) the trader has not sought the express consent of the consumer for additional payment, except for the payment agreed as consideration for the main performance of the trader, prior to the conclusion of the contract with the consumer or acceptance of the offer (Article 60b paragraphs 1 and 3);
  - 36) upon the consumer's request, he did not immediately reimburse the additional amount paid when the consumer has not given the express consent for additional payment, but the trader used the option of tacit acceptance by the consumer (Article 60b paragraphs 2 and 3);
  - 37) he has not ensured that the consumer pays the call at a rate that is not higher than the basic rate when he has established a telephone line through which consumers can contact him in connection with the concluded contract (Article 60c);
  - 38) has not informed the consumer in a clear and comprehensible manner about the data in accordance with this Law before the consumer concludes an off-premises contract or a distance contract or is bound by a corresponding offer (Article 61 paragraphs 3 and 4 and Article 65 paragraphs 1 and 2);

- 39) the information regarding an off-premises contract or a distance contract has not been submitted in the Montenegrin language (Article 61 paragraph 6);
- 40) he has not informed the consumer, prior to the acceptance of the offer, on the method of calculating the price in accordance with this Law (Article 62 paragraph 3);
- 41) in the event of conclusion of an off-premises contract, the information referred to in Article 61 paragraph 3 has not been given in the manner and under the conditions prescribed by this Law (Article 66);
- 42) he has not submitted a copy of the contract or the written confirmation of the orally concluded contract on paper or, with the consent of the consumer, on other durable medium to the consumer, as well as the confirmation of the prior consent of the consumer referred to in Article 74j point 13 of this Law, in the event of conclusion of an off-premises contract (Article 67);
- 43) in the event of an off-premises contract, he has not provided the consumer with the information in the manner, of the content and under the conditions prescribed by this Law (Article 69 paragraph 1);
- 44) in the event of an off-premises contract, a written confirmation of the orally concluded contract does not contain all the data and information required by this Law (Article 69 paragraph 3);
- 45) in the event of a distance contract, the information has not be adapted to the means of distance communication used, and has not been communicated in the manner and under the conditions prescribed by this Law (Article 70 paragraph 1);
- 46) in the event of the contract concluded through a means of distance communication which allows a limited space or a limited time for displaying, he has not also informed the consumer about the data in the manner prescribed by this Law (Article 70 paragraph 2);
- 47) at the beginning of the conversation he has not disclosed his identity or the identity of the person on whose behalf and/or for whose account he acts, as well as the commercial purpose of the call, if for the purposes of concluding a contract the trader contacts the consumer by phone (Article 70 paragraph 3);
- 48) in the event of conclusion of a distance contract over the phone, he has not submitted an offer on a durable medium to the consumer in a way that will clearly identify the moment of receipt of the offer (Article 71 paragraph 1);
- 49) in the event provided for in this Law for the contract concluded by electronic means, before the order is placed, he has not informed the consumer in the manner and about the information prescribed by this Law, or has not enabled him/her to clearly declare, at the moment of placing the order, that he/she is aware of the fact that placing an order includes the obligation to pay, or if the order implies the activation of a box on the screen or a similar function, the box on the screen or the similar function are not marked in an easily visible manner with the words "order with obligation to pay" or a similar unambiguous expression which explains that ordering includes the obligation to pay (Article 72 paragraphs 1, 2 and 3);
- 50) he has not clearly and legibly indicated on the website, no later than at the beginning of the ordering process, the possible delivery restrictions and the accepted means of payment (Article 73);
- 51) after the conclusion of the distance contract and no later than at the time of delivery of goods or at the beginning of service provision, he has not submitted the confirmation of the contract concluded on a durable medium to the consumer, or that confirmation does not contain the information about the data and information referred to in this Law, unless this information has already been communicated to the consumer on a durable medium before conclusion of the contract, as well as the confirmation of the prior consent of the consumer referred to in Article 74j paragraph 1 point 13 of this Law (Article 74 paragraphs 1 and 2);
- 52) he has not given the possibility to the consumer to exercise his right to unilateral termination of an off-premises or a distance contract within the time limits, under the conditions and in the manner prescribed by this Law (Articles 74a and 74b);

- 53) he has not submitted, without delay, to the consumer the confirmation of receipt of the statement of unilateral termination of the contract on a durable medium, in the event provided for in this Law (Article 74c paragraph 4);
- 54) in the case where the consumer has exercised the right to unilateral termination of the off-premises contract or the distance contract, within the time limits prescribed by this Law, he has not reimbursed to the consumer all that has been paid under the contract, in the means of payment, in the manner and under the terms of payment stipulated in this Law (Article 74e paragraphs 1 and 4);
- 55) in the event of the sales contract, except for the case prescribed by this Law, he has not refunded the amount paid after the return of the goods or, after submission of evidence that the consumer has sent the goods to the trader, if the trader has been informed in such a way before the receipt of the goods (Article 74e paragraph 3);
- 56) in the case of an off-premises contract and where the goods have been delivered to the address of the consumer at the time of the conclusion of the contract, he has not collected the goods at his own expense, if, by their nature, those goods cannot normally be returned by post (Article 74g paragraph 2);
- 57) in good time prior to the conclusion of the contract, he has not informed the consumer under the conditions and in the manner prescribed by this Law (Articles 76-80);
- 58) he has not submitted the contractual terms and conditions to the consumer, as well as the prior information in good time before the conclusion of the contract or pre-contract or immediately after the conclusion of the contract under the conditions and in the manner prescribed by this Law or at the request of the consumer, during the contract relationship, has not submitted a copy of the contract concluded or has not allowed the consumer to change the means of distance communication in accordance with this Law (Article 81);
- 59) he has begun with the performance of the contract before the expiration of the period for unilateral termination without the express consent of the consumer or he has required the performance of the obligation of the consumer before the expiration of the period for unilateral termination (Article 84);
- 60) in the event of unilateral termination of the contract, he has not returned to the consumer all that he has received from him on the basis of the contract, within the time period, under the conditions and in the manner prescribed by this Law (Article 85 paragraph 7);
- 61) he advertises the contracts referred to in Article 90 of this Law and informs the consumer, within the time limit, under the conditions and in the manner contrary to this Law (Articles 91 and 92);
- 62) he fails to conclude a contract in the form or the language in accordance with this Law (Articles 93 and 94);
- 63) concerning the contents of the contract, amendments and information, mandatory warning of the consumer, the provisions on the unilateral termination of the contract and handing over a copy of the contract to the consumer, he acts contrary to this Law (Article 95);
- 64) he requires from the consumer to make payment in advance, to provide a guarantee, to make reservation of funds in the account, to explicitly recognise debt or to make any other financial transaction in his/her favour or in the favour of a third party, before the expiration of the period for unilateral termination, and as regards the resale contract, before the resale of rights has been enforced or the resale agreement terminates in any other way (Article 99);
- 65) requires a payment under a contract on a long-term holiday product contrary to the conditions and the manner prescribed by this Law (Article 100);
- 66) in the event of unilateral termination of the time-sharing contract and the contract on a long-term holiday product, he/she has not returned to the consumer the funds received on the basis of the side contract, within the time limit, under the conditions and in the manner prescribed by this Law (Article 101 paragraph 7);

- 67) the contract has not been made in writing in accordance with this Law or contractual provisions have not been written in a legible, clear, unambiguous, understandable manner and are not easily distinguishable (Article 107);
- 68) he has not enabled the consumer to exercise the rights in the case of destruction, loss or damage to the product (Article 131).

(2) The competent inspector shall, by a decision, temporarily prohibit trade in goods or provision of the services to the trader until the elimination of the irregularities, if he finds that:

- 1) the information on goods is not displayed on the goods he offers or on the goods on the market or the services, or the displayed information on goods is not of the prescribed content (Article 7 paragraphs 1, 2 and 7);
- 2) data in the information on goods has not been printed and written in a legible, clear, intelligible and easily identifiable manner (Article 7 paragraph 3);
- 3) data in the information on goods on certain products and in certain facilities has not been indicated in Braille (Article 7 paragraph 4);
- 4) he has removed or modified the data in the information on goods or service, and has indicated false information (Article 7 paragraph 6);
- 5) the information on goods has not been indicated in the prescribed manner (Article 8 paragraphs 1 and 2);
- 6) the information on goods or services, other information, the documents on conformity and other documentation accompanying the goods or services, are not identical to the original and are not written in a legible, clear, understandable and easily noticeable manner in the Montenegrin language (Article 8 paragraph 3);
- 7) the goods, which were used, repaired or have flaws, or the goods whose properties and characteristics are otherwise limited, are not physically separated from other goods or at the place of supply there is no legible, clear, understandable and easily noticeable mark which indicates that those are such goods or there is no indication of sale in the premises intended exclusively for the sale of such goods or the consumer has not been informed about the nature of the flaws or the limitation of service properties and characteristics of the goods (Article 9);
- 8) the selling price and the price per unit of measurement has not been displayed in accordance with this Law and the regulation adopted on the basis of this Law (Article 11);
- 9) the price of goods or service has not been displayed in the manner prescribed by this Law or the price has been displayed in a manner that may be misleading to the consumer (Article 12 paragraph 1, paragraph 2 point 1 and paragraphs 3, 4 and 5);
- 10) he does not comply with the determined and displayed prices (Article 13);
- 11) he has not indicated the price applicable before reduction and the reduced price for the consumer in a legible, clear, understandable and easily noticeable manner or in the event of the price which has changed several times, he has not indicated the reduced price in relation to the lowest price that was applicable in the last 30 days (Article 14);
- 12) when the goods are advertised, the price is not indicated in the manner and under the conditions prescribed by this Law and the law governing advertising (Article 15);
- 13) he does not comply with the determined and indicated conditions of sale benefits (Article 28 paragraph 2);
- 14) he advertised products and services, and has done advertising in a manner contrary to Article 29 of this Law;
- 15) the discounts, clearance sales, special offers and promotional sale are not carried out in accordance with this Law (Articles 30 and 31);
- 16) he has failed to deliver the accompanying gift on time and in the manner specified in the advertising and/or in accordance with this Law (Article 33 paragraph 2);

- 17) he conducts the trade in goods whose service properties and characteristics are limited contrary to this Law (Article 33 paragraph 4);
- 18) the expiration date has not been indicated in a legible, clear, understandable and easily noticeable manner (Article 33 paragraph 5) on the goods which are discounted, or on clearance sale or special offer because of expiration of shelf life;
- 19) advertising of the sales benefit or a means of exercising the right to the sales benefit does not contain the required information, or the information is not otherwise supplied or provided to the consumer (Article 34 paragraphs 1 to 4);
- 20) the trader has not complied with the decision referred to in paragraph 1 of this Article.

(3) The competent inspector may, by a decision, prohibit the trader to use unfair contract terms referred to in Articles 102 and 104 and Article 106 paragraph 2 of this Law.

(4) The competent inspector shall, by a decision, prohibit the trader's commercial practice towards the consumer that is considered unfair under Article 41 paragraph 5, Article 60a paragraphs 1 and 4 and Articles 109 to 117 of this Law.

(5) In addition to the measures referred to in paragraphs 1, 2 and 4 of this Article, the competent inspector shall order the trader to reimburse to the consumer:

- 1) the difference between the amount of the invoice and received money (paragraph 1 point 6)
- 2) the amount charged for the issuance of the notice for the collection of outstanding pecuniary claims (paragraph 1 point 12);
- 3) the overpaid amount if he calculated the costs of construction, reconstruction and modernisation of the distribution network into the price of the service of public interest, contrary to this Law (paragraph 1 point 23);
- 4) the fee for the use of a certain means of payment in the amount which exceeds the cost borne by the trader for the use of such means of payment (paragraph 1 point 32);
- 5) the amount paid under the contract, in the event of termination of the contract within the time limit, under the conditions and in the manner prescribed by this Law (paragraph 1 point 33);
- 6) the amount additionally paid in the event when the consumer has not given express consent for additional payment (paragraph 1 point 36);
- 7) the amount paid by the consumer under the contract, within the time limit, under the conditions and in the manner prescribed by this Law, where the consumer exercises the right to unilateral termination of the off-premises contract or distance contract (paragraph 1 points 54 and 55);
- 8) all that he received from him under the contract in the event of unilateral termination of the contract, within the time limit, under the conditions and in the manner prescribed by this Law (paragraph 1 point 60);
- 9) the funds received from him under the ancillary contract, in the event of unilateral termination of the time-sharing contract and the contract on a long-term holiday product, under the conditions and in the manner prescribed by this Law (paragraph 1 point 66);
- 10) the overpaid amount if he has not complied with the determined and indicated prices (paragraph 2 point 10);
- 11) the overpaid amount if he has not complied with the determined and indicated conditions of sale benefits (paragraph 2 point 13);
- 12) the amount collected from the consumer on the basis of the request for payment of debts for which it has been established in the judicial, out-of-court or administrative proceedings referred to in Article 41 paragraph 5 of this Law that the consumer is not obliged to pay them (paragraph 4);
- 13) the amount of the funds that the consumer paid but was not obliged to pay referred to in Article 60a paragraphs 2 and 4, Article 61 paragraphs 1, 2 and 7, Article 62 paragraph 4 and Article 74d paragraph 3 of this Law.

(6) If by acting contrary to the provisions of this Law the trader has earned material gain, the inspector shall, by a decision, seize the acquired material gain.

(7) An appeal lodged against the decision referred to in paragraphs 1 to 6 of this Article shall not postpone the execution of the decision.

## **PART EIGHT**

### **PENALTY PROVISIONS**

#### **Article 176**

(1) A fine in the amount between 3 000 euros and 20 000 euros shall be imposed for a misdemeanour on a legal person – the trader, if:

- 1) he removes or modifies data in the information on goods or displays false information (Article 7 paragraph 6);
- 2) he indicates the price on the goods in the manner misleading the consumer with regard to the goods to which it relates (Article 12 paragraph 2 point 1);
- 3) he does not comply with the determined and indicated prices (Article 13);
- 4) he does not issue an invoice for the purchased product to the consumer (Article 19 paragraph 1);
- 5) he does not adhere to determined and indicated conditions of sale benefits (Article 28 paragraph 2);
- 6) he does not carry out the discount and clearance sale of products in accordance with this Law (Article 30 paragraphs 3, 4 and 6);
- 7) he does not carry out special offers and promotional sales of the products in accordance with this Law (Article 31 paragraphs 3 and 4);
- 8) he has not allowed the consumer access to and use of the service of public interest or to change the provider of public service under the conditions prescribed by this Law, or if he has not issued a bill or has not issued a bill in the prescribed manner and of the prescribed content or has not allowed free inspection of the bill or failed to submit, upon the request of the consumer, a detailed report of outstanding due debts in the manner, under the conditions and within the time limit prescribed by this Law (Article 35);
- 9) he has not allowed the consumer a connection to the distribution network, the use of the connection and network in the manner and under the conditions prescribed by this Law (Article 37 paragraph 2);
- 10) he has calculated the costs of construction, reconstruction and modernization of the distribution network into the price of the service of public interest to the consumer contrary to this Law (Article 39);
- 11) he has not indicated clearly in the offer or advertisement the price per unit of measurement, prices of other accompanying elements in accordance with specific rules and which are not calculated according to the amount consumed, as well as the price for connection to the distribution network (Article 40);
- 12) he has limited the provision of the public service to the consumer or has disconnected him from the distribution network in the course of the judicial, out-of-court, administrative or other proceedings in which the bill is disputed, while the consumer regularly pays the indisputable amounts of the bills (Article 41, paragraphs 1, 6 and 7);
- 13) contrary to this Law, he has not, without delay, continued to provide the service or connected the consumer free of charge to the distribution network until the end of the proceedings in which the bill is disputed (Article 41 paragraphs 2, 6 and 7);



- 14) he has made the provision or the continuation of provision of the service and reconnection to the distribution network conditional on the payment of the consumer's debts which are more than two years old (Article 41 paragraph 3);
- 15) he has initiated the procedure of enforced collection before the end of the judicial, out-of-court and administrative proceedings in which the consumer disputes the outstanding due debts (Article 41 paragraph 4);
- 16) he has not enabled the consumer to exercise the rights on the basis of lack of conformity, in the manner and within time limits in accordance with this Law (Articles 46, 47, 49, 49a and 54);
- 17) he has not fulfilled the guarantee under the conditions contained in the guarantee statement and in the advertisement related to these goods (Article 51 paragraphs 1, 5 and 6 and Article 54);
- 18) he uses the provisions of the general conditions, the offers, purchase orders or other documents he submitted to the consumer along with the goods or service not ordered by the consumer, stipulating that the silence of the consumer means an acceptance of the offer (Article 60a paragraphs 3 and 4);
- 19) he uses unfair contract terms (Article 104 in conjunction with Article 102);
- 20) he uses the commercial practice towards the consumer that is considered unfair under this Law (Article 41 paragraph 5, Article 60a paragraphs 1 and 4, Articles 112, 113, 115 and 116, in conjunction with Articles 109 and 110);
- 21) he falsely claims to be a signatory to a specific Code (Article 114 paragraph 1 point 1);
- 22) he indicates trademarks, quality marks or similar marks without the required authorisation (Article 114 paragraph 1 point 2);
- 23) he falsely claims that the code applied by that trader has been approved by an authorised organisation (Article 114 paragraph 1 point 3);
- 24) he falsely claims that his activities, commercial practice or product have been approved, recommended or permitted by the competent authority or appointed or authorised organisation, and/or that his commercial practice or the product meets the requirements for granting such approval, recommendation or permit (Article 114 paragraph 1 point 4);
- 25) he invites to purchase products at a specified price, without providing information about the reasonable grounds due to which the trader could expect that he will not be able to deliver or to ensure that the other trader deliver that product or a similar product at a cost, within the time limit and in the quantity that are reasonable with respect to this product, the volume of advertising of the product and the price offered (Article 114 paragraph 1 point 5);
- 26) he invites to purchase products at a specified price while refusing to show the advertised product to the consumer or to accept the consumer's order, or refuses to deliver the product within a reasonable time frame or shows a defective copy of the product, all with the intention to promote a different product (Article 114 paragraph 1 point 6);
- 27) he falsely claimed that the product would only be available in a limited period of time, or that it would be available only under specific conditions in a very limited period of time, in order to induce the consumers to immediately take a decision on the purchase, thus denying him the possibility or the time required to make a decision based on the knowledge of all the relevant circumstances (Article 114 paragraph 1 point 7);
- 28) he undertakes to provide after-sales services to the consumer with whom he made communication before his decision on the purchase, in the language other than the official language of the country where the trader is located, and thereafter enables provision of such services in another language in which the communication had not been made prior to deciding on the purchase, of which the consumer has not been clearly warned before the conclusion of the contract (Article 114 paragraph 1 point 8);
- 29) he has falsely claimed or otherwise created the impression that a product can be legally sold (Article 114 paragraph 1 point 9);

- 30) he points out to the rights the consumer has already been granted by the law as a special feature of the trader's offer (Article 114 paragraph 1 point 10);
- 31) he has used the editorial content in the media to promote a product, without clear and unambiguous information, expressed in words, signs or sounds so that the consumer can clearly recognize that the trader paid for the promotion (Article 114 paragraph 1 point 11);
- 32) he has made false claims regarding the nature and extent of the risk that the personal security of the consumer or the members of his/her family might be exposed to if the consumer does not buy the product (Article 114 paragraph 1 point 12);
- 33) he has advertised the product similar to a product produced by another manufacturer in such a way that the consumer is deliberately induced to make a wrong conclusion that the advertised product was produced by that other manufacturer (Article 114 paragraph 1 point 13);
- 34) he has established, run and promoted pyramid promotional schemes, where the consumer by performing certain actions acquires the ability to obtain a compensation, which mainly comes from the introduction of other consumers into the pyramid scheme, rather than from purchase or use of a product (Article 114 paragraph 1 point 14);
- 35) he has falsely claimed that he would soon cease his activities or that he would move to other premises even if that is not the case (Article 114 paragraph 1 point 15);
- 36) he has falsely claimed that the product increases the chance of winning in games of chance (Article 114 paragraph 1 point 16);
- 37) he has falsely claimed that the product can cure a disease, dysfunction or malformation (Article 114 paragraph 1 point 17);
- 38) he has conveyed incorrect information in relation to market conditions or the availability of products, in order to induce the consumer to buy the product under the conditions which are less favourable than normal market conditions (Article 114 paragraph 1 point 18);
- 39) he has claimed that in the context of business practice he offers participation in a promotional raffle or prize without awarding the prizes described or appropriate replacements (Article 114 paragraph 1 point 19);
- 40) he has described the product by the signs "gratis", "free", "without charge" or similar indications, but the consumer has to pay for that product any amount other than the necessary costs of response to the offer, costs of delivery or receipt of the product (Article 114 paragraph 1 point 20);
- 41) he has included the invoices or other requests for payment in the promotional material to give the consumer an impression that he has already ordered the advertised product that is offered (Article 114 paragraph 1 point 21);
- 42) he has falsely claimed or created the impression that he does not operate within its business activities, or the activities of liberal profession or has falsely represented himself as a consumer (Article 114 paragraph 1 point 22);
- 43) he has created a false impression in the consumer that the services offered after the sale of a particular product are also available in the territory of another state (Article 114 paragraph 1 point 23);
- 44) he has created the impression that the consumer cannot leave the business premises of the trader before concluding the contract (Article 117 paragraph 1 point 1);
- 45) he visited the consumer at his home, contrary to the request of the consumer to leave his home or that the visits are not paid any more, except in the case and to the extent necessary for compulsory fulfilment in accordance with the regulations (Article 117 paragraph 1 point 2);
- 46) he persistently and against the consumer's will contacted him by phone, fax machine, e-mail or other means of distance communication, except in cases and to the extent that this is justified due to the compulsory fulfilment of a contractual obligation in accordance with the law (Article 117 paragraph 1 point 3);

- 47) he requested the consumer who wishes to file a claim for damages based on an insurance policy to provide certain documents, which at a reasonable estimate, are not relevant for assessing the justification of such a claim or avoided answering the letters from the consumer, with the intention to discourage him from exercising the rights he is entitled to under the contract (Article 117 paragraph 1 point 4);
- 48) he directly addressed children in advertising to buy or to persuade their parents or other adults to buy them the advertised product (Article 117 paragraph 1 point 5);
- 49) he requested immediate payment for the product or the payment of the product in instalments, return or keeping of the product that the consumer has not ordered (Article 117 paragraph 1 point 6);
- 50) he directly informed the consumer that the trader's business or survival would be endangered if the consumer did not buy the product (Article 117 paragraph 1 point 7);
- 51) he falsely represented that the consumer won or will win, unconditionally or upon fulfilment of certain conditions, a certain prize or other benefit, when in reality no prize or other benefit has been provided, or when in reality taking any action aimed at achieving that prize or other benefit is subject to a certain payment by the consumer or causes costs to the consumer (Article 117 paragraph 1 point 8).

(2) A fine in the amount between 200 euros and 2 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a responsible person in a legal person.

(3) A fine in the amount between 600 euros and 6 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on an entrepreneur.

(4) A fine in the amount between 200 euros and 2 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a natural person.

(5) For the most serious misdemeanours referred to in paragraph 1 of this Article, a legal person and an entrepreneur may also be imposed a fine in the percentage ranging from 5% to 10% of the violated protected value.

(6) If by the misdemeanour referred to in paragraph 1 of this Article the trader achieved material gain, the measure of confiscation of material gain obtained by the commission of misdemeanour shall be imposed in addition to the fine.

(7) In addition to the fine referred to in paragraph 1 of this Article, a protective measure of prohibition to practice profession, carry out activity or perform duty in duration from two months to six months may be imposed.

#### **Article 177**

(1) A fine in the amount between 700 euros and 10 000 euros shall be imposed for a misdemeanour on a legal person – the trader, if:

- 1) the information on goods is not displayed on the goods or the service which are offered or which are on the market, or the displayed information on goods is not of the prescribed content (Article 7 paragraphs 1, 2 and 7);
- 2) data in the information on goods has not been printed and written in a legible, clear, intelligible and easily identifiable manner (Article 7 paragraph 3);
- 3) data in the information on goods on certain products and in certain facilities has not been indicated in Braille (Article 7 paragraph 4);
- 4) the information on goods or services, other information, documents of conformity and other documentation accompanying the goods (user manual, installation manual, guarantee card, technical instructions, a list of authorized service centres, a warning about a possible danger in the use etc.) or services, are not identical to the original or written in a legible, clear, understandable and easily noticeable manner in the Montenegrin language (Article 8 paragraph 3);

- 5) he has not delivered the product to the consumer in a manner and under the conditions prescribed by this Law (Article 17);
  - 6) he does not issue an invoice for the purchased product to the consumer or does not issue the invoice in the manner and with the content prescribed by this Law (Article 19 paragraphs 2, 3 and 4);
  - 7) he does not act in respect of the repair or product maintenance service in the manner prescribed by this Law (Article 20);
  - 8) he has not provided the consumer with the documentation accompanying the goods and other documents provided by the manufacturer in the manner and under the conditions prescribed by this Law (Article 23);
  - 9) he has advertised the goods and services in the manner contrary to this Law (Article 29);
  - 10) before providing a service of public interest, he did not inform the consumer about the terms of use or he did not publish these terms and a change of terms in the prescribed manner or has not asked the consumer organisation for the opinion about the price of the service of public interest or he has not informed the consumer about the change in price and other conditions within the prescribed period or has not calculated the price of the service of public interest according to the actual deliveries or to the actual consumption, if that is technically possible, according to the determined rate or price list (Article 36 paragraphs 1, 2, 3, 5 and 6);
  - 11) he has not concluded a contract on the provision of the service of public interest referred to in Article 35 paragraph 1 of this Law in a written form (Article 37 paragraph 1);
  - 12) the quality of the service of public interest he provides is not in accordance with the law and the contract (Article 38);
  - 13) when concluding the sales contract and advertising the sales, he uses the term "guarantee" or similar terms with such meaning, when under the sales contract the consumer does not acquire more rights than he has under the provisions of conformity, in accordance with this Law (Articles 52 and 54);
  - 14) he has collected the funds that the consumer was not obliged to pay, contrary to this Law (Article 60a paragraphs 2 and 4, Article 61 paragraphs 1, 2 and 7, Article 62 paragraph 4 and Article 74d paragraph 3);
  - 15) he does not enable the consumer to exercise the rights in the case of destruction, loss or damage of the product sent for repair (Article 131).
- (2) A fine in the amount between 150 euros and 1 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a responsible person in a legal person.
  - (3) A fine in the amount between 300 euros and 3 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on an entrepreneur.
  - (4) A fine in the amount between 150 euros and 1 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a natural person.
  - (5) If by the misdemeanour referred to in paragraph 1 of this Article the trader achieved material gain, the measure of confiscation of material gain obtained by the commission of misdemeanour shall be imposed in addition to the fine.
  - (6) In addition to the fine referred to in paragraph 1 of this Article, a protective measure of prohibition to practice profession, carry out activity or perform duty in duration from two months to six months may be imposed.

#### **Article 178**

- (1) A fine in the amount between 500 euros and 5 000 euros shall be imposed for a misdemeanour on a legal person – the trader, if:
  - 1) he has not displayed the information on goods in the prescribed manner (Article 8 paragraphs 1 and 2);

- 2) he has not separated physically the goods which have been used, repaired or are defective from other goods or the goods whose properties and characteristics are otherwise limited, or he has not displayed at the place of supply a legible, clear, understandable and easily visible mark which indicates that those are such goods or there is no notification of the sale in the premises intended exclusively for the sale of such goods or the consumer has not been informed about the nature of the defects or the limitations of service properties and characteristics of the goods (Article 9);
- 3) the selling price and the price per unit of measurement have not been displayed in accordance with this Law and a regulation adopted on the basis of this Law (Article 11);
- 4) the determined price of the goods or the service has not been displayed in the manner prescribed by this Law (Article 12 paragraphs 1, 3, 4 and 5);
- 5) he has not indicated the price applicable before reduction and the reduced price in a legible, clear, understandable and easily noticeable manner for the consumer or in the event of the price which has changed several times, he has not indicated the reduced price in relation to the lowest price that was applicable in the last 30 days (Article 14);
- 6) in the case of advertising, the price has not been indicated in the manner and under the conditions prescribed by this Law and the law governing advertising (Article 15);
- 7) the unit price of fuel or the price of parking services or renting of the parking space has not been indicated or available in the manner and under the conditions prescribed by this Law (Article 16);
- 8) he has not acted in respect of the repair or product maintenance service in the manner prescribed by this Law (Article 20);
- 9) during the offer and sale of technical goods he has not informed the consumers in writing about the availability of spare parts, connection devices and similar parts and technical service, or maintenance and repairs in the manner and under the conditions prescribed by this Law (Article 21);
- 10) when delivering the product to the consumer, he has not acted in the manner and under the conditions prescribed by this Law (Article 24);
- 11) he has not put up in a visible place the information on the manner and place of filing a complaint, or when concluding the contract has failed to inform the consumer thereof in another appropriate manner or a person authorised to receive complaints is not present during working hours at places where the complaint is received (Article 25 paragraphs 4 and 8);
- 12) he has not responded within the prescribed time period and in the prescribed manner to the consumer's complaint or has not issued a written confirmation of receipt of the complaint of the prescribed content (Article 27);
- 13) he has not displayed the special conditions of sale in a legible, clear, understandable and easily noticeable manner at the point of sale or at the point of offer (Article 32);
- 14) he has not enabled the consumer to exercise the rights on the basis of conformity and the rights under the guarantee for the products which are obtained as a prize or by participation in a contest, and accompanying gifts (Article 33 paragraph 1);
- 15) he does not deliver the accompanying gift within the time limit and in the manner specified when advertising and/or in accordance with this Law (Article 33 paragraph 2);
- 16) the sales benefit concerns the goods whose service properties and characteristics are limited and he has not indicated such reason on the goods in the manner laid down in Articles 8 and 9 of this Law (Article 33 paragraph 4);
- 17) the expiration date has not been indicated in a legible, clear, understandable and easily noticeable manner on the goods which are discounted, or on clearance sale or special offer because of the expiration of shelf life (Article 33 paragraph 5).
- 18) advertising of the sales benefit or the means of exercising the right to the sales benefit does not contain the required information, or the information is not otherwise supplied or provided to the consumer (Article 34);

- 19) he has not provided the consumer service for the provision of the necessary information to the consumers and receipt of complaints in the manner and under the conditions laid down in this Law (Article 42);
- 20) in the case referred to in Article 51 paragraph 1, he has not issued a guarantee card to the consumer at the time of conclusion of the contract or delivery of the goods (Article 51 paragraph 2);
- 21) the guarantee card has not been issued in writing, on paper or on another durable medium accessible to the consumer, or does not contain the information from the guarantee statement, or the information in the guarantee card has not been set out in a legible, clear, understandable and easily noticeable manner (Article 51 paragraph 3);
- 22) before the conclusion of the contract or acceptance of a corresponding offer by the consumer, he has not informed the consumer in a clear and comprehensible manner about the data required by this Law (Article 57);
- 23) he has charged the consumer a fee for the use of a specific means of payment in the amount which exceeds the cost borne by the trader for the use of such means of payment (Article 58);
- 24) he has not fulfilled the sales contract without delay or within 30 days from the date of conclusion of the contract, unless otherwise agreed (Article 59 paragraph 1);
- 25) in the event of termination of the contract he has not reimbursed to the consumer the paid amount, without delay and no later than 8 days after the date of receipt of the written statement on termination of the contract, including default interest in accordance with the law (Article 59 paragraph 3);
- 26) prior to the conclusion of the contract with the consumer or acceptance of the offer, he did not seek the express consent of the consumer for additional payment, except for the payment agreed as consideration for the main performance of the trader (Article 60b paragraphs 1 and 3);
- 27) upon the consumer's request, he did not immediately reimburse the additional amount paid where the consumer has not given the express consent for additional payment but the trader has used the option of tacit acceptance by the consumer (Article 60b paragraphs 2 and 3).
- 28) he has established a telephone line through which consumers can contact him in connection with the concluded contract but he has not ensured that the consumer pays the call at a rate that is not higher than the basic rate (Article 60c);
- 29) he has not informed the consumer in a clear and understandable manner about the data referred to in this Law before the consumer concludes an off-premises contract or a distance contract or is bound by a corresponding offer (Article 61 paragraphs 3 and 4 and Article 65 paragraphs 1 and 2);
- 30) he has not been submitted the information referred to in Article 61 paragraph 3 to the consumer in the Montenegrin language as well (Article 61 paragraph 6);
- 31) he has not informed the consumer, in advance prior to the acceptance of the offer, on the method of calculating the price in accordance with this Law (Article 62 paragraph 3);
- 32) in the event of conclusion of the off-premises contract, he does not provide the consumer with the information referred to in Article 61 paragraph 3 of this Law written on paper or with the consent of the consumer on another durable medium in a legible and comprehensible manner (Article 66);
- 33) he has not submitted to the consumer a copy of the contract or the written confirmation of the orally concluded contract on paper or, with the consent of the consumer, on another durable medium, as well as the confirmation of prior consent of the consumer referred to in Article 74j point 13 of this Law, in the event of conclusion of the off-premises contract, (Article 67);
- 34) in the event of conclusion of the off-premises contract, he has not given the consumer the information in the manner, of the content and under the conditions prescribed by this Law (Article 69 paragraph 1);

- 35) in the event of conclusion of an off-premises contract, he has not stated all the data and information set out in Article 61 paragraph 3 of this Law in the written confirmation of the orally concluded contract (Article 69 paragraph 3);
- 36) prior to the conclusion of a distance contract, he did not adapt the information referred to in Article 57 paragraph 1 points 1 and 2 and Article 61 paragraph 3 of this Law to the means of distance communication used and has not ensured that it is communicated in plain and intelligible language and that it is legibly written if given on a durable medium (Article 70 paragraph 1);
- 37) in the event of the contract concluded through a means of distance communication which allows a limited space or a limited amount of time for displaying, he has not also informed the consumer about the data in the manner prescribed by this Law (Article 70 paragraph 2);
- 38) for the purposes of concluding a contract, he contacts the consumer by phone, and at the beginning of such conversation he has not disclosed his identity or the identity of the person on whose behalf and/or for whose account he acts, as well as the commercial purpose of the call and the information referred to in Article 70 paragraph 2 (Article 70 paragraph 3);
- 39) in the event of conclusion of the distance service contract by phone, he has not submitted the offer on a durable medium to the consumer in a way that will clearly determine the moment of receipt of the offer (Article 71 paragraph 1);
- 40) in the event of making the offer to conclude the contract by electronic means, on the basis of which the consumer is obliged to make a certain payment, before placing the order, he has not informed the consumer in a clear and transparent manner about the information referred to in this Law or at the time of placing the order, he has not enabled the consumer to make a clear statement that he is aware of the obligation to pay, or if the order implies the activation of a box on the screen or a similar function, such box on the screen or a similar function has not been marked in an easily visible manner with the words "order with obligation to pay" or a similar unambiguous expression which explains that ordering includes the obligation to pay (Article 72 paragraphs 1, 2 and 3);
- 41) he has not clearly and legibly indicated on the website, no later than at the beginning of the ordering process, the possible delivery restrictions and the accepted means of payment (Article 73);
- 42) after the conclusion of the distance contract and no later than at the time of delivery of goods or at the beginning of service provision, he has not submitted the confirmation of the contract concluded on a durable medium to the consumer, or that confirmation does not contain information about the data and information referred to in this Law, unless this information has already been communicated to the consumer on a durable medium before conclusion of the contract, as well as the confirmation of the prior consent of the consumer referred to in Article 74j paragraph 1 point 13 of this Law (Article 74);
- 43) he has not given the possibility to the consumer to exercise his right to unilateral termination of the off-premises contract or the distance contract within the time limits, under the conditions and in the manner prescribed by this Law (Articles 74a and 74b);
- 44) in the case referred to in Article 74c paragraph 3 of this Law he has not submitted, without delay, to the consumer the confirmation of receipt of the statement of unilateral termination on a durable medium (Article 74c paragraph 4);
- 45) in the case where the consumer has exercised the right to unilateral termination of the off-premises contract or the distance contract, within the time limits prescribed by this Law, he has not reimbursed to the consumer the amount that has been paid under the contract, in the means of payment, in the manner and under the conditions prescribed by this Law, and in the event of the sales contract, except for the case prescribed by this Law, he has not refunded the paid amount after the return of the goods or, after submission of evidence that the consumer has sent the goods to the trader, if the trader has been informed in such a way before the receipt of the goods (Article 74e paragraphs 1, 3 and 4);

- 46) in the case of an off-premises contract and where the goods have been delivered to the address of the consumer at the time of the conclusion of the contract, he has not collected the goods at his own expense, if, by their nature, those goods cannot normally be returned by post (Article 74g paragraph 2);
- 47) in good time prior to the conclusion of the contract, he has not informed the consumer of: the trader, financial service which is the subject matter of the contract, particulars of the contract, and the manner of dispute resolution under the conditions and in the manner prescribed by this Law (Articles 76-80);
- 48) he has not submitted the contractual terms and conditions to the consumer, as well as the prior information in good time before the conclusion of the contract or pre-contract or immediately after the conclusion of the contract under the conditions and in the manner prescribed by this Law or, at the request of the consumer, during the contractual relationship, he has not submitted a copy of the contract concluded or has not allowed the consumer to change the means of distance communication in accordance with this Law (Article 81);
- 49) he has begun with the fulfilment of the contract before the expiration of the period for unilateral termination without the express consent of the consumer or he requires the fulfilment of the obligation of the consumer before the expiration of the period for unilateral termination (Article 84);
- 50) in the event of unilateral termination of the distance contract on financial services, he has not returned to the consumer all that he has received from him under the contract, within the time period, under the conditions and in the manner prescribed by this Law (Article 85 paragraph 7);
- 51) he advertises the contracts referred to in Article 90 of this Law and informs the consumer, within the time limits, under the conditions and in the manner contrary to this Law (Articles 91 and 92);
- 52) he failed to conclude the contract referred to in Article 90 of this Law in writing, on paper or on another durable medium accessible to the consumer (Article 93);
- 53) he failed to conclude the contract referred to in Article 90 of this Law in the language in accordance with this Law (Article 94);
- 54) concerning the contents of the contract, amendments and information, mandatory warning of the consumer, the provisions on the unilateral termination of the contract and handing over a copy of the contract to the consumer, he acts contrary to this Law (Article 95);
- 55) he requires advance payment from the consumer, provision of guarantees, reservation of funds in the account, explicit recognition of debt or any other financial transaction in his favour or in the favour of a third party, before the expiration of the period for unilateral termination, and as regards the resale contract, before the resale of rights has been enforced or the resale agreement terminates in any other way (Article 99);
- 56) he requires a payment under a contract on a long-term holiday product contrary to the conditions and the manner prescribed by this Law (Article 100);
- 57) in the event of unilateral termination of the time-sharing contract and the contract on a long-term holiday product, he has not returned to the consumer the funds received on the basis of the side contract, within the time limit, under the conditions and in the manner prescribed by this Law (Article 101 paragraph 6);
- 58) the contract has not be made in writing in accordance with this Law or contractual provisions have not been written in a legible, clear, unambiguous, understandable manner and are not easily distinguishable (Article 107).

(2) A fine in the amount between 100 euros and 500 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a responsible person in a legal person.

(3) A fine in the amount between 200 euros and 2 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on an entrepreneur.



(4) A fine in the amount between 100 euros and 500 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a natural person.

#### **Article 178a**

(1) A fine in the amount between 500 euros and 5 000 euros shall be imposed for a misdemeanour on a dispute resolution body – legal person if:

- 1) it has not published the information prescribed by this Law in a clear and understandable manner on its website (Article 132f paragraph 1);
- 2) at the request of interested persons, it has not submitted the information referred to in Article 132f paragraph 1 of this Law in writing, on paper or on another durable medium (Article 132f paragraph 2);
- 3) it has not published an annual report on its activities, which shall contain information on domestic and cross-border disputes prescribed by this Law, on its website or through other appropriate means of information (Article 132g paragraph 1);
- 4) it has not notified the Ministry on the change of information referred to in Article 132n paragraph 2 within 15 days following the occurrence of the change (Article 132n paragraph 3);
- 5) it is not an authorised dispute resolution body, but in consumer relations and in advertising it uses the terms “alternative dispute resolution” and/or “out-of-court resolution of disputes”, or terms on the basis of which it can be concluded or which can otherwise create an impression that it is a body authorised for resolution of consumer disputes (Article 132nj paragraph 3).

(2) A fine referred to in paragraph 1 shall be imposed on the trader, an interest association of traders or a public law body with legal personality as part of which the dispute resolution body operates and/or which forms a body for dispute resolution in a particular sector if that body does not have legal personality.

(3) A fine in the amount between 100 euros and 500 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a responsible person in a legal person.

(4) A fine in the amount between 200 euros and 2 000 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on an entrepreneur.

(5) A fine in the amount between 100 euros and 500 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a natural person.

#### **Article 179**

(1) A fine in the amount between 300 euros and 2 000 euros shall be imposed for a misdemeanour on a legal person – the trader, if:

- 1) he has not visibly marked the goods displayed in the retail outlet, and which are not intended for sale by the indication "not for sale", "sample", "exhibit" or the goods which have been sold located in the retail outlet have not been visibly marked with "sold" (Article 10);
- 2) the price on the goods has been displayed in a way that damages the goods (Article 12 paragraph 2 point 2);
- 3) he has not informed the consumer, at his request, about the properties and characteristics of the offered product or at the request of the consumer has not shown the product and/or manner of its use if the nature of the product allows it (Article 18);
- 4) along with the invoice for the product purchased, he has not returned to the consumer the difference between the amount of the invoice and received money in any denomination (Article 19 paragraph 6);
- 5) he has not provided appropriate packaging material or has calculated the weight of the packaging material in the net weight of the goods and/or has not complied with the obligations relating to special packaging, and/or has charged for the bags that are used to carry the purchased

products and which have fully or partially a logo, sign, slogan and/or the name of the manufacturer or the trader (Article 22);

- 6) when issuing the notice he has acted contrary to this Law (Article 24a);
- 7) he does not maintain and keep the records of consumer complaints in the manner and under the conditions prescribed by this Law (Article 25 paragraphs 6 and 7);
- 8) he has not informed the consumers in the manner prescribed by this Law that he undertook to or is under the law obliged to resolve consumer disputes through a dispute resolution body or he has not displayed that information in a visible place in the business premises and on his website, in a manner that is clear, comprehensible and easily accessible to the consumer (Article 132I paragraphs 1 and 3);
- 9) the information referred to in Article 132I paragraph 1 does not contain the postal address and the website address of the competent authority or the dispute resolution body (Article 132I paragraph 2);
- 10) in reply to a written consumer's complaint, with a written statement on whether he accepts the procedure before these bodies, he has not provided the information on the dispute resolution bodies referred to in Article 132I paragraphs 1 and 2 of this Law, where a particular dispute cannot be resolved through a written complaint sent by the consumer to the trader (Article 132I paragraph 4).

(2) A fine in the amount between 50 euros and 200 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a responsible person in a legal person.

(3) A fine in the amount between 150 euros and 400 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on an entrepreneur.

(4) A fine in the amount between 50 euros and 200 euros shall be imposed for a misdemeanour referred to in paragraph 1 of this Article on a natural person.

## **PART NINE**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Period for establishment of the Council**

#### **Article 180**

The Government shall establish the Consumer Protection Council within 90 days from the day of entry into force of this Law.

#### **Continuation of work of the Arbitration Board**

#### **Article 181**

(1) The organisation of the Arbitration Board for out-of-court resolution of consumer disputes shall be harmonized within nine months from the day of entry into force of this Law.

(2) Until the harmonisation of organisation referred to in paragraph 1 of this Article, the Arbitration Board for our-of-court resolution of consumer disputes shall continue to work in accordance with the law.

(3)The Arbitration Board for out-of-court resolution of consumer disputes shall harmonize activities thereof in accordance with this Law within nine months from the day of entry into force of this Law.

(4) Members of the Arbitration Board for out-of-court resolution of disputes who are appointed in accordance with the Law on Consumer Protection (Official Gazette of the Republic of Montenegro 26/07) shall continue working until the expiry of the mandate.

### **Harmonisation of organisation**

#### **Article 182**

Existing consumers' organisations shall harmonize their organisation with Article 164 of this Law within six months from the day of the beginning of implementation of this Law.

### **Harmonisation of operations**

#### **Article 182a**

The Board for out-of-court resolution of consumer disputes shall harmonise its operations with this Law, within six months from the date of entry into force of this Law.

### **Initiated proceedings**

#### **Article 183**

The proceedings initiated before entry into force of this Law shall be finalized in accordance with the Law pursuant to which they were initiated.

### **Initiated proceedings**

#### **Article 183a**

The proceedings initiated before the date of commencement of application of this Law shall be completed according to the law under which they were initiated.

### **Period for adoption of regulations**

#### **Article 184**

- (1) The regulations for enforcement of this Law shall be adopted within nine months from the day of entry into force of this Law.
- (2) The regulations adopted under the Law on Consumer Protection (Official Gazette of the Republic of Montenegro 26/07) shall remain in force until the entry into force of the regulations referred to in paragraph 1 of this Article.

### **Time limit for adoption of implementing acts**

#### **Article 184a**

- (1) The implementing acts on the bases of the authorities defined in this Law shall be passed within six months following the date of entry into force of this Law.
- (2) Until the entry into force of the implementing acts referred to in paragraph 1 of this Article, the implementing acts adopted on the basis of the Consumer Protection Law (Official Gazette of Montenegro 2/14, 43/15 and 70/17) shall apply.

### **Delayed implementation**

## **Article 185**

Provisions of Article 119, paragraph 3, Article 130, Article 132, paragraph 5, Article 169, paragraph 6 and Article 174, paragraph 4 of this Law shall be enforced as of the day of accession to the European Union.

### **Delayed application**

#### **Article 185a**

The provisions of Article 119 paragraph 3, Article 132j paragraph 3 point c, Article 132lj paragraph 2 and Articles 132o, 132r, Article 158 paragraphs 5 and 6, and Article 173b of this Law shall apply from the date of accession of Montenegro to the European Union.

### **Cessation of application**

#### **Article 185b**

On the commencement date of the application of this Law, the provision of Article 24 of the Law on Services (Official Gazette of Montenegro 71/17) shall cease to apply.

### **Repeal**

#### **Article 185c**

The provision of Article 7 paragraph 2 point 4 of this Law shall be repealed on the date of accession of Montenegro to the European Union.

### **Cessation**

#### **Article 186**

The Law on Consumer Protection (Official Gazette of the Republic of Montenegro 26/07) and Article 48 of the Law on Changes and Amendments to the Law which lays down penalties for offences (Official Gazette of Montenegro 40/11) shall cease to be valid on the day of the start of enforcement of this Law.

### **Entry into force**

#### **Article 187**

This Law shall enter into force on the eight day from the day of its publishing in the Official Gazette of Montenegro, and shall be enforced after the expiry of six months from the day of entry into force of this Law.

This Law shall enter into force on the eighth day following that of its publication in the *Official Gazette of Montenegro*, and shall apply after expiry of three months from the date of entry into force.