

# POSTAL SERVICES ACT (Official Gazette of Montenegro, no. 57/2011 and 55/2016)

## I. BASIC PROVISIONS

### Content of the Act

#### Article 1

This Act regulates the conditions and procedures for the provision of universal postal service and other postal services, and other issues of importance for the provision of postal services.

### Principles

#### Article 2

Relations in the field of postal services are regulated based on the following principles:

- 1) provision of postal services in accordance with the national and international standards and regulations;
- 2) provision of universal postal service of the prescribed quality at affordable prices for all users in the territory of Montenegro;
- 3) encouraging competitiveness in the field of postal activity;
- 4) equality and non-discrimination of postal service users;
- 5) equality and non-discrimination of postal service operators;
- 6) transparency in provision of universal postal service;
- 7) ensuring development of postal activity;
- 8) encouraging cost-effectiveness and efficiency in the field of postal activity;
- 9) ensuring quality and implementation of standards in provision of postal services, as well as inviolability, security and confidentiality of postal items;
- 10) provision of equal access to postal network and postal services;
- 11) protection of interests of users of postal services;
- 12) sustainability of universal postal service.

### Definitions

#### Article 3

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

- 1) **address** means any set of markings on a postal item indicating the addressee and the point of delivery of the item.
- 2) **postal code** is a set of characters providing unique indication of the addressee's address and which is unique for the territory of Montenegro;
- 3) **acts of the Universal Postal Union** are international agreements and regulations passed by the bodies of the Universal Postal Union that apply to postal services in international postal transport;
- 4) **direct mail** means any communication consisting of advertising, marketing or publicity material comprising an identical message, except for the addressee's name, address and other identifying criteria, as well as other modifications which do not alter the nature of the message, which is sent to a significant number of addressees in at least 100 copies (bills, invoices, financial statements and other non-identical messages shall not be regarded as direct mail);
- 5) **express mail service** means any service guaranteeing and providing the shortest period for transfer of postal items in domestic and international postal transport;
- 6) **electronic mail service** is any service that includes clearance, sorting, transport and delivery of electronically certified postal items by electronic means;
- 7) **hybrid mail** means any service whereby postal operator receives data for electronic letters from a user and then sorts, prepares for printing, prints and seals in envelopes such received data as a mail item to be delivered to the addressee;
- 8) **financial postal services** are domestic and international giro account services, money orders and check services, as well as other similar services relating to money, i.e. services that include disbursement or transfer of money for the purpose of disbursement, in accordance with the regulations of the Universal Postal Union;
- 9) **postal network unit** (post office) is a part of the postal network providing postal service;
- 10) **item of correspondence** is any communication between a sender and an addressee (except for books, catalogues, newspapers and periodicals);
- 11) **user of postal service** is any natural or legal person using postal services as a sender or an addressee;
- 12) **home letter-box** is a postal network facility for the delivery of postal items;

- 13) courier service** means a value-added service which includes collection, transfer and delivery of a postal item from the sender to the addressee, without sorting, where the same person from the postal operator performs all mentioned actions;
- 14) unaddressed postal item** is an item of correspondence consisting of advertising, marketing or promotional material of the same contents, which is dispatched to a significant number of addressees, bearing no address;
- 15) non-reserved postal service** is a service within the scope of universal postal service, that exceeds the prescribed limits with regard to the mass or the price for a reserved service, as well as a commercial postal service;
- 16) parcel** is a postal item containing goods or other objects;
- 17) letter** is a postal item containing a written communication;
- 18) letter-post item** is any postal item containing items of correspondence, printed matter, goods and other objects;
- 19) postal service** is a service involving clearance, sorting, transport and distribution of postal items in accordance with the regulations;
- 20) postal network** is a set of access points that are inter-connected into a unique technical and technological unit, for the purpose of providing universal postal service;
- 21) postal item of the fastest category** is any postal item where the Universal Service Operator offers the fastest procedure with regard to sorting and transport of items compared to other mail, and in case the operator has only one procedure of handling mail, that procedure shall be regarded as the fastest one;
- 22) sender** means any natural or legal person that sends a postal item and is the holder of all rights and obligations with regard to the postal item until its delivery to the addressee;
- 23) postal operator** is a provider of postal services registered for provision of postal services and which fulfills the requirements prescribed in accordance with this Act;
- 24) postal item** is an item addressed in the final form which is to be transported and delivered by a postal operator, items of correspondence, books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;
- 25) letter-box** is a postal network facility for the receipt of unregistered postal items;
- 26) clearance** is the procedure of receiving postal items by a postal operator;
- 27) registered item** is any recorded postal item where proof of its delivery to the addressee may be requested by the user of the service;
- 28) addressee** is a legal or natural person to whom the postal item is addressed;
- 29) postal network access points** are physical facilities or equipment, including letter-boxes, in public areas or in the postal operator's premises, where postal items may be deposited by users of postal services;
- 30) recorded postal item** is any postal item that the postal operator keeps records of and issues confirmation of clearance and which may include advice of receipt;
- 31) cecogramme** is any open postal item whose contents are adapted and intended for the blind and partially sighted persons;
- 32) court letter** is a recorded postal item sent by a court or an administration authority in a prescribed envelope, with advice of receipt as an integral part;
- 33) postal services market** is the territory where postal services are provided;
- 34) universal service operator** is a postal service provider with the obligation to provide universal postal service and with the right to provide reserved postal services;
- 35) postal order** is a document transmitted through postal network or electronically, serving as a basis for disbursement of money to the addressee;
- 36) sorting of postal items** is the procedure where received postal items are grouped according to the addressee's address for the purpose of further transport;
- 37) delivery of postal items** is the procedure where a postal item is delivered in the premises of the postal service provider or delivery of postal items to the stated addressee's address;
- 38) insured item** is a recorded postal item insured up to the value declared by the sender in the event of loss, theft or damage;
- 39) shared letter-box** is a postal network facility used for the delivery and clearance of postal items from the users who are distant from populated areas.

## II. POSTAL SERVICES

### 1. Types of postal services

#### Article 4

Postal services may be universal and commercial.

Postal services referred to in paragraph 1 of this Article shall, in principle, be provided based on an access agreement, or a special agreement.

### **Public interest**

#### **Article 5**

Universal postal service shall be a service of public interest for Montenegro.

Universal postal service may be provided by a legal person based on a special license in accordance with this Act (hereinafter referred to as: the Universal Service Operator).

Post office shall be the name used by the Universal Service Operator, i.e. the name indicating a postal network unit.

Solely the Universal Service Operator shall be authorized to use the name "Post Office".

### **Universal postal service**

#### **Article 6**

Universal postal service shall be specific postal service of a prescribed quality and standard, provided in continuity, without discrimination, to which access shall be ensured under equal conditions and at an affordable price for all users of postal services in domestic and international postal transport.

Universal postal service shall include clearance, sorting, transport and delivery of:

- 1) letter-post items weighing up to 2 kg;
- 2) postal parcels weighing up to 10 kg;
  
- 4) cecogrammes weighing up to 7 kg without charge;
- 5) recorded (registered and insured) postal items;
- 6) court letters and letters in the administrative procedure.

Universal postal service referred to in paragraph 1 of this Article shall include postal services in domestic and international postal transport.

Universal postal service shall also include delivery of parcels weighing up to 20 kg in international postal transport.

### **Principles of universal postal service**

#### **Article 7**

Universal postal service shall be:

- available to all users of postal services in the entire territory;
- offered in identical form to all users who fulfill the same or similar conditions;
- available without discrimination (arising from political, religious and ideological reasons);
- continuous, except in the event of force majeure;
- developed in accordance with the technical, economic and social environment and demands of the users of services.

### **Obligation to provide universal postal service**

#### **Article 8**

Universal postal operator shall provide universal postal service to all users, every business day, but not fewer than five days a week, with minimum:

- one collection of postal items;
- one delivery of postal items, except in special circumstances and geographic conditions, with the exception of up to 10% of the population in rural and scarcely populated geographic areas, where at least one delivery a week or placement of cluster mailboxes on common locations shall be provided, according to the access point density model.

Based on the criteria referred to in paragraph 1 of this Article, the independent regulatory authority (hereinafter: the "Agency") may lay down other method for the provision of universal postal service.

### **Reserved postal service**

#### **Article 9**

Reserved postal service shall be a part of universal postal service, limited with regard to mass and price, provided by the Universal Service Operator.

Reserved postal service shall comprise:

- 1) clearance, sorting, transport and delivery of letter-post, recorded (registered and insured) postal items weighing up to 50 grams;
- 2) clearance, transfer and disbursement of postal orders;
- 3) clearance, sorting, transport and delivery of court letters regardless of limits.

Postal services referred to in paragraph 2 of this Article shall not be considered as reserved services, if their price is equal or higher than the amount which is two and a half times higher than the price of the first rate letter-post item of the fastest category in accordance with the price list for the services of the Universal Service Operator.

The right and obligation to provide reserved postal services in domestic and international postal transport in the entire territory of Montenegro shall belong exclusively to the Universal Service Operator.

### **Commercial postal service**

#### **Article 10**

Commercial postal service shall include all other postal services, as well as value added services provided in the postal services market, which are not part of universal postal service.

Commercial postal service shall also include other financial postal services, which are not part of universal postal service, services of electronic communication, hybrid mail and other services.

Commercial postal service referred to in paragraph 1 of this Article may be provided by natural or legal persons registered for performance of that activity in the Central Register of Business Entities (hereinafter referred to as: CRBE) that fulfill the requirements prescribed by this Act.

### **Value added services**

#### **Article 11**

Value added services shall be postal services within commercial service with special requirements with regard to quality, time and place of clearance, speed of transport and delivery.

Services referred to in paragraph 1 of this Article shall include:

- 1) courier services (door-to-door);
- 2) express mail services;
- 3) services providing possibility of tracking the postal item transport and delivery process by Internet or in another appropriate manner;
- 4) service providing possibility of direct communication with the postal service provider, for the purpose of obtaining additional instructions concerning the delivery of a postal item;
- 5) postal items with agreed time of delivery;
- 6) postal items delivered personally with signature of addressee required;
- 7) and other services.

### **Additional postal service**

#### **Article 12**

Additional postal services shall be services that include special handling methods during clearance, sorting, transport and delivery of postal items, and they may refer both to universal and commercial postal services.

Additional postal services may be provided upon request of the sender, addressee, or by virtue of the office.

Additional postal services relating to universal postal service shall fall within the scope of universal postal services.

Additional postal services relating to commercial postal service shall fall within the scope of commercial postal services.

Application for additional service may be filed at any moment during transport of a postal item or when adequate conditions are fulfilled.

## **2. Prices of postal services**

### **Principles Article 13**

Prices of universal postal services shall be charged according to the postal service pricelist.

Postal service provider shall deliver the postal service pricelist to the Agency at least eight days before the pricelist takes effect.

The payment method and conditions shall be regulated by the general terms and conditions of the postal service provider.

### **Restrictions Article 14**

Prices of postal services shall not:

- 1) contain additional amounts due to considerable market power of a postal operator in the postal services market;
- 2) be set under the cost price with the intent to overtake or retain considerable market power in the postal services market.

### **Price of universal postal service and approval of the Agency for the prices Article 15**

Price of universal postal service shall be:

- 1) the same for all users in the entire territory where the universal service operator provides its services;
- 2) affordable, based on realistic costs and stimulating for the efficient provision of universal postal services;
- 3) free of charge for specific types of services used by visually impaired or partially visually impaired persons;
- 4) transparent;
- 5) prescribed in such manner so as not to give preference to certain users of services in relation to other users of services under the same or similar conditions.

Prices of universal postal service shall be set by the postal operator according to the criteria prescribed by the Agency.

Prices of universal postal service referred to in paragraph 1 of this Article shall be approved by the Agency, not later than 15 days from the delivery of the pricelist.

The universal postal service pricelist may be amended fully or partially by the Agency, prior to or after the pricelist is published, if the prices are not set in line with this Law.

### **Commercial discounts Article 16**

The provision of Article 15 hereof shall not exclude the right of the universal postal service provider to grant discounts to postal service users sending a large number of postal items, provided that such discount is set taking into consideration the actual costs, prescribed by the universal postal service pricelist and that they apply to all postal service users sending postal items under the same or similar conditions, and observing the principles of transparency and non-discrimination.

Discounts referred to in paragraph 1 of this Article shall not be included in the universal postal operator's net cost.

### **Pricelist Article 17**

User of postal services shall pay for postal service (postage) according to the pricelist of postal services.

Postal operator shall publish the pricelist of postal services referred to in paragraph 1 of this Article in its website and display the pricelist in a visible place in the premises where postal services are provided.

Postal operator shall, upon a request from a user of postal services, make the pricelist available for inspection.

### **Prices of commercial services**

#### **Article 18**

Prices of commercial postal services shall be set by the postal operator, and they must be the same for all users that use the services under the same or similar conditions.

Prices of commercial postal services shall be submitted to the Agency, not later than three days prior to their application.

### **Payment of postal services**

#### **Article 19**

Postal services shall, in principle, be paid in advance according to the postal operator's pricelist.

Apart for the price referred to in paragraph 1 of this Article, users of postal services shall, in cases provided for by special regulation, also pay for the amount set by that regulation.

Cecogrammes shall be relieved of postage, except in case of air transport.

Universal Service Operator shall transport postal items even if the universal postal service is not paid or if it is underpaid, if the address of the addressee is declared, under the conditions provided for by law.

### **Payment marking**

#### **Article 20**

Payment of postal services shall be marked on the postal item in one of the following methods:

- 1) by applicable postage stamps in paper or electronic form;
- 2) by imprint of a franking machine;
- 3) by imprint of electronic seal;
- 4) by mark indicating that postage was paid in accordance with the provisions of the agreement between the postal operators and users.

### **3. Provision of postal services**

#### **Article 21**

Postal services shall be provided in accordance with this Act, general terms and conditions of postal operators and acts of the Universal Postal Union.

Detailed conditions and the method of provision of postal services, criteria for the provision of postal services, criteria for organization of postal services under special circumstances and special geographic conditions, deadlines for transport and delivery of postal items, dimensions and the method of postal item packing, as well as the density of access points in the postal network of the universal postal operator, method of handling postal items the sending of which is prohibited because they contain prohibited substances and objects, method of opening and inspecting postal items and handling undeliverable postal items, shall be laid down by a secondary regulation of the state authority in charge of postal services (hereinafter: the "Ministry").

### **General terms and conditions**

#### **Article 22**

General terms and conditions for provision of postal services shall prescribe the conditions and method for provision of postal services of the postal operator.

General terms and conditions of postal operators shall not be contradictory to this Act and regulations passed based on this Act.

Postal operators shall lay down the general terms and conditions for the provision of postal services, which shall include in particular:

- 1) place, time and method of the provision of postal services,
- 2) type of postal services,
- 3) supplementary services related to postal items,
- 4) handling of undeliverable postal items, opening and repacking of postal items
- 6) payment method for postal services,
- 7) the retention period for documents on postal items, complaints and postal items tracking, and
- 8) compensation of damages for postal service users.

## **Approval from the Agency**

### **Article 23**

The Agency shall provide approval of the general terms and conditions of the Universal Service Operator and a postal operator providing a part of the services within the scope of universal postal service.

The Agency may ask the postal operators to amend the general terms and conditions referred to in paragraph 1 of this Article, in order to protect the postal service users or to ensure protection of competition.

The Agency shall provide its approval of the general terms and conditions referred to in paragraph 1 of this Article, not later than 15 days after they are delivered.

General terms and conditions of commercial postal operators do not require approval from the Agency.

## **Publishing of general terms and conditions**

### **Article 24**

Universal postal operator and postal operators providing a portion of the services falling within the scope of universal postal service may lay down separately the general terms and conditions regulating the operation of universal postal service, and the general terms and conditions regulating the operation of commercial postal services.

The general terms and conditions of the universal postal operator shall be published in the Official Gazette of Montenegro, and the general terms and conditions of other postal operators shall be displayed in a visible place in the postal operator's premises and/or on the postal operator's website, at least eight days prior to their taking effect.

General terms and conditions of all operators shall be published on the website of the Agency.

## **Access Agreement**

### **Article 25**

Postal services shall be provided based on an access agreement.

By an access agreement, the postal operator commits to provide postal services in accordance with this Act and the general terms and conditions of the operator.

In provision and use of postal services, postal operators and users of postal services shall establish their relations in good faith.

## **Rights and obligations of users**

### **Article 26**

Any user of postal services shall have the right and the obligation to select that type of postal service which corresponds to the content and the actual value of the content of the postal item and importance of the postal item for the user.

Any user of postal services shall be responsible for proper packing of the content and sealing of a postal item that must correspond to the type, form, mass and value of the object in the item and shall be responsible for the damage that the item, due to its content or inappropriate packing, incurs on other postal items or postal operator equipment.

Any user of postal services shall declare the real value of the content on the postal item.

## **Power of Attorney**

### **Article 27**

Any user of postal services may use postal services through an attorney in accordance with the general regulations on the Power of Attorney.

Power of Attorney may be issued for delivery of all postal items or for individual items.

Power of Attorney certified by relevant authorities shall be valid for the time period declared in it, and a Power of Attorney recorded with a postal operator shall be valid only for the services of that operator for the time period declared in the Power of Attorney, but not longer than a year.

## **Home letter-boxes**

### **Article 28**

An owner of an apartment, a family house or an office building shall provide for installing and maintenance of a home letter-box at the entrance to the building, in the courtyard or in another manner.

Home letter-boxes shall be marked with the first and last name of the owner, i.e. the user of the building, as well as the number of the apartment, family house or office building, in accordance with special regulations.

### **Warning of the operator**

#### **Article 29**

Home letter-box shall be placed so that it provides accessibility, security of items, safe delivery and confidentiality of postal items.

Universal Service Operator may send a written warning to an owner of the buildings referred to in Article 28 of this Act if the owner fails to install and maintain his/her home letter-box and may set a deadline for the owner to correct the failure.

Universal Service Operator shall not be obligated to deliver postal items in case of failure of the owner as referred to in paragraph 2 of this Article.

### **Non-compliance with the warning of the operator**

#### **Article 30**

If, despite the warning referred to in Article 29 of this Act, an owner of an apartment, a family house or an office building fails to install a home letter-box, the postal operator shall notify the relevant inspector.

### **Letter-boxes**

#### **Article 31**

Universal Service Operator shall install and maintain letter-boxes in public areas and roads, in accordance with special regulations, based on approval from the relevant authority.

Postal operator shall be relieved of payment of charges and fees for use of an area for the purpose of installing of letter-boxes in public areas in a land or a building owned by the state of Montenegro or the local government.

### **Shared letter-boxes**

#### **Article 32**

For users of postal services whose buildings are outside inhabited areas, postal items may be delivered by way of shared letter-boxes.

## **4. Postal items**

### **Basic requirements to be fulfilled by postal items**

#### **Article 33**

Postal items shall fulfill the conditions prescribed by this Act, the general terms and conditions for provision of postal services and acts of the Universal Postal Union.

Each postal item shall bear, readable and clear, address of the addressee comprising all necessary information.

In domestic postal transport, postal items shall be addressed in Cyrillic or Latin letters, and in international postal transport, in Latin letters or the letters of the country of destination, whereby the name of the destination post office and the country of destination must also be written in Latin letters.

Address of the sender is mandatory on all registered items, unless the envelope states “for competition purpose”, “auction” or similar.

Postal item shall be packed so as to ensure confidentiality of the content of information in the manner prescribed by this Act.

### **Special requirements for postal items**

#### **Article 34**

Certain postal items shall fulfill conditions prescribed by other laws, as follows:

- 1) for postal items in domestic postal transport, whose content comprises objects whose transport requires approval from relevant state authorities, the sender shall submit such an approval;
- 2) for postal items in international postal transport, whose content is subject to customs clearance, or currency control, to act in accordance with customs or currency regulations.

### **Ownership over a postal item**

#### **Article 35**

Postal item shall be the ownership of the sender until the delivery to the addressee or another authorized person.

A sender may dispose of the postal item until the moment of the delivery.

### **Clearance**

#### **Article 36**

Clearance and delivery of postal items shall be carried in accordance with this Act, the general terms and conditions of postal operators and international postal regulations.

Clearance of postal items shall be carried out in the premises of the postal operator, by way of letter-box, or through a person authorized by the postal operator in the premises of the user or electronically.

During clearance of a registered postal item, the sender shall be provided with a confirmation of clearance that must contain all elements based on which identity of the postal item, date of clearance, mass, value and postage charged can be identified.

Postal operator shall mark each postal item received by an imprint of a stamp in classical or electronic form.

### **Delivery**

#### **Article 37**

Postal operator shall, in principle, deliver postal items personally to the addressee or the authorized person.

Registered postal items may also be delivered to an adult member of the household, a person employed in the household, or in the premises of the addressee, under the conditions and in the manner prescribed by the regulation referred to in Article 21 of this Act.

Non-registered postal items may also be delivered by way of home letter-boxes.

In case of unsuccessful delivery of a registered postal item, a report on the arrival of the postal item shall be left to the addressee.

If a report on the arrival of the postal item is left to the addressee prior to the expiry of the deadline for transport and delivery of the postal item, it shall be considered that the postal operator has fulfilled its obligation to transport and deliver the item within the prescribed deadline.

### **Refusal of receipt**

#### **Article 38**

If an addressee or a person referred to in Article 37 paragraph 2 of this Act refuses to receive a registered postal item, the deliverer shall declare the date and the reason of the refusal on the postal item or the advice of receipt and return the postal item to the sender.

### **Undeliverable postal items**

#### **Article 39**

A postal item for which it is determined that it cannot be delivered either to the addressee or the sender within the deadlines prescribed in accordance with the regulation referred to in Article 21 of this Act or the general terms and conditions for provision of postal services shall be considered as an undeliverable postal item.

The postal operator shall be entitled to provide a committee to open and inspect the content of an undeliverable postal item for the purpose of identifying the address of the addressee or the sender.

### **Prohibited content of postal items**

#### **Article 40**

It shall be prohibited to send the following in postal items:

- 1) narcotics and psychotropic substances, except when the sender and the addressee are authorized for trade, or use of these substances,
- 2) explosive, flammable, radioactive and other dangerous substances;
- 3) live animals, except for animals whose transport is allowed in accordance with regulations;
- 4) objects whose import and trade is prohibited in the country of destination;
- 5) objects that may be dangerous due to their nature or packing for the employees of the postal operator or that may compromise or damage other postal items, means of transport or postal equipment;
- 6) other substances, i.e. objects whose sending is prohibited by other regulations.

If a postal operator becomes aware or has reasonable doubt that a postal item contains substances, i.e. objects referred to in paragraph 1 items 1 and 2 of this Article, the operator shall submit the postal item to the relevant state authority, i.e. the authorized official.

### **Confidentiality of postal items**

#### **Article 41**

Postal operators shall ensure confidentiality of postal items.  
Persons employed with the postal operator shall not provide any information on postal items to unauthorized persons.  
Postal operators may obtain information on postal items only to the extent required for provision of postal services.  
Exceptionally, confidentiality of postal items may be violated, in accordance with law.

### **Inviolability of postal items**

#### **Article 42**

Postal operators shall ensure inviolability of postal items in provision of postal services.  
Inviolability of postal items shall be compromised only in cases and under conditions prescribed by law.

### **Inspection of contents**

#### **Article 43**

Postal operator may open and inspect content of a postal item with approval of the sender or the addressee.  
Exceptionally from paragraph 1 of this Article, postal operator may form a committee to open and inspect the content of a postal item without approval of the sender or the addressee in the following cases:  
1) when the postal item cannot be delivered to the addressee or returned to the sender (undeliverable postal item);  
2) when there is reasonable doubt that the postal item contains prohibited objects referred to in Article 40 of this Act;  
3) when the postal item is damaged in such manner that its content or content of other postal items is compromised;  
4) in other cases prescribed by law.

## **5. Protection of users of services and dispute settlement**

### **Complaints**

#### **Article 44**

If a user of postal services considers that a registered postal item has not been delivered to the addressee or that it was delivered with delay or that a specially agreed service has not been provided or that it has not been provided in full, he/she may file a complaint with the postal operator within six months from the clearance of the postal item.

### **Complaints due to failure to deliver or delayed delivery**

#### **Article 45**

A sender or another authorized person may, due to failure to deliver or delayed delivery of a registered postal item, file a complaint to claim the postal item.

The costs of claim procedure referred to in paragraph 1 of this Article shall be borne by the sender, i.e. other authorized person.

If the postal operator determines during the claim procedure that the postal item has not been delivered or has been delivered with delay, the operator shall compensate the sender or another authorized person for the costs of the claim procedure referred to in paragraph 2 of this Article.

### **Complaints due to damage or reduced content**

#### **Article 46**

User of postal services shall file a complaint due to damage or reduced content of a registered postal item immediately upon delivery of the postal item, i.e. not later than the following day.

If a sender, or an addressee fails to file a complaint referred to in paragraph 1 of this Article within the prescribed period, he/she shall lose the rights that belong to him/her in accordance with the provisions of this Act in the event of damage or reduced content of a postal item.

### **Statement of the operator**

#### **Article 47**

Postal operator shall state its position regarding justification of the complaint referred to in Articles 44 and 46 of this Act within 10 days from receipt of the complaint in domestic transport, i.e. within 60 days from receipt of the complaint in international transport.

If the postal operator cannot state its position on justifiability of a complaint within 60 days for a postal item in international postal transport due to failure of another postal operator to submit information, the operator shall inform the complainant in writing stating the method of actions taken upon the complaint and notifying him/her when the complaint will be resolved.

### **Deciding upon appeals**

#### **Article 48**

An appeal may be filed with the Agency against a decision of a postal operator on a complaint.

Appeal referred to in paragraph 1 of this Article may also be filed with the Agency in the event of failure to submit a reply upon a complaint.

Appeal referred to in par. 1 and 2 of this Article shall be filed within 15 days from the receipt of a decision on a complaint, i.e. until expiry of the deadline for replying to a complaint.

### **Procedure of the Agency**

#### **Article 49**

Postal operator shall, upon a request from the Agency, submit information and documentation for the purpose of deciding upon an appeal referred to in Article 48 of this Act.

The Agency shall decide upon an appeal within 30 days from the receipt of the appeal.

### **Decision of the Agency**

#### **Article 50**

In its decision on an appeal the Agency may:

- dismiss the appeal as untimely;
- accept the request of the user of postal services and obligate the postal operator to indemnify the user;
- reject the appeal as unfounded;
- suspend the procedure and instruct the user of services to realize his/her claims before the relevant court.

### **Execution of a decision of the Agency**

#### **Article 51**

If a postal operator fails to act upon a decision of the Agency, the Agency may initiate the procedure to revoke the special license and the license, i.e. to remove the operator from the register of postal operators.

### **Publishing of information**

#### **Article 52**

The Agency shall publish decisions referred to in Article 50 of this Act on its website.

Information on decisions passed upon appeals referred to in paragraph 1 of this Article shall constitute an integral part of the annual report of the Agency.

### **Responsibility of the postal operator**

#### **Article 53**

Postal operator shall be liable for damage incurred in international postal transport within the limits set out in the acts of the Universal Postal Union and other international postal acts.

Postal operator shall be liable for damage incurred in domestic transport when it occurs during transport of a registered postal item due to:

- 1) loss, damage or reduced content of a postal item;
- 2) exceeding of the deadline for transport and delivery of a postal item;
- 3) failure to provide a service, a partially provided or wrongly provided postal service.

### **Exemption from liability**

#### **Article 54**

Postal operator shall be exempt from liability for damage incurred, if it can prove that:

- 1) transport of postal item was carried out in accordance with the regulations;
- 2) damage occurred due to force majeure;
- 3) damage occurred due to negligence of the sender with regard to selection of the type of postal service or securing its content;
- 4) damage occurred after the postal item was delivered to the relevant state authority, i.e. authorized official, in accordance with Article 37 and Article 40 paragraph 2 of this Act;
- 5) user of postal services filed an untimely complaint;
- 6) damage occurred during the procedure of executing acts and activities of the relevant state authorities;
- 7) postal item had the same mass declared on the item and the means for its sealing were not damaged when it was delivered.

### **Amount of indemnity**

#### **Article 55**

Postal operator shall indemnify a user of postal services at least as follows:

- 1) in the event of loss or complete damage of an insured postal item – the declared value of the postal item plus ten times the price paid for transport of the insured postal item;
- 2) in the event of loss or wrong disbursement of a postal order – the amount of the order plus ten times the price paid for transfer of the order;
- 3) in the event of partial damage or reduced content of an insured postal item – the amount of the determined part of damage or reduced content, but not higher than the amount that would be disbursed in accordance with item 1 of this paragraph;
- 4) in the event of failure to provide a service, partially provided or wrongly provided postal service regarding transport of a registered postal item – five times the price paid for the provided postal service;
- 5) in the event of exceeding the deadline for transport of a registered postal item – the price paid for the provided postal service.

In cases referred to in paragraph 1 items 1, 2 and 3 of this Article, the user of postal services shall be entitled to reimbursement of the paid price of the postal service.

Postal operator shall not be liable for any lost profit.

### **Statute of limitations**

#### **Article 56**

The statute of limitations related to claims of postal operators and users of postal services shall apply after the expiry of the period of two years.

The statute of limitations referred to in paragraph 1 of this Article shall begin as follows:

- 1) for claims due to a lower or higher charged postage or other costs – as of the date of payment;
- 2) for claims relating to Cash on Delivery items – as of 15 days after the deadline for transport and delivery of the postal item;
- 3) for claims on account of partial loss, or damage, or reduced content of the postal item, or due to exceeding of the deadline for the transport and delivery of the postal item – as of the date of delivery of the postal item;
- 4) for claims due to loss of the postal item – 30 days after the expiry of the deadline for the delivery of the postal item;
- 5) in all other cases of claims – as of the date of fulfillment of the conditions for claims.

### **Suspension of the statute of limitations**

#### **Article 57**

The statute of limitations shall be suspended when the postal operator receives a written claim for payment, or dispute procedure is initiated before the Agency, in accordance with this Act, and it shall continue one day after the day when the person who submitted the claim or another authorized person receives a written reply from the postal operator to his/her claim and the documents that accompanied his/her claim, or after receipt of the reply from the Agency.

The statute of limitations shall not begin before the expiry of 30 days from the date of having received the reply from the postal operator concerning the request for indemnification.

Subsequent claims relating to the same issue shall not suspend the statute of limitations.

## **6. Quality of universal postal service**

### **Quality standard in international postal transport**

#### **Article 58**

Quality of provision of universal postal service in international postal transport shall imply delivery of 85% of letter-post items on average within maximum three business days and 97% of letter-post items on average within maximum five business days.

Deadlines for transport of postal items in international postal transport shall depend on the distance of the country of destination, transport connections and the quality standards of national operators of universal postal services.

### **Quality standards in domestic postal transport**

#### **Article 59**

Quality of universal postal service in domestic postal transport shall imply delivery of at least 95% of letter-post items within three business days.

Clearance time of a postal item shall be determined based on the imprint of the postal operator's seal on the confirmation of clearance of a registered postal item, i.e. on the postal item in case of non-registered postal items.

### **Deadlines for delivery of postal items**

#### **Article 60**

Deadline for the delivery of postal items shall include the time period from the clearance of a postal item until its delivery.

Deadlines referred to in Articles 58 and 59 of this Act shall not include:

- time of delay caused by irregular or incomplete address of the addressee;
- time of delay caused by force majeure or delay in transport for which the universal postal service provider is not responsible;
- non-business days and days when postal items are not delivered.

If a postal item is deposited after the final dispatch of postal items from the access point of the postal operator, the deadline shall be extended by one day.

Postal operator may agree on different delivery deadlines with users of postal services which post significant number of postal items.

### **Independent monitoring**

#### **Article 61**

Universal Service Operator shall provide quality measurement of transport of postal items on annual basis, for the purpose of determining the percentage of postal items delivered and other data determining the quality of universal postal services, by hiring an independent institution which performs research, i.e. monitoring in accordance with this Act and the European standards.

Universal Operator shall submit annual report on monitoring, i.e. quality of universal services referred to in paragraph 1 of this Article to the Agency, not later than March 31 of the current year for the previous year.

Report referred to in paragraph 2 of this Article shall be published by the Universal Service Operator on its website, along with data on the total number of received and resolved complaints.

## **III. JURISDICTIONS**

### **1. The Government of Montenegro**

#### **Article 62**

The Government of Montenegro (hereinafter referred to as: the Government) shall:

- 1) determine the strategy for the development of postal activity;

- 2) set the conditions and the method of using the postal network of the Universal Service Operator in the event of occurrence of a catastrophe, natural disaster and other accident;
- 3) perform other tasks in accordance with this Act.

### **Strategy for the development of postal activity**

#### **Article 63**

Strategy for the development of postal activity shall be adopted for a period of five years.

Strategy for the development of postal activity shall include: analysis of the situation with regard to provision of postal services, guidelines for development of postal activity and liberalization of postal market.

## **2. The Ministry**

#### **Article 64**

The Ministry shall:

- 1) pass regulations based on authorizations set out in this Act;
- 2) determine the nomenclature of postal services;
- 3) cooperate with international organizations and administrations with the aim to provide implementation of international conventions and other agreements in the field of postal transport;
- 4) set the amount of charges in accordance with this Act;
- 5) perform other tasks in accordance with law.

## **3. The Agency**

#### **Article 65**

The Agency shall:

- 1) determine the criteria based on which prices of universal postal service are set;
- 2) prepare expert basis for development of regulations passed by the Ministry in accordance with this Act;
- 3) issue and revoke special licenses and licenses for provision of universal postal services;
- 4) maintain the register of postal operators (hereinafter referred to as: the Register);
- 5) perform regulation of the postal service market and carry out periodical analyses of the postal market;
- 6) cooperate with the bodies and authorities of the Universal Postal Union and the European Union and carry out exchange of data and regular informing of those authorities in accordance with this Act and international obligations;
- 7) cooperate with the regulatory authorities of the European Union member states and other countries;
- 8) participate in the work of administrative bodies and task forces of the relevant European and international organizations and institutions in the field of postal services;
- 9) verify the calculation of net costs of universal postal service;
- 10) determine fulfillment of conditions for obtaining of a special license and license for provision of postal services;
- 11) monitor implementation of the prices of postal services;
- 12) provide approval of the general terms and conditions for provision of postal services of postal operators;
- 13) monitor development of postal services;
- 14) provide approval of the conditions and prices of access to the Universal Service Operator network;
- 15) settle disputes between operators with regard to access to the Universal Service Operator network;
- 16) decide upon appeals of users of postal services;
- 17) perform expert supervision over the work of postal operators;
- 18) monitor the situation and development of the postal services market and take measures to ensure competitiveness in the postal services market;
- 19) provide expert opinions regarding implementation of this Act;
- 20) publish its acts and acts of the Universal Postal Union on its website;
- 21) perform other tasks in accordance with this Act.

### **Cooperation of the Agency**

#### **Article 66**

The Agency shall cooperate with postal operators and other authorities and organizations with regard to protection of consumers and postal services market.

**Register**  
**Article 67**

The Agency shall keep a register comprising the following data:

- 1) name and head office of the legal person, i.e. name and address of the natural person;
- 2) first and last name of the responsible person within the legal person;
- 3) identification number, register number, gyro-account number of the legal and natural person;
- 4) information on the special licenses and licenses issued and types of postal services with the territories where the postal services will be provided;
- 5) information on the received applications for provision of commercial postal services;
- 6) information on the revoked licenses and imposed measures during performance of expert supervision.

The Agency shall publish an excerpt from the Register on its website.

**Notification of postal authorities and bodies**  
**Article 68**

The Agency shall notify the relevant postal authorities of the Universal Postal Union and the European Union on the following:

- the Universal Service Operator and postal operators providing parts of universal postal service;
- the measures taken regarding provision of universal postal service;
- the method of publishing and availability of information on the prices and quality standards of universal postal services;
- other issues in accordance with international obligations.

**Publishing of information**  
**Article 69**

The Agency shall collect, process and publish financial, statistical, accounting and other data regarding the situation and development of the postal services market.

The Agency shall publish the data referred to in paragraph 1 of this Article on its website, except for the data considered confidential in accordance with law.

Postal operators shall submit information relating to postal services to the Agency.

The type and method of submitting information referred to in paragraph 3 of this Article shall be determined by the Agency.

**Decision-making by the Agency**  
**Article 70**

Provisions of the law regulating the general administrative procedure shall apply to the procedure before the Agency, unless otherwise provided for by this Act.

Decisions and other administrative acts shall be final.

Administrative dispute may be initiated against the decisions and other administrative acts of the Agency in accordance with law.

**Funding of the Agency**  
**Article 71**

Funding of the Agency shall be provided from:

- flat fees for special license, license and application for entry into the register in accordance with this Act;
- annual fee for provision of postal services;
- other sources in accordance with law and the Statute of the Agency.

**IV. POSTAL OPERATORS**

**1. Licenses and applications for provision of postal services**

**Special license and licenses for provision of postal services**

## **Article 72**

Universal postal service may be provided by a legal person registered with the Central Register of Commercial Entities for provision of postal services based on a special license.

Special license referred to in paragraph 1 of this Article shall be issued by the Agency, based on a public tender procedure.

Certain postal services falling within the scope of universal postal service in the entire territory, universal postal services in a specific part of the territory, or certain postal services falling within the scope of universal postal service in a specific part of the territory, may also be provided by a legal entity registered with the Central Register of Commercial Entities for provision of postal services, specified in the license issued by the Agency.

Special license and license may be issued to a legal entity fulfilling the minimum technical requirements (minimum one room for the provision of services), requirements with regard to personnel qualifications and the number of employees (minimum one employee with corresponding qualifications), necessary equipment for the provision of universal postal services (minimum one postal items delivery vehicle), postal network capacity for functional operation of universal postal service and density of access points which, depending on the scope of activities and the type of services provided, are to be met by the universal postal service operator, and the requirements to be met also by other universal postal service operators, depending on the territory and the type of services provided in that territory.

By acquiring a special license, the legal entity shall also acquire the right of a postal operator to operate all commercial postal services, without any special application.

Detailed requirements referred to in paragraph 4 of this Article shall be regulated by the Agency.

## **Validity period of special license and license**

### **Article 73**

Special license shall be issued for a period of ten years and may not be transferred to another legal entity. License shall be issued for a period of ten years and may not be transferred to another legal entity.

## **Contents of special license**

### **Article 74**

Special license shall include in particular:

- 1) information on the universal postal operator specified in the special license,
- 2) rights and obligations in the provision of universal postal service in the entire territory of Montenegro,
- 3) deadline by which the universal postal operator shall initiate the provision of universal service,
- 4) special license validity period.

Universal postal operator shall inform the Agency, as soon as possible, of any status and other changes, related to the fulfilment of the requirements specified under the license, not later than 30 days after the occurrence of such changes.

## **Contents of license**

### **Article 74a**

License shall include in particular:

- 1) information on the license holder;
- 2) rights and obligations of the license holder in the provision of postal services within the scope of universal postal service;
- 3) specification of postal services provided based on the license;
- 4) territory covered by the postal services;
- 5) validity period.

The license holder shall inform the Agency, as soon as possible, of any status and other changes, related to the fulfilment of the requirements specified under the license, not later than 30 days after the occurrence of such changes.

## **License application**

### **Article 74b**

License application shall include in particular:

- information on the applicant (name and head office);

- type of postal services for which the license application is filed;
- territory for which application for the provision of postal services is filed, and
- period for which the license is requested.

In addition to the application referred to in paragraph 1 of this Article, the applicant shall also submit the following:

- confirmation of registration for provision of postal services;
- evidence of possession of postal network or an agreement on the use of a postal network;
- evidence of fulfilment of the requirements for the provision of universal postal service referred to in Article 72 paragraph 4 hereof;
- general terms and conditions for the provision of postal services;
- postal services pricelist.

The Agency shall decide on the license application within 30 days after receiving a due and complete application.

### **Application**

#### **Article 75**

Commercial postal services may be provided by a legal or natural person based on an application for entry into the Register filed with the Agency.

Application referred to in paragraph 1 of this Article shall be filed in writing and shall comprise:

- 1) name and head office, i.e. name and address of the applicant;
- 2) type of commercial postal service to be provided;
- 3) territory where the service is to be provided;
- 4) inventory of resources, personnel and access points in the network of the commercial postal operator.

Application referred to in paragraph 1 of this Article shall be accompanied by the general terms and conditions for provision of commercial postal services.

Application referred to in paragraph 1 of this Article shall be filed with the Agency at least eight days prior to the beginning of provision of services.

The Agency shall enter the postal operator into the register of postal operators and issue an excerpt from the register within eight days after receiving a due and complete application based on the application referred to in paragraph 1 of this Article.

An excerpt from the register of the Agency shall be valid for a period of five years after the date of issue.

### **Amendment of special license and license**

#### **Article 76**

The Agency may amend a special license and license by virtue of the office, if necessary for the purpose of harmonization with international acts, other regulations or with the aim to ensure the prescribed provision of universal postal service or a part of that service.

The Agency may also amend a special license and license upon a request from the postal operator.

Holder of a special license and license shall inform the Agency on any change or suspension of provision of postal services, within 15 days as of the occurrence of the change or suspension of provision of services.

### **Termination of validity**

#### **Article 77**

Special license and license shall cease to be valid upon: revoking, expiry of the period for which they are issued or request of the special license and license holder.

### **Revoking of special license**

#### **Article 78**

The Agency shall revoke a special license of a universal postal operator if:

- 1) it fails to provide postal services in the manner and under the conditions set out in the special license;
- 2) it fails to fulfil the requirements based on which it had obtained the license;

- 3) the decision on the issue of the special license was passed based on incorrect information relevant for the decision-making;
- 4) the universal postal operator fails to initiate the provision of universal postal service within the deadline referred to in Article 74 paragraph 1 item 3 hereof;
- 5) it fails to act upon a decision of a postal inspector;
- 6) it fails to fulfil the financial obligations towards the Agency within the prescribed deadlines;
- 7) it fails to submit the necessary information or documents relating to the provision of postal services upon a request from the Agency;
- 8) it provides postal services at dumping prices, and
- 9) in the event of prohibition of performance of the activities.

The Agency shall, prior to revoking special license, give a notice to the universal postal operator to rectify the identified irregularities referred to in paragraph 1 of this Article within 30 days after the delivery of the decision.

If the universal postal operator fails to rectify the identified irregularities within the said deadline, the Agency shall revoke the special license.

In case a special license is revoked, the Agency shall at the same time designate a universal postal service provider, until the selection of a new universal postal operator, in accordance with the provisions of this Law.

Special license may be revoked in cases referred to in paragraph 1 of this Article, upon approval from the Government.

### **Revoking of license**

#### **Article 78a**

The Agency shall revoke the license of a license holder if:

- 1) the decision on the issue of the license was passed based on incorrect information relevant for the decision-making;
- 2) it fails to fulfil the requirements based on which it had obtained the license;
- 3) it fails to provide postal services in the manner and under the conditions set out in the special license;
- 4) it fails to act upon a decision of a postal inspector;
- 5) it fails to fulfil the financial obligations towards the Agency within the prescribed deadlines;
- 6) it fails to submit the necessary information or documents relating to the provision of postal services upon a request from the Agency;
- 7) it provides postal services at dumping prices, and
- 8) in the event of prohibition of performance of the activities, in accordance with the law.

The Agency shall, prior to revoking the license, give a notice to the license holder to rectify the identified irregularities referred to in paragraph 1 of this Article within 30 days after the delivery of the decision.

If the license holder fails to act in line with paragraph 2 of this Article, the Agency shall revoke the license.

### **Removal from the Register**

#### **Article 79**

The Agency shall remove a commercial postal operator from the Register if the operator:

- 1) fails to provide commercial postal services in the manner and under the conditions prescribed by this Act and the general terms and conditions;
- 2) fails to fulfill financial obligations towards the Agency within the prescribed deadline;
- 3) fails to submit the necessary information or documentation relating to provision of commercial postal services upon a request from the Agency;
- 4) provides postal services at dumped prices.

In cases referred to in Articles 78 and 78a hereof, the Agency shall remove the special license holder and the license holder from the register of postal operators.

### **Obligation to apply in other cases**

#### **Article 80**

Legal and natural persons registered for transport of passengers and providing transport of goods that does not belong to the passengers in the vehicle, and which fulfills requirements for postal items according to the type and the packing, and which is delivered to addressees according to the “door-to-door” system or at a place agreed in advance, shall file an application to the Agency for provision of commercial postal services.

**Charges**  
**Article 81**

A flat fee shall be paid for obtaining of a special license or licenses referred to in Article 72 of this Act. Apart from the fee referred to in paragraph 1 of this Article, holders of special licenses and licenses shall also pay annual fee for provision of postal services.

Commercial postal operators shall also pay the flat fee referred to in paragraph 1 of this Article for entry into the register and the annual fee for the Agency.

Annual fee referred to in paragraph 2 of this Article may not exceed 1% of the realized revenues from postal services in the previous year.

If the postal operator, apart from postal services, performs other activities, without keeping separate accounting records for postal services, the annual fee shall not exceed 0.8% of the total realized revenues in the previous year.

The amount of the fees referred to in par. 1, 2 and 3 of this Article shall be set by the Ministry.

**Use of the funds of the Agency**  
**Article 82**

Funds from fees referred to in Article 81 of this Act shall be the revenues of the Agency and they shall be deposited to a special account (compensation fund), and used as follows:

- 1) Agency to regulate the postal service market;
- 2) to cover possible losses in provision of universal postal service of the Universal Service Operator.

Funds referred to in paragraph 1 of this Article shall be allocated in the amount of 60 % for the costs of the postal service market regulation, and 40 % for the coverage of any net cost of universal service.

**2. Universal Service Operator**

**Selection of the operator**  
**Article 83**

Universal postal operator shall be designated by the Agency under public tender procedure.

When selecting universal postal operator, the Agency shall act in line with the principles of objectiveness, transparency and non-discrimination.

The procedure and the criteria for the selection of universal postal operator shall be laid down by a regulation of the Agency, in accordance with the provisions of the state aid rules, which regulate the services of public interest.

Agency adoption of regulations referred to in paragraph 3 of this Article shall notify the Commission for state aid control. "

**Public tender procedure**  
**Article 83a**

Public tender for the selection of universal postal operator shall be published in the Official Gazette of Montenegro and on the Agency's website.

Public tender for the selection of universal postal operator shall include in particular:

- 1) name and head office of the Agency,
- 2) legal basis for the announcement of the public tender,
- 3) subject of the public tender,
- 4) requirements for the performance of the tasks of universal postal operator, in line with the regulations, and the requirements to participate in the public tender to be met by the postal service operators and the documents required to prove the fulfilment of these requirements,
- 5) criteria for the selection of universal postal operator,
- 6) deadline for the submission of bids,
- 7) place and time of opening of the bids submitted under the public tender,
- 8) information on the contact person,
- 9) and documents to be delivered with the bid specified in the public tender.

If universal postal operator is not selected under the announced public tender, the Agency shall announce a new public tender as soon as possible, and not later than 60 days after the unsuccessful selection of universal postal operator.

If universal postal operator is not selected even upon the second public tender, the Agency shall designate the universal postal operator based on the analysis of the postal services market, prepared for such purpose, and/or the situation in the postal services market as regards the share of postal operators.

The Agency shall issue the special license within 15 days after the selection or designation of the universal postal operator.

#### **Network access**

##### **Article 84**

Universal postal service provides all users with the possibility to access postal network of the Universal Service Operator within the prescribed distance from the place of residence, including letter-boxes in public places and in official premises of the postal operator.

#### **Postal network**

##### **Article 85**

Postal network shall comprise the premises of the postal operator where postal services are provided, as well as other physical objects or equipment, including letter-boxes in public areas or in the premises of the postal operator, where the users of postal services may post their postal items.

#### **Density of access points**

##### **Article 86**

Universal postal operator shall provide the prescribed density of postal network units for the provision of postal services, and other access points of the postal network corresponding to the needs of the users, according to the geographic, infrastructural and development characteristics of the area, population density and depending on its economic and technological development.

#### **Agreement with legal and natural persons**

##### **Article 87**

In order to provide the prescribed density of access points, the Universal Service Operator may subcontract provision of certain services within the scope of universal postal service to a natural or legal person.

A natural or legal person referred to in paragraph 1 of this Article shall be responsible for damage incurred to users during provision of universal postal service.

#### **Continuity of universal postal service**

##### **Article 88**

Universal Service Operator shall provide undisturbed provision of postal service in accordance with this Act.

Universal Service Operator shall inform the Agency on the possible suspension of provision of universal postal services and the reasons for suspension or reasons that may affect the quality of universal postal service.

#### **Operation of universal postal service in the event of strike with the universal postal operator**

##### **Article 88a**

In the operation of universal postal service, the universal postal operator shall ensure the minimum operating process in the event of strike in order to ensure the general interest of the citizens in the use of universal postal services, in line with the law regulating the requirements and the manner of strike organization.

#### **International cooperation of the Universal Service Operator**

##### **Article 89**

Universal Service Operator shall:

1) cooperate with international organizations, foreign postal administrations and authorized companies in the field of postal transport and perform tasks with regard to realization of the rights, obligations and responsibilities in implementation of international conventions and other agreements in the field of international postal transport;

2) organize and carry out calculation of services in international postal transport with foreign administrations and companies.

### **Data of the Universal Service Operator**

#### **Article 90**

Universal Service Operator may establish address data bases and a special system of postal numbers for better quality in provision of universal postal union.

Postal operators may use data from addresses of users of postal services for the needs of market research and with the aim to achieve better quality in provision of postal services.

Address data bases and other information shall be the property of the Universal Postal Operator.

### **Cession of data**

#### **Article 91**

Upon a request from the state authorities, local self-government authorities, local government authorities, the Agency, and organizations performing activity of public interest, the Universal Service Operator shall, for a fee, cede data from its address data base.

The price and the method of use of the data shall be set by an agreement on cession of data.

Data referred to in paragraph 1 of this Article shall not be ceded by the Universal Service Operator to other natural and legal persons.

## **3. Access to the postal network of the Universal Service Operator**

### **Types of access**

#### **Article 92**

Universal postal operator shall allow access to the postal network to postal operators providing universal postal service and other postal operators based on whose application the procedure of issuing license for the provision of universal postal service is initiated, in line with this Law.

User of the universal postal operator network access is an operator providing universal postal service accessing the universal postal operator's network based on an agreement with the universal postal operator.

Postal network access agreement, laying down the conditions for access referred to in paragraph 1 of this Article shall be concluded with a postal operator who has applied for the license, and the agreement shall take effect after the license is issued.

Universal postal operator shall also allow the postal operators providing universal postal service to have access to:

- 1) the system of postal markings;
- 2) data base for sorting postal items;
- 3) address data, information on change of addresses, redirecting of postal items and returning postal items to senders.

Universal postal operator and the access user or other associated entity shall keep secrecy and confidentiality of data and users' personal data, in accordance with the law regulating personal data protection.

### **Postal network access points**

#### **Article 92a**

Postal network access points for a postal operator providing universal postal service shall be postal network units.

Postal network access points may also be:

- 1) self-serving units,
- 2) mail boxes and cluster mailboxes and
- 3) other devices and equipment intended for the reception of postal items.

### **Conditions of access**

#### **Article 93**

The method, conditions and prices of access to the postal network shall be the same for all users accessing the postal network for the same type and quantity of postal items.

Universal postal operator shall provide for at least one postal network unit in each municipality where it allows access to other postal operators providing universal postal service.

The method, conditions and prices of access referred to in paragraph 1 of this Article shall be set by the Universal Service Operator in a general act, upon approval of the Agency.

The general act referred to in paragraph 2 of this Article shall be published in the Official Gazette of Montenegro.

#### **Prices of access** **Article 94**

The price of access to the postal network of the universal postal operator shall be set based on actual costs of access to the network, whereby the price shall be reduced for the costs incurred by the access user in the provision of access to the postal network, as avoided cost of the universal postal operator.

The price of access to the postal network, and the prices of access to data and services, shall be an integral part of the universal postal operator service pricelist.

#### **Request for access to postal network** **Article 95**

In order to access the universal postal operator's network, a postal operator shall file a request which shall include in particular:

- 1) information on the access user – name and head office;
- 2) list of postal services and assessment of the quantity of postal items intended to access the network;
- 3) assessment of the postal items posting dynamics;
- 4) points and manner of access to the postal network;
- 5) list of data and services to which access is requested;
- 6) period for which access to the postal network is requested.

Universal postal operator shall decide on a request for access to the postal network within 30 days after the request is received.

#### **Denial of request for access to postal network** **Article 95a**

Universal postal operator may deny a request for access to postal network if:

- 1) the postal operator does not have technical and technological possibilities to support access to the network;
- 2) access to the network violates the rights and obligations of the universal postal operator in the provision of universal postal service;
- 3) the postal operator fails to accept the conditions laid down in the general act of the universal postal operator and the prices specified in the pricelist for the provision of the universal postal operator's services;
- 4) service user accesses the data base, without fulfilling the requirements concerning personal data protection laid down in the general act of the universal postal operator.

Universal postal operator shall deliver its decision on the denial of the request for access to postal network to the applicant, stating the reasons for denial.

The applicant may file a complaint to the Agency against the decision of the universal postal operator denying the request for access to postal network.

The Agency shall decide on a complaint referred to in paragraph 3 of this Article within four months after receiving the complaint.

An administrative dispute may be instituted against the decision of the Agency.

#### **Agreement on access to postal network** **Article 95b**

Mutual rights and obligations of access to the postal network of the universal postal operator between the universal postal operator and the access user shall be regulated by an agreement between the universal postal operator and the access user.

The agreement referred to in paragraph 1 of this Article shall include in particular:

- 1) the rights and obligations of the universal postal operator and the access user;
- 2) the types of services the access user will provide and the conditions of access;
- 3) access points to the postal network;
- 4) prices, method and deadlines of payment for postal network access;
- 5) procedure of amendment to the agreement;
- 6) method of protection of data confidentiality;
- 7) agreement validity period and reasons for termination of the agreement.

Approval of the agreement referred to in paragraph 1 of this Article shall be provided by the Agency, within 15 days after the agreement is received.

#### **Termination of postal network access agreement**

##### **Article 95c**

Postal network access agreement shall be terminated:

- 1) upon expiry of the validity period, if it is not renewed,
- 2) upon mutual agreement,
- 3) upon cancellation by one of the parties.

The agreement referred to in paragraph 1 of this Article shall also be terminated upon revoking of the license of one of the parties or if bankruptcy or liquidation procedure is initiated over the universal postal operator or the access user.

#### **4. Accounting**

##### **Separate accounting**

##### **Article 96**

Postal operator performing one or more other business activities in addition to postal services shall keep separate accounting for the provision of postal services.

##### **Separate accounting of the universal postal operator**

##### **Article 97**

Universal postal operator shall carry out accounting tasks in such manner that allows determining revenues and costs realized from universal postal services separate from the revenues and costs realized from other postal services.

Universal postal operator shall provide for allocation of costs for all postal services in internal calculation, in order to provide an overview of revenues and expenses per types of postal services, phases of performing postal services and per postal service unit.

Detailed method of keeping accounting records and calculation of net costs of the universal postal operator shall be laid down by a regulation of the Agency.

##### **Allocation of costs of the Universal Postal Operator per postal service**

##### **Article 98**

Costs of the Universal Service Operator shall be allocated to:

- costs directly assigned to a specific postal service;
- shared costs that cannot be separated per individual postal service and they are allocated based on their share in the total costs of all postal services.

Annual financial statements of the Universal Service Operator shall be submitted to the Agency along with the independent auditor's report, until March 31 of the current year for the previous year.

#### **4a. Compensation for unfair financial burden**

##### **Calculation of net cost**

##### **Article 99**

If the operation of universal postal service incurs net cost, representing an unfair financial burden for the universal postal operator, the universal postal operator shall be entitled to compensation of the recognized net cost calculation which has been established to represent unfair financial burden.

Calculation of net cost shall be objective and transparent.

Calculation of net cost shall be done in line with the law regulating accounting, by avoiding double counting of all direct and indirect benefits and costs in the provision of universal postal service.

Net cost of the provision of universal postal service shall be calculated as the difference between the net cost for the universal postal operator of operating with the universal postal service and the net costs of the same operator without the universal service obligation.

Universal postal operator shall keep separate accounting based on consistently applied and objectively justified cost accounting principles.

Universal postal operator's accounting kept in accordance with paragraphs 2 to 5 of this Article shall be used as the source of data for the net cost calculation.

### **Request for verification of net cost calculation**

#### **Article 99a**

In order to exercise the right to compensation for unfair financial burden, universal postal operator shall file a request to the Agency for verification of net cost calculation by 31 March of the current year for the previous year.

Universal postal operator shall submit the net cost calculation with its request for verification of net cost calculation.

### **Verification of net costs calculation**

#### **Article 100**

Net cost calculation of the universal service operator shall be verified by the Agency, as a rule within 60 days, and not later than within three months after the request and the net cost calculation are submitted.

During the procedure of verification of net cost calculation for universal postal service, the Agency may also request other data to be submitted by the universal postal operator, and additional explanation of the net cost.

During the universal postal service net cost verification procedure, the Agency may hire an independent auditor.

Net cost calculation, which is the basis for the compensation of the net cost of universal postal services, shall be determined in accordance with the rules on state aid.

### **Integral parts of the net cost calculation**

#### **Article 100a**

Calculation of the universal postal service net cost provides for the assessment of the actual costs the universal postal operator would seek to avoid if it did not have the universal postal service obligation.

For the purpose of calculating the net cost representing unfair financial burden, the universal postal operator shall calculate the net cost of operating with the universal postal service obligation and the net cost without the universal service obligation.

Net cost of the universal postal service may be based solely on the costs linked with the provision of universal postal service of the prescribed quality.

Calculation of the universal postal service net cost shall include the costs for universal services that may only be provided with a loss, or under the conditions that are not in line with the common rules of market operation, and all direct and indirect benefits for the universal postal operator based on the operation of universal postal service.

Direct and indirect benefits of the universal postal operator shall include:

- 1) revenue from universal postal service,
- 2) revenue from services not falling within universal postal service, that would not be generated by the universal postal operator without the operation of universal postal service,
- 3) value increase of the trade mark on the account of operation of universal postal service,
- 4) cost reduction for the provision of other services on the account of synergy effects arising in the operation of universal postal service.

### **Prohibition of subsidy**

#### **Article 101**

Universal Service Operator shall not use revenues from reserved postal services to provide subsidies for commercial postal service.

## **5. Sustainability of universal postal service**

### **Ensuring sustainability Article 102**

The sustainability of performing universal postal service, universal postal operator accomplishes from funds provided from the revenue generated by providing the universal postal service.

If the funds referred to in paragraph 1 of this article can not cover the net cost necessary for carrying out the universal postal service, the losses in performing universal postal service shall be reimbursed from the Compensation Fund of the Agency provided for this purpose.

If the funds referred to in paragraph 2 of this article can not cover the entire net cost of providing the universal postal service, lacking funds for losses in performing of universal postal service are provided from the Agency's resources.

If the funds referred to in paragraph 3 of this article can not cover the entire net cost of providing the universal postal service, eventual lacking funds to cover the net cost of universal service, will be reimbursed from the state budget.

The right to obtain funds to cover losses in performing universal postal service is realized on the basis of verified net return.

During the payment of net cost fees of universal postal service, it is not allowed to pay excessive fees for the obligation of providing universal postal service.

## **6. Postage stamps**

### **Definition Article 103**

Postage stamps are a means for payment for postal services.

Postage stamps may be regular and philatelic.

If an invalid postage stamp is affixed to a postal item it shall be considered that the postal service is not paid.

Tasks with regard to issue, sale and withdrawal of postage stamps from use shall be carried out by the Universal Service Operator.

Charity stamps shall not be considered postage stamps for the purpose of this Act.

### **Revenue from postage stamps Article 104**

Revenue from postage stamps sold shall be the revenue of the Universal Service Operator.

Other postal operators and third persons may carry out sale of postage stamps only upon approval of the Universal Service Operator.

Postage stamps shall fulfill the requirements prescribed by the acts of the Universal Postal Union.

Postage stamps may also be issued in electronic form and electronically certified.

The method of issuing and using postage stamps, selection of the motives and graphic arts designs for postage stamps shall be regulated by a rule of the Ministry.

### **Invalid postage stamps Article 105**

Postage stamps shall be considered invalid if:

- 1) they were damaged in such manner that the marks, the name of the publisher or the nominal value are not visible;
- 2) they were used;
- 3) they were not issued by the Universal Service Operator;
- 4) their validity has expired.

## **V. SUPERVISION**

## **Supervision over the implementation of this Law**

### **Article 106**

Supervision over the implementation of this Law, other regulations and acts passed based on this Law, and international agreements and conventions to which Montenegro is signatory, shall be carried out by the Ministry and the Agency, in line with their competences, laid down by this Law.

## **Inspection control**

### **Article 107**

Inspection control over the implementation of this Law and other rules regulating provision of postal services in the premises of natural persons and legal entities registered in the register of postal operators shall be carried out by the state authority in charge of inspection affairs, through postal services inspector (hereinafter: "inspector").

Inspection control over the implementation of this Law regarding the prices of postal services and sale of postage stamps shall be carried out by the relevant inspectorate in line with the law regulating consumer protection.

## **Inspector's competences**

### **Article 107a**

In addition to the powers laid down by a special law regulating inspection control, inspector shall be authorized to order temporary prohibition of the provision of postal services, if these have been provided without the prescribed license, i.e. registration and fulfilment of the prescribed requirements for the performance of such activity, and impose measures to prevent further illegal performance of the activity.

## **Expert supervision of the Agency**

### **Article 109**

The Agency, through a supervisor shall carry out expert supervision over implementation of this Act, regulations passed based on the Act and the general terms and conditions of postal service provider, regulating provision of postal services, quality of universal postal services, network access, prices, accounting of postal service provider, acting within given authorizations and supervision over implementation of individual acts passed within its competence.

The Agency may carry out expert supervision only over legal and natural persons listed in the register of postal operators, kept by the Agency.

## **Supervisor's competences and legal resources**

### **Article 109a**

In the procedure of expert supervision, a supervisor shall:

- 1) control the performance of the postal service activity in line with this Law and the regulations passed based on this Law;
- 2) control the fulfilment of the conditions of using postal network based on approvals issued;
- 3) control the compliance of operating parameters of the postal network elements with the prescribed norms and standards;
- 4) establish compliance with the prescribed quality standards in the provision of universal postal service, and the declared quality parameters for other types of postal services;
- 5) control the regularity in application of the approved, i.e. published prices of postal services;
- 6) control the applied protection measures for the postal network, postal infrastructure and related equipment;
- 7) control the technical and other documentation (records on the condition of the system, permits, approvals and similar).

The supervisor shall also exercise his/her powers and competences based on the data collected during the control and monitoring procedure.

Expert supervision procedure shall be subject to the provisions of the law regulating inspection control.

## **Mutual cooperation**

### **Article 109b**

In carrying out inspection control, inspector shall cooperate with judicial, misdemeanour and other relevant authorities.

In carrying out inspection and expert control, inspector and supervisor shall establish the required coordination, communication and cooperation.

In carrying out inspection control, inspector shall inform the Agency of any observed irregularities, in order to undertake measures within its competences.

In carrying out expert control, supervisor shall inform the Agency of any observed irregularities, in order to undertake measures within its competences.

## **VI. PENAL PROVISIONS**

### **Offences of postal operators, legal and natural persons**

#### **Article 112**

A legal person shall be fined from EUR 2,000 to EUR 20,000 for an offence, if:

- 1) it uses the name "POST OFFICE" referred to in Article 5 paragraph 4 of this Act without authorization;
- 2) it fails to provide universal postal service in accordance with Articles 7 and 8 of this Act;
- 3) it sets the price for universal postal service contrary to the criterion prescribed by the Agency (Article 15 paragraph 1);
- 3a) it finds that price of a commercial postal service is contrary to Article 18 of this Law;
- 4) it fails to display the prices of postal services on the website and to display them visibly in the premises intended for users of postal services (Article 17 paragraph 2);
- 5) it fails to determine the general terms and conditions referred to in Article 22 of this Act or does not obtain approval from the Agency in accordance with Article 23 of this Act;
- 6) it performs transport of postal items with prohibited content (Article 40 paragraph 1);
- 7) it fails to submit postal items to the relevant authority (Article 40 paragraph 2);
- 8) it fails to provide confidentiality of postal items in provision of postal services (Article 41 paragraph 1);
- 9) it fails to act upon a decision from the Agency regarding actions or indemnity (Article 50 paragraph 1 item 2);
- 10) it fails to submit information required for the tasks of the Agency upon a request from the Agency (Article 69 paragraph 3);
- 11) it fails to act upon decisions and other acts of the Agency (Article 70 paragraph 2);
- 12) it provides postal services within the scope of universal postal service without a license (Article 72 paragraph 2);
- 13) it provides commercial postal services without filing an application with the Agency (Article 75 paragraph 1);
- 14) it provides postal services that are not covered by a special license, license and application (Article 74 and Article 75 paragraph 1);
- 15) it transfers its special license or license to another natural or legal person (Article 73 par. 1 and 3);
- 16) it continues to provide postal services after revoking of license or special license (Article 78 par. 1 and 2);
- 17) it fails to pay for the fee for provision of postal services in accordance with Article 81 of this Act;
- 17a) it fails to provide the prescribed density of postal network units and other postal network access points in accordance with Article 86 of this Law;
- 18) it fails to allow, as the Universal Service Operator, access to the network in the manner and under the conditions prescribed by this Act (Article 92 par. 1 ad 2);
- 19) the Universal Service Operator fails to provide accounting monitoring of universal postal services separated from other postal services, determining reserved services separated from other universal postal services as well as allocation of costs for all postal services in accordance with Article 97 of this Act;
- 20) the Universal Service Operator fails to submit the financial statements to the Agency (Article 98 paragraph 2);
- 21) it issues postage stamps contrary to this Act or regulations passed based on the Act (Article 103 paragraph 4 and Article 104 paragraph 4);
- 22) it sells postage stamps without approval from the Universal Service Operator (Article 104 paragraph 2);

For an offence referred to in paragraph 1 of this Article, the responsible person within the legal person shall also be fined from EUR 500 to EUR 2,000.

For an offence referred to in paragraph 1 of this Article, a natural person shall be fined from EUR 200 to EUR 2,000.

### **Offences of other persons**

#### **Article 113**

A legal person shall be fined from EUR 1,000 to EUR 20,000 for an offence, if:  
1) it fails to install a home letter-box in accordance with Article 30 of this Act;

For an offence referred to in paragraph 1 of this Article, the responsible person within the legal person shall also be fined from EUR 500 to EUR 2,000.

For an offence referred to in paragraph 1 of this Article, a natural person shall be fined from EUR 200 to EUR 2,000.

### **Offences of postal operator's employees**

#### **Article 114**

A postal operator's employee shall be fined from EUR 200 to EUR 2,000 for an offence, if he/she:  
1) fails to charge postal service according to the pricelist of postal services (Article 17 paragraph 1);  
2) fails to provide the pricelist for inspection upon a request from a user of postal services (Article 17 paragraph 3);  
3) fails to act in accordance with Article 37 of this Act;  
4) provides information on postal items to unauthorized persons (Article 41 paragraph 2).

## **VII. TRANSITIONAL AND FINAL PROVISIONS**

### **Secondary legislation**

#### **Article 115**

Regulations for implementation of this Act shall be passed within a year as of the effective date of this Act. Regulations passed based on the Postal Services Act ("Official Gazette of the Republic of Montenegro", no. 46/05) shall apply until regulations referred to in paragraph 1 of this Article are passed.

#### **Article 115a**

Regulations for the implementation of this Law shall be passed within a period of one year as of the effective date of this Law.

Regulations passed based on the Law on Postal Services (Official Gazette of Montenegro 57/11) shall apply until the regulations referred to in paragraph 1 of this Article are passed.

### **General terms and conditions**

#### **Article 116**

General terms and conditions for provision of postal services shall be laid down by postal operators within a year from the effective date of this Act.

Special regulations of postal operators laid down until the effective date of this Act shall apply until general terms and conditions referred to in paragraph 1 of this Article are laid down.

#### **Article 116a**

General terms and conditions for the provision of postal services shall be laid down by postal operators within six months as of the effective date of the regulations passed based on this Law.

General terms and conditions of postal operators laid down before the effective date of this Law shall apply until the general terms and conditions referred to in paragraph 1 are passed.

### **Provision of universal postal service**

#### **Article 117**

Universal postal service shall be provided by the Universal Service Operator that provided universal postal service prior to the effective date of this Act based on a special license.

### **Validity of licenses and decisions**

#### **Article 118**

Special license, license and decisions for provision of postal services issued prior to the effective date of this Act shall be valid until the expiry of their validity period.

### **Harmonization of operations**

#### **Article 119**

Postal operators shall harmonize their operations with this Act and the regulations passed for the purpose of implementation of this Act within a year as of the effective date of this Act.

#### **Article 119a**

Postal operators shall harmonize their operations with this Law within six months as of the effective date of the regulations passed based on this Law.

The Agency shall harmonize its operations with this Law within a period of one year as of the effective date of this Law, i.e. within six months as of the effective date of the regulations passed based on this Law.

#### **Tasks of the Agency**

##### **Article 120**

Tasks of the independent regulatory authority referred to in Article 8 of this Act shall be carried out by the Agency for Electronic Communications and Postal Services established prior to the effective date of this Act.

The Agency referred to in paragraph 1 of this Article shall harmonize its operations with this Act within a year as of the effective date of this Act.

#### **Application of provision**

##### **Article 121**

Provision of Article 9 of this Act shall apply until December 31, 2012.

#### **Provision of universal postal service**

##### **Article 121a**

Until the selection of a new universal postal service operator, universal postal service shall be provided by the universal postal operator that has provided universal postal service until the effective date of this Law based on special license.

The Agency shall announce a public tender for the selection of universal postal operator, referred to in paragraph 1 of this Article, in order to harmonize the amount of compensation for the provision of universal service, in accordance with this Law, within six months as of the effective date of the secondary regulation referred to in Article 21 of this Law.

The Agency shall, every five years, perform periodic review of the manner of calculating the amount of compensation to be paid by a special license from paragraph 1 of this Article, and in particular in relation to its compliance with the terms of the postal services market and the position of the universal postal operator on the postal market.

As of the date when the universal postal operator is selected or designated, in accordance with this Law, special license of the Montenegrin Post issued before the effective date of this law shall cease to be valid.

#### **Provision of universal and commercial postal services**

##### **Article 121b**

Holders of licenses and decisions on entry into the register of postal operators with the Agency, issued until the effective date of this Law, continue to operate until the expiry of the period to which they are issued or until the issuance of new licenses in accordance with this Law.

Licenses and decisions on entry into the register issued to postal operators until the effective date of this Law shall cease to be valid after new licenses i.e. decisions on entry into the register are issued, in accordance with this Law.

#### **Repeal of the Act**

##### **Article 122**

The Postal Services Act ("Official Gazette of the Republic of Montenegro", no. 46/05) shall cease to apply as of the effective date of this Act.

#### **Effective date**

##### **Article 123**

This Act shall enter into force eight days from its publishing in "Official Gazette of Montenegro".