

02.MONTENEGRO

WASTE MANAGEMENT IN MONTENEGRO

**NGOs perspective on the issue of planning and construction
of small HPPs in Montenegro**

3. Waste Management in Montenegro

3.1 General overview

Waste management represents one of major problems when speaking about environmental protection, as well as one of key challenges for Montenegro in the process of EU accession. As a candidate for the EU membership, Montenegro is obligated to establish a functional system of waste management that will be harmonized with the EU *Acquis*.

The EU environmental requirements are extensive and significant investments in infrastructure are needed in order to achieve compliance. In the process of accession, Montenegro has the obligation to transpose Directives and Regulations of the EU into its legislation. Adequate transposition and implementation will ensure sustainable waste management.

3.2 Waste management legislative framework

Montenegro has not finished preparation of changes and amendments to the Law on Waste Management yet, that should continue the work for the transposition of European legislation into our legislation. Adoption of that Law was formerly envisaged for the Quarter IV of 2018, but the new deadline for its adoption is now Quarter IV of 2020.

Municipal waste management is within the competences of local self-government units and it is carried out in a such manner that the waste is disposed in sanitary landfills, temporarily stored on sites for temporary waste storage, disposed in unregulated city dumps, and only a minor part of it is selected for re-use and recycling.

Key institutions in this domain are: the Ministry of Sustainable Development and Tourism, the Agency for Nature and Environment Protection, the Ministry of Culture and Rural Development, the Ministry of Health, the Ministry of Economy, Administration for Inspection Affairs, local self-government units, MONSTAT.

3.3 Waste management problems

The process of selective waste disposal in Montenegro is still at an early stage. On the basis of an analysis of local plans for municipal waste and non-hazardous construction waste management, as well as presented annual reports on the implementation of local waste management plans for 20 municipalities in Montenegro, only six municipalities indicated a

share of selected fraction for recycling (Podgorica, Kotor, Herceg Novi, Tivat, Budva and Bar). Just a negligible share is indicated in the planning documents of Mojkovac and Kolašin municipalities.

Disposal is the most frequently applied method when speaking about waste and its removal. According to the Law on Waste Management, removal of waste is carried out in locations designated for that purpose by spatial planning documents. Montenegro does not satisfy this condition in its entirety as there are only two sanitary landfills in Montenegro, Livade and Možura, that comply with European standards.

According to the results of research conducted by Green Home, Montenegro has 406¹ unregulated dump sites that also include temporary disposal sites still used for waste disposal by certain municipalities, together with larger disposal sites that were in use and are now planned for rehabilitation.

One of the crucial problems in this area is mixing of hazardous waste components with nonhazardous waste that is prohibited in accordance with the Rulebook on Waste Management, but it has not yet fully come to life in Montenegro.

There is also the problem of illegal disposal and burning of tires. According to the Law,² burning of waste in open or closed areas and in plants that are not in possession of a relevant permit, is prohibited. Nevertheless, burning of tires occurs frequently in practice. Emissions produced from burning this kind of waste contain many hazardous substances and poisonous gases with detrimental impact on environment and human health because of their dangerous and cancer-causing properties.

Montenegro has not yet adequately defined used tires as waste that needs to be managed in an economically sustainable manner. The Law on Waste Management sets forth that manufacturers and importers of tires are obligated to be included in or to establish an organized system for the acquisition, collection and treatment of waste tires, as well as to bear the costs incurred for the establishment and operation of such a system. The Law introduces the prohibition of mixing waste tires with other waste components. Due to the fact that there are no adequate areas or dumpsites for waste tires in Montenegro, they are most frequently disposed together with solid municipal waste.

¹ Analysis – Circular economy in the domain of waste management in Montenegro

² Law on Waste Management (Official Gazette of Montenegro, No. 064/11 of 29 December 2011, 039/16 of 29 June .2016)

3.4 Waste during the COVID-19 pandemic

During the COVID-19 pandemic, the use of face masks has been highly promoted and employed as a control measure against the spread of the coronavirus disease which consequently has led to a considerable increase in the production of disposable face masks. According to the UNCTAD estimates, the total sale of face masks will amount to about \$166 billion, and exceed the sale in 2019 by more than \$800 million. It is expected that 75% of disposed face masks, as well as other waste as a result of the pandemic, will end in landfills or float in the seas.

The increased use of protective face masks and gloves during the COVID-19 pandemic has resulted in highly enlarged quantities of waste that, if contaminated, represents a potential transmitter of the virus.

The waste generated during the COVID-19 pandemic includes all disposable products used by persons who are positive or potentially positive on this virus.

In Montenegro, activities on the removal and destruction of medical waste, including the waste produced during the COVID-19 pandemic, are in charge of the complete healthcare staff. The first step is segregation of the medical waste, which is separated from nonhazardous municipal waste into separate bags or containers. The waste is then transported to the incineration plant where it is destroyed to the level of nonhazardous municipal waste. The segregation plant is located within the compound of the Clinical Center.

According to the available data from the Ministry of Health, the Clinical Center is the largest producer of medical waste in the country. The Center generates over 23 tons of medical waste annually.

Presently, there are no specific national protocols for the COVID waste from households. However, based on the data from April, employees of the City Company Čistoća Podgorica, equipped with adequate protection equipment and in accordance with prescribed procedures take over waste in front of residential units of persons with confirmed coronavirus disease.³ Disinfection of the waste properly packed in several bags is conducted by the competent bodies of the Public Health Institute. The waste is then transported by means of special vehicles to the company authorized for medical waste treatment.

Special procedures have also been introduced in large retail chains. At the end of the working hours, employees in supermarkets dispose of protection face masks and gloves in separate hermetically closed bags specially intended for that purpose.

³ <http://www.cin-cg.me/covid-19-i-odlaganje-infektivnog-otpada-i-zastitne-opreme-neophodan-poseban-oprez-pazljivo-sa-rukavicama-i-maskama/>

3.5 Attitudes

The biggest challenge facing the waste management is the establishment of adequate infrastructure that would enable sustainable waste management in Montenegro. It is in this manner that a more efficient collection and recycling, as well as rehabilitation of illegal disposal sites would be achieved.

It is necessary to establish an efficient and sustainable inspection system and policies that will be strictly implemented.

Waste management options in compliance with EU standards should be implemented taking into consideration the hierarchical approach: to reduce the amount of waste generated, to maximize recycling and re-use, to limit incineration to non-recyclable materials, to phase out landfilling to non-recyclable and non-recoverable waste, to ensure full implementation of the waste policy targets.

Future projects should be developed and efficiently implemented. Interests of local communities should be taken into consideration when implementing activities in this area. The environmental impact assessment of waste projects should not be conducted just for the sake of form, but in such a manner as to demonstrate the impact on all segments of environment.

Resolution of the problem of illegal waste disposal and use of temporary disposal sites in all municipalities is a matter of urgency. It is necessary to establish an adequate infrastructure for separate waste collection and recycling; to carry out activities on the prevention of waste generation due to the COVID-19 pandemic; to enforce an efficient penalty policy, particularly when it comes to the disposal of face masks and protective gloves in a negligent manner; to promote alternatives to disposable face masks that are more cost-effective and have less adverse impact on environment.

4. NGOs perspective on the issue of planning and construction of small HPPs in Montenegro

An intensive development of small HPPs in Montenegro started in 2006 with the adoption of the Strategy for the Development of Small HPPs (the document that should define watercourses to be used for the construction of small HPPs, on the basis of hydrological and ecological expertise), but that failed to precisely determine locations for construction.

Spatial planning documents for municipalities at the time of signing first concession agreements in 2008, did not envisage any such construction which was actually the basic precondition for a building permit to be issued.

Therefore, the Government of Montenegro in the following years resorted to the solution of issuing consents on urban-planning and technical requirements for the construction of small HPPs on the basis of the Spatial Plan of Montenegro, enabling thus concessionaires to commence the implementation of their projects.

4.1 Legal abuses and violations of law

In the period of intensive development of small HPPs 2011-2016, when the largest number of concessions was granted, there existed no reference documents in accordance with the Law on Waters, as a basis for planning and concession granting.

From 2008 - 2015 the Plan on awarding concessions for the exploitation of watercourses for the construction of small hydro power plants did not exist, although it was obligatory in accordance with the Law on Concessions. This represents a violation of the Law on Concessions.

The first Plan on awarding concessions for the exploitation of water courses for the construction of small HPPs was adopted in 2016, but the Strategic Environmental Impact Assessment for the Plan was not conducted. This is a violation of the Law on Strategic Environmental Impact Assessment.

4.2 Absence of financial equilibrium: Privileges to investors to the detriment of public interest

For small HPP projects electricity producers are awarded the status of privileged producers whereby electricity generated by small HPPs is bought at privileged prices valid at the time of obtaining the status of interim privileged producers for a period of 12 years.⁴

Concessionaires for small HPPs are obligated to pay a concession fee in the amount of 5-6% of annual electricity generation, but this is negligible when compared to the amount of incentives they receive. It has to be outlined that financial equilibrium between the concedent i.e., the Government of Montenegro and a concessionaire i.e. private entity represents the basis of concession arrangements. In all the existing concession arrangements, the principle of public interest as well as financial equilibrium of two contractual parties are grossly jeopardized to the detriment of the Government i.e., of all citizens, and in favor of private entities. What speaks in support of the above is that – by the end of 2019, EUR 13.4 million was paid for subsidies in favor of private entities while on the other side, private entities paid

⁴ Article 107, Energy Law

to the Tax Administration only EUR 1.6 million of concession fees by mid-last year. In fact, the overall amount was paid by the citizens of Montenegro through their electricity bills.

The share of electricity generated by small HPPs was only 2.38% in 2019, while losses in the distribution system for the same period were 13.10%⁵.

4.3 Unsatisfactory quality of environmental impact assessments

Cumulative impacts of these projects on environment are not adequately assessed. Construction of small HPPs causes environmental changes or disturbances. This occurs as a consequence of activities of negligent concessionaires, poor quality of environmental impact studies and inadequate enforcement of measures for the prevention and elimination of negative impacts, as well as unsatisfactory supervision by relevant inspection bodies. Political commitment to the environmental protection is huge on paper, but the situation in reality is substantially different.

Contents of studies on environmental impact assessment are of poor quality and assessment procedures are conducted mainly to satisfy the form, and not to fully perceive current problems and determine solutions that guarantee best outcomes for environment. The largest deficiency of project assessments is that the initial situation is shown in general terms, with presentation of irrelevant data that are not focused on micro locations endangered by projects. When speaking about already constructed small HPPs, the Agency for Environmental Protection does not conduct monitoring of ecologically acceptable water flow, the analysis of which is given in environmental impact studies, though it is obligated to do so in accordance with the law.

4.4 Manipulation of public opinion

The Ministry of Economy, at the Government session held on 23 May 2019, informed the public of its intention not to issue new concessions for small HPPs. On that occasion, the Government also announced revision of all existing contracts on concessions awarded so far. However, in July 2019 the Government adopted Reports on the procedure of awarding concessions on the basis of energy permits for the construction of a small HPP - Štitska on Štitska river watercourse, as well as for the construction of a small HPP- Umska on Umska creek watercourse in Andrijevića.⁶

In September 2020, the Government issued another two concessions on the basis of energy permits for the construction of a small HPP - Skrbuša on Skrbuša river watercourse and a

⁵ Report on the situation in the energy sector of Montenegro 2019

⁶ 129. Session of the Parliament of Montenegro - 11 July 2019

small HPP - Bare Kranjske on Vranještica river watercourse in Kolašin.⁷ All these are former contracts that, instead of being terminated, are extended without any valid grounds and in some cases signed with negligent concessionaires who formerly abandoned some projects and devastated rivers.

In October 2019, the Prime Minister announced the commencement of negotiations for the termination by mutual consent of contracts on the construction of small HPPs on Bistrica river in Bijelo Polje, on three rivers in Plav – Murinska, Đurička and Komarnička rivers, as well as on Bukovica river in Šavnik and Tapačka river in Andrijevića. However, the public has not yet been informed on the outcome of these negotiations.

Unplanned and unregulated construction of small HPPs in Montenegro lead to harmful impact on local population – they lost water for their essential needs (irrigation, drinking, cattle watering, fishing, bathing), and were a serious threat to permanent devastation of nature. Citizens of the northern Montenegrin region organized in the last several years many protests to express their discontent with the construction of small HPPs.

4.5 Attitudes

Even though small HPPs are considered to be renewable energy sources, the process for their planning and delivery in Montenegro is in contravention of the principles of nature protection, transparency, contribution to the development of local communities, integral exploitation of watercourses and sustainable development.

The majority of already awarded concessions for small HPPs in Montenegro is granted without any valid grounds as regards waters or biology, along with the nonexistence of relevant planning acts, strategic guidelines and precise data on the potentials and impacts of these projects on environment.

4.6 Petition awaiting for almost 2 years to be taken into consideration

In May 2019, NGO Green Home together with representatives of local communities that fight against the construction of small HPPs delivered to the Parliament of Montenegro a petition supported by more than 6,400 citizens, asking for the introduction of a permanent moratorium on the construction of small HPPs in Montenegro. More than a year after the delivery of the petition, this issue has not yet been discussed at the Parliament's plenum. It was addressed just once during the Prime Minister's Questions which cannot be accepted as an answer to the citizens' appeals.

⁷ 133. Session of the Parliament of Montenegro – 5 September 2019

In December 2019, NGO Green Home filed a criminal complaint to the Supreme State Prosecutor's Office against officials of the Municipality of Bijelo Polje, the Secretariat for Spatial Planning of the Municipality of Bijelo Polje, the Secretariat for Rural and Sustainable Development of the Municipality of Bijelo Polje due to the planned construction of Lještanica HPP. However, the complaint has not been acted upon yet.

On the basis of all the above presented, we are of the opinion that it is necessary to terminate all concession contracts and introduce a moratorium on the construction of small HPPs on all watercourses in Montenegro.

Taking into account the above mentioned, as well as the fact that in 2017 Montenegro adopted the Water Management Strategy, the Danube River Basin Management Plan, the Adriatic River Basin Management Plan, the ratified Paris Agreement, that revision of NDC is underway, and given also the fact that we are faced with changes of plans related to the second block of Pljevlja TPP, from our point of view it is necessary to harmonize all relevant documents from this domain and enhance the dynamics for the adoption of the National Energy and Climate Change Strategy.

In spite of the fact that in the preceding period the Draft Law on Changes and Amendments to the Energy Law was proposed and public debate held, the largest part of comments made by NGO sector and citizens was refused and was not integrated in the Law.

The Energy Law should precisely define decisions regarding the model for fostering power production from renewable sources i.e. small HPPs and wind power plants, in order to enable implementation of the market premium model, what means that like in EU countries, instead of a guaranteed price for renewable energy source (RES), invitation to tender would be announced and concessionaires selected according to the principle "who offers less". The implementation of this model would considerably reduce incentives for new power plants.

Furthermore, having in mind that already constructed small HPPs failed to justify the status of projects of public interest, it is necessary to delete from the relevant provisions of the Energy Law all allegations that electricity generation from small HPPs is "in the public interest".

Montenegro, as a member of the Energy Community, took on the obligation to join the energy transition process and participate in the single energy market where green energy sources are dominant. In that respect, Montenegro has the obligation to reduce its dependence on coal and satisfy all its energy needs from green sources.

Requests to the Government of Montenegro:

- To issue a Decree by which small HPPs will be declared projects that are not in the public interest;
- To introduce a moratorium on the construction of small HPPs;
- To conduct the revision of existing contracts for the construction of small HPPs (based on concessions and energy permits), as well as to terminate contracts with negligent investors and in all other cases when it can be proved that the subject matter of small HPPs are not in the public interest;
- To act within its competences and take steps towards abolishment of subsidies to small HPPs, as well as of the status of privileged producers from these sources;
- To take needed actions and from bank guarantees (at the investors' cost) repair all damages to the rivers and nature incurred by investors on water courses;

Requests to the Parliament of Montenegro:

- To put up the civil Petition for public debate and urgently issue the act on the protection of all rivers in Montenegro from the construction of small HPPs (permanent cessation of construction that is underway or planned);
- To exclude small HPPs as projects in public interest by changes and amendments to the Energy Law;
- To act within its competences and take part in the procedure for the abolishment of subsidies for small HPPs and for the status of privileged energy producers and investors of small HPPs.