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***REPUBLIC OF MONTENEGRO***  
***TOURISM LAW***

## **I GENERAL PROVISIONS**

### **Subject of law**

#### **Article 1.**

This Law regulates methods and conditions for performing tourism trade and hospitality industry services, regulates promotion and measures to direct the development and creation of Montenegrin tourism products.

### **General concepts**

#### **Article 2.**

Tourism trade in the context of this law is the offering of services by tourist agencies, tourist guides, escorts, event organizers and representatives, on skiing fields, in nautical, rural, health, religious, congress, sports, youth and other forms of tourism as well as providing other tourism services such as hunting, fishing, rafting and others.

The hospitality industry in the context of this law is the preparation of food and providing of food service, preparation and serving of drinks and beverages, and offering accommodation services, as well as food preparation that will be consumed at other venues (during travel, at events and similar) and supply of such food (catering).

Business with regard to the promotion and the development of tourism of interest to the Republic is: to secure tourism trade informative propaganda within the Republic and abroad; forming and developing information systems with regard to tourism within the republic and attaining international cooperation in the field of tourism

## **II TOURISM ACTIVITIES**

### **1. GENERAL PROVISIONS**

#### **Subjects and business activity**

##### **Article 3.**

Tourism trade activities may be carried out by business, other legal entities, and entrepreneurs who comply with the conditions regulated by this Law and are registered to carry out these services.

Under conditions and regulations imposed by this Law certain natural persons may offer tourism trade services.

Business activity for subjects that perform tourism trade services, referred to in paragraph 1. of this Article, must be established by a founding Act in accordance with this Law, customs and usance in the field of tourism

## **Obligations of subjects**

### **Article 4.**

While performing tourism trade services, legal entities and natural persons are required to:

1. clearly display conditions, content and prices for each and every service and abide by those conditions, content and prices.
2. for every service provided to issue the user with a receipt, card or certificate with a number that confirms payment receipt and to keep a copy of these documents according to accounting regulations that confirm p
3. keep a Book of complaints in the premises where services are performed and respond within three days to every objection
4. offer tourism trade services according to regulations and customs that comply with their business.

The Ministry in charge of tourism will specify the form, content and record keeping methods for the Book of complaints.

## **Other subjects**

### **Article 5.**

Sports organizations, syndicates, religious associations, and non-governmental organizations that are registered in the Republic of Montenegro may organize tourist package travels strictly for their members and for non-profit purposes.

According to paragraph 1 of this article, promotion and presentation of tourist package travels are only permitted in internal publications

## **Definition of terms**

### **Article 6.**

Certain expressions used in this Law have the following meaning:

- 1) A **traveler** is a purchaser who purchases or agrees to purchase tourist package travel, or tourist trip or other tourism trade service. A traveler is also a person on whose behalf a purchaser has purchased tourist package travel – or services, or a person on whose behalf a purchaser or a person for whom a purchaser has purchased tourist package travel has authorized the right to use tourist package travel or service.
- 2) A **tourist package travel** (fixed rate travel) is a previously confirmed combination of at least two offered individual services that are sold at a total previously set price, and the total service lasts more than twenty four hours or includes at least one overnight stay, i.e. accommodation.
- 3) **Excursion program** is a combination of at least two offered services that last less than twenty four hours and do not include an overnight stay, i.e. accommodation.
- 4) **Tourist agency – tour operator** is a tourist agency that organizes tourist package travels and directly sells or offers for sale by way of an agent.
- 5) **Tourist agency – subagent** is a tourist agency that sells or buys tourist package travels which were put together by the travel organizer, or an agent that provides other intermediary services, referred to Article 9 of this Law.
- 6) **Tourist destination**, in the context of this Law, is a populated area that has natural, cultural, historical and other places of interest of importance for tourism trade as well as facilities and other contents for the accommodation and stay of tourists.

7) **Tourist region** of importance for the Republic (hereinafter referred to as: tourist region) in the context of this Law is an encircled functional space, determined by the Landscape Development Plan of the Republic in which an integral tourism offer can be formed.

8) **Over-booking** is the multiplication of number of confirmed bookings by an hotelier or tourist agencies that result in not providing accommodation services or providing services in an inadequate manner.

9) **Healing locations** are regions (places or parts of places) that have special natural potential – natural healing powers from soil, sea and climate or are convenient for carrying out physiotherapy with the aim of rehabilitation and prevention, and where institutions are located that enable professional application of available resources and medical rehabilitation, which represent a dominant factor for that region's development.

10) **Spas** are institutions that use natural healing factors and bioclimate, and through professional supervision carry out healing with the aim to improve the health of people.

11) **Rehabilitation Centers** are regions that have climatic and ambient advantages that primarily serve as rehabilitation of people in order to achieve physical and mental balance, without obligatory medical supervision.

12) **Healing factor** are thermal and mineral water, air, gas and health clay (peloid) etc., that have healing attributes which have been examined scientifically and have been proven in accordance with the regulations

## 2.TOURIST AGENCY

### Concept

#### Article 7.

A tourist agency is a business entity or entrepreneur who can provide tourist agency services with the intention to gain profit, if conditions provided for by this Law are met.

#### Article 8.

Legal entities and natural persons according to the Article 7 may use the indicator “tourist agency” strictly. of this Law.

The indicator “tourist agency” must be used in a tourist agency firm to emphasize its activity.

In a firm, a tourist agency may, along with a sign indicating the name of the tourist agency use wording common in tourism trade business, such as “tours”, “travel” and similar.

### Services

#### Article 9.

Tourist agency services are:

1. organizing, selling and carrying out tourist package travels,
2. selling and intermediate sale of hospitality and tourism trade services,
3. intermediation in travel and accommodation services and carrying out other related services,
4. organizing, selling and realization of excursion programs,
5. transfer and transport of travelers,
6. selling and intermediation in the sale of tickets or reservations for all means of transport,

7. reservation of accommodation and other services in hospitality industry facilities,
8. representing domestic and foreign tourism trade agencies,
9. offering tourism trade information and promotional material,
10. agency services for reception and dispatch of tourist sailing vessels, home and abroad,
11. intermediation in the acquisition of travel documents, visas and other documents needed for border crossing and travel abroad, as well as documents for hunting, fishing, diving and other documents needed for organization and realization of various forms of tourism,
12. organizing and intermediation in the sale of services of nautical, rural, health, congress, sport, youth and other types of tourism,
13. organizing tourist guides' services, assistance services provided to tourists (on arrival and departure from destination),
14. reservation, procurement and sale of tickets for all kinds of events, museums etc. and sale of goods required for traveling (various travel accessories, souvenirs, tourist publications and similar),
15. organization and providing service with regard to credit cards, travelers checks and currency exchange services, in accordance with specific regulations,
16. intermediation in travelers' and baggage insurance,
17. renting out vehicles (cars, aircrafts, scooters, sailing vessels etc.).

### **School Excursions**

#### **Article 10.**

A travel operator is required to make available general travel conditions, as well as to present the excursion program and package travel for children and school age youth to the school administration and parents.

For selection of travel operator, an invitation of tender is obligatory.

The Ministry in charge of education may prescribe special travel and package travel conditions.

Nature school, graduation and end-of-primary school excursions, as well as other organized educational and sports' events that are carried out during the school year are the integral part of school curriculum and are decided by Ministry in charge of education.

### **Types**

#### **Article 11**

Based on the type of service provided tourist agencies are:

1. Tourist agency – travel operator and
2. Tourist agency – intermediary.

The Ministry in charge of tourism trade will set up minimum technical conditions that must be fulfilled by the tourist agencies referred to in paragraph 1. of this Article.

The Ministry in charge of tourism trade establishes compliance of minimal – technical conditions and issues work permits to the tourist agencies referred to in paragraph 1. of this Article.

Tourist agency may change the type of service it provides if it fulfills the prescribed conditions for another type of tourist agency, and submits the request to the Ministry in charge of tourism trade

## **Obligations**

### **Article 12.**

Apart from the obligations stipulated in Article 4. of this Law, a tourist agency is required to:

1. display the firm's title at the entrance of its premises,
2. display the working hours at the entrance of its premises in which direct sales take place,
3. upon the request of the service user to state its attributes and the level of authorization if it represents other tourist agencies,
4. to clearly state the firm and its address in all advertising and promotional material as well as in all business documents,
5. protect, as confidential business information, all information about the traveler, and without his/her consent, except in cases regulated by Law, disclose his or her address, place and time of travel, accommodation, fees paid nor the names of co-travelers,
6. provide the traveler with quality service according to the contract and offer the traveler travel insurance to cover injuries, illness, death and loss of baggage during travel and stay

## **b) LICENCE**

### **Article 13.**

The organization of tourist travel may be carried out by business societies listed in the Central Registry of Business Court as a tourist agency services provider based on previously issued approval - license that is issued by The Ministry in charge of tourism.

When issuing a licence, the Ministry in charge of tourism establishes that the conditions prescribed by this Law and regulations based on this Law are met, with regard to: fulfillment of minimal-technical conditions regarding the premises, appropriate equipment, necessary staff, provision of guarranty and other conditions

### **License issuing methods**

#### **Article 14.**

A Licence is issued within 15 days from the day the request was submitted by the travel operator, for a period of 5 years.

If the Ministry in charge of tourism does not make a decision with regard to a request for issue of license within the time period specified in paragraph 1. of this Article, of this Law, it will be considered that the license was issued on the first day after the expiry of that period.

A License from Article 13. is recorded into the Registry of Tourist Agencies, managed by the Ministry in charge of tourism and is published in the Official Gazette of the Republic of Montenegro.

The Ministry in charge of tourism will issue a regulation with regard to the form, content and methods for keeping the Registry referred to in paragraph 3. of this Article.

The Ministry in charge of tourism will issue a regulation with regard to the form and content of the license

### **Withdrawing the License**

#### **Article 15.**

The Ministry in charge of tourism withdraws a license:

- if the travel operator, during the period for which the license is valid, ceases to fulfill the conditions for organizing travel activity or if the operator does not carry out the activity according to the conditions and in a manner envisaged by this Law.
- if the travel operator is fined more than twice, during the validity of license for not complying with the duties from Article 16. and 22.

The procedure for license withdrawal is immediate.

In the case of paragraph 1. of this Article the travel operator may not submit a request for the issue of a new license earlier than one year since the issuing of license withdrawal document.

An appeal against license withdrawal is not permitted, however an administrative suit can be brought.

### **Travel Program**

#### **Article 16.**

It is the obligation of the travel operator to establish general terms of travel and provide a travel program in written form.

General terms of travel regulate the rights and obligations of the travel operator, rights and obligations of travellers, and especially the rights of travellers in case of travel cancellation, change to the agreed travel price, as well as the procedure, terms and duties of travel operator with regard to travellers' complaints for non-completion or incomplete services included in the travel program.

The travel program explicitly contains:

- the title of the travel operator;
- date of licence issue;
- location and date of beginning and end of travel, description of travel destination and duration of stay including dates, if the travel is in stages;
- details with regard to types of transport and characteristics of the means of transport used;
- details with regard to the type and location of accomodation, its category according to the valid regulations of the country where the facility is located, i.e. the level of comfort, type and service facilities
- total travel price and the services included in the price, as well as the amount of fees and charges of some services that are not included in the price;
- special requirements of travelers which are conditions for the fulfillment of travel.

- minimum number of travelers, if that is the condition for the fulfillment of travel, and in the event of cancellation the deadline for informing travelers.

The travel operator is obliged to provide the traveller with general terms of travel and travel program.

For school excursions and other travels for children and school age youth, the travel operator is obliged to provide general terms of travel and travel program available to their parents

### **e) TERMS FOR SERVICE PROVISION** **Transport facilitating**

#### **Article 17.**

The tourist agency is obliged to transport travelers by way of its own means of transport, or by way of means of transport that are owned by other legal entities and natural persons who are registered for the purpose of passenger transport in the Republic of Montenegro.

Provisions referred to in paragraph 1. of this Article do not apply to means of transport used for liner transport of passengers from the place of departure and arrival to destination and return.

#### **Providing tourist escort and guide**

##### **Article 18.**

If the tourist agency organizes group travel it is obliged to provide, for the duration of travel, at least one tourist escort who fulfills conditions regulated by this Law, for each group of 15 and more travelers.

If the tourist agency does not have a tourist escort, referred to in paragraph 1 of this Article at its disposal, it may provide a professional who is qualified for work in the tourism industry.

For group visits to tourist destinations for which the program anticipates sightseeing, the tourist agency is bound to employ a tourist guide, except for visits to museums, cultural-historical monuments and other institutions where a tourist guide or professional already provides such service.

#### **Branch office**

##### **Article 19.**

A tourist agency must have a business premises (hereinafter referred to as: branch office).

The Ministry in charge of Tourism will regulate minimal-technical conditions that must be fulfilled by the branch office for particular types of tourist agencies.

Premises that are used for residential purposes, according to this Law, are not considered as branch office.



## **Staff**

### **Article 20.**

In every branch office a tourist agency must have at least one employee (supervisor) who fulfills criteria which is regulated by this Law.

According to this Law, the supervisor is responsible for the operation of branch office.

A supervisor, apart from general terms of employment, should fulfill the following conditions:

1. At least high school certificate with corresponding qualifications
2. At least three years' work experience in the tourism industry
3. Knowledge of at least one foreign language and
4. Has passed the professional examination

The professional examination for supervisor is taken in front of a panel that is established by the Ministry responsible for tourism.

The professional examination for supervisor is taken according to an established examination program.

Examination program referred to in paragraph 5. of this Article is published in The Official Gazette of Montenegro.

The Ministry in charge of Tourism will prescribe the examination program for supervisor, structure of the examination panel, as well as the method of examination, referred to in paragraphs 4. and 5. of this Article.

A certificate is issued for passing the examination program.

## **Insurance**

### **Article 21.**

A tourist agency which provides services of tourist package travels, excursion programs or transfer of travelers is obliged to use means of transport in which the passengers and baggage are insured, as well as hospitality industry facilities in which the service users are insured

## **Guarantee**

### **Article 22.**

A tourist agency – travel operator is obliged to, for every tourist travel package, provide a guarantee for the compensation of travelers:

- paid travel price, if due to insolvency of the tourist agency, the travel services are cancelled;
- expenses as a result of insolvency of tourist agency for return of travelers to their place of departure and
- damages due to failure to fulfill travel program, owing to type, range, quality, and in the method given in the program.

Guarantee is provided in the form of an insurance policy, i.e. in the form of a cash deposit on a special giro-account at the Central Bank of Montenegro, or bank guarantee.

A tourist agency – travel operator is obliged to reimburse a traveler within the period stipulated under general conditions for travel, i.e. according to travel program, which cannot last longer than 30 days from the day of a traveler submitting a claim.

The tourist agency – travel operator is not liable to the traveler for incurred damages according to paragraph 2. of this Article if:

- the established error with regard to not fulfilling the contracted services is attributed to the traveler.
- unpredictable and unavoidable omissions are attributed to a third party which has not participated in the realization of contracted services
- omissions that occur due to a force majeure (based on unpredictable events that cannot be influenced by those who refer to them and the consequences of which are unavoidable, despite of care being taken, overbooking is not included), or due to some other event which the tourist agency, or service provider could not foresee or eliminate despite due care.

In cases referred to in paragraph 4. lines 2. and 3. of this Article a tourist agency – travel operator must be considerate and assist the traveler.

### **Guarantee certificate**

#### **Article 23.**

A tourist agency – travel operator is obliged to issue the traveler, on payment for tourist package travel, a certificate of guarantee that enables him/her to directly implement the right to compensation from Article 22. paragraph 2. of this Law, from a cash deposit, from the bank or insurance company.

## **d) TERMINATION OF OPERATION**

### **Termination of operation**

#### **Article 24.**

A Tourist agency ceases to operate:

1. upon notice of departure
2. if by way of inspection it is confirmed that conditions prescribed by this Law, regulations based on this Law and other regulations are not met, and the confirmed omissions are not corrected within the given term,
3. if the Ministry in charge of tourism at a later date determines that a work permit was issued based on false data or forged documents,
4. if the tourist agency does not operate or offer services for which it is registered, for longer than one year and
5. a ban to provide tourist agency services have been enforced.

The decision to terminate providing services, according to paragraph 1. of this Article is made by the Ministry responsible for tourism.

### **3. TOURIST GUIDE**

#### **Definition**

#### **Article 25.**

A tourist guide is a natural person who, according to Article 26. of this Law, has permission and may provide tourists with guide services, presentation and professional descriptions of: natural beauties and rarities, cultural-historical monuments, works of art, ethnic and other sights, historical events, personalities, legends about these events and personalities, business and political events and happenings, as well as specific places and regions.

A professional who carries out the duties of a guide at his place of employment for a legal entity within a business premises (museum, gallery, national park and similar), a professional in a tourist agency who escorts a group of tourists from location to location, guide in mountains and pits, hunting and fishing, as well as the leader and escort of excursions and outings is not considered to be a tourist guide.

A tourist guide may provide tourist guide services according to issued permission.

#### **Work permit**

#### **Article 26.**

In order to offer tourist guide services a tourist guide must have permission that is issued upon his/her request by the Ministry in charge of tourism. Authorization referred to in paragraph 1. of this Article will be issued to a tourist guide who fulfills the following conditions:

1. he/she possess business ability
2. he/she possess at least High School Certificate and has passed professional examination for tourist guide,
3. knowledge of at least one foreign language and
4. that a legally binding judgment or infringement notice is not held against him/her so that he/she cannot carry out tourist guide services – for the period of the validity of the judgment.

The Ministry in charge of tourism makes a decision with regard to approval within 15 days of receipt of submitted request.

#### **Registering in the tourist guides Registry**

#### **Article 27.**

The Decision with regard to permission for providing tourist guide services is registered in the Registry of Tourist Guides, which is managed by the Ministry in charge of Tourism.

The Ministry in charge of Tourism will prescribe the form, content and methods for keeping the Registry, referred to in paragraph 1. of this Article

#### **Professional examination**

#### **Article 28.**

The professional examination for tourist guides is taken in front of a panel appointed by the Ministry in charge of Tourism or at an educational institution authorized by the Ministry in charge of Tourism.

The professional examination for tourist guide is taken according to the established examination program.

The Ministry in charge of Tourism will prescribe the examination program for tourist guides.

The examination program, referred to in paragraph 2. of this Article is published in the Official Gazette of the Republic of Montenegro.

A certificate is issued for passing the examination program

### **Knowledge test**

#### **Article 29.**

In the case of significant changes to regulation and other conditions that require a substantially different content or method in providing tourist guide service, or in the case of a confirmed requirement to renew their knowledge, testing professional knowledge of a tourist guide may be carried out.

The Ministry in charge of Tourism establishes the need for testing professional knowledge of tourist guides, referred to in paragraph 1. of this Article, as well as other issues with regard to testing professional knowledge of a tourist guide.

### **Special obligations**

#### **Article 30.**

A tourist guide is obligated to provide tourist guide services conscientiously and professionally, in accordance with the provisions of this Law, business practices in tourism, statute and Acts of the tourist guides' association of which he/she is a member.

A tourist agency and consumer of tourist guide services may not entrust the provision of tourist guide services to a person who does not fulfill conditions specified by this Law.

### **Honorary tourist guide**

#### **Article 31.**

Distinguished scientists and professionals may be recognized as an honorary tourist guides in the field of their expertise.

Honorary tourist guides may only provide guide services on a temporary basis.

The Ministry responsible for tourism assigns the designation of honorary tourist guide.

### **Designation**

#### **Article 32.**

When providing tourist guide services, a tourist guide must clearly display a tourist guide identification card that confirms his identity.

The Ministry in charge of Tourism will indicate the appearance and content of a tourist guide's identification card, procedure for issuing and methods of use.

### **Ceasing of permission to provide services**

#### **Article 33.**

Permission to provide tourist guide services cease to be valid in the following cases:

1. following the tourist guide's notice of departure,
2. if at a later date the local authority determines that permission was issued based on false details or forged documents and
3. if a tourist guide provides services contrary to Article 30. of this Law.

The decision to terminate permission according to paragraph 1. of this Article is made by the responsible authority.

## **4. TOURIST ESCORT**

### **Definition**

#### **Article 34.**

A tourist escort is a natural person who, except for conditions in Article 26, paragraph 2, points 1., 2. and 3. of this Law, has at a least High School Certificate and has passed the examination for tourist escort and performs operative-technical duties in leading and escorting tourists, and provides tourists with basic information on travel purpose.

Persons who have passed the professional examination for tourist guide are not obliged to sit for a tourist escort examination.

### **Professional examination**

#### **Article 35.**

A tourist escort examination is taken in front of a panel that is elected by a tourist agency, and in accordance with the examination program established by the Ministry in charge of tourism.

The examination program referred to in paragraph 1. of this Article is published in the Official Gazette of the Republic of Montenegro.

A tourist escort is issued a certificate for passing the examination program by the Tourist agency.

### **Work Conditions**

#### **Article 36.**

A tourist agency may not entrust the providing of tourist escort services to a person who does not fulfill the conditions specified by this Law.

A tourist escort, while providing tourist escort services, must possess a passed examination certificate, which establishes his identity.

## 5. TOURIST EVENTS' ORGANIZER

### Definition

#### Article 37.

Tourist event organizer is a natural person who fulfills the conditions referred to in Article 38. and who plans and realizes programs organized for tourists during their free time, which relate to sport-recreational, entertainment and cultural-social contents.

### Conditions

#### Article 38.

A tourist event organizer must fulfill the following conditions:

1. he/she possess business ability
2. he/she has passed professional examination for tourist event organizer and
3. knowledge of at least two foreign languages

### Professional examination

#### Article 39.

Professional examination for tourist event organizer is taken in front of a panel that is elected by the Ministry in charge of Tourism or the educational institution authorized by the Ministry in charge of Tourism.

A tourist event organizer is issued a certificate for passing the professional examination.

A tourist event organizer, while providing tourist event organizer services, must possess a passed examination certificate, which establishes his identity.

The Ministry in charge of Tourism will specify the examination program for tourist event organizers, members of panel, as well as professional examination methods.

The examination program referred to in paragraph 4. of this Article is published in the Official Gazette of the Republic of Montenegro.

## 6. TOURIST REPRESENTATIVE

### Definition

#### Article 40.

A tourist representative is a natural person who represents a domestic or foreign travel operator or representative, at travel destinations.

A travel operator or representative is obliged to inform a service provider about a tourist representative, his authorities and all occurring changes in written form.

Prior to beginning duties referred to in paragraph 1. of this Article, a tourist representative is obliged to submit a contract of representation to the Ministry in charge of Tourism, in order to be recorded in the Registry of Representation Contracts.

The Ministry in charge of Tourism manages the Registry of Representation Contracts.

The Ministry in charge of Tourism will prescribe the form, content and methods for keeping the Registry referred to in paragraph 3. of this Article.

### **Authorization and activity**

#### **Article 41.**

Authorization and activity of a tourist representative are mainly to:

1. protect the interests and rights of travelers and travel operator, and the intermediary of the service provider,
2. guide and give information to travelers during the carrying out of program and additional services
3. order additional services on behalf of travel operator, i.e. intermediary according given authorization
4. intermediate in provision of additional services for travelers (excursions, cultural and sports events and similar)
5. perform other duties needed to protect interests of travelers and travel operators, and intermediators

## **7. SERVICES ON SKIING FIELDS**

### **Definition**

#### **Article 42.**

Services on the ski field, in the context of this Law, are considered to be providing premises, facilities and equipment for recreation and sport's skiing, skiing tuition, rescue activity on the skiing field and other recreational and snow sports' activities.

Services referred to in paragraph 1 of this article may be offered on ski fields which, depending on the type of activity referred to in paragraph 1 of this article, must be arranged, equipped and maintained for the safety of users and fulfill the regulated conditions set out in the Act of the Ministry in charge of Tourism.

Services referred to in paragraph 1 of this article may be offered by business associations, other legal entities and entrepreneurs who fulfill the prescribed conditions, that is, possess approval for work issued by the responsible department of the local government.

The Ministry in charge of Tourism establishes the detailed conditions of arranging, equipment, maintenance and use of ski fields.

### **Obligations**

#### **Article 43.**

A legal entity, that is entrepreneur who offers services on ski fields is obliged to:

1. ensure and maintain ski fields for safe use;
2. maintain order and provide a service to maintain order on the ski fields;
3. provide a rescue service and provide emergency medical assistance on ski fields.
4. to place notices at entry points to ski fields with regard to maintaining order, prices for use of facilities, equipment, area, and other services on the ski field.

Ski field users are required to abide by the regulations with regard to maintaining order on ski fields. A special rulebook for service provision on ski fields will be issued.

## 8. NAUTICAL TOURISM

### **Definition**

#### **Article 44.**

Nautical tourism is sailing and stay of tourists-nautical enthusiasts on sailing vessels (yacht, boat etc.), as well as stay in nautical tourism ports for holiday and recreation.

Tourist services in nautical tourism are:

1. leasing of space along an orderly and partially or completely protected coast (hereinafter referred to as: berth) for the accommodation of sailing vessels and nautical tourists who are accommodated on board.
2. leasing of sailing vessels for holiday and recreational use (charter, cruising and similar),
3. reception, safe guarding and maintenance of sailing vessels at berth at sea and land mooring,
4. provision of stock for nautical enthusiasts (water, fuel, supplies, spare parts, equipment and similar),
5. preparation and keeping sailing vessels in order,
6. providing various information to nautical enthusiasts (weather forecasts, nautical guides and similar),
7. water scooter and skipper tuition,
8. providing rescue and urgent medical assistance services and
9. other services required for nautical tourism.

The Ministry responsible for Tourism may for certain services referred to in paragraph 1. of this Article prescribe minimal conditions and implementation methods.

### **Nautical tourism facilities**

#### **Article 45.**

Tourist services in nautical tourism are offered in reception facilities of nautical tourism and on sailing vessels of nautical tourism.

Reception and sailing facilities of nautical tourism must fulfill the prescribed conditions for specific type and category.

Reception and sailing facilities of nautical tourism are classified by type, and individual types are categorized according to regulations prescribed by the Ministry in charge of Tourism.



The Ministry in charge of Tourism will prescribe types and categories of reception and sailing facilities of nautical tourism, minimal conditions which need to be met as well as procedure and manner for their categorization.

### **Natural person as a subject**

#### **Article 46.**

Legal entities and natural persons, referred to in Article 3. paragraph 1. of this Law may not commence providing tourist services in nautical tourism prior to obtaining a decision from the Ministry in charge of Tourism that confirms that prescribed conditions are met, or from the responsible department of local government, according to location of reception facilities of nautical tourism.

The Ministry in charge of Tourism, upon request by a legal entity or natural person establishes a decision that conditions are met for category of individual type of reception and sailing vessel facility of nautical tourism that are categorized.

The responsible department of local authority according to location of reception and sailing facilities of nautical tourism, upon request by a legal entity or natural person establishes a decision on fulfillment of minimal-technical conditions for reception and sailing facilities of nautical tourism which are not categorized.

An appeal against a decision, referred to in paragraph 2. of this Article is not permitted, however an administrative suit can be brought.

### **Registering in the Registry**

#### **Article 47.**

A natural person may provide certain tourist services in nautical tourism if he/she fulfills prescribed conditions.

The Ministry in charge of Tourism will prescribe which tourist services in nautical tourism may be provided by a natural person, as well as the conditions and manner in which they can be offered.

A natural person is obliged to obtain a permit to provide tourist services in nautical tourism. The responsible department of local government issues the permit.

The permit referred to in the previous paragraph of this Article will be issued to a natural person who fulfills the conditions prescribed by the Ministry in charge of Tourism.

The responsible authority referred to in paragraph 3. of this Article makes the decision on approval within a period of 15 days from the day the application was submitted.

## 9. AGRO-TOURISM

### **Tourist services**

#### **Article 48.**

Decision on approval, referred to in Article 46. paragraph 1. of this Law is recorded in the special Registry, which is managed by, depending on the type of reception and sailing vessel of nautical tourism, the responsible departments referred to in Article 46. paragraphs 2. and 3.

The Ministry in charge of Tourism will prescribe the form, content and methods for keeping the Registry referred to in paragraph 1. of this Article.

#### **Article 49.**

The approval referred to in Article 47. of this Law ceases to be valid:

1. following notice of departure of nautical tourism service provider,
2. if the nautical tourism service provider does not commence providing service within a period of one year from the day of legal binding approval,
3. if upon inspection it is confirmed that conditions prescribed by this Law and regulations according to this Law, are not met and that the established omissions were not eliminated in due term and
4. if the responsible department of state government at a later date establishes that the decision with regard to approval was based on false data or forged documents.

The ceasing of permit validity referred to in paragraph 1. of this Article is decided by the responsible department referred to in Article 47. paragraph 3 of this Law.

#### **Article 50.**

Agro-tourism, in the context of this Law is the stay of tourists in a household that is organized as a rural household for tourists for rest and recreation.

Tourist services in agro-tourism are: renting out horses for horse riding, photo safari, crop picking, fruit and vegetable picking, harvesting and other services in rural households.

Tourist services referred to in paragraph 1. of this Article may be provided by a member of a rural household who is in possession of approval to provide hospitality services in a rural household as referred to in Article 51. of this Law.

The Ministry in charge of Tourism may, for services referred to in paragraph 1. of this Article, prescribe minimal conditions for their provision.

## 10. HEALTH TOURISM

### **Types and conditions**

#### **Article 51.**

In a household that is organized as a rural tourist household (hereinafter referred to as: rural household), the member of rural household may provide services referred to in Article 83.

paragraph 1. point 1., except for renting out holiday houses, and Article 83. paragraph 1. point 2. of this Law.

Apart from services referred to in paragraph 1. of this Article, hot and cold meals may be prepared and served, in a rural household, as well as drinks and beverages primarily from personal production for up to 50 persons (excursion members) at the same time.

A rural household may provide services of wine or brandy tasting, as well as serving of home made cold cuts of meat from personal production in the arranged area of residential or business premises, in closed, covered or in open space for up to 50 persons (excursion members) at the same time.

The Ministry in charge of Tourism will prescribe what is considered as rural household, minimal conditions, conditions for category and categorization method of facilities in which services referred to in this Article are offered.

Provisions of Articles 84. to 90. of this Law apply to services provided in a rural household in an appropriate manner.

The Ministry in charge of Tourism in conjunction with the Ministry in charge of Agriculture will prescribe what is considered as mainly personal production and types of products that may not be classified as personal production in the context of paragraph 2. of this Article.

#### **Article 52.**

Health tourism in the context of this Law develops in three forms: healing locations, spas and rehabilitation centers in which accommodation is organized, conditions are created and services of rehabilitation and prevention are offered.

It is considered that the conditions with regard to arrangement and equipment of facilities and regions in the context of the previous paragraph of this Article are fulfilled, if the healing locations, spas, rehabilitation centers have:

1. organized health care services;
2. facilities and equipment for the use of natural healing factors;
3. facilities for accommodation and stay of visitors;
4. adequate communal and other facilities (water works, sewerage, road network, post and telecommunication facilities, electricity and public green and recreation areas).

The Ministry in charge of Health Care will prescribe more precise conditions for providing individual services, referred to in paragraph 1. of this Article.

The Government of the Republic of Montenegro, on proposal of municipality and other interested subjects, establishes the area to be considered as a spa, in the context of this Law.

Establishing the region in the context of paragraph 1. of this Law is carried out based on previous research and established natural healing factors within that region and adequate scientific and professional research, with regard to values and characteristics of that region, as well as fulfillment of conditions referred to in paragraph 2. of this Article.

Opinion on fulfillment of conditions that are referred to in paragraph 2. of this Article is given by the Ministry in charge of Health Care.

The municipality in which the spa is located is responsible for its upkeep, use, development and management in accordance with the Law.

**Article 53.**

Health care institutions and other legal entities and natural persons who provide health care services by way of the use of natural healing factor in healing locations, spas and rehabilitation centers with the aim of prevention, healing and rehabilitation use natural healing factor under the conditions established by regulations on health care services provision.

Other legal entities and natural persons may use natural healing factor in healing locations, spas and rehabilitation centers if they fulfill the conditions referred to in previous Article, based on the approval of the Ministry in charge of Health Care.

The Ministry in charge of Health Care prescribes more precise conditions referred to in paragraph 2. of this Article.

The right to use natural healing factor in spa (thermal and mineral water, gas and healing clay) is given to a domestic legal entity or natural person by the municipality in which the healing location, spa or healing center is located.

**Article 54.**

The right to use natural healing factor in spa (thermal and mineral water, gas and healing clay) is given to a foreigner in accordance with the Law that regulates concession.

The user of the spa's natural healing factor pays a fee for its use.

The fee is paid according to the quantity of natural healing factor used.

The fee, referred to in paragraph 2. of this Article is established by the representatives' body of the local government.

Assets realized from fees referred to in paragraph 2. of this Article is income for the municipal budget, and are used according to the program made by the representatives' body of the local government in which the healing location, spa and rehabilitation center is located, for upkeep, use and development.

## 11. YOUTH TOURISM

**Concept**

**Article 55.**

Youth tourism in the context of this Law is the stay of young tourists in youth hotels – hostels or the facilities intended for youth (camps, schools, students' and youth homes), as well as organizing of cultural-entertainment, educational and sports-recreation programs for youth.

**Codition**

**Article 56.**

Youth hotel – hostel is a facility in which services of accommodation and meals are mainly provided to young guests.

The Ministry in charge of Tourism will prescribe the standards and categorization for hostels and other youth facilities that provide services to youth referred to in the previous Article.

The Government of the Republic of Montenegro, on the proposal of the Ministry in charge of Tourism may establish certain benefits (discounts etc.) for hostels and facilities intended for youth as well as to users of their services.

## **12. OTHER FORMS OF TOURIST SERVICES**

**Article 57.**

Tourist services may also be provided in congress, sport, hunting and fishing, religious and other forms of tourism.

The Ministry in charge of Tourism may for individual tourist services referred to in paragraph 1. of this Article prescribe minimal conditions and manner for their provision.

**Other tourist services and conditions**

**Article 58.**

Other tourist services in the context of this Law are: renting out paddle boats, sailing boats, windsurf board, bicycles, equipment and devices for swimming and water skiing, sun umbrellas and beach chairs.

To provide services referred to paragraph 1. of this Article, the service provider is required to insure consumers of services in the event of injury or death.

The responsible department of local government may prescribe technical conditions as well as the locations for offering services referred to in paragraph 1. of this Article.

**Natural persons as providers of other tourist services**

**Article 59.**

Services referred to in Article 58. of this Law may be offered by natural persons under the condition that the total value of equipment by which the service is provided may not exceed 10,000 euros.

Providing other tourist services by a natural person in an adequate way, stipulations of Article 47. and 49. of this Law are applicable.

### **III HOSPITALITY INDUSTRY**

#### **Subjects**

##### **Article 60.**

Hospitality industry services may be carried out by businesses, other legal entities, and entrepreneurs that are registered for providing such services (hereinafter refer to as: caterer).

Hospitality educational institutions, as well as student and pupils' homes may in their business premises also provide hospitality industry services, under the conditions regulated by this Law.

Under the conditions prescribed by this Law and regulations according to this Law, natural persons who are registered to provide such services may provide specific hospitality services.

#### **Special modes for providing hospitality services**

##### **Article 61.**

Businesses, other legal entities and entrepreneurs with head offices, that is residence in Montenegro may provide services or accommodation and meals for their employees, members, pensioners as well as immediate family members of their employees, members and pensioners, according to conditions established by this Law and other regulations, in closed type facilities (holiday homes, canteen etc.)

Immediate family members in the context of paragraph 1. of this Article are: spouses, children, stepchildren and adoptee, as well as parents and adopters.

Legal entities and natural persons referred to in paragraph 1. of this Article are required to report providing service to the responsible department of the local authority according to the location of the facility, that is, according to the location where providing of service which is recorded in the Registry for Providing Hospitality Services of legal entities and natural persons referred to in paragraph 1. of this Article.

The Ministry in charge of Tourism will prescribe minimal technical conditions to provide services referred to in paragraph 1. of this Article.

The responsible department of local government establishes the fulfillment of conditions according to regulations resulting from paragraph 4. of this Article.

The Ministry in charge of Tourism will prescribe content and structure of the application form and methods for keeping the Registry for providing hospitality services by legal entities and natural persons referred to in paragraph 1. of this Article.

#### **Services which are not covered by regulations of this Law**

##### **Article 62.**

Provisions of this Law are not applicable to providing food and accommodation in social aid institution facilities, health, education and other similar institutions, if their employees offer these services exclusively to their employees, members and consumers.

Preparing and serving hot and cold beverages, non-alcoholic drinks and simple meals which legal entities and natural persons organize for the requirements of their employees and members within their business premises is not considered as hospitality industry.

### **Business legal framework**

#### **Article 63.**

While performing hospitality services, the caterer is required to carry out business according to stipulations of this Law and other regulations, special usance and other business practices in hospitality industry, as well as in the types and manner of hospitality industry service provision in corresponding hospitality industry facilities.

### **Period of operation**

#### **Article 64.**

A caterer may be in business during the whole year or seasonally.

A caterer may be in business from time-to-time under the condition that an approval from the responsible department has been issued.

A caterer confirms business periods according to paragraph 1 and 2 of this Article and informs the responsible department

### **Working hours**

#### **Article 65.**

The responsible department of the local government prescribes schedule, opening and closing times of hospitality in its area.

### **Responsibilities of caterer**

#### **Article 66.**

While providing hospitality services the caterer is obliged to:

1. clearly display at the entrance to the hospitality facility a notice of prescribed particulars and category of the hospitality facility, confirmed by decision of the responsible department of local government, that is Ministry in charge of Tourism.
2. clearly display at the entrance to the hospitality facility the working hours, which must be in accordance with the prescribed working hours.
3. confirm house rules for accommodation within the hospitality facility and display it at reception and a summary of house rules should be displayed in all rooms and apartments;
4. confirm the standard for expended supplies, drinks and beverages for particular food services, offer services in quantities and quality according to standards, and to show standards to guest upon request;
5. clearly display price list for services offered in a manner available to guests and conforms to the displayed and published prices, and in providing accommodation services include in the price list the amount of dwelling tax;
6. provide adequate number of copies of price lists available to guests;
7. provide guests with a receipt for every provided hospitality service which includes type, quantity and price of services provided, and for accommodation services include in the receipt the amount paid for dwelling tax;

8. comply with the prescribed working hours;
9. submit standards for verification to the Ministry in charge of Tourism, and the verified standards may be used on the next day following verification;
10. keep a guests' record book in the hospitality facility for accommodation;
11. keep a book of complaints according to prescribed methods in every hospitality facility, and within three days forward the reported complaint and response to the Ministry in charge of Tourism.

The Ministry in charge of Tourism will prescribe the form, content and methods for keeping the Guest's book and Book of complaints.

A caterer who, in hospitality facility, provides services to nudists is obliged to, along with a category of facility; display a sign that the service provided in the facility is for nudists.

### **Alcoholic drinks serving prohibition**

#### **Article 67.**

A caterer may not serve alcoholic drinks to a guest who is younger than 16

### **Providing ambulant hospitality industry services**

#### **Article 68.**

A caterer may also provide simple hospitality industry services in an ambulant manner (outside business premises and caterer premises).

Confectionery meals, non-alcoholic drinks, beverages and ice cream may be served in an ambulant manner in accordance with sanitary conditions.

The responsible department of local authority may select the premises at which simple hospitality industry services may be offered in an ambulant manner.

The responsible department of the local government prescribes technical and health conditions that need to be fulfilled to provide services referred to in paragraph 1. of this Article.

The responsible department confirms fulfillment of conditions according to regulations with regard to paragraph 4 of this Article.

Stipulation of Article 66. paragraph 1. points 1., 2., 3., 10. and 11. do not apply to providing simple hospitality industry services that are provided in an ambulant manner.

### **Minimal -technical conditions**

#### **Article 69.**

For carrying out hospitality services and offering hospitality industry services referred to in Article 68 of this Law, minimal-technical conditions with regard to orderliness and equipment of hospitality facilities, services, as well as other conditions prescribed by this Law and regulations with regard to this Law (hereinafter referred to as: minimal-technical conditions) must be met.



The Ministry in charge of Tourism will regulate minimal-technical conditions that must be fulfilled by hospitality industry facilities referred to in paragraph 1. of this Article.

### **Hospitality industry facility**

#### **Article 70.**

Hospitality industry activity is carried out at business facility, premises and in an area dedicated, arranged and equipped to provide hospitality industry services (hereinafter referred to as: hospitality industry facility).

Hospitality industry activity may also be performed in a business facility, premises and in an area where other activity takes place if prescribed conditions for performing hospitality industry activity are fulfilled.

### **Types of hospitality industry facilities**

#### **Article 71.**

Hospitality industry facilities, in the context of this Law, are hospitality industry facilities for accommodation and hospitality industry facilities for catering, and are divided into five groups such as:

1. basic accommodation facilities (hotel, hotel complex, apartment complex, motel, bed and breakfast and similar),
2. complementary accommodation facilities (camp, room for rent, apartment, holiday house, youth hostel, holiday homes, overnight accommodation and similar),
3. hospitality industry facilities that provide food and drinks, restaurants (inn, meat roasting facility, patisserie, bistro, pizzeria, fast food facility and similar), bars (public-house, coffee shop, night club, disco-bar, cafe-bar, beer house, wine bar, inn, canteens and similar).

Apart from the types of hospitality industry facilities referred to in paragraph 1. of this Article, the Ministry in charge of Tourism may also prescribe other types of hospitality industry facilities and their subdivisions into individual groups as referred to in paragraph 1 of this article, depending on service method and types of services that are primarily offered in the hospitality industry facility.

The Ministry in charge of Tourism will also regulate according to paragraph 2 of this Article the minimum service that the caterer must provide in a particular type of hospitality industry facility.

### **Hospitality industry facilities categorization**

#### **Article 72.**

The Ministry in charge of Tourism also establishes by special Act as referred to in Article 69. paragraph 2. of this Law the types of hospitality industry facilities for accommodation that are categorized, categories, elements and measures for categorization and method of categorization of hospitality industry facilities.

Hospitality industry facility category is determined by the Act of the Ministry in charge of Tourism, upon caterer's request.

Hospitality industry facility as referred to in paragraph 1. of this Article may commence operation when the responsible department confirms its category.

The Act determining the category of hospitality industry facility as referred to in paragraph 2. of this Article is brought within the period of 15 days from the day of submission of application for categorization.

An appeal against the Act as referred to in paragraph 1. of this Article is not permitted, however an administrative suit can be brought.

The entrance of every hospitality industry facility referred to in paragraph 1. of this Article must display prescribed particulars and category of the facility.

The Ministry in charge of Tourism maintains the Registry of categorized hospitality industry facilities.

**Article 73.**

The Act of the Ministry in charge of Tourism establishes the category for hospitality industry facilities: hotel, hotel complex, tourist apartments, apartment complex, motel, bed and breakfast, villa, residence and camp.

The other types of hospitality industry facilities are the responsibility of a department of local government.

**Article 74.**

Hospitality industry facilities for accommodation are categorized according to interior, equipment, devices, service, maintenance and other elements and measures for categorization.

The symbol for category of particular hospitality industry facility for accommodation is a star.

The Act that determines the category of hospitality industry facility is issued with a 5-year validity.

The Act referred to in paragraph 3. of this Article is held in every facility in which the category has been established.

If within the period for which the Act that determines category of hospitality industry facility is valid, a change to the subject who carries out services in the facility occurs, the new subject who will carry out services is obliged to, prior to commencing services, obtain the document that determines the category.

If a deviation within the period referred to in paragraph 3. of this Article from prescribed standards for categorization of hospitality industry facility assigned occurs, with regard to order, equipment and service quality the caterer is obliged to, within the period of eight days submit a request in order re-categorize the facility.

Change of category to hospitality industry facility is carried out by method and procedure prescribed for categorization of hospitality industry facility.

A hospitality industry facility that ceases to fulfill the conditions prescribed for particular type and category of facility may not operate as that type and category of hospitality industry facility.

#### **Hospitality industry facility name**

##### **Article 75.**

A hospitality industry facility may be named according to one type of hospitality industry facility, depending on the type of service that is usually offered in the facility.

Exception to stipulation referred to in paragraph 1. of this Article, the hospitality industry facility may be named by two types of hospitality industry facility, if it fulfills the condition prescribed by this Law and other regulations.

The name of a hospitality industry facility may be changed if prescribed conditions for offering other types of services are fulfilled

#### **Manager**

##### **Article 76.**

The caterer must provide a manager for each hospitality industry facility.

The manager must have, along with the general conditions for employment, at least High School Certificate

Exception to stipulation referred to in paragraph 1. of this Article, the caterer may have a manager for more than one hospitality industry facility for accommodation types: apartments, rooms for rent and holiday houses

If the caterer personally manages the operation of hospitality industry facility, he/she must fulfill the prescribed conditions for a manager.

The manager is responsible for the operation of hospitality industry facility according to this Law.

#### **Hospitality industry facility licensing**

##### **Article 77.**

The Ministry in charge of Tourism issues licenses to the hospitality industry facilities referred to in Article 73. paragraph 1.

Fulfillment of minimal-technical conditions and conditions for categorization of hospitality industry facility a referred to paragraph 1. of this Article is established by approval from the Ministry in charge of Tourism within a period of 30 days from the day of application.

Approval referred to in paragraph 1. is recorded in the appropriate Registry, which is managed by the Ministry in charge of Tourism

For facilities referred to in Article 73. paragraphs 1. and 2. the responsible department of local authority, upon the caterer's request confirms whether the minimal-technical conditions are fulfilled.

Fulfillment of conditions referred to in paragraph 1. of this Article, responsible department of local government confirms by approval within a period of 15 days from the day of application.

Approval referred to in paragraph 5. is recorded in appropriate Registry of hospitality industry facilities that is managed by responsible department of local government.

An appeal against the decision on fulfillment of minimal-technical conditions is not allowed, however and administrative suit may be brought.

The Ministry in charge of Tourism will prescribe the form, content and methods for keeping the Registry referred to in paragraphs 3. and 6. of this Article

### **Term expiry**

#### **Article 78.**

If the responsible department does not issue approval referred to in Article 77. paragraph 2. and 5. of this Law within the prescribed term or does not make a decision that the request is rejected due to failure to fulfill the prescribed conditions, a caterer may commence work in the hospitality industry facility and is required to inform the responsible department in written form, prior to that.

The responsible department is required to make a decision referred to in Article 77. paragraph 2. and 5. of this Law within 30 days from the day of received notice referred to in paragraph 1. of this Article.

If the responsible department establishes that the conditions prescribed by this Law are not met, and the caterer commences with work according to the paragraph 1. of this Article it will be considered that the activity is performed contrary to the stipulations of this Law.

### **Services in mobile facility**

#### **Article 79.**

Some hospitality services may be offered in a mobile facility that is not considered a hospitality industry facility in context to Article 71. of this Law, if it complies with technical conditions.

The facility referred to in paragraph 1. of this Article is a facility which may be moved from one location to another by driving or trailing

The Ministry in charge of Tourism will prescribe technical conditions that must be fulfilled by the facilities referred to in paragraph 1. of this Article, types and methods of offering hospitality services from those facilities.

The responsible department of local government establishes the fulfillment of conditions according to regulations resulting from stipulation referred to in paragraph 3. of this Article.

The responsible department of local government establishes the area where the services may be offered in the facility referred to in paragraph 1. of this Article.

### **Services in improvised facility**

#### **Article 80.**

Under Exception, hospitality services may be offered under a tent, on benches, etc. if the technical conditions are fulfilled, with the exception at unique locations of special importance for tourism offer.

Conditions referred to in paragraph 1. of this Article are prescribed by the responsible department of local government.

The responsible department of local government establishes the fulfillment of conditions according to regulations resulting from stipulation referred to in paragraph 2. of this Article.

The responsible department of local government will establish which food; drinks and beverages may be offered in facilities referred to in paragraph 1. of this Article.

### **Camping**

#### **Article 81.**

Camping, in the context of this Law, is considered as the accommodation of persons under a tent, in a camper van, caravan or other corresponding facilities for accommodation in an open area, usage of which for camping purposes is defined by Act by the responsible department of local government.

Camping is permitted strictly on the camping site, that is, it is prohibited to raise camping equipment, referred to in paragraph 1. of this Article, with the purpose of camping, outside a camping site.

Organized camping sites, in the context of this Law, are considered to be camping sites that fulfill the conditions regulated by categorization of hospitality industry facilities for accommodation (categorized camping sites).

### **Temporary camps**

#### **Article 82.**

Exception from stipulation of Article 81. paragraph 2., camping is allowed on land that is temporarily appointed for camping site.

The land referred to in paragraph 1. of this Article is appointed by the responsible department of local government.

The Act which appoints land for temporary camping sites determines the camping organizer, period for which the land may be used for camping and minimal-technical conditions which must be fulfilled.

### **Natural person – service provider**

#### **Article 83.**

Under the conditions established by this Law and other regulations, a natural person may:

1. rent out guest rooms, apartments and holiday houses to guests, which are in private ownership or possess rights' of use, up to no more than 10 rooms, i.e. 20 beds,
2. organize a camping site on his land for no more than 10 accommodation units, i.e. 30 guests at a time.

A natural person may provide breakfast; semi-board or full boarding only to guests renting his/her rooms, apartments and holiday houses.

A Natural person may rent out rooms, houses and holiday flats via a tourist agency or registered tourist business, or hospitality industry activity, according to contract with that entity.

### **Minimal-technical conditions in facilities held by natural persons**

#### **Article 84.**

In order to provide hospitality industry services by a natural person in household facilities referred to in Article 79. of this Law, minimal-technical and category conditions must be fulfilled.

The Ministry in charge of Tourism will prescribe minimal-technical conditions, categorization conditions, elements and criteria for categorization of individual facilities, referred to in paragraph 1. of this Article.

Stipulations of Articles 77. to 79. of this Law, which prescribe the procedure for establishing minimal-technical conditions and conditions for category of hospitality industry facilities, apply accordingly to hospitality industry services by natural persons in a household.

### **Obligations**

#### **Article 85.**

A Natural person who offers services referred to in Article 83. of this Law, is obligated to:

1. clearly display a sign of the prescribed type and category of facility according to the decision established by the responsible department,
2. clearly display services offered at the entrance to facility or in its immediate proximity,
3. establish standards for food, drinks and beverages for particular food services, drinks and beverages, if such services are offered and provide services according to established standards, and, upon request, show standards to the guest
4. clearly display prices for offered services and the amount of dwelling tax, according to regulations and in the regular manner and to comply with the displayed prices,
5. issue the guest an itemized receipt which contains type, quantity and price of each provided service, and when providing accommodation services quote the amount of dwelling tax in the receipt,
6. keep a Registry of guests
7. submit standards to the Ministry in charge of Tourism for verification, at latest by one week prior to application.

The Ministry in charge of Tourism will prescribe the structure and content of form and methods for maintaining guest lists referred to in paragraph 1. point 6. of this Article.

### **Staff**

#### **Article 86.**

When providing services, referred to in Article 83. of this Law, natural person may be helped by members of his/her household.

Natural person who offers services referred to in Article 83. of this Law may not be the employer nor use the services of persons who are not members of his/her household.

In the case referred to in paragraph 1. of this Article, members of the household must fulfill health conditions for work in hospitality industry in accordance with special regulations.

### **Natural person's work permit**

#### **Article 87.**

For providing service referred to in Article 83. of this Law, a natural person is obligated to obtain approval from the responsible department of local government.

Approval referred to in paragraph 1. of this Article will be issued to a natural person who fulfills the following conditions:

1. capable for work
2. he/she is the owner or posses rights to use facilities (rooms, apartments or holiday houses etc.) or is the owner of the land for camping site,
3. fulfills prescribed health conditions,
4. has obtained the decision that the facility in which or with which service provision is intended fulfills minimal conditions, and that the facility is categorized according to this Law, if the facility requires categorization,
5. that he/she possesses concluded Contract referred to in Article 83. paragraph 3.

Approval referred to in paragraph 1. of this Article may be issued to one member of common household only.

### **Commencement of work**

#### **Article 88.**

Approval referred to in Article 87. paragraph 1. of this Law is decided by the responsible department of local government, the decision is provided within 15 days of the day of application.

If the responsible department of local government does not make a decision, referred to in paragraph 1. of this Article, within the prescribed term or does not make a decision rejecting the application due to failure of fulfilling prescribed conditions, a natural person may commence providing services, and is obligated to inform the responsible department of local government in written form prior to that.

The responsible department of local government is obliged to make a decision referred to in paragraph 1. of this Article within 30 days from the day of receipt of information referred to in paragraph 2. of this Law.

If the responsible department establishes that the conditions prescribed by this Law are not fulfilled, and a natural person has commenced work according to the paragraph 2. of this Article, it will be considered that he/she provides services contrary to the stipulations of this Law.

### **Registering**

#### **Article 89.**

The decision to allow providing service to natural persons in households is entered in the registry of hospitality industry services provided by natural persons in households, which is managed by the responsible department of the local government.

The Ministry in charge of Tourism will prescribe the form, content and methods of keeping the Registry with regard to providing hospitality industry services by natural persons in households.

### **Work permit validity ceasing**

#### **Article 90.**

Approval to provide services by a natural persons in households cease to be valid upon:

1. notice of departure by natural person,
2. if the natural person does not commence providing service within the six month period from the day the decisions legal binding approval commences.
3. if any of the conditions referred to in Article 87. of this Law is not fulfilled.
4. if inspection confirms that conditions prescribed by this Law are not fulfilled, or in accordance with regulations based on this Law and other regulations, and the confirmed faults are not corrected within the establish period.
5. If the responsible department of the local government confirms at a later date that the decision for approval was based on false information or forged documents.

### **Hospitality industry services on sailing vessel**

#### **Article 91.**

Under the conditions established by this Law and other regulation, a natural person may offer services of food, drinks and beverages on his/her own sailing vessel for up to 20 guests at a time

The services referred to in paragraph 1. of this Article, may not be offered by a natural person at ports, quay and anchorage, as well as in the case when a sailing vessel cruises outside of ports and anchorages, to persons who have not embarked the sailing facility for transport purposes.

The Ministry in charge of Tourism will prescribe minimal conditions, as well as the method for establishing the minimal conditions that must be fulfilled by the facilities referred to in paragraph 1. of this Article



Providing a service referred to in paragraph 1. of this Article in a proper manner, stipulation referred to in Articles 84. to 86. of this Law apply.

#### **IV TOURISM ORGANIZATION OF MONTENEGRO**

##### **Definition**

##### **Article 92.**

In order to improve and promote the tourism trade of the Republic of Montenegro, its municipalities and business interests of legal entities and natural persons in the hospitality and tourism trade and directly associated activities, the Assembly of the Republic of Montenegro can establish a Tourism Organization of Montenegro as a public institution.

The founding Act of the Tourism Organization of Montenegro will state in particular: the title and seat of Tourism Organization, Tourism Organization activity, funding methods of Tourism Organization, property of Tourism Organization, decision making and supervision of Tourism Organization, time periods in which Statute and other Acts will be brought, election of management of Tourism Organization, appointment of director, etc.

#### **V DIRECTING AND STIMULATING TOURISM DEVELOPMENT**

##### **Tourism region**

##### **Article 93.**

For the tourism region referred to in Article 6. point 7., the Government of the Republic of Montenegro produces the development program for tourism and complementary activities and provision of infrastructure in that region.

The Government of the Republic of Montenegro makes a decision on the development of program referred to in paragraph 1. of this Article.

The proposal for making a decision referred to in paragraph 2. of this Article is established by the Ministry in charge of Tourism according to previously obtained opinion of other responsible departments and organizations of the Republic.

The funds for development of the program are provided from the budget of the Republic.

##### **Assignment of funds**

##### **Article 94.**

In order to direct and stimulate development of the tourism trade the budget of the Republic provides funds for:

1. participation in financing the development of appropriate space plans for tourism region,
2. participation in financing promotion activities of tourism region home and abroad;
3. participation in financing the development projects for environmental protection, environment, natural resources and cultural heritage of tourism region;

4. stimulation of tourism trade infrastructure development, recreational sport and other additional contents of public character important for the improvement of quality to the tourism trade offer;
5. development of studies and programs for completion of existing tourism trade offer and intensifying its use.

Assignment, criteria and conditions of use of funds referred to in paragraph 1. of this Article are established by program developed by the Government of the Republic of Montenegro, following the Ministry's proposal.

### **Municipality activities**

#### **Article 95.**

In order to achieve valorization, saving and protecting the values of tourism in municipalities in which tourism is of particular importance for livelihood and work of its residents in the framework of its rights and responsibilities provides:

1. production of a program for the development of tourism and corresponding planning acts in accordance with regulations on planning and development of landscapes, for tourism locations in municipal territory, that is town;
2. advance general conditions for reception and stay of tourists in tourism areas (public utilities and maintenance, encouragement of building of sports, recreational and other accompanying contents of public character of interest to tourism, etc);
3. guidance and coordination of activities of tourist service providers toward enriching and raising quality level of tourist and complimentary contents and creating attractive tourist environment in tourist areas;
4. organizing tourism informative-propaganda services, cultural, sporting and other manifestations of interest to the development of tourism in municipality, that is town.

Municipality, that is town, coordinates its organization activities for tourist information-propaganda services with the programmes of the Tourism organization of Montenegro.

### **Subvention**

#### **Article 96.**

In order to achieve stimulation of particular forms of tourism (swimming, nautical, sports etc), as well as local and foreign organised tourism trade, tourist agencies may receive subvention for part of the expenses for achieved organised tourism trade.

Subvention referred to in paragraph 1. of this Article may be achieved by tourist agencies - travel operators which organise holiday programmes, organized group transport and round trips, etc for local and foreign tourists, under conditions and according to procedure which will be defined through special Program of stimulation measures in tourism.

### **Aim of Stimulation measures**

#### **Article 97.**

Stimulation measures, that is subventions are introduced in order to:

- create quality tourism offer of Montenegro
- increase use of accommodation capacity,
- stimulate composition of quality tourism programs

- improve organized tourism turnover especially in pre-season and post-season, and in individual areas of the Republic during main tourist season
- extending the tourist season,
- stimulate tourist agencies for longer programs, and
- accelerate development of tourism in particular areas of the republic,

### **Other forms of stimulating measures**

#### **Article 98.**

The Program of measures for stimulation referred to in Article 96. of this Law may define the other forms of stimulating measures: crediting of tourism trade, relief in paying various certificates, approvals etc.

## **VI SUPERVISION**

### **Article 99.**

Supervision of implementation of provisions of this Law and regulations based on this Law, as well as other regulations with regard to tourism and hospitality industry, is carried out by the Ministry in charge of tourism.

### **Supervision implementation**

#### **Article 100.**

Inspection as referred to in paragraph 1. of this Article is carried out by tourist inspection through direct control, if the Law does not stipulate that some of the inspection duties are performed by other bodies of Government administration.

Tourism inspectors from the Ministry in charge of Tourism carry out inspection supervision.

Other officials of Ministry in charge of Tourism subject to special authorization may carry out inspection supervision.

### **Tourism inspectors**

#### **Article 101.**

Exceptionally, due to special circumstances or due to absence, that is longer unavailability of a tourism inspector, the Ministry in charge of Tourism may authorize certain state Government officials and other persons who fulfill prescribed conditions, to temporarily perform certain duties of inspection supervision with all inspector's authority, for the duration of those circumstances

### **Authorized persons**

#### **Article 102.**

While performing inspection supervision, tourism inspector has rights, duties and authorization to:

1. carry out the control of conditions which must be fulfilled by regulated bathing place, skiing fields etc.
2. check the identity of employees in businesses, other legal entities, entrepreneurs, as well as natural persons who carry out tourism trade and hospitality industry activity;

3. peruse contracts, files, documents and papers necessary for establishing legality of operation of business, other legal entities, entrepreneurs and natural persons,
4. control fulfillment of contractual obligations between sellers and buyers of hospitality and tourism services,
5. control the display and compliance with regard to published prices of hospitality and tourism trade services, as well as issuing of receipts for services provided,
6. review and control compliance with regard to food and drinks standards in quantity and quality,
7. order measures for documents securing,
8. carry out control of dwelling tax collection and other public revenues with regard to accommodation services provision (rental tax etc.),
9. issue on the spot fine,
10. submit the report for criminal act or business infringement to the responsible department, that is, submit the request for commencement of infringement procedure,
11. manage the procedure with regard to the customers' complaints about hospitality and tourist services.

A tourism inspector is especially authorized to:

1. temporarily ban business operation of business, other legal entity and entrepreneur who provides tourism and hospitality services defined by this Law (health tourism, agro-tourism and youth tourism) and is not listed in the adequate Registry or is not in possession of the document on fulfillment of prescribed minimal technical conditions to carry out such services,
2. temporarily ban business operation of business which performs as a travel operator without a license, or ceases to fulfill conditions according to which a license was issued,
3. temporarily ban the operation of hospitality industry facility, that is nautical tourism facility if services are provided without category or in the allocated category contrary to the provisions of this Law,
4. temporarily ban the operation of hospitality industry facility in the category allocated, if the arrangement, equipment or services in the facility differ from prescribed standards for that category, and the caterer, within the prescribed term does not submit an application for allocation of new category,
5. temporarily ban service provision of accommodation and meals for tourists in households, when he/she establishes that natural person rents out rooms, holiday house or flat which are not categorized according to provisions of this Law,
6. temporarily ban services of business operation, other legal entity and entrepreneur or natural person in situations when the inspector is prevented from performing inspection supervision duties
7. temporarily ban operation of service provider of regulated and developed bathing place, if the bathing place is not equipped with the necessary devices and equipment according to regulation and if there is no proof of fulfillment of these conditions, issued by responsible department,
8. temporarily ban operation of service provider on the ski field, if the skiing field is not equipped with necessary devices and equipment according to the regulations, and if he/she is not in possession of proof of fulfillment of these conditions, issued by responsible department.
9. temporarily ban operation of service provider in health tourism facility, if the conditions prescribed by Article 52 of this Law are not fulfilled.

During inspection supervision, the tourism inspector is authorized to peruse: business and other premises and other areas in which the tourism and hospitality services take place; goods,

devices and equipment used for carrying out hospitality and tourism activity; residential premises and areas in households, that is, residential buildings, flats and houses for rent in which hospitality and tourism services are provided to tourists and travelers; buildings, devices and equipment in reception facilities of nautical tourism, vehicles and sailing facilities with which or in which hospitality or tourism activity take place; business books, contracts, documents and files and other business papers which enable review of operation of legal entities and natural persons who provide hospitality and tourism trade services; documents which confirm the identity of natural persons who are subject to inspection supervision; and perform other activities according to the purpose of inspection supervision.

Other than activities referred to in paragraphs 1. and 2. of this Article, tourism inspection also performs other activities that are, according to Law and other regulations assigned to its responsibility.

### **Tourism inspector's competences and authorizations**

#### **Article 103.**

Legal entities and natural persons whose premises and spaces, devices and equipment, that is subjects of operation and activity, submitted for inspection perusal, are obliged to enable tourism inspector uninterrupted inspection supervision.

Legal entities and natural persons are obliged to, upon request of tourism inspector, submit or prepare data, information and materials required to carrying out activities in his responsibility within the exemplary period which he/she determines.

### **Tourism inspector's competences and authorizations**

#### **Article 104.**

If the tourism inspector, during the course of supervision inspection, establishes that the Law or other regulation is breached, he/she is obliged to without delay, and within 15 days from the day the protocol was made, at latest, submit a report to the responsible government department for criminal act or business infringement, that is, submit the request for commencement of infringement procedure.

If the tourism inspector during the course of supervision inspection, establishes that the Law or other regulation is not applied or that it is not applied properly, he/she will order by way of decision the removal of confirmed irregularity, if it is stipulated by Law or other regulation, and will determine the term for removal of irregularities.

A tourism inspector will make a decision referred to in paragraph 2. of this Article without delay, and at latest within 15 days from the day of completion of supervision according to confirmed decisive facts.

### **Obligations of Legal entities and natural persons during inspection**

#### **Article 105.**

A tourism inspector will, according to the decision, ban legal entity or natural person from hospitality or tourism services provision, that is provision of services: if services are provided without having been recorded in the prescribed Registry, if services are provided without the decision of responsible department of Government administration which establishes that

premises, devices and equipment comply with prescribed conditions or if carrying out the activity, that is providing of services is contrary to the Law.

A tourism inspector will make a decision referred to in paragraph 1. of this Article without delay, and at latest within 8 days from the day of completion of supervision with confirmed decisive facts.

### **Commencement of procedure**

#### **Article 106.**

A tourism inspector will make a verbal decision and immediately order implementation in cases when he/she establishes that a legal entity or natural person carries out activity contrary to the implemented temporary ban on hospitality or tourism activity sentenced in infringement procedure which became legally binding and enforceable.

A tourism inspector will record the decision referred to in paragraph 1. of this Article into the protocol on completed inspection supervision.

### **Decision on ban of business activity**

#### **Article 107.**

If during inspection the supervision inspector established that regulation was not applied or was incorrectly applied, he/she is obliged to make a decision that orders elimination of established irregularities and determines the term for their elimination.

A tourism inspector is obliged to make a decision on temporary ban for performing activity, that is operation of the facility in question, if the established irregularities are not removed in the given term.

### **Verbal decision**

#### **Article 108.**

In implementation of decision referred to in Article 105. and 106. of this Law, a tourism inspector will by sealing or in other convenient way close the premises where hospitality industry or tourism trade activity takes place, except for residential and premises in households, that is residential buildings, and may confiscate the equipment, devices, tools of trade and means of transport which are used for performing the activity, until the final decision of responsible department.

Enforceable decision of tourism inspector, with regard to non-monetary duties, may also be implemented directly, without previous application of compulsory measures referred to in Article 276. of Administrative Procedures Law.

Enforceable decision of tourism inspector with regard to fines is obligatory under the procedure for payment of public revenues.

### **Elimination of irregularities**

#### **Article 109.**

If the Law stipulates confiscation of items that caused infringement, business infringement or criminal act is possible, the tourism inspector may temporarily confiscate those items and is obliged to issue written certificate.

A tourism inspector is obliged to report confiscation of items to the responsible department (Court) where the procedure for infringement, business infringement or criminal act is initiated, depending on the degree of offence committed with confiscated items.

The Ministry in charge for Tourism will, within a period of one year, provides conditions for maintenance and keeping of temporary disposed items.

### **Implementation of decision**

#### **Article 110.**

If a tourism inspector, during the course of inspection supervision establishes that the consumer of hospitality or tourism services was over charged, and service provider refuses to return the difference, an order will be issued to the service provider to return the difference to the consumer and without delay submit the request for initiation of infringement procedure.

If the consumer referred to in paragraph 1. of this Article is not known, the tourism inspector will by way of request for initiation of infringement procedure suggest that the difference be confiscated as unlawfully gained profit.

### **Temporary confiscation**

#### **Article 111.**

If tourism inspector during the course of inspection supervision establishes irregularities or non compliance with regard to regulations which fall under the jurisdiction of other departments of government administration, without delay, and will within the period of eight days at latest, report to that department.

### **Overcharged amount**

#### **Article 112.**

After the enforceability of the decision, a tourism inspector will establish whether the decision has been executed, and if it has not, without delay initiate the procedure for its execution.

Conclusion to permit execution of decision will be brought by the inspector without delay and at latest within eight days from the day of establishing that the decision was not fulfilled.

Execution expenses will be the responsibility of the party required to fulfill the ordered administrative measure.

### **Reporting obligation**

#### **Article 113.**

During the course of inspection supervision, a tourism inspector must have tourism inspector identification card and badge which confirm his/her official status, identity and authorization.

The particulars of the identification card or tourism inspector's badge, and methods for issuing and use are prescribed by the Ministry in charge of Tourism.

## **Implementation**

### **Article 114.**

A legal entity or entrepreneur will be fined 2,000 euro to 6,000 euro for an infringement if:

1. it organizes tourist package travel for persons who are not its members or if it does not organize on a periodical basis and without purpose of profit making or if it advertises other than in its internal publications and announcements received by association members (Article 5.),
2. it provides services referred to in Article 9. of this Law, and is not a tourist agency,
3. it does not fulfill prescribed conditions for particular type of tourist agency or do not provide services in a prescribed manner, or if it provides services of tourist agency type for which it does not fulfill prescribed conditions (Article 10.),
4. commences provision of tourist agency services prior to obtaining the decision from responsible department that the conditions prescribed by this Law and regulations resulting from this Law are met (Articles 13. and 14.),
5. does not carry out the transport of travelers by way of its own means of transport or means of transport owned other legal entities and natural persons who are registered for transport of travelers in the Republic of Montenegro (Article 17.),
6. directly provide services to a traveler and does not have a branch office, or the branch office does not fulfill prescribed conditions (Article 19.),
7. provides tourist package travel services, excursion program or travelers' transfer, and does not use means of transport in which travelers and baggage are insured, as well as hospitality industry facilities in which the service users are insured (Article 22. paragraph 1.),
8. does not insure the use of paid tourist package travel or damage reimbursement due to occurred expenses or does not insure guarantee for every tourist package travel with the bank or insurance company (Article 22, paragraphs 1. and 2.),
9. in the cases referred to in Article 22, paragraph 5. lines 2. and 3. of this Article does not take measures to assist traveler (Article 22., paragraph 6.),
10. does not issue an insurance guarantee certificate to a traveler on payment of tourist package travel, which enables him/her to directly implement right to compensation due to occurred expenses as referred to in Article 22., paragraph 2 of this Law towards the bank or insurance company (Article 23.).
11. provide tourist guide services, and do not have the permission referred to in Article 26. paragraph 1. of this Law
12. provide tourist event organizer services, and do not have the permission referred to in Article 39. paragraph 3. of this Law,
13. prior to commencement of operation as a tourist representative does not submit the Contract on representation to the Ministry in charge of tourism, in order to be recorded in the Registry of Representation (Article 40. paragraph 3.)
14. provides tourist services on the skiing field and does not fulfill the prescribed conditions (Article 42. paragraph 3.)
15. commence the provision of tourist services on the skiing field prior to obtaining the approval in accordance with the Article 42. paragraph 3 of this Law,
16. provides tourist services in reception and sailing facilities of nautical tourism which do not fulfill the prescribed conditions (Article 45. paragraph 2.)



17. commence the provision of tourist services in nautical tourism prior to obtaining the approval in accordance with the Article 46. paragraphs 1. and 2. of this Law,
18. provides tourist services in agro-tourism without the approval for hospitality services provision in rural household (Article 50. paragraph 2.),
19. commence the provision of tourist services in health tourism prior to obtaining the approval in accordance with the Article 52. paragraph 1. of this Law,
20. provides tourist services in health tourism facilities which do not fulfill the prescribed conditions (Article 52.),
21. if natural healing factor is used without decision referred to in Article 54. of this Law,
22. if provides services in youth tourism and does not fulfill the prescribed standards and conditions for category (Article 56.)

For the infringement referred to in paragraph 1. a natural person as well as a person in charge of legal entity will be fined 200 euro to 900 euro.

For the infringement referred to in paragraph 1., point 5. of this Article, in addition to a fine a protective measure of confiscating means of transport that caused infringement may be ordered.

For the infringement referred to in paragraph 1., tourism inspector may fine the person in charge of a legal entity or the manager at the location of infringement with a fine of 120 euro.

### **Identification and badge of a Tourism inspector**

#### **Article 115.**

A legal entity or entrepreneur will be fined for infringement from 500 euro to the amount of 3,000 euro if:

1. does not publish conditions, content and prices for every single service and does not comply with those conditions, contents and prices (Article 4., paragraph 1., point 1.),
2. for every given service does not issue the user with a receipt, card or certificate with a number which confirms payment receipt or does not keep a copy of these documents for at least one year since their issue (Article 4., paragraph 1., point 2.),
3. in the premises where services are performed does not keep a Book of Complaints or does not keep it in a regulated form, content and in prescribed manner or does not within three days respond to every objection (Article 4., paragraph 1., point 3.),
4. during provision of tourism activity does not perform in accordance with tourism business practices, that is special usances in tourism (Article 4., point 4.),
5. does not use "tourist agency" sign in accordance with the Article 8 of this Law,
6. does not display at the entrance to its premises a board with the tourist agency firm (Article 12. point 1.),
7. does not display working hours at the entrance of its premises where it directly sells its services (Article 12. point 2.),
8. upon request of consumer does not state his/her position or level of responsibility, if he/she is a representative of another tourist agency (Article 12. point 3)
9. in all advertising and promotional material, as well as all business documents does not clearly state name of firm and its head office (Article 12. point 4)
10. does not keep, as a business secret, all information about traveler (Article 12. point 5),
11. does not provide the traveler with services according to contract or does not offer services in a quality manner (Article 12. point 6),

12. does not offer the traveler necessary insurance for injury, illness, death and loss of baggage during travel and stay (Article 12. point 7)
13. for every tourist package arrangement, that is organizing travel does not provide a program of contents referred to in points 1. to 8. of Article 16 of this Law, or prior to completing contract with regard to organizing travel or using other services does not provide for perusal the program, catalogue or pamphlet (Article 16.),
14. it organizes group travel, but does not throughout the entire duration of travel provide at least one tourist escort who fulfills the prescribed conditions, for every group of 15 and more travelers, or if he/she does not provide a professional employee who is qualified to work in tourism services, if he/she does not have a tourist escort at their disposal who fulfills the prescribed conditions or if for group visits to tourist destinations in which the program anticipates sightseeing of tourist destinations do not provide the services of a tourist guide who is authorized to provide tourist guide services in those tourist destinations (Article 18.),
15. sells tourist package arrangements and excursion programs, but does not have at least one manager who fulfills conditions in accordance with this Law (Article 20. point 1),
16. providing tourist guide services is entrusted to person who does not fulfill conditions prescribed by this Law (Article 26.),
17. provide tourist guide services contrary to stipulation of Article 30. paragraphs 1. and. of this Law,
18. does not provide tourist guide services in accordance with issued certificate or does not visibly display tourist guide identification card during services providing (Article 32. paragraph 1.),
19. provide tourist escort services and do not fulfill the conditions referred to in Article 34. paragraph 1. of this Law, or during providing tourist escort service does not have in possession a certificate on passed examination for tourist escort (Article 35. paragraph 3.),
20. provides tourist event organizer services and does not fulfill prescribed conditions (Article 38.) and does not have in his/her possession a certificate on passed examination for tourist event organizer (Article 39. paragraph 3.),
21. does not inform service provider on tourist representative, his authorities and all changes which have occurred (Article 40. paragraph 2.)
22. does not provide individual services in nautical tourism in accordance with prescribed conditions or does not provide services in a prescribed manner (Article 47. paragraph 2.),
23. provides services in nautical tourism without permission of the department in charge in accordance with location of service provision (Article 47. paragraph 3.),
24. provider of other tourist services referred to in Article 58. paragraph 1. of this Law does not insure service users from injury and death or does not provide services according to the prescribed conditions and at prescribed location (Article 58. paragraph 2. and 3.),
25. provide services referred to in Article 58. paragraph 1. of this Law contrary to the provisions of Article 59. of this Law,
26. does not provide individual services referred to in Article 60. paragraph 1. of this Law in accordance with prescribed conditions or does not provide services in a prescribed manner (Article 60. paragraph 2.)

For infringement referred to in paragraph 1. A natural person, as well as the person in charge, that is manager of a legal entity will be penalized and fined from 100 euro to 500 euro.

For infringements referred to in paragraph 1. of this Article, a tourism inspector may penalize a manager in the location where the infringement took place, with a fine of 80 euro.

## VI PENALTY CLAUSES

### Penalty clauses for tourism services

#### Article 116.

For infringements referred to in Articles 111. and 112. of this Law repeated within two years from legal validity of the infringement decision, along with a fine, protective measure of ban on tourism services provision for legal entity or natural person for the duration of up to one year will be ordered.

### Protective measures

#### Article 117.

A fine of 2,000 euro to 12,000 euro will be issued for infringement by a hospitality industry provider, that is other persons referred to in Article 60. paragraph 2. of this Law, if:

1. does not provide contracted accommodation service or does not provide the service in accordance with substantial elements of contract (so called over-booking),
2. does not fulfill the conditions referred to in Article 61. paragraph 1. of this Law or if services are provided to persons who are not its employees, members, pensioners nor immediate family members of their employees, members and pensioners residing in the Republic of Montenegro (Article 61. paragraphs 1. and 2.),
3. the facility in which hospitality industry services are offered does not comply with regulations of this Law and other regulations (Article 61. paragraphs 1. and 4.),
4. does not inform the department in charge when providing hospitality industry services in a closed type facility (Article 61. paragraph 3.),
5. carries out hospitality industry activity which, in the context of its activity, that is, according to regulations, special usance in hospitality industry and business practices does not have rights to perform or if its business activity is not regulated according to provisions of Article 63. of this Law,
6. hospitality industry facility does not fulfill minimal-technical conditions with regard to: arrangement, equipment or maintenance of hospitality industry or service provision for that type of hospitality industry facility or conditions with regard to staff employed in hospitality industry facility, or if the health conditions for operation and hospitality industry service provision are not fulfilled according to special regulations, or if during the operation hospitality industry which is categorized ceases to fulfill any of the obligatory elements and measurements for established type of hospitality industry facility or if type and category of hospitality industry facility are not displayed in a regulated manner (Article 74. and Article 77.),
7. hospitality industry facility that ceases to fulfill the conditions prescribed for certain type and category of facility and continues to operate as that type and category of hospitality industry facility (Article 74, paragraph 8.),
8. rents out to guest rooms, apartments and holiday houses with more than 10 rooms, that is 20 beds, organizes a camp for more than 10 accommodation units, that is 30 guests at the time (Article 83. paragraph 1., points 1. and 2.),
9. provides breakfast, semi-board or full boarding services contrary to provision of Article 83. paragraph 2., of this Law,
10. facility in which services are provided does not fulfill the minimal-technical conditions and categorization conditions (Article 84.),

For infringements referred to in paragraph 1., a natural person, as well as the person in charge, that is manager in legal entity will be penalized and fined from 200 euro to 900 euro.

For infringements referred to in paragraph 1. of this Article, a tourism inspector may issue a fine in the location where the infringement took place, at the amount of 120 euro.

### **Penal clauses for caterers**

#### **Article 118.**

A fine of 500 euro to 3,000 euro will be issued for infringement by a hospitality industry provider, that is other persons referred to in Article 3. of this Law, if:

1. offers accommodation service, meals, drinks and beverages, but is not a member of rural household, or if accommodation services are provided contrary to provision of paragraph 1., Article 89. of this Law, or if prepares and serves hot and cold meals, drinks and beverages which are not mainly from personal production, or if service of food is provided (Article 51. paragraphs 1., 2. and 3.),
2. does not clearly display at the entrance to the hospitality facility a notice of prescribed particulars and category of the hospitality facility (Article 66. paragraph 1, point 1.), confirmed by decision of the responsible department, that is Ministry in charge of Tourism or if a notice of type and category of hospitality industry facility for which he/she does not have the decision by the responsible department, that is the Ministry in charge of Tourism is displayed (Article 71. paragraph 1., point 1.),
3. does not clearly display at the entrance to the hospitality industry facility the working hours, or if that notice is not in accordance with the prescribed working hours (Article 66. paragraph 1., point 2.),
4. does not confirm house rules within the hospitality industry facility for accommodation and does not display it at reception or does not display a summary of house rules in all rooms and apartments (Article 66. paragraph 1., point 3.),
5. does not confirm standards for use of supplies, drinks and beverages for specific meals, drinks and beverages or do not provide quality and quantity services in accordance with standards, or do not show standards to guest upon request (Article 66. paragraph 1. point 4.),
6. in hospitality industry facility which provides services to nudists along with the facility name does not also display a sign that the facility provides services to nudists or provides those services in an area which were not assigned by the department in charge (Article 66. paragraphs 4. and 5.),
7. visibly display prices for services which are offered in the hospitality industry facility, in a manner available to guests, or if he/she does not comply with displayed and published prices, or when providing accommodation services the price list does not contain the amount of dwelling tax, and if the price lists are not made available to guests in a sufficient number of copies (Article 66. paragraph 1. point 5.),
8. does not issue the guest with an itemized receipt for every service provided containing type, quantity and prices of provided services, and when offering accommodation services does not state the amount of dwelling tax (Article 66. paragraph 1. point 7.),
9. does not comply with the prescribed working hours (Article 66. paragraph 1., point 7.),
10. does not submit the standards for verification by the Ministry in charge of Tourism or commences applying them prior to determined term (Article 66. paragraph 1., point 9.),
11. does not keep the guests' book in the hospitality industry facility for accommodation (Article 66. paragraph 1., point 10.),

12. the Book of complaints are not kept in a prescribed form in content and in a prescribed manner and if this Law that determines terms of procedure after the guest's complaint is not obeyed (Article 66. paragraph 1., point 11.),
13. serves alcoholic drinks to a guest younger than 16 years of age (Article 67.),
14. provides simple hospitality service in an ambulant manner, and does not serve confectionary meals or does not serve non-alcoholic drinks, beverages and ice-cream in accordance with hygienic requirements, or if alcoholic drinks are served or if simple hospitality services are provided in an ambulant manner in an area where they cannot be provided, or if simple hospitality services are provided in an ambulant manner, and do not fulfill the prescribed minimal conditions (Article 68. paragraph 2., 3. and 4.),
15. does not appoint the manager of hospitality industry facility according to provisions referred to in Article 76. of this Law,
16. a manager of hospitality industry facility does not fulfill prescribed conditions (Article 76.)
17. does not provide hospitality industry service in a mobile facility in a prescribed manner or does not fulfill prescribed conditions or provides hospitality industry service in a mobile facility at a location not established by department in charge (Article 79., paragraph 1., 3., and 5.)
18. does not provide hospitality industry services under a tent, on benches etc in prescribed manner or does not fulfill prescribed conditions (Article 80. paragraphs 1., 2., and 4.)
19. camps outside the camping site or assembles a tent, caravan, camper van and other camping equipment with the purpose of camping outside the camping site (Article 81. paragraphs 1. and 2.),
20. provides services referred to in Article 51. 83. and 91. of this Law and does not fulfill the prescribed minimal-technical conditions, that is conditions for categorization, or offers without obtained approval from department in charge, except in case from Article 88. paragraph 2. of this Law (Article 51. paragraphs 4. and 5., Article 84. paragraph 1., Article 87. paragraphs 1.),
21. does not clearly display the type and category of facility established by the decision of department in charge (Article 85. paragraph 1. point 1.),
22. does not clearly display services offered with prescribed signs at the entrance to facility or in its immediate proximity (Article 85. paragraph 1. point 2.),
23. does not confirm standards for supplies, drinks and beverages, if those services are offered and does not provide services according to prescribed standards, and does not upon request by the guest present the standards (Article 85. paragraph 1., point 3.),
24. does not clearly display price list for services offered and the amount of dwelling tax, in the prescribed and usual manner, and if he/she does not comply with the displayed prices (Article 85. paragraph 1., point 4.), ,
25. does not issue the guest an itemized receipt which contains type, quantity and price of each provided service, and when providing accommodation services quote the amount of dwelling tax (Article 85. paragraph 1., point 6.),
26. does not keep a Registry of guests (Article 85. paragraph 1. point 6.),
27. does not submit standards and price lists to the Ministry in charge of Tourism for verification, responsible department or does not submit standards and price lists in a determined period (Article 85. paragraph 1. point 7.),
28. becomes an employer and employs persons who are not members of his household (Article 86. paragraph 2.),
29. household members of natural person who assist in offering services do not fulfill prescribed health conditions for work in the hospitality industry in accordance with special regulations (Article 86. paragraph 3.),

30. serving food, drinks and beverages on sailing facilities for more than 20 guests at the time (Article 91. paragraph 1.),

31. services on sailing facilities offered in ports, quay and anchorage, or when a sailing vessel cruises outside of ports and anchorages, to persons who have not embarked the sailing facility for transport purposes (Article 91. paragraph 2.).

For infringements referred to in paragraph 1., a natural person, as well as the person in charge in legal entity, that is manager, will be penalized and fined from 100 euro to 500 euro.

For infringements referred to in paragraph 1., of this Article, a tourism inspector may fine a person in charge in legal entity and a manager in the location where the infringement took place, with a fine of 80 euro.

### **Protective measure**

#### **Article 119.**

For infringements referred to in Articles 117. and 118. of this Law repeated within two years from legal validity of the infringement decision, along with a fine, protective measure of ban on tourism services provision for legal entity or natural person for the duration of up to one year will be ordered.

## **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 120.**

Existing legal entities and natural persons who provide tourist agency services on the effective date of this Law, continue the operation, however they are obliged to, within the period of one year from the date of application of this Law, adapt their operation with provisions of Articles 7. and 20. of this Law.

If legal entities and natural persons referred to in paragraph 1. of this Article do not adapt their operation with provisions of Articles 7. and 20. of this Law in the mentioned period, the department in charge will make a decision on ban to provide tourist agency service.

#### **Article 121.**

Existing persons who do not fulfill condition prescribed by Article 20. paragraph 3., point 7. of this Law may perform tourist agency manager duties under the condition that within the period of two years from the effective date of this Law pass the professional examination or obtain, from the Ministry in charge of Tourism, the document which exempts them of this duty.

In exceptional circumstances, the Ministry in charge of tourism may exempt from the duty to take professional examination persons who have more than 10 years' of continuous working experience in managerial positions in tourism trade and hospitality industry.

**Article 122.**

Tourist guides are obliged to replace existing identification cards with new ones, within a period of six months from the effective date of regulations referred to in Article 32. paragraph 2. of this Law.

**Article 123**

Caterers providing hospitality industry services on the effective date of this Law are obliged to obtain the decision referred to in Article 77. paragraph 2. and Article 74. paragraph 3. of this Law within a period of one year from the effective date of regulations referred to in Article 69. paragraph 2. of this Law.

A caterer who does not obtain the approval referred to in paragraph 1. of this Article, loses rights to provide hospitality industry services in hospitality industry facility.

The department in charge, that is the Ministry in charge of Tourism, will make a decision on ceasing of hospitality industry activity to the caterer referred to in paragraph 2. of this Article.

**Article 124.**

Legal entities and natural persons referred to in Article 61. paragraph 1. of this Law who provide services in holiday resorts, facilities for providing food and similar are obliged to apply to the responsible department of local government within a period of one year from the effective date of this Law.

Other business societies and other legal entities and entrepreneurs who provide food and accommodation services to its members, pensioners, as well as the members of immediate families of its employees, members and pensioners, under the conditions established by this Law and other regulations, in the closed type facilities ((holiday homes, canteen etc) and with the head office, that is residence is not in Montenegro, must register to provide hospitality industry services in accordance with this Law until 31.12.2003.

**Article 125.**

Natural persons who on the effective date of this Law provide hospitality industry services in household are required to obtain an approval on fulfillment of minimal conditions and conditions for category for facilities where the service is provided within the period of one year from the effective date of regulations referred to in Article 84. paragraph 2. of this Law.

A natural person who does not obtain an approval referred to in paragraph 1. of this Article loses the right to provide hospitality industry services in the facility.

The responsible department of local government makes a decision on ceasing of hospitality industry provision to the natural person referred to in paragraph 2. of this Article.

**Article 126.**

Caterers who on the effective date of this Law provide simple hospitality industry services, or provide hospitality industry services from a kiosk continue to operate, however they are

required to obtain an approval for operation within the period of no more than six months from the effective date of this Law.

A caterer who does not obtain an approval referred to in paragraph 1. of this Article loses the right to provide hospitality industry services in facilities referred to in paragraph 1. of this Article.

The department in charge will make a decision on ceasing of hospitality industry provision to the caterer referred to in paragraph 2. of this Article.

**Article 127.**

Until the issuing of decision referred to in Article 126. paragraph 1. of this Law for the facilities that provide simple hospitality industry services, as well as the facilities that provide hospitality industry services from kiosk or in mountaineers home, the conditions prescribed by the responsible department of local government prior to effective date of this Law will apply.

**Article 128.**

Caterers are required to appoint a manager in every hospitality industry facility according to this Law within the period of two years from the effective date of this Law.

Existing persons who do not fulfill the conditions prescribed by the Article 76. of this Law may perform the duties of manager (director etc.) of hospitality industry facility under the condition that within two years from the effective date of this Law pass the professional examination.

In exception to provision of Article 71. paragraph 1. of this Law, the manager who does not have prescribed qualifications may manage the hospitality industry facility if he/she proves that he/she worked on corresponding duties in hospitality industry and that he/she is professionally capable to perform hospitality industry activities according to special regulations.

In exceptional circumstances, the Ministry in charge of Tourism may exempt persons from the duty to take professional examination who have more than 10 years' of continuous working experience in managerial positions in tourism trade and hospitality industry.

**Article 129.**

The responsible department of local government is required to bring regulations according to the authorization referred to in this Law within the period of one year from the effective date of this Law.

**Article 130.**

The regulations according to the authorization referred to in this Law will be brought by the Ministry in charge of Tourism within a period of six months from the effective date of this Law.



**Article 131.**

Until the effective date of regulations referred to in the previous Article, the corresponding regulations brought for execution of Law on Hospitality Industry and Tourism Trade apply ("Official Gazette of Republic of Montenegro", issue 16/95).

**Article 137.**

With the effective date of this Law, the Law on Hospitality Industry and Tourism Trade ceases to be effective.

This law will enter into force on the eighth day following the date of its publication in the "Official Gazette of Republic of Montenegro".

## **EXPLANATION**

### **I. Constitutional basis for this Law**

Constitutional basis for this Law is contained in stipulation of Article 12, paragraph 1, point 4, of the Constitution of the Republic of Montenegro that stipulates that the Law in accordance with the Constitution regulates issues of interest for the Republic.

### **II Reasons for this Law**

During the development of this Law, the guideline was the need to ubiquitously and precisely regulate the tourism and hospitality industry, so as to create security of operation, especially important for strategic foreign investors, without whom there would not be positive development movements in this field. Also intended by way of this Law was to make measures and resources for promotion and tourism development improvement plan more precise, all in the aim of moving from point zero and successfully inciting domestic and foreign tourists, who would finally, after such a long time, feel comfortable and safe. In order to achieve these ambitions it is necessary to properly identify problems in this field and solve them. However, we are aware that this is not enough, even the change of Law does not automatically provide improvement, there are other significant presumptions and elements which have long been overlooked, though they were part of our social reality, so we need a certain amount of continuity in order to re-establish and develop such matters.

It may be concluded, from previous experience, that legal decisions in the field of tourism, have not treated tourism in an adequate manner. Furthermore, previous Laws did not respect the fact that a strategic business field was in question. There are many certainties, indicators and attributes within an attractive industry such as tourism, but the present legal framework in this area, despite its doctrinarism, legal-technical correctness, may be significantly objected.

The existing Law on the Tourism and Hospitality Industry was brought in the year 1995 and it is, from a theoretic view, essentially a complete Law, which was supposed to fulfill

expectations, but in reality caused new types of problems with regard to quality and quantity, and from year to year further endangered our tourism offer. Hence, we were of the opinion that the many reasons to change the Law, that is, the need for a new Law, and conscious of certain dilemmas and risks which this task carries, we approached its realization.

Objectively, a contributing factor for the need to change the existing Law on the Tourism and Hospitality Industry, are the changes which have occurred over the past few years since its enactment, to the social-political, economic situation in our country and occurrences in its surrounding areas.

Major changes of system in all facets of society requires adjustment of the entire existing legal infrastructure to suit new needs, a new way of thinking and business methods – in order to define and differentiate new values with the aim to successfully bridge our experience and comparative experience and legislation, above all with countries of the European Union.

We think that this Law, which in an all-encompassing manner regulates the tourism and hospitality industry and provides more precise measures and resources in the area of promotion and improvement of tourism development, has successfully solved this.

The main reasons for the enactment of this Law are contained in the realization of these presumptions:

- for the protection of foreign investors in the field of tourism;
- for quality regulation in the field of tourist agencies' service provision as well as hospitality industry services' provision and accommodation services;
- for defining total stimulation measures and directing the development of lesser developed tourism regions and specific forms of tourism;
- for successful functioning of inspection services and the entire supervision of the implementation of this Law with a significant restrictive penal policy in order to prevent gray economy in the field of tourism **and** the legalization of total tourism turnover, also the main reasons for enactment of this Law.

This Law respects the directives of the European Union in the field of tourism and hospitality industry, which is also the reason for enactment of this Law. Regulation of the Council of the European Union no. 295/91 of 04.02.1991; Directives of European Union no. 314/90 of 13.06.1990 which relates to travel, holidays and travel deals (“all inclusive”); International convention which relates to contract on travel; Directives of the European Union no 641 of 10.12.1984 and Directive no. 343 –344 of 22.06.1987 (relating to tourist insurance)

Also, taken into consideration was experience and legislation of neighboring countries (Croatia, Slovenia, Serbia, BiH) that were successfully incorporated in our Law, and represent a major breakthrough toward the standards in the field of tourism of the European Union. With regard to this, it must be mentioned that this Law in its structure, mainly relies on the positive experiences of Croatia, which showed positive results in practice, while respecting our needs, all specifics and objective limitations.

### III. EXPLANATION OF BASIC LEGAL INSTITUTES AND CONCEPTS

Provisions of this Law have been classified by chapters which makeup its subject and in which the basic institutes are contained.

1. General provisions, as the first chapter (Articles 1. and 2.) establishes the subject of the Law and defines basic concepts: tourism activity, hospitality industry activity and activities and measures for promotion and development of tourism.
2. The second chapter (Articles 3. to 60.) precisely regulates the entire field of tourism activity. Namely, general provisions (Article 3.) establish tourism activity subjects and subjects of their activity, as well as the conditions for providing services, and the duties of subjects are itemized as well other subjects of the tourism trade (Articles 4. and 5.). Also, in Article 6. the meaning of terms was provided: traveler; tourist package deal; excursion program, tourist agency; tourist agency – intermediary (subagent), tourism location, tourism region, over-booking; healing locations, spas, rehabilitation centers and healing factor, which is in accordance with the definition of these terms in the directives of the European Union.

Justifiably, this Law gives particular emphasis to the term tourist agency (Articles 7. to 25.), as the main carrier of organized tourism turnover, considering their importance, presence in business and previous inadequate legislation, especially the aspect of protection of foreign and domestic tourists and tourism of the Republic in general. The Previous Law on tourism and hospitality industry regulates the activity of tourist agencies within the framework of tourism trade, but in comparison with the new provisions of this Law the differences are huge, as, according to this Law, tourist agencies are regulated in detail, which resulted from the need for protection of tourist agency professional status and achieving more efficient protection of service users. Above all, the newness of this Law must be emphasized with regard to tourist agencies which are contained in the following: defining the term of tourist agency, indicating the sign of “tourist agency” (Article 8.), wider definition of services, types of tourist agency, regulation of issues with regard to school excursions, the duties of a tourist agency have been itemized.

An important newness of this Law is the institute of License and the manner in which it is issued and withdrawal (Articles 13. to 16.). A License represents previous permission – approval that is issued by the Ministry of Tourism on the request of a tourist agency. Namely, the duty of obtaining a license for tourist agencies was prescribed, which contributes to greater traveler security, and provides the Ministry of Tourism the necessary review of the number of active tourist agencies that fulfill prescribed conditions and to which a license was issued. This Law prescribes the conditions for licensing and method of issuing a license, and they will be developed in other regulations based on this Law. A license may be obtained by tourist agencies that are registered as business societies in the Central Registry of the Business Court. The Ministry of Tourism on request by the travel operator issues a license. The term for issuing a license is within 15 days from the day of submission of application for request of license. Validity of license is 5 years and when that term expires, the travel organizer repeats the request for license issuing procedure. A license is recorded in the Registry of Tourist Agencies that is managed by the Ministry of Tourism and published in the Official Gazette of the Republic of Montenegro. In order to provide

better quality of operation of tourist agencies, the Ministry of Tourism was given the right to withdraw a license in the following cases: if the travel organizer, during the period of license validity, ceases to fulfill the conditions for provision of services of organized tourist travel, or if the travel operator does not carry out the activity in accordance with the conditions and in a manner prescribed by this Law, or if, during the validity of the license, it is fined more than for the infringement for not complying with the duties prescribed in Articles 16. and 22. Also, it is prescribed that the withdrawal procedure is immediate. In the case of license withdrawal for the reasons referred to in Article 15. paragraph 1. the travel operator may not submit a request for re-issue of license before the expiry of one year from the day of enactment on license withdrawal.

This Law, as in previous Laws in order to secure efficient protection a tourist (traveler), that is service user, the duties of the travel operator toward the traveler have been established. Namely, a travel operator is required to confirm the general terms of travel and to provide the travel program in written form, to make them available to a traveler and to comply with the rules (Article 16.). General terms of travel regulate mutual rights and responsibilities of a traveler and a travel organizer. The Law determines the elements that must be contained in general terms of travel. A travel program must contain all data and information that enable the traveler to be informed of the content of package tour and its included services.

Of particular importance is the new prescribed duty for a travel operator, taking into account problems in practice, that tourist agencies – travel operator must present excursion programs for children and youth to parents, that is guardians. Also, with the aim of providing necessary legislative conditions for adequate protection of pupils and other school age population, and due to the importance of this issue and evident problems in practice, a suggestion is that the school should invite tenders for the organization of travel. The Ministry in charge of education may prescribe special conditions for travel and package deals. Nature School, graduation and end of primary school excursions, as well as the other organized Educational and sports events, carried out during the school year, are an integral part of the school curriculum and are determined by the Ministry in charge of Education.

This Law, as opposed to the previous one (Articles 17. and 25.), regulates conditions for providing service by tourist agencies, and thus provides greater security for travelers. The Prescribed service conditions are with regard to: providing transport, providing tourist escorts and guides, branch offices, staff, insurance and guarantee. A tourist agency is obligated to provide transport: with its own means of transport or by means of transport owned by other legal entities or natural persons who are registered in the Republic of Montenegro for transport of passengers.

For group travel of 15 and more travelers, a tourist agency is obligated to provide a tourist escort and guide who fulfill conditions prescribed by the Law.

A tourist agency is also required to provide services to travelers within premises – branch office, that fulfill minimal-technical conditions, prescribed by the Ministry of Tourism.

The matter with regard to staff is regulated in a manner in which, the tourist agency is obligated to have a manager in every branch office, who must have, apart from the

general conditions for employment, at least a high school certificate in a corresponding field, at least three years' experience in the tourism field, knowledge of at least one foreign language and has passed the professional examination, which is taken according to the program and before a panel that has been determined by the Ministry of Tourism.

During the providing of its services a tourist agency is required to use means of transport in which the passengers and baggage are insured, and also to use hospitality industry facilities in which the users of services are insured (Article 21.).

Guarantee as a legal institute (Article 22. and 23.), is the new to this Law, and was, among other things, one of the reasons for this Law, as it brings security and professionalism to services of tourist agencies. Guarantee represents certainty that the user of services that is the traveler will be compensated in the case of complete or partial non-provision of services included in the tourist deal. A tourist agency is required to provide guarantee for every tourist package deal, so as to enable the traveler compensation in the case of eventual damage. Guarantee is given in the form of an insurance policy, cash deposit or bank guarantee. General terms of travel, that is a travel program define the term in which a tourist agency – travel operator is obligated to compensate the traveler, and it cannot be longer than 30 days from the day the traveler lodged the complaint. A traveler attains his/her right to compensation for damage on the basis of the certificate of guarantee, which is the duty of a tourist agency to provide.

Cases in which a tourist agency ceases to operate are regulated by Ministry of Tourism and have been itemized in Article 24.

This Law, in detail, defines the terms, services and conditions for provision of tourist guide, tourist escort, tourist event organizer and tourist representative services, as opposed to the previous Law (Articles 25. to 42.). Compared to the previous Law, which regulated provision of these services, completely new solutions have been introduced, such as the professional examination curriculum for tourist guide, tourist escort, and tourist event organizer that is now the responsibility of the Ministry of Tourism. Tourist guide, escort and event organizer services within a package tour are carried out under a previously established program, and may only be directly implemented by a person who is in possession of a certificate of pass of professional examination and is in possession of identification for provision of these services, issued by the Ministry of Tourism.

Provisions which regulate concept, authorization and operation of tourist representative (Articles 40. and 41.) are the completely new in this Law. A tourist representative is a natural person who represents a domestic or foreign travel operator or intermediary, in destinations of travel. It is the prescribed duty of an organizer, or intermediary, to inform the service provider in written form about the tourist representative, his/her authorizations and all occurring changes. The Ministry of Tourism manages the Registry in which contracts on representation are registered, that are submitted to the Ministry by the tourist representative.

With regard to the form of tourism services, the previous Law only regulated nautical tourism services and services on the skiing field. The new Law also envisages these two forms of tourism services, but the difference is that the approach to their regulation is much more elaborate, hence for services on the skiing field, along with the definition of concept it also envisages duties of a legal entity, that is the entrepreneur who provides those services (Article 43.).

Nautical tourism is also entirely regulated by the new Law (Articles 44. to 50.), hence nautical tourism services provided in a manner and in accordance with minimal

conditions prescribed by the Ministry of Tourism are itemized. Article 45 of the Law prescribes facilities for providing nautical tourism services, which was not the case in the previous Law, in which that issue was regulated by way of the Rulebook on types of nautical tourism facilities, minimal-technical conditions and their categorization only ("Official Gazette of Republic of Montenegro" no 42/95). The facilities for providing nautical tourism services are reception and sailing facilities that must fulfill prescribed conditions for individual type and category. Nautical tourism facilities are divided into types, and individual types are categorized. The Ministry of Tourism was authorized by way of this Law to prescribe: type and category of reception and sailing facilities of nautical tourism; minimal-technical conditions which must be fulfilled; procedure and manner of their categorization; issuing of work permits, but only for nautical tourism facilities that are categorized, other non categorized nautical tourism facilities require a work permit which is issued by the local authority in accordance with the facility's location, upon request by the service provider. Also, Article 47. prescribes that certain nautical tourism services may be provided by a natural person in a manner and under the conditions prescribed by the Ministry of Tourism. Approval to provide certain nautical tourism services by a natural person is issued by the local government in the form of a decision that is submitted to the Ministry of Tourism, which prescribes the form, content and method for keeping the Registry of approvals for providing services by a natural person. The Decision with regard to approval is registered, and is managed by the local authority. Article 49. contains itemized cases of the end of validity approval, which is decided by the authority in charge.

The new Law regulates the fields of agro-tourism, health tourism, youth tourism and also lists other forms of tourism services (Article 50. to 60.), and subject to those regulations prescribes conditions for natural persons as providers of other tourism services, unlike in the previous Law. The proposed Law opted for prescribing these forms of tourism services considering that they had not been previously regulated and given the unexploited potentials while estimating future importance of these services toward the entire tourism offer of the Republic. The legal regulation of these services has resulted in a basis for corresponding by-laws, which will fully regulate this area of tourism services that are, among other services, envisaged by the Master plan of tourism development.

**3.** The third chapter of this Law (Article 60. to 92.) regulates the hospitality industry. In context of provision of Article 60 of this Law (subjects), hospitality industry services may be provided by business societies, other legal entities and entrepreneurs, and under the conditions prescribed by this Law and other regulations based on it, some types of hospitality industry services may be provided by hospitality educational institutions, pupils and students' homes, as well as by natural persons who are registered to provide hospitality industry services.

Also, business societies, other legal entities and entrepreneurs may, under the conditions prescribed by this Law, organize accommodation and meals' services for their employees, family members, members, pensioners etc. (Article 61. paragraph 1.) in closed type facilities, and are required to report such activity to the responsible department of local government, which will register that in the Registry for providing hospitality industry services by legal entities and natural persons.

The Ministry of Tourism prescribes minimal-technical conditions for providing hospitality industry services. This Law determines the legal framework for operation of caterers, which is also stipulated by other regulations, Special usance and other business customs. Also, the Law prescribes time periods for providing services,

working hours, and duties of caterers, in order to protect the user of services, which are itemized (Article 61. to 66.). Sanctioning is implemented through penalty clauses.

The caterer is prohibited to serve alcoholic drinks to a guest who is younger than 16 years of age (Article 67.), which is new, as the previous Law did not envisage this. This obligation – the ban is in accordance with the Constitution of the Republic of Montenegro, is fully justified with regard to health protection of younger population, and the only obstacles are of cultural and traditional comprehension of this issue.

It is also possible to provide simple hospitality industry services in an ambulant manner (Article 68.), in accordance with regulations on technical and health conditions of the responsible department of local government which, compared to the previous Law, is new.

In order to carry out hospitality industry activities and to provide hospitality industry services, minimal-technical conditions must be fulfilled (Article 69.). The Ministry of Tourism will regulate the minimal-technical conditions that must be fulfilled by a hospitality industry facility, and will also regulate conditions for preparing and serving meals for intake in other locations (catering).

In the context of this Law, hospitality industry facilities are facilities for accommodation and hospitality industry facilities for catering, and are divided into three groups: 1. basic accommodation facilities; 2. complementary accommodation facilities and 3. hospitality industry facilities for providing food and beverages. Each of these three groups of hospitality industry facilities is divided into subgroups (Article 71.).

By way of a special Act The Ministry of Tourism also establishes types of categorized hospitality industry facilities for accommodation, categories, elements and measures for categorization and method of categorization of hospitality industry facilities. The category of hospitality industry facility is determined by the Act of the Ministry of Tourism, upon a caterer's request, and the hospitality industry facility may commence operation when the responsible department has determined the category. The Act on determining category of hospitality industry is made within 15 days from the day the request for categorization was submitted. An appeal against the Act referred to in paragraph 1. of this Article is not allowed, however an administrative suit may be initiated. At the entrance to every hospitality industry facility the prescribed particulars with regard to type and category of the facility must be displayed. The Ministry in charge of tourism manages the Registry of categorized hospitality industry facilities (Article 72.).

The Ministry of Tourism's Act determines the category of hospitality industry facilities: hotel, hotel complex, tourist apartments, apartment complex, motel, bed and breakfast, villa, residence and camp. The other types of hospitality industry facilities are the responsibility of a department of local government (Article 73.).

The procedure of categorization is regulated by provision of Article 74. of this Law, so the hospitality industry facilities for accommodation are categorized according to interior, equipment, devices, service, maintenance and other elements and measures of categorization. The symbol for a category of particular hospitality industry facility for accommodation is a star. The Act that determines the category of hospitality industry facility is issued with a 5-year validity and the Act is held in every facility in which the category has been established. If within the period for which the Act that determines category of hospitality industry facility is valid, a change to the subject who carries out services in the facility occurs, the new subject who will carry out services is obligated to, prior to commencing services, obtain the document that determines the category. If a deviation, within the period of 5 years, from prescribed standards for categorization of hospitality industry facility assigned occurs, with regard to

order, equipment and service quality the caterer is obliged to, within the period of eight days submit a request in order re-categorize the facility. A hospitality industry facility that ceases to fulfill the conditions prescribed for particular type and category of facility may not operate as that type and category of hospitality industry facility.

A hospitality industry facility may have one or under exception two types of hospitality industry facility titles, depending on the type of services that are mainly provided in the facility, if it fulfills, for each type of service, the conditions prescribed by this Law and other regulations.

For every hospitality industry facility the caterer must have a manager who is responsible for the facility's operation, who fulfills conditions prescribed by the Law.

The Ministry of Tourism issues the license for a hospitality industry facility referred to in Article 73. paragraph 1., after establishing a decision with regard to the fulfillment of minimal-technical conditions and conditions for category of hospitality industry facility within 30 days from the day the request was submitted. A license is registered in the corresponding Registry that is managed by the Ministry of Tourism. A license for hospitality industry facilities, referred to in Article 73. paragraph 2. is issued by the responsible department of local government, after it establishes its decision with regard to the fulfillment of minimal-technical conditions within 15 days from the day the caterer submitted a request. This license is also registered in the necessary Registry, which is managed by the responsible department of local government, and its form, content, and method of managing is prescribed by the Ministry of Tourism. An appeal against the decision on fulfillment of minimal-technical conditions is not allowed, however and administrative suit may be brought (Article 77.).

If the responsible department does not issue approval within the prescribed term or does not make a decision that the request is rejected due to failure to fulfill the prescribed conditions, a caterer may commence work in the hospitality industry facility and is required to inform the responsible department in written form, prior to that. The responsible department is required to make a decision within 30 days from the day of received notice.

If the responsible department establishes that the conditions prescribed by this Law are not met, and the caterer commences with work, it will be considered that the activity is performed contrary to the stipulations of this Law (Article 78.).

Some hospitality services may be offered in a mobile facility (Article 79. a facility which may be moved from one location to another by driving or trailing) that is not considered a hospitality industry facility in context of Article 71. of this Law, if it fulfills minimal-technical conditions, which will be prescribed by the Ministry of Tourism, which conditions must be fulfilled by these facilities, types and methods of offering hospitality services from those facilities, and the responsible department of local government establishes the fulfillment of these conditions.

Hospitality industry services may be offered under a tent, on benches, etc. if the minimal-technical conditions are fulfilled, which are prescribed by the responsible department of local authority, which establishes the fulfillment of conditions. Also, the responsible department of local government establishes which food, drinks and beverages may be offered in these facilities (Article 80.).

Camping, in the context of this Law (Article 81.), is considered as the accommodation of persons under a tent, in a camper van, caravan or other corresponding facilities for accommodation in an open area, usage of which for camping purposes is defined by Act by the responsible department of local authority. Camping is permitted strictly on the camping site, that is, it is prohibited to raise camping equipment with the purpose of camping, outside a camping site. Organized camping sites, are considered to be camping sites that fulfill the conditions regulated by categorization of hospitality industry facilities for accommodation



(categorized camping sites). With exception camping is allowed on land that is temporarily appointed for camping site (Article 82.), which is appointed by the responsible department of local authority. The Act which appoints land for temporary camping sites determines the camping organizer, period for which the land may be used for camping and minimal-technical conditions which must be fulfilled.

By provision of Article 83, under the conditions established by this Law and other regulations, a natural person may: rent out guest rooms, apartments and holiday houses to guests, which are in private ownership or possess rights of use, up to no more than 10 rooms, i.e. 20 beds. A natural person may also provide breakfast; semi-board or full boarding only to guests renting his/her rooms, apartments and holiday houses. A natural person rents out rooms, houses and holiday flats through a tourist agency or registered tourist business, or hospitality industry activity, according to contract with that entity.

To provide hospitality industry services by a natural person in household facilities referred to in Article 79. of this Law, minimal-technical and category conditions must be fulfilled. The Ministry of Tourism will prescribe minimal-technical conditions, categorization conditions, elements and criteria and method of categorization of individual facilities. In order to protect the user of hospitality industry services, a natural person who offers services that are referred to in Article 83. of this Law, is obligated to comply with the duties that are itemized in Article 85. and noncompliance of these duties is sanctioned in the penalty clauses of this Law.

A natural person may be helped by members of his/her household when providing services (Article 86.). A natural person who offers services may not be the employer nor use the services of persons who are not members of his/her household, and members of the household must meet health conditions that are required in order to work in the hospitality industry, in accordance with special regulations. A natural person is obligated to obtain approval from the responsible department of local government. Approval will be issued to a natural person who fulfills the conditions prescribed by Article 87 of this Law. Approval may be issued to one member of a common household only.

The responsible department of local government must make a decision with regard to approval in the form of written decision within 15 days of the day of application. If the responsible department of local government does not make a decision within the prescribed term or does not make a decision rejecting the application due to failure of fulfilling prescribed conditions, a natural person may commence providing service, and is obligated to inform the responsible department of local government in written form prior to that. The responsible department of local government is obligated to make a decision referred to in paragraph 1. of this Article within 30 days from the day of receipt of information referred to in paragraph 2. of this Law. If the responsible department establishes that the conditions prescribed by this Law are not fulfilled, and a natural person has commenced work, it will be considered that he/she provides services contrary to the stipulations of this Law.

The decision to allow providing service by natural persons in households is entered in the Registry of hospitality industry services provided by natural persons in households, which is managed by the responsible department of the local authority. The Ministry in charge of Tourism will prescribe the form, content and methods of keeping the Registry with regard to providing hospitality industry services by natural persons in households. Approval to provide services by natural persons in households ceases to be valid upon notice of departure by natural person, if the natural person does not commence providing service within the six month period from the day the decisions legal binding approval commences, if any of the conditions referred to in Article 87. paragraph 2. of this Law is not fulfilled, if inspection confirms that conditions prescribed by this Law are not fulfilled, or in accordance with regulations based on this Law and other regulations, and the confirmed faults are not

corrected within the establish period, if the responsible department of the local government confirms at a later date that the decision for approval was based on false information or forged documents.

Stipulation of Article 91. prescribes the providing of services on a sailing vessel. Under the conditions established by this Law and other regulation, a natural person may offer services of food, drinks and beverages on his/her own sailing vessel for up to 20 guests at a time. The services may not be offered by a natural person at ports, quay and anchorage, nor in the case when a sailing vessel cruises outside of ports and anchorages, to persons who have not embarked the sailing facility for transport purposes. The Ministry of Tourism will prescribe minimal conditions, as well as the method for establishing the minimal conditions that must be fulfilled by these facilities. For providing service on sailing vessels in a proper manner, stipulation referred to in Articles 84. to 90. of this Law applies.

4. The fourth chapter of this Law regulates the status of the Tourism Organization of Montenegro, so the provisions, taken from the previous Law, of Article 92. establish its concept. In order to improve and promote the tourism trade of the Republic of Montenegro, its municipalities and business interests of legal entities and natural persons in the hospitality and tourism trade and directly associated activities, the Assembly of the Republic of Montenegro can establish a Tourism Organization of Montenegro as a public institution. The founding Act of the Tourism organization of Montenegro will state the title and the seat of Tourism organization, Tourism organization activity, funding methods of Tourism organization, property of Tourism organization, decision making and supervision of Tourism organization, time periods in which Statute and other Acts will be brought, election of management of Tourism organization, appointment of director, etc. During this year the Tourism organization will complete its reorganization program, which will be the subject of a special Law or this Law will be completed with the necessary changes and additions, until such time the Tourism Organization will continue to operate under the present system.

5. The fifth chapter of the Law is titled Directing and Stimulating Tourism Development (Articles 93. to 99.), which was not the subject of the previous Law. Based on this Law, the state, that is the Government of Montenegro, is able to realize in the field of tourism, its permanent intention that tourism is a strategic activity and priority in the development of the Republic. Provision of Article 93. determines a tourism region as the region of importance for the Republic, and in the context of this Law it is an encircled entity functional in space, determined by the Landscape Development Plan of the Republic in which an integral tourism offer can be formed. For tourism region the Government of the Republic of Montenegro produces the development program for tourism and complementary activities and provision of infrastructure in that region on proposal by the Ministry of Tourism. The decision on program development is made by the Government of the Republic. Proposal for the decision is established by the Ministry of Tourism, following a previously obtained opinion from other responsible bodies and organizations of the Republic. Funds for the development of the program are provided from the Republic's budget.

Provision of Article 94. of this Law establishes the duty to provide permanent funds from the budget for directing and stimulating the development of tourism and has itemized the use of funds provided: participation in financing the development of appropriate space plans for tourism region, participation in financing promotion activities of tourism region home and abroad, participation in financing the development projects for environmental protection, environment, natural resources and cultural heritage of tourism region, stimulation of tourism trade infrastructure development, recreational, sport and other additional contents of public character important for the improvement of quality to the tourism trade offer, development of studies and programs for completion of existing tourism trade offer and intensifying its use.

Assignment, criteria and conditions of use of funds are established by program developed by the Government of the Republic of Montenegro, following the Ministry's proposal.

Further, article 95. prescribes financing from the Republic's budget, in order to achieve valorization, saving and protecting the values of tourism in municipalities in which tourism is of particular importance for livelihood and work of its residents in the framework of its rights and responsibilities provides production of a program for the development of tourism and corresponding planning acts in accordance with regulations on planning and development of landscapes, for tourism locations in municipal territory, that is town; advance general conditions for reception and stay of tourists in tourism areas (public utilities and maintenance, encouragement of building of sports, recreational and other accompanying contents of public character of interest to tourism, etc); guidance and coordination of activities of tourism service providers toward enrichening and raising quality level of tourist and complimentary contents and creating attractive tourist environment in tourism areas; organizing tourism informative-propaganda services, cultural, sporting and other manifestations of interest to the development of tourism in municipality, that is town.

Municipality, that is town, coordinates its organization activities for tourist information-propaganda services with the programs of the Tourism organization of Montenegro.

In order to achieve stimulation of local and foreign organised tourism trade, tourist agencies may receive subvention (Article 96.) for part of the expenses for achieved organised tourism air, railway, road and sea transport. Subvention may be achieved by tourist agencies - travel operators which organise holiday programmes, organized group transport and round trips, etc under conditions and according to procedure which will be defined through special Program of stimulation measures in tourism.

Stimulation measures (Article 97.), that is subventions are introduced in order to extend the tourist season, increase use of accommodation capacity, stimulate tourist agencies for longer programs, accelerate development of tourism in particular areas of the Republic, stimulate composition of quality tourism programs and improve organized tourism turnover especially in pre-season and post-season, and in individual areas of the Republic during main tourist season.

Other forms of stimulating measures (Article 98.) are: crediting of tourism trade, relief in paying various certificates, approvals etc. that could be defined by the Program of stimulating measures.

**6.** The sixth chapter of the Law contains group of standards (Article 99. to 114.), which regulate supervision – supervision implementation, the concept of tourism inspector, the concept of authorized person, authorizations and tourism inspector authorizations, duties of legal entities and natural persons during inspection supervision. Furthermore, this chapter contains provisions which relate to initiation of procedures, decision making with regard to ban on activity, verbal decision, elimination of irregularities that have been found, of carrying out decisions, fulfillment of obligation etc.

By way of this Law the duties of Inspection supervision with regard to implementation of this Law and regulations that will be made subject to this Law, will become the responsibility of the Ministry of Tourism and will be carried out by way of tourism inspections. Tourism inspection will entirely take over authority with regard to inspection supervision in the field of tourism and hospitality that had been the authorization of the market and financial police until establishing this Law. By introducing tourism inspections the Ministry of Tourism attains the function of administrative control in its field without which there would not be quality,

specialized tourism trade and protection of tourists who use such services. In this manner, the Ministry of Tourism achieves one of the duties of state administration, which was envisaged by the Decree on organization, and methods of work of state administration. The Ministry of Tourism's administrative control encompasses: control of legality of Acts which determine the rights and duties of citizens and inspection control.

Since the founding of the Ministry of Tourism until the Decree on founding of tourism inspection, the Ministry of Tourism has carried out only partial administrative control, i.e. in the part of legality control of Acts which regulate the rights and duties of citizens (administrative procedure in the second degree), whereas inspection control was not carried out, due to non-existence of tourism inspection as its integral part. Hence, the Ministry could not influence the course of the Tourism offer, neither preventative, corrective, nor repressive, and consequently not sufficiently analytical in the aspect of development of tourism and hospitality industry, conditions for tourism trade, especially with regard to preparation and proposals of system measures and measures with regard to the current economic policy in the tourism field.

One more reason for the necessity to introduce quality operation of tourism inspection is the existence of gray economy and unfair competition, which in the tourism field, is first of all reflected through: unregistered accommodation capacities, non-reporting of guests, unregistered hospitality industry facilities, illegal operation of tourist agencies, cash in hand employment, non-issuing of the receipts etc.

The Law establishes the rights, duties and authorizations of a tourism inspector who carries out inspection control in accordance with the stipulation of special regulation – The Law on Inspection Control.

A tourism inspector, during the course of inspection supervision, has the right, duty and authorization referred to in Article 102. of the Law, and other than activities referred to in this Article, tourism inspection also performs other activities that are, according to Law and other regulations assigned to its responsibility.

It is especially important that a tourism inspector is authorized to make a decision with regard to banning providing services that are operation of the facility in cases referred to in Article 105. The ban of operation shall last until the irregularities that resulted in the ban are removed.

A complaint against the decision of tourism inspector may be lodged, which does not delay decision implementation.

The seventh chapter of this Law contains penal and transitional provisions (Articles 114. to 132.). Penal policy is of essential importance for efficient implementation of this Law, and in this Law it is restrictive, which is justifiable given the existing situation in tourism trade, therefore all the subjects that do not act in accordance with provisions of this Law and other regulations based on this Law must be death with in a preventive, corrective and repressive manner. It must be emphasized that the amount of fines was established in accordance with special regulations with regard to infringements. Also, in the cases prescribed by the Law, the subject may be penalized with a ban with regard to providing tourism and hospitality industry services.

#### **IV Budget**

Application of new Laws inevitably imposes the need to allocated additional funds from the Republic's budget to finance and equip tourism inspection in order to implement stimulating

measures, these funds will be defined by the Government of Montenegro, that is the Ministry of Tourism in the budget proposal for the following year. Namely, due to the necessity for macroeconomic management and creating a tourism product, and in accordance with comparative experience of competitive receptive markets, in order to extend the tourist season, increase use of accommodation capacity, stimulate tourist agencies for longer programs, accelerate development of tourism in particular areas of the Republic, stimulate composition of quality tourism programs and improve organized tourism turnover especially in pre-season and post-season, for every tourism season the Government of the Republic of Montenegro will adopt special programs of stimulating measures for the development of tourism in which quantities of funds, purposes of funds, as well as firm conditions for the use of funds will be specified.