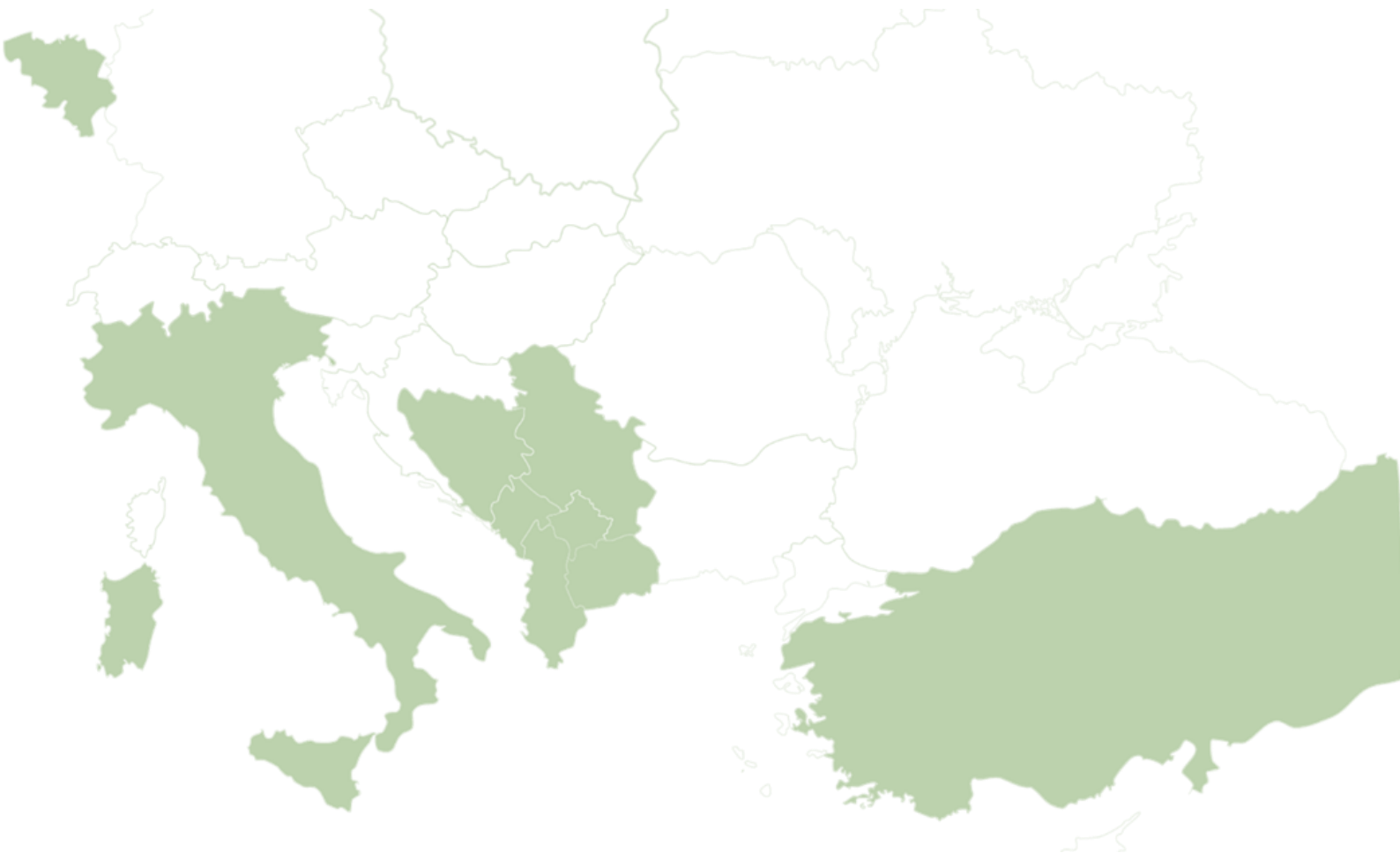


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Country Specific Report
Written Contribution for the 2019 Montenegro Annual Report
Chapter 15 & 27



Under the Env.Net Project:

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1. Introduction

This initial section is dedicated to present an overall picture of Montenegro EU Accession progress made during the last year, with regard to environment, climate change mitigation and energy sector.

In 2016, the Government of Montenegro adopted the National Strategy for the Transposition, Implementation and Enforcement of the EU Legal Framework in the Field of Environment and Climate Change (NEAS) with the Action Plan for the period 2016-2020, which includes an approximate cost estimate, and the National Strategy for Sustainable Development until 2030. At the Government of Montenegro session of February 8th, 2018, the Negotiating Position for Chapter 27 was adopted.

Final decision on the waste management was adopted in May 2018. Until the end of the year, it will have been adopted the new Law on waste management according to the NEAS.

The Sector for Climate Change has been reorganized and expanded its competencies on coastal and sea issues and increased a number of employees. Working Group for development Law on Climate change has been established. Until 1st of October this working group have had in total 3 meetings. The Paris Agreement has been ratified. The annual data collection plan for the preparation of an inventory of greenhouse gas emissions for 2018 was adopted. Montenegro is expected to adopt a Climate Protection Law by the end of 2018. This law will ensure harmonization of national legislation with the *acquis* on climate change and climate protection, regulate the functioning of the National Monitoring System for Reporting as well as emission trading.

The Ministry for Agriculture and Rural Development has lunched the initiative for development a feasibility study on the reorganization of the model of concessionary forest management. Feasibility study has shown validity for the reorganization of the model of concessionary forest management. The final proposal of the reorganization of the model of concessionary forest management has not been adopted by the Government until 1st of October. On 6th of July 2018. The Government adopted the Public Administration Optimization Plan 2018-2020 including a moratorium on employment for a period of one year.

The national action plan on the use of renewable energy sources by 2020 was adopted in 2014. In 2016 41.6 % of energy gross final consumption came from renewable sources, thus exceeding the 33 % 2020 target. Support to RE producers is based on feed-in tariffs.

The 2016-2018 energy efficiency action plan aims to achieve 9 % savings of the average five-year final energy consumption by 2018 and to renovate 1% of central government buildings by February 2016. According to the report about the realization measures from Action Plan 2016 – 2018 which was published in July 2018 there is no data about achieving 9 % savings of the average energy consumption by 2018.

There is no ESCO concept for EE in Montenegro. Draft amendments to the Public Private Partnership Law, which are the key missing legislative requirements for ESCO investments in the public sector, need to be adopted. The Government of Montenegro, during 2017, adopted Operational plan for improving energy efficiency for 2017. Podgorica, Tivat and Bar are the only municipalities that are adopted program for improving energy efficiency. The rest of municipalities does not have program for improving energy efficiency. Law on efficient energy use is partially align with the *EU aquis*, the fully alignment will be achieved through the amendments on the Law which is on-going process. Part of the energy efficiency *acquis* is yet to be adopted, but several rulebooks on energy labelling (2016) and eco-design for energy-related products (2017) were adopted. There is no National Energy Efficiency Fund.

Transposition of EU *Acquis* which regulate the climate change issues is on the beginning level and climate policies are not adequately integrated into related sectoral policies. Implementation of the

Climate Change Strategy under the EU2030 framework needs to be ensured and its integration in plans and strategies in the field of Energy.

1.1. Environmental Status in Montenegro

This section is dedicated to highlight main environmental concerns and related developments / news of the environmental portfolio.

Regarding the environmental status in Montenegro there are still evident further problems: some progress has been made in the construction of some wastewater treatment plants, but the treatment of sewage sludge has not been solved, the Environmental Protection Agency has become part of the Ministry of Sustainable Development and Tourism, thereby losing independence in decision-making, the transformation of the National Parks of Montenegro is planned, the realization of mega infrastructure projects: Porto Skadar Lake, White village - Mihailovići, Luštica Marina Development, the problem of industrial pollution is not solved - KAP and Željezara Nikšić operate without an integrated permit, although the deadline for obtaining the license, provided by the Law, expired. The construction of SHPPs is an increasing problem. The process of the planning small hydropower plants was not conducted on the appropriate way. In the process of the planning sHPP there were missing the crucial documents, which are proscribed by the Law on Water, such as: River Management Plans, Water Cadastre, Water Information System. According to the Ministry of Economy, in Montenegro is planning to build in total 53 sHPP from which of them 13 has been already built in the north of the country. In 2018 there has been many protest which were organized by the local communities who gravitate to the river where is planned to build sHPPs. Local communities had not been involved on appropriate way in the process of planning the sHPPs. There is some progress regarding the waste management in terms of transposition, Decision on waste management is adopted, ongoing is the Law on Waste management. Regarding the implementation, there is no big progress, primary selection still missing. According to the MONSTAT the percentage of the separated waste for 2017 is in total 20%¹. In Montenegro primary selection still missing, there is also poor communal infrastructure. Waste incinerator is again option for the Montenegrin Government. There is lack administrative and financial capacity.

The challenge is issuing of IPPC permits and solving of hazard waste issue. Amendments on Law on Integrated Pollution Prevention and Control expired deadline (Until 1st January) for getting IPPC permit for the Termo Power Plant Pljevlja, TOŠ Čelik Nikšić and Kombinat Aluminijuma Podgorica. At the end of 2017, the TPP Pljevlja has got a temporary integrated permit (5 years) in accordance with the Law on Integrated Pollution Prevention and Control. **Until 1st of October 2018 TOŠ Čelik and Kombinat Aluminijuma Podgorica have not had IPPC permits and continue to operate without a permit.**

Existing thermal power plant from 01 January 2018. entered a special regime of 20,000 hours by the end of 2023. After the expiration of this number of hours, TPP Pljevlja will have to harmonize its operations with the most stringent EU standards that imply the implementation of the Best Available Technologies (BAT).

There is no sustainable financial framework which can respond to demanding implementation and enforcement of legislation. Eco fond has not been established.

It's obvious that there will be no substantial financial allocations for closing the Chapter 27 deriving directly from the state budget but rather from private sector penalties. Having in mind low rate of collectability of tax and penalties from this sector, there is a reasonable doubt that proposed solutions

¹ <https://www.monstat.org/userfiles/file/otpad/2017/Saopstenje%20Komunalni%20otpad%202017.pdf>

within the Eco Fund will be able to significantly contribute to attain the committed activities under this Chapter. It is estimated that the total cost of alignment amounts to EUR 2,108 million² in nominal terms. Limited financial resources in the relevant ministries and administrative bodies remain a matter of concern, especially with regard to the overall capacity of these institutions in order to ensure the effective implementation and enforcement of the acquis. According to the Law on the Budget for 2018, the amount of € 1.43 mil. or 0.09% of total expenditures of the current and budget funds were allocated for the Program "Environmental Protection and Communal Development", in 2017 the amount of € 1.8 mil. or 0.09% were allocated which is more than insufficient for carrying out the strategic and legislative activities in this area. The Government's intention to establish the Eco Fund we can support as an idea. The establishment of the Eco Fund, which is expected to serve as a key mechanism for financing obligations under Chapter 27, is a challenge from the capacities, organizational, technical and financial point of view. Taking into account the options presented by the Government as an opportunity to finance projects through the Eco Fund, the question may arise as to whether the establishment of the Eco Fund is justified in this way. This is especially because the „polluter pays principle“ still exists, however, the funds collected on this basis are far less than what is needed to cover the minimum needs estimated for the successful closure of this Chapter. One of the options is to use existing payments according to the principle „polluter pays“, second option is increase of existing fees, third option is to increase the existing payment from the option „one“ with additional payment through introduction of excise duties and fourth option is increase the payment according to the principle „polluter pays“ with the excise duties and additional payments. The option No. 3 is the best for funding but in accordance with the conclusions of different meetings with this topic for decision's maker's commitment is „option one“. The funds collected pursuant to this option are not sufficient for the costs of financing the environmental projects and costs estimated in the NEAS. For example, for "heavy" directives it is necessary to prepare implementation plans and accordingly the costs in the state budget. **The total allocations for projects in the field of environmental for 2018 for Ministry of Sustainable Development and Tourism and Nature and Environmental Protection Agency are: € 2,280,000 or 0,15% of State's Budget.**

In the budget for the environment, for the year when the opening of the chapters and it is necessary to adopt a set of regulations for the full transposition of EU Acquis is planned, it was allocated €894,055.59 less than in previous year. The state clearly shows that the environment is not a priority. Ministry for Tourism and Sustainable Development has announced that in the last 10 years in the field of environmental protection invested in total 200 million EUR³ but still the total calculated cost for its implementation and transposition amounted at 1,4billions EUR is not reducing.

1.2. Summary of the Report

Key findings from legislation monitoring summarized as executive summary, intended to reach and facilitate main findings for policy maker audience.

Key findings from legislation monitoring from the period 1st of October 2017 – 1st October 2018 are following:

- Decision on the choice of waste management option is adopted;
- Decree on amendments and supplements to the Decree on establishing a network of measuring points for monitoring the quality of air, in order to transpose directive 2015/1480 is adopted;
- Draft Law on EIA is ongoing, should be adopted by the end of 2018
- Law on invasive species is ongoing should be adopted by the end of 2018;
- Law on climate protection is ongoing, should be adopted by the end of 2018;
- Amendments on Law on Waste management is ongoing, should be adopted by the end of 2018;
- Spatial Plan Spatial Propos for Prokletije has been adopted

² National Strategy for transposition, implementation and enforcement of EU environment and climate change Acquis (NEAS) with Action plan for period 2016-2020, pg. 118

³ <http://www.vijesti.me/eu-vijesti/vojinovic-u-zivotnu-sredinu-ulozeno-vise-od-200-miliona-eura-crna-gora-spremna-da-pregovara-sa-ek-1002856>

- Law on Industrial Emissions is on-going, should be adopted by the end of 2018.
- Draft amendments to the Public Private Partnership Law, which are the key missing legislative requirements for ESCO investments in the public sector, need to be adopted.
- Law on Efficient Energy Use need to be fully adopted with the EED directive
- Adopt Low Carbon Strategy and the National Plan for Adaptation to Climate Change (NAP).
- Law on waste management is ongoing.
- Questionable is cost-effectiveness of the waste incinerator, which is mentioned in the Draft of Law o Waste Management.

2. Fundamentals

2.1. Fight against Crime to Environment

The Analyses on criminal and misdemeanour cases in field of environmental protection is a product of investigation conducted by the Centre for Protection and Research of Birds (CZIP) researching the prosecuted cases within the past 5 years. From the collected data, it is concluded that among the 1597 judicial procedures corresponding to the criminal acts in Chapter XXV (crime against environment), 93.49% (1493 - court decision) ended with the conviction.

Analysing the sanctions which have been used by the courts in this period (2013 - 2018), CZIP concluded that in 64.10% of all convictions ended with a parole (suspended sentence); 21.63% with monetary fine; 10.31% sentenced to jail, and in 59 cases (or 3.95%) accused were sentenced to a community service.

Analysis of data obtained on protection of the environment through criminal protection, it is noticeable that there is a drastic difference in the number of finally convicted offenders (63.99%), in comparison to rejected criminal charges which are high (44.83%). The overall data obtained by carrying out research confirmed the initial thesis that the court sanctioning of criminal offenses against the environment is a trend of **a more lenient punishment** of criminal offenders, which is fully consistent with the presence of the *general trend of mild penal policy* of our courts and in relation to other crimes.

Most of criminal charges are related to illegal construction, followed by the forest theft, while all other criminal acts within environmental protection have been underrepresented.

Based on small portion of misdemeanour cases, CZIP concluded that there is no capacities within Inspectorate to adequately follow up on environmental crime since all of the cases within illegal hunting for instance were submitted to the Inspectorates by the CZIP and none of them was a result of regular inspection control.

3. Obligations of Membership

3.1. Energy (Under Chapter 15)

3.1.1. Renewable Energy

Renewable Energy Directive has been partially align through the Energy law. The national action plan on the use of renewable energy sources by 2020 was adopted in 2014. In 2016 **41.6 %** of energy gross final consumption came from renewable sources, thus exceeding the 33 % 2020 target. ⁴

⁴ Montenegro 2018 Report

Montenegro committed to a binding 33% target of energy from renewable sources in gross final energy consumption in 2020. According to the energy balances published by EUROSTAT, Montenegro achieved a 37,7% share of energy from renewable sources in 2015 and a 37,1% share in 2014, thus overachieving the 33% target for 2020. This is mainly due to revision of biomass data in 2011, leading Montenegro to exceed its target already in 2009 without any additional effort. Montenegro adopted and submitted to the Secretariat the National Renewable Energy Action Plan required by Directive 2009/28/EC. The NREAP foresees reaching 36% of energy from renewable sources in gross final energy consumption in 2020. The second progress report for 2014 - 2015 submitted to the Secretariat states that the country achieved a 31,7% share of energy from renewable sources in 2015 and a 31,9% share in 2014, which contradicts the statistical data submitted by the Statistical Office of Montenegro to EUROSTAT. The calorific value of firewood is the main disputed parameter by the Ministry of Economy leading to different results in the calculation of the share of energy from renewable sources. The authorised institutions of the country have to comply with the acquis on energy statistics of Regulation (EC) 1099/2008, therefore enabling comparability of data.⁵

Integrated planning development, decarbonisation of the energy sector through increasing energy efficiency and participation of renewable energy sources (OIE), introduction of BAT-BREF (Best Available Techniques - Reference Document) standards that imply new, more stringent limit values regarding the emissions of pollutants don't exist. Support to RE producers is based on feed-in tariffs despite the recommendation of EC that Montenegro needs to move on an auction system compliant.⁶ Significant quantities of electricity have been lost or unpermitted taken over from the transmission and distribution system for years (around 22%).⁷ There is low investment in distribution system.

3.1.2. Energy Efficiency

Montenegro has defined the indicative goal of increasing energy efficiency since 2010, which represents a savings of 9% of the country's final final energy consumption by 2018. This goal was also confirmed by the Energy Efficiency Action Plan for 2016-2018 from 2016. However, in October 2015, a decision was made at the session of the Ministerial Council of the Energy Community (D / 2015/08 / MC-EnC) transposing the new Energy Efficiency Directive 2012/27 / EU3 (EED) became binding for the EC Member States, and therefore for Montenegro.

Deadline for complete transposition of this directive is October 2017. EED defines the savings of 20% of the average final of energy consumption by 2020, and as the indicative target of Montenegro of 9% will expire in 2018, accordingly assuming obligations within the membership of the EC, Montenegro has the obligation to define an indicative target after 2018.

Based on our communication with Ministry economy, Department of energy efficiency, EED directive until 1st of October 2018, has not been fully transposed. Amendments of the Law on efficient use of energy need to be adopted in order to ensure fully transposition of EED directive.

A challenge is the implementation, in particular of Article 7 of the EED, which refers to the establishment of EE debt schemes and the implementation of which began from January 2017 which

⁵ ANNUAL IMPLEMENTATION REPORT ENERGY COMMUNITY SECRETARIAT 1 SEPTEMBER 2017

⁶ Analyse of Chapter 27 – Coalition 27, Montenegro

⁷ Annual Report on the Implementation" of the Energy Community in 2016.

requires achievement of annual energy savings of 0.7% of the total final energy consumption from January 1st, 2017 i.e. an alternative approach is applicable to Montenegro, which implies a target of 0.5 % for the first two years of implementation (2017 and 2018) i.e. 0.7% in the next two years of implementation (2019 and 2020). According to the available data, Montenegro is still in the decision-making process to what extent and in which relation will apply EE obligatory schemes, i.e. alternative measures.

EE implementation instruments (such as the Energy Efficiency Fund and/or Energy Efficiency Agency) have not yet been established.

There is no ESCO concept for EE in Montenegro. Draft amendments to the Public Private Partnership Law, which are the key missing legislative requirements for ESCO investments in the public sector, need to be adopted. The Government of Montenegro, during 2017, adopted Operational plan for improving energy efficiency for 2017. Podgorica and Tivat are the only municipalities that are adopted program for improving energy efficiency. The rest of municipalities in total 21 does not have program for improving energy efficiency. Law on efficient energy use is partially align with the *EU aquis*, the fully alignment will be achieved through the amendments on the Law which is on-going process. Part of the energy efficiency aquis is yet to be adopted, but several rulebooks on energy labelling (2016) and eco-design for energy-related products (2017) were adopted. There is no National Energy Efficiency Fund.

3.2. Environment (Under Chapter 27)

3.2.1. Water Quality and Management

In the area of water quality, in the period from October 2017 – October 2018 the following laws were adopted:

Law on Communal Waste Water Management ("Official Gazette of Montenegro" No. 02/17), adopted on December 29th , 2016, which is in full compliance with: –

- ✓ Commission Directive 98/15/EC of 27 February 1998 amending Council Directive 91/271/EEC with respect to certain requirements established in Annex I thereof, OJ L 67, and 7.3.1998. and partially harmonized with:
- ✓ Council Directive 91/271/EEC (Celex No. 31999L0271) of 21 May 1991 concerning urban waste-water treatment, OJ L 135, 30.5.1991
- ✓ Commission Implementing Decision of 26 June 2014 concerning formats for reporting on the national programs for the implementation of Council Directive 91/271/EEC (notified under document C (2014) 4208), OJ L 197, 4.7.2014.

Law on Providing Safe Water Intended for Human Consumption (Official Gazette of Montenegro" No. 80/17) , adopted on 23th November 2017, which is partly complied with:

- ✓ Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption;

- ✓ Commission Directive (EU) 2015/1787 of 6 October 2015 amending Annexes II and III to Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, OJ L 260, 7.10.2015.

Directive 2000/60/EC and Directive 2006/118/EC will be completely transposed through the adopting Law on Amendments to the Law on Water and Rulebook on the status of surface and groundwater which adoption is on-going process. According to the NEAS this adoption will be finalized in IV quarter of 2018.

According to the NEAS with Action Plan 2018 – 2020 there was obligation in the II quarter of 2018 to established network of measuring stations and monitoring of groundwater, according to the Directive 2000/60/EC. Until 1st of October 2018 there is no established network of measuring stations and monitoring of groundwater.⁸

Management plans for river basins and clear actions in this field are still missing. The construction of sewerage networks and wastewater treatment plants is being delayed. An effective monitoring and enforcement system is not established. There is 8 WWTPs in Montenegro, from which 5 are with secondary treatment and the remain 3 are with the tertiary treatment. In another municipalities WWTPs are under different phases of development (in some municipalities are in phase of development of technical documentation and in some municipalities are in the phase of construction) WWTP in Podgorica, do not correspond either with capacity or technology standards and it is not in align with EU standards. Current percentage of connection to the sewage network in urban settlements is 67%,

Monitoring in 2017 shown that the largest sources of pollution of surface and groundwater are municipal wastewater. The most polluted watercourses were Vezišnica and Čehotina bellow the Pljevlja, and Morača (on the part below the watershed of the city collector Podgorica).⁹

3.2.2. *Climate Change*

Until 1st of October 2018 there is no law on Climate protection. According to the NEAS this law should be adopted by the end of 2018.

There is no Low Carbon Strategy and the National Plan for Adaptation to Climate Change (NAP).

The revision of National Energy Strategy is needed in accordance with Paris Agreements which, in near future, will lead to merging of National Energy and Climate Strategies in one strategy which allow better integration of climate policy in energy policy and early overview does national efforts will be enough ambitious and coherent to achieve EU goals.

Parallel with revision of National Energy Strategy it is needed that Ministry of Sustainable Development and Tourism intense activities on preparation of climate legislative framework which suppose preparation and adaptation a huge number of documents until 2020: Law on Clime Protection, Third National Report of Montenegro for Climate Changes, Second two-years merged report of Montenegro about Climate Change, Second two-years consolidated report of Montenegro about Climate Change, Low Carbon Development Strategy as well as adaptation of Nation plan for Climate Change Adaptation

Mentioned strategies have to include also the revision of National proposed contribution (INDC) in accordance with UN framework Convention about Climate Change (UNFCCC) with the aim of improvement and harmonization with EU goals in this field. Montenegro's INDC, i.e. aim to reduce GHG emissions plan to reduce for 30% from basic 1990. In the practice that mean increase of emissions

⁸ Action Plan for the period 2018-2020 of National Strategy for Transposition, Implementation and Enforcement of the EU Legal Framework in the Field of Environment and Climate Change (NEAS)

⁹ Izvještaj o stanju životne sredine za 2017

in relation with current values. From reduce of economic activities from 1990, Montenegro in 2013 records emission's decrease for 40 % in compare with basic 1990, so that decrease of 30% in INDC framework in practice can give possibility of emission's increase in comparison with current situation for some 10%.

3.2.3. *Horizontal Legislation*

In the area of horizontal legislation, are adopted:

- ✓ Law on Spatial Data Infrastructure was adopted on June 2nd, 2017, ("Official Gazette of Montenegro" No. 37/17) which transposed: – Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing a spatial data infrastructure in the European Community (INSPIRE). The law will be in force from January 1st, 2019.
- ✓ International agreements: Law on the Confirmation of the Protocol on the Register of Release and Transfer of Pollutants, on July 26th, 2017 („Official Gazette of Montenegro - International Agreements “, No. 6/17) was adopted.
- ✓ Preparation of the Draft Law on EIA is ongoing, for which a public debate was conducted and the civil sector delivered a series of comments. According to the NEAS, this law should have been adopted by the end of 2018.

In this area we would like to point out the necessity of better coordination between SEA and EIA implementation's procedures and harmonize procedures with the Appropriate Assessment procedure on Ecological Network (AA). It is no obligatory to implement the SEA for the concession acts and plans on watercourses for energy production (SHPP) in order to assess cumulative impacts on ecosystems, biodiversity, social and other aspects. As an example, projects for the construction of SHPPs on Montenegrin watercourses can be identified, whose cumulative effects are extremely high, not only on ecosystems and biodiversity, but also on local communities.

An efficient coordination between the stakeholders is missing. Environmental impact assessment, taking into account and consideration of possible impacts, all alternatives and necessary mitigation and compensation measures, need to be improved. The quality of elaborates of impact assessments and public consultations with civil society and other stakeholders needs to improve.

One of the remarks that has been often heard with regard to impact assessments (particularly SEA) over the past years was that the competent institutions often met demands of proposers/investors in the process of preparation and approval of the projects, plans and programmes, even when the proposed projects, plans or programs had unclear, insufficiently well assessed and potentially very negative environmental impacts. There is an impression that interests of the environment were sometimes lost out of sight under the pressure of implementers of the plans and projects, in their endeavor to attract, enable and empower investment activities in the country. In such developmental context and in the conditions of insufficient implementation of environmental policies and plans, impact assessments have not fully achieved their basic function of recognizing and controlling significant negative environmental impacts and ensuring sustainable development

Impact assessments at the national level and in municipalities with stronger capacities are undertaken almost completely in line with legislative framework, but the process is still predominantly formal (the aim is to obtain approval), while the essence i.e. purpose of the process is not always attained. The prescribed procedures for informing, consultation and organization of public consultation are fully complied with, though much greater efforts should be invested and trust should be built, including

proper exchange of information and capacity building of all the stakeholders, in order for these processes to make larger contribution to the quality and results of impact assessments.

Public participation in impact assessment in Montenegro is still far from the outcomes set out in EIA Directive (increasing responsibility and transparency in the decision-making process, while raising awareness about environmental issues and strengthening support for the decisions that have been made).

Implementation of the measures set out in the study/report is inadequate, which is also the result of insufficient capacities for oversight of law implementation.

Particularly problematic aspect of the use of EIA results includes cases in which building permit is issued on the basis of the preliminary design and in which preparatory works start before the consent for the study is obtained.

3.2.4. Air Quality

According to the NEAS with the Action Plan 2018 – 2020 there is obligation to adopt Decree on amendments and supplements to the Decree on establishing a network of measuring points for monitoring the quality of air, in order to transpose directive 2015/1480. Decree was adopted in September 2018. Implementation of this decree were planned with the expansion of measuring points, from 7 to 10 (insufficient number of measuring points), which is according to the Action Plan 2018 – 2020 planned to finish by the end of 2018. According to the press from NEPA this measuring stations, reallocation existing station will be finished by the end of 2019. It is evident delay in the finalizing this activity.

Amendments on Law on Integrated Pollution Prevention and Control expired deadline (Until 1st January) for getting integrated permit for the Termo Power Plant Pljevlja, TOŠ Čelik Nikšić and Kombinat Aluminijuma Podgorica. At the end of 2017, the TPP Pljevlja has got a temporary integrated permit (5 years) in accordance with the Law on Integrated Pollution Prevention and Control. **Until 1st of October 2018 TOŠ Čelik and Kombinat Aluminijuma Podgorica have not had integrated permit.**

Montenegro adopt Action Plan for the implementation of the National Air Quality Management Strategy. From the Fourth Report on its Implementation it can be concluded that in the part of the establishment of the legislative framework and measures related to the adoption of documents such as strategies, studies and reports, significant results have been achieved, however, when it comes to measures related to air quality improvement, visible success has not been achieved. Therefore, we can conclude that there are no indications that its implementation has led to an improvement in air quality at critical points, and some of them have been reported worsening (Bar, Podgorica, Nikšić, Pljevlja).

Pljevlja had 120 days of exceeding the mean PM10 concentration limits, Nikšić – 64 days and Podgorica 56 days (In the period from October 2017 – 31. August 2018).¹⁰

The Local Air Quality Plan for the municipalities of Bar, Cetinje, Berane and Bijelo Polje has not been prepared, although the trend of increasing pollution is evident. Implementation of the Local Plan for Pljevlja is not at satisfactory level, due to the fact that concrete results are not evident and the level of pollution remained at the same level as in the previous years. Pollution inventories of air pollutants and ozone precursors are not updated. Citizens' health is not set as a priority. Adequate health statistics is missing.

3.2.5. Waste Management

¹⁰ <https://epa.org.me/mjesečni-izvještaji-o-kvalitetu-vazduha/>

In the field of waste management in the period from October 2017 until October 2018 progress in harmonization some progress has been achieved. The significant progress in terms of transposition and harmonization national laws with EU legislative is except to be achieved on the end of 2018.

According to NEAS with AP for 2016, one obligation for the Ministry of Sustainable Development and Tourism was envisaged for this area - adoption of the Decision on the choice of waste management option. This decision is adopted in May 2018. It is evident that there is a delay in making this decision. Because of that, the local plans did not offer the solution.

21 of 23 municipalities in Montenegro have the consent for local management plans for Communal and non-hazardous construction waste. (Nikšić and Kotor have not had the local management plans, yet) Local governments, in cooperation with MSDT, defined objective targets for the scope of recycling, which should be achieved by the end of 2017, and this can be considered a good initial step in solving this problem. However, it is obvious that recycling rate of 25% envisaged by the Law cannot be nearly reached within the prescribed deadline (December 31th, 2017). Data's about recycling rate for the 2017 and until 1st of October 2018 are not available. According to the NGO Zero Waste in Montenegro recycling rate is 2-3%.¹¹ According to the MONSTAT the percentage of the separated waste for 2017 was in total 20%.¹² It is evident that implementation of laws stay remains questionable. The basic principles of waste management defined in the Montenegrin Waste Management Strategy until 2030 and the National Waste Management Plan in Montenegro for the period 2015-2020 are not enforced. A huge number of local municipalities dispose waste on temporary dumpsites although the deadlines for their closure are passed and a large number of illegal landfills is evident (about 350 according to NEPA's records). Due to the absence of the primary selection and a large fraction of organic components in the composition of communal solid waste, landfills are the sources of emission of greenhouse gases (methane). Evident is poor communal infrastructure. The system for selective waste disposal has not been established, a large number of local governments place waste on illegal dumps/landfills. There are no measures to encourage the reuse, recycling and selective collection of waste materials and there is no program for raising awareness of citizens. The problem is also the issue of disposal of sewage sludge (example of the municipalities of Budva, Tivat, Kotor and Herceg Novi). There is no landfill or officially devoted site for animal waste. The main challenge in Montenegro in the area of waste management is the establishment of an adequate infrastructure that would enable the system of selection/recycling of waste, the rehabilitation of numerous illegal dumpsites throughout Montenegro, the location determination for industrial waste disposal and the establishment of effective supervision. The lack of containers in the rural area is below needed capacity level, given that the waste is either burned or disposed of in the streams or rivers.

Certainly the biggest challenge in this area is the establishment of an efficient and sustainable inspection system, as well as adequate penal policies that will be consistently implemented. Also, the challenge is implementation local plans and tracking it by Government. Evident is poor communal infrastructure. The system for selective waste disposal has not been established, a large number of local governments place waste on illegal dumps/landfills, while the existence of a large number of illegal landfills (about 350 according to NEPA) is evident. There are no measures to encourage the reuse, recycling and selective collection of waste materials.

We express concern with the proposal in the draft Law on waste management (which is planning to be adopted by the end of this year) to set up waste incinerator in Nikšić. Waste incinerator will be used for the materials, which cannot be recycled such as waste oils, incineration of PCB etc... Waste which can not be recycled will be collected from following municipalities: Nikšić, Šavnik, Žabljak and Plužine.¹³ Questionable is cost effectiveness as well as ecological aspects of this project.

¹¹ <https://balkangreenenergynews.com/rs/crna-gora-reciklira-svega-3-posto-otpada-do-kraja-godine-mogu-ce-izmene/>

¹² <https://www.monstat.org/userfiles/file/otpad/2017/Saopstenje%20Komunalni%20otpad%202017.pdf>

¹³ 34 sessions of the National Council for Sustainable Development and Climate Change – Working material

3.2.6. *Wildlife and Nature Protection*

According to the NEAS with the Action Plan 2018 – 2020 there is obligation to adopt Law on invasive species in order to transpose Regulative EU 1143/2014. This Law is likely to be adopted by the end of 2018.

The implementation of the project "Establishment of the Natura 2000 network" is about to be finalized in April 2019. The project does not cover the southern part of Montenegro in terms of Habitat Directive and even in northern part; it is restricted only to limited number of preselected KBAs. This leaves biodiversity rich areas of Montenegro by the larger pressure of development and potential destruction especially within future spatial planning. The challenges related to the establishment of NATURA 2000 are associated with limited human resources capacity at the national and local level in government institutions in terms of the number of officials and experts who deal with this topic. This mostly relates to the expertise and the scientific-research work for the certain taxonomic group and the application of the specific methodologies and collection of data in accordance to the standards of NATURA 2000. According to the Report on implementation, the NEAS all activities planned for 2017 on establishment of NATURA 2000 network were implemented.

There is a concern with the planned building resort Porto Skadar Lake and White village in the heart of the National Park Skadar Lake. (**Annex 6**). Representatives of Bern and Ramsar secretariat visited the NP Skadar Lake in July 2018. They gave some crucial recommendation for the preserving the NP Skadar Lake:

- Halt any further development on the mainland as well as the shore zone and water body of the Mihailovići location unless a detailed habitat map on a 1:10,000 scale for “Mihailovići“, Poseljanski Zaliv Bay, Biški Rep, the mouth of Crnojevića river, the mouth of Bazagurska matica and the islands Liponjak and Galići has been provided. The habitat map, ideally based on earth observation images, shall clearly classify any habitat type pursuant to the EUNIS habitat classification and EU Habitat Directive. The detailed habitat map provides the basis for a realistic environmental impact assessment.
- The new Special Purpose Spatial Plan for Skadar Lake National Park needs to follow the approach of the 2001 Special Purpose Spatial Plan for Skadar Lake National Park and reconfirm the designation of the broader area of the mouth of Crnojevića River and the Liponjak and Galići islands a Zone I of strict protection.
- The 2014 Mihailovići Location State Study lost validity in October 2017. The mission therefore strongly recommend to not consider the Study as a valid planning document, especially when it comes to issuing of building permits or the adoption of any other legally binding planning document such as the Special Purpose Spatial Plan for Skadar Lake National Park and the Management Plan of Skadar Lake National Park.
- The competent authorities are asked to carefully examine the procedure which had led to the issuing of a building permit in the case of the White Village development and if necessary revise or revoke the respective building permit. The mission recalls that such a building permit was not considered in the 2014 Study nor in the respective environmental impact assessments.

Until 1st October 2018 Spatial Plan of Spatial Propose for National Park Skadar Lake has not been adopted, but its adoption is planned till end of December 2018, As per last changes of the Law on Spatial Planning and Construction of Facilities.

After four years, Ulcinj Salina is protected neither at national nor at the international level. During the 4th International conference for the protection of the site, Minister of sustainable development has committed to protect the Salina within one month stressing no legal obstacles for its final designation as

Nature Park. The due date for the submission of the Study to the Municipality of Ulcinj for local parliament voting and public debate has been mid May 2018. The Study on protection of Ulcinj Salina has been adopted by all members of Steering Committee of the project financed by the Delegation of the European Union at the end of September 2017. It took the Government one year exactly to adopt the information on finalization of the Study and a selection of several proposed management options. At the mean time the Study hadn't been submitted to the Municipality of Ulcinj although the commitment was officially made in front of the national and international community mid April 2018. (**Annex 3**)

There is a tendency to open tenders for construction at sites of great natural value, which are also recognized as potential Natura 2000 habitats (Ulcinj Salina, Buljarica, Porto Skadar Lake, NP Durmitor).

A long-term program for biodiversity research has not been developed. The available funds for the implementation of the biodiversity monitoring program as well as the number of covered areas are reduced.

Montenegro, besides Bosnia and Herzegovina, is the only country in the Mediterranean, which does not have a protected marine area, although it is an obligation under the Barcelona Convention. The challenge of establishing such areas will be reflected, in addition to political will and in terms of administrative capacity and financial allocations for their protection and management. The PE "Morsko dobro" does have neither a service for protection nor the needed equipment (boat). Inspection services at sea do not have adequate equipment. Illegal fishing using dynamite is presence.

There is a concern with the decision of the coastal municipality Herceg Novi which was adopted on the 1st of October to build access roads to Blue cave.¹⁴ Marine caves are an important and endangered habitat listed in Annex I of the EU Habitat Directive (1992). They are also protected by the Montenegrin law on nature protection (Sl. list, 2013). Also, Montenegro has ratified the Agreement on the Conservation of Populations of European Bats – EUROBATS. Blue cave is the habitat for the one protected bat species (*Miniopterus schreibersii*).¹⁵ The building of the access roads will open the floor for the unsustainable building on the coast.

The program of exploration and production of hydrocarbon from the seabed of Montenegro is still in focus. Environmental Protection Agency has approved Environmental Impact Assessment of 3D Seismological survey, which was submitted by the ENI Company. The fact is that Montenegrin public did not get elementary information about consequences of exploration and exploitation of oil and gas from the seabed.

There is also a lack of supervision by the Forest Administration on the work of the concessionaire. Problems may also be that the provisions of the Law on Concessions that do not prescribe the obligation to seek opinions or information on the status of protection of the area. This confirms the inconsistency of other laws related to the use of natural resources with the Law on Nature Protection.

According to the Special Purpose Spatial Plan for the Coastal Zone (2007) and Spatial plan of the Municipality of Budva (2009), Buljarica cove is planned to be transformed into a luxury tourist complex with villa resorts, marina, golf courses and other tourism-related facilities, in the near future. At the same time, both spatial planning documents also support the preservation of ambient value, wetland and Mediterranean vegetation. In addition, according to the Spatial plan of Montenegro until 2020, Buljarica is listed as a Monument of Nature (4 ha of the beach has been protected ever since 1968). However,

¹⁴ <http://www.hercegnovi.me/sr/2014-02-28-09-31-45/1/2955-2018-10-01-09-10-51>

¹⁵ V.Mačić et al, 2014 CONTRIBUTION TO THE KNOWLEDGE OF RARE AND ENDANGERED HABITATS - MARINE CAVES (MONTENEGRO, SOUTH EAST ADRIATIC COAST), 1st Mediterranean Symposium on the conservation of Dark Habitats

contradictorily, Buljarica is at the same time identified by this plan as an unexploited area with high potential for marine and exclusive tourism development.¹⁶

According to the new Spatial Plan Spatial Propose for Coastal Area which is adopted in July 2018, there is no plans for Buljarica such as: luxury tourist complex with villa resorts etc. According to the new plan on Buljarica is planned to build marina with 100 moorings. Detailed planning of this site can be planned in more detail until the adoption General regulation plan or within that plan.¹⁷

There is an evident lack of capacities within the Ministry of sustainable development and tourism to implement the ESPOO Convention. This manifested in lack of interest to investigate the plans and current construction of 14 small hydropower plants on River Cijevna/Cemi in Albania affecting the protected area of Cemi canyon in Montenegro(**Annex 2**). In addition, the Ministry had not investigated publically available information on planned construction of two more dams on River Drim that will cause greater scale of beach erosion in Ada Bojana. In Bosnia and Herzegovina by activation of the project HE Buk Bijela that is impacting UNESCO site of River Tara, Ministry once again failed to protect the interest of protection status of its rivers.

Tara case

The tear of the Europe, Tara River is being destroyed with the project of the highway. (Please find in attached the photos in the **Annex 1** and videos which was taken on 29th of October 2019) We are facing with heavily alteration of the river body (channelling, redirection, replacement of the river bed 500m, great quantity of dumpsites with mixed waste on river banks and in bed etc.) Macro invertebrates are decreasing as per monitoring of the experts: 2000 taxa in July 2016 (as referent year) 1000: taxa in July 2017, 50 taxa in July 2018. Fish fauna is heavily jeopardized so during biodiversity survey in July 2018 at place downstream of Matesevo bridge and near Biogradska Gora was cached 10 times less Danube trout (just 4 small pieces and was expected 40) and no fish juveniles according to the experts from University.

There is clear breach of Law on Nature Protection, Law on Water and SEA/EIA Laws however Ministry with hydro-engineering experts are try to argument that river needed "regulation to avoid flood risks for the local population" which provides them to legal base to overpass the regulations. This regulation of the river is primary needed for securing dry area for construction works with concrete and it is highly questionable their statement that Tara is fast and flooding river in this upstream part. Local communities barely remember some of the years with light floods in this specific area.

The Tara River is characterized as a river with a "high ecological status"¹⁸ of fish fauna (as defined in Annex V according to the Water Framework Directive), due to which, according to the transposed directive and the Law on water , we were obliged to preserve its good ecological status. Instead of that we got a 768km² gravel landfill without an alternative solution, the contents of which are pumped into the riverbed and the shoreline. This is the largest landfill of gravel and stone (reclaimed field) that does not meet the measures from the EIA. In the measures related to the disposal of waste, it is strictly forbidden to dispose of excess material from excavation into the streams of river, river, river bank and agricultural land. There are no alternative locations for disposal of surplus material for this landfill.

There is evident breach of the Water Framework Directive, spatially Article 4.7. Article 4.7. of the WFD defines conditions that have to be met if the new modifications or alterations of the water bodies. These conditions require that:

¹⁶ <http://buljarica.drustvoekologa.me/assets/data/ecosystem-based-assessment-of-biodiversity-values-and-threats-in-buljarica.pdf>

¹⁷ <http://www.mrt.gov.me/ResourceManager/FileDownload.aspx?rId=318460&rType=2>

¹⁸ Svjetska Banka, Podrška upravljanu vodnim resursima u slivu rijeke Drine, Osnovne informacije, glavni izvještaj

- All practicable steps are taken to mitigate the adverse impact on the status of the body of water
- The reasons for those modifications or alterations are specifically set out and explained in the river basin management plans
- The reasons for those modifications and alterations are of overriding public interest and/or the benefits to the environment and to society of achieving good ecological status / potential are outweighed by the benefits of the new modifications or alterations to human health, safety or to sustainable development:
- Beneficial objectives served by those modifications or alterations cannot be achieved by other means (they are not technically feasible or have disproportionate costs) which are significantly better environment option.

Current activities (above-mentioned) that are happening on the Tara river are not in accordance with the exceptions which are proscribed within the WFD, Article 4.7.

There is also no organized institutional wild animal rescue in Montenegro. This is especially problematic with poor legal regulation of this matter, and the presence of individuals who are benefiting from wild animals captured or injured in the wild and later used for displays. This, very problematic situation, can only be resolved via construction of wild animal shelter financed and managed by the state. Once an adequate shelter is constructed and workers, with knowledge and experience are employed, all illegal zoos and shelters can be terminated to prevent further maltreatment and exploitation of wild animals. This is only the beginning of proper implementation of CITES convention and ZOO Directive.

4. Conclusions and recommendations

The new Law on Environmental Impact Assessment requires the transposition of Directive 2014/52/EU, which amended Directive 2011/92/EU. Law needs to define: the level of expertise of the persons providing consulting services, criteria relating to relevance and age of data, determine the level of data necessary for a reliable assessment as well as the responsibilities of the actors in the process - project managers, processors and competent and interested authorities; organization, ensure compulsory submission of existing data, expand the list of projects for which the EIA is mandatory.

Extreme critical decision – making process of heavily impacted citizens groups which lacks early and meaningful participation. This results in protest and direct confrontations with investors and police. (Example, small hydro dams, building on the coast – Budva Saint Nikola Island and Kotor – Krašići and Verige, green urban surfaces in Podgorica)

It is necessary to establish a functional "Eco Fund" that would be used for ecological projects.

Strengthen the inspection capacities; consistently enforce the measures of inspection supervision.

Strengthen the capacities of the Agency for the Protection of Nature and the Environment and Local Self-Governments for the implementation of the SEA and the EIA.

Prepare local air quality plans for the municipalities of Bar, Cetinje, Berane and Bijelo Polje.

Update the inventory of pollutants in the air and ozone precursors.

Adopt the missing local Waste Management Plans for all local government units in line with the National Waste Management Plan.

Monitor the implementation of local waste management plans, especially in the part of achieving the set targets for recycling.

Rehabilitate the existing waste disposal sites.

Establish of a primary selection system, on the principle of at least minimal separation on the "wet" and "dry" bunk.

Reduce the biodegradable municipal waste.

Include the rural areas into the system of utility services by the competent authorities.

Work on the drafting of the Marine Strategy and to adopt River Basin Management Plans for the Danube and Adriatic basins

Establish network of measuring stations and monitoring of groundwater.

Construct a sewage network and the connection of the population to it.

Construct a municipal wastewater treatment plant, starting with cities with a large number of inhabitants (Podgorica) to smaller towns.

Without further delay, it is necessary **to protect Ulcinj Salina** and provide adequate water management, as well as to prohibit hunting in the area of the so-called New Salina.

The protection of Buljarica is of particular importance, as well as **respecting the recommendations of the European Parliament** i.e. Resolution in which the Government of Montenegro is calling for adequate management of natural resources and reviewing the decision on the permit for the construction of the megalomaniac project "Porto Skadar Lake".

Immediately stop further forest devastation by establishing forest reserves that will preserve untouched habitats before establishing the Natura 2000 network and entering into the European Union.

Adopt the strategy for invasive species management. Adopt Law on invasive species.

In the construction of **hydro-accumulations and dams**, it is necessary to start making **serious biological studies and socio-economic analyses** with a mandatory environmental impact assessment.

Work on the **establishment of marine protected areas**.

Establish a wildlife sanctuary to prevent illegal keeping, treating of animals in future and resolve the issue of confiscation of smuggled wild animals.

Adopt the Law on Industrial Emissions. Work on the implementation of the Emission Directive, the establishment and implementation of the BAT (best available techniques) principles.

Adopt the **Law on Climate Protection** with accompanying by-laws, the **Low Carbon Strategy and the National Plan for Adaptation to Climate Change (NAP)**.

Introduce BAT-BREF technology in energy and industrial plants.

Revision of National Energy Strategy is needed in accordance with Paris Agreements

EE implementation instruments (such as the Energy Efficiency Fund and/or Energy Efficiency Agency) has to be established.

Establish ESCO concept for EE in Montenegro.

Montenegro **needs to move on an auction system** compliant instead of feed in tariffs.

Draft amendments to the Public Private Partnership Law, which are the key missing legislative requirements for ESCO investments in the public sector, need to be adopted.

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