

Report on Quality of EIA/SEA for the Hydropower Projects in the Western Balkans

**Country report:
Montenegro**

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1 Introduction

The goal of the consultancy is to contribute to improving the quality of EIA/SEA of hydropower projects in the Western Balkans. This report assesses the situation in Montenegro. The objectives of the consultancy are:

- To propose legal procedures that would set up possibilities to repeal the licenses to the companies that repeatedly produce controversial EIAs.
- To identify the scientific, technical and procedural/legal quality of a critical mass of EIAs/SEAs carried out in the past five years on hydropower plants in the seven countries against relevant national legal framework and EU standards in order to identify major weaknesses in the quality of the assessments;
- To identify loopholes in existing technical and legal mechanisms for carrying out and approving EIAs/SEAs which lead to the poor quality of the assessments;
- To recommend baseline performance criteria for ensuring that future EIA/SEA meet EU quality standard;
- To recommend key actions for resolving major causes of poor EIAs/SEAs quality to ensure that they are carried out transparently through a process that meets EU standards.

The report is divided in to two parts:

- Part A – quality of EIAs/SEAs
- Part B – Root causes of weak EIAs/SEAs

This is a desktop study coupled by face to face meetings and interviews.

2 Part A – quality of EIAs/SEAs

2.1 Executive summary

2.2 Methodology used

The methodology was based on review of the EIA studies in terms of the following aspects, found as important for the quality of studies:

1. Whether the area under impact is clearly identified?
2. Whether the scope and length of research in area under impact includes the following:
 - Hydrology
 - Hydrogeology
 - Fish inventory, sowing areas and migration
 - Flora and fauna depending on river ecosystem
 - Forest
 - Land use patterns
 - Other users in the affected area
 - Ownership of the land and structures affected by the project

3. Whether the method used and calculated ecological flow is checked and compared with those prescribed by the law?
4. Whether the Impact on other users is assessed:
 - Water intake for water supply
 - Aquaculture
 - Agriculture
 - Recreation
5. Whether the Social impact is properly assessed and whether the property acquisition is addressed?
6. Whether the reservoir impoundment is assessed (if exists)?
7. Whether the earthquake and landslide risk is assessed?
8. Whether the Cumulative impact assessment is addressed in cases of more than one hydropower planned or in case of having other water users present or plans to use water for other purposes?
9. Whether the technical alternatives under consideration in the EIA includes at least:

Location alternatives: Location alternatives refer to alternative sites on the same property.
 Activity alternatives: Production of energy by different technology
 Design or layout alternatives: E.g. Different architectural and or engineering designs
 Site Layout: Consideration of different spatial configurations of an activity on a particular site
 The No-Go Option: The assessment of alternatives must at all times include the consideration of the “no-go” option as a baseline against which all other alternatives must be measured.

10. Whether the adequate mitigation measures are included, such are:
 - Technical solution to control of ecological flow,
 - River restoration,
 - Forest restoration,
 - Compensation for property acquisition,
 - Sediment management,
 - Design measures for fish passage,
 - Reconstruction and maintenance of the fish spawn areas,
 - Conservation of threatened, endemic and newly recorded species,
 - Special efforts for in situ or ex situ conservation of critical/ important plant/ animal species affected by the project,
 - Disaster mitigation measures, etc.

Detailed specification of items to be addressed by EIA for hydropower is given in Annex1.

3 Presentation of EIAs/SEAs analyzed

Table 1 Basic information on EIAs/SEAs analyzed

Name of the plant	River basin	EIA / SEA	Year of EIA/SEA	Firm	EIA/SEA document available?	Consultation process	Comments available ?	Revision of the EIA/SEA
Morača HPP	Skadar/Adriatic	SEA	February 2010	COWI	yes	Yes	yes	No (still ongoing)
Komarnica HPP	Black sea	SEA	April 2012	WINsoft	yes	Yes	yes	No (still ongoing)
Raštak ISHPP	Black sea	EIA	May 2012	Smart Environment Solutions	yes, hardcopy sent	Yes	no	Finalized

Name of the plant	River basin	EIA / SEA	Year of EIA/SEA	Firm	EIA/SEA document available?	Consultation process	Comments available ?	Revision of the EIA/SEA
Bistrica SHPP	Black sea	EIA	February 2013	Lars Fire	yes, hardcopy sent	Yes	no	Finalized
Orah SHPE	Black sea	EIA	May 2012	Lars Fire	yes, hardcopy sent	Yes	no	Finalized

Table 2 Major issues identified

Name of the plant	Consultation process	Available Water act	Major issues
HPP Morača	Feb-sept 2010	-	<p>Area under impact: The detailed physical plan addresses construction of four conventional (dams) HPPs along the Morača river (Andrijevo, Raslovići, Milunovići and Zlatica). There are also 11 multipurpose reservoirs planned in upper part of Morača river that are not treated y this SEA document. The Consultant explains that for those 11 additional SEA would be needed. The consultant defines area under the impact on basis of orographic watershed.</p> <p>Baseline study: baseline study is prepared on basis of available data, i.e desktop study. The information on inhabitants under the impact is dated on 1987. The consultant describes richness of biodiversity in affected area but also takes precautionary principle as the area is not researched enough. It is also stated that additional research was not subject of the terms of reference. The hydrogeological baseline gives several important information on sensitiveness of the area and identifies high potential for hydraulic connection between river and water supply sources. The water levels in the lake correspond to the increase in water level in rivers tributaries. it is concluded that the hydrology of the area is very complex, and in any case it should be further investigated. The study should include the correlation between the tributaries of the Skadar Lake and River Watershed system in relation to the water level. It is noted that sediment production is huge but it is not calculated.</p> <p>Impact assessment: The SEA should represent the cumulative impact assessment. The consultant recognizes and elaborates the following impacts: earthquake, climate changes, changes in water regime, loss of property (agricultural land, houses), loss of infrastructure (graveyards, roads) , biodiversity loss , impact on cultural heritage, impact on landscape. Potential changes in the level of Skadar Lake as a result of changes in river flow and potential effects on the biota are recognized as a cross-border issue (Chapter 9), and a dialogue with Albanian authorities is recommended. The consultant concludes that the project has high impact on biodiversity that cannot be prevented or mitigated. For other impacts mitigation measures are given.</p> <p>Mitigation measures: the Consultant recommends detailed hydrogeological survey but in the construction phase. This at least should be done on level of preliminary design (page 133, Table 7-1). Some fish migration measures are proposed. Sediment management is not addressed except on the level of reservoir sediment flushing and upstream sediment prevention. Erosion and sediment transport is natural phenomenon that is important downstream ecosystem.</p> <p>Alternative: only no- alternative is evaluated</p> <p>Conclusion: the SEA gives positive conclusion although impact on biodiversity cannot be prevented or mitigated.</p>
HPP Komarnica	May 2012	-	<p>Area under impact: The detailed physical plan addresses construction of 18 HPP in watershed of Komarnica river. Four of them are conventional (dam) the other 13 are derivational. The SEA treats only HPP Komarnica. The HPP Komarnica is planned as as peak hydro power plant, with the dam at the end of slowing down of the existing accumulation of HPP Piva. The consultant defines area under the impact on basis of orographic watershed.</p> <p>Baseline study: baseline study is prepared on basis of available data, i.e desktop study. Hydrological data dated on 1969 are not relevant. Climate change impact is neglected. The information on inhabitants and property are related to wider area, thus it is not clear whether they are affected by the project or not. Hydrogeological and geological aspects are very briefly described. The Consultant stated that in the phase of “main design” it would be necessary to investigate those aspects. Sufficient GHG information should be available earlier, on preliminary stage. Flora and Fauna baseline very brief. The consultants suggest conducting flora and fauna on the level of detailed design that has no logic as it is the latest design stage.</p> <p>Impact assessment: impacts described at the literature level. Reduced ecological / hydrological connectivity , changes in sediment transport, changes in water regime, environmental floe, floods large-scale disturbance of hydro and geological systems, etc., are not elaborated</p>

Name of the plant	Consultation process	Available Water act	Major issues
			<p>Mitigation measures: General, as impact assessment. Alternative: only no- alternative is evaluated Conclusion: the SEA gives positive conclusion although impact assessment is general and not based on adequate baseline data.</p>
HPP Raštak	May 2012	not available	<p>Area under impact: The project is related to construction of derivational SHPP. The study covers <u>one of two</u> SHPP on river Raštak. The consultant defines wider and closer area under the impact of SHPP Raštak I on basis of the orographic basin, without taking into account cumulative impacts of integrated hydropower system. Other SHPP is just mentioned at the chapter 3.1. Basic parameters (page 39). The maps shown in the study are not readable, but it is clear that other SHPP is not shown in the map.</p> <p>Baseline study: Geological and hydrological baseline characteristics are general and described on basis of available background maps and studies. The maps shown in the study are not readable. The geological map is given in scale 1:100.000. The consultant did not conduct any target research to define hydrogeological sensitivities of area under the impact. There are just few sentences given related to hydrogeological specifics of the area (page 25) by which hydraulic connection of surface water and groundwater is generally described. It is mentioned that during the wet season the ground water is fed by water from the watershed what result with flooding caused by high level of the groundwater. This phenomenon and correlation of the river Raštak with groundwater is not elaborated. The hydrogeology, geology and tectonic characteristics are very general and given on basis of the maps. The consultant did not describe section related to infrastructure and settlements with sufficient level of details. It is mentioned that there are some housing units on distance of 500 m from SHPP. Land ownership is not identified. Baseline related to flora and fauna are based on previous studies and research publication. The description is very general and not specific to affected area. Hydrological data are uncertain. The river Raštak have never been hydrologically studied. The project is based on measurement conducted during the four months.</p> <p>Impact assessment: The impacts described in the study are very general and exactly the same to one given in the studies for SHPP Bistrica A and Bistrica B, SHPP Orah, although prepared by different Consultant company. The consultant did not analyse the project design and thus did not recognize that water intake presents the fish barrier. Cumulative impact assessment for both SHPP is not given. In case of construction of both SHPPs changes in sediment transport and river fragmentation will become a major issue. Potential impacts of changed water regime on water sources and groundwater regime are not discussed.</p> <p>Mitigation measures: Very general mitigation measures. One of the measures is to calculate the ecological flow. It is recommended to calculate the EF as 12% of a mean annual flow without any scientific argument. No proposal for construction of fish paths, forest restoration, and compensation for property acquisition, sediment management, reconstruction and maintenance of the fish spawn areas, etc.</p> <p>Alternative: No alternatives</p> <p>Conclusion: Positive conclusion is given although most of the important impact are not addressed by the study .</p>
SHPP Bistrica A and Bistrica B	Jan 2013	not available	<p>Area under impact: The project is related to construction of derivational SHPP. The consultant defines wider and closer area under the impact of SHPP Bistrica on basis of the orographic basin.</p> <p>Baseline study: Geological and hydrological baseline characteristics are described on basis of available background maps and studies. The maps shown in the study are not readable. The mapscale is to big 1:50000. The consultant did not conduct any target research to define hydrogeological sensitivities of area under the impact. The hydrogeology, geology and tectonic characteristics are given on basis of the maps. The consultant argues that Đalovića cave is not under the impact of the reservoir as the reservoir is on lower elevation then the cave. However on page 94 the Consultant recommends target research to investigate potential impact of the reservoir on the cave, but after</p>

Name of the plant	Consultation process	Available Water act	Major issues
			<p>construction, i.e after filling the reservoir. Baseline related to flora and fauna are based on data provided by the Institute for Protection of Nature of MNE. The document provided by the Institute describes in detail the richness of flora and fauna, as well as the richness of karst formations and water sources. It was stated that the source of the river Bistrica is of particular interest for the water supply due to which was put under a special protection regime. However, the consultant did not show water protection zone on the map, nor has described the measures. Although states that canyon is not sufficiently researched the Institute concludes that there is no impact. In its conclusion, the Institute does not mention the potential impact on water resources. Consultant accepts this conclusion and later refers to it when making the conclusion on the absence of negative impacts. Practically, the consultant has not explored the canyon during the development of the study. A information on ownership of the land along the access roads is not given in the project description section.</p> <p>Impact assessment: The consultant concluded that, the change of water regime will have impact on altering the ecosystem, but the fish population will adjust to life in the reservoir during the time. Earthquake risks identified in baseline section, while in section 6.4. page 94 the Consultant refers only to fire hazard as potential accident . No prediction of reservoir impoundment, no comments on changes of flow curve, flooding downstream of dam in case of high water. Since the description of the ownership of the land along the access road is not shown, it does not describe any potential harassment of ownership for the purposes of their construction. The Consultant wording (page 97): “it is necessary to regulate the property rights of owners, <u>if any</u>”. No comments on fish barriers, etc.</p> <p>Mitigation measures: Very general mitigation measures. One of the measures is to calculate the ecological flow? Insufficient investigation of the area is used as an argument for the choice of method for calculation of ecological flow. Thus the EF is calculated as 10% of mean annual flow. Other measures are related to waste management during the operation phase, etc. No proposal for construction of fish paths, forest restoration, and compensation for property acquisition, sediment management, reconstruction and maintenance of the fish spawn areas, etc. Disaster mitigation measures given are related to fire prevention and evacuation of inhabitants , etc. The Consultant did not address the dam safety issues, prevention of the dam failure, incorrect operation and other occurrences that could result in an uncontrolled and quick discharge of retained water, as well as measures to limit the damage from such occurrences.</p> <p>Alternative: No alternatives</p> <p>Conclusion: Positive conclusion is given although some important issues require detailed research.</p>
HPP Orah		not available	<p>Area under impact: The project is related to construction of derivational SHPP. The study covers <u>one of seven</u> SHPP on Šekularska river. The consultant defines wider and closer area under the impact of SHPP Orah on basis of the orographic basin, without taking into account cumulative impacts of integrated hydropower system. Other SHPP are just mentioned at the chapter 3.1. Basic parameters (page 32) and shown in the map. The Consultant mentioned four SHPP at the text, while six are shown on the map.</p> <p>Baseline study: Geological and hydrological baseline characteristics are described on basis of available background maps and studies. The consultant did not describe section related to infrastructure and settlements with sufficient level of details. It is mentioned that there are some housing units close to SHPP and that there is sawmill close to settlement Orah. There are problems related to land ownership close to the sawmill. This is the reason why this 203 m long section is not taken into account. However the ownership structure for the rest of the project is not specified. The hydrogeology, geology and tectonic characteristics are given on basis of the maps. Baseline related to flora and fauna are based on previous studies and research publication. The description is very general and not specific to affected area.</p> <p>Impact assessment: The impacts described in the study are very general and exactly the same to one given in the study for SHPP Bistrica A and Bistrica B . Both studies are prepared by the same company. The consultant did not analyse the project design and thus did not recognize that water intake presents the fish barrier. Cumulative impact assessment of all seven SHPP is not given. In case of construction of all seven</p>

Name of the plant	Consultation process	Available Water act	Major issues
			<p>SHPPs changes in sediment transport and river fragmentation will become a major issue.</p> <p>Mitigation measures: Exactly the same general mitigation measures as like in EIA Study for SHPP Bistrica. Again, one of the measures is to calculate the ecological flow? Other measures are related to waste management during the operation phase, etc. No proposal for construction of fish paths, forest restoration, and compensation for property acquisition, sediment management, reconstruction and maintenance of the fish spawn areas. Disaster mitigation measures, etc.</p> <p>Alternative: No alternatives</p> <p>Conclusion: Positive conclusion is given although most of the important impact are not addressed by the study .</p>

4 Conclusions and recommendations

The quality of baseline studies is unsatisfactory. In all analyzed studies it is stated that research will be done in a subsequent phase. Description of the baseline situation refers to a wider area and not an area directly affected by the project. The area affected by the project is in most cases unexplored, so that the impact assessment is unreliable. In most cases aspects of sediment production, other users, property issues, river fragmentation is not elaborated at all. Consequently, neither related impact assessment is possible, nor determination of the appropriate mitigation measures.

Mitigation measures are very general. The consultants mostly recommend calculation of environmental flow on basis of % of a mean annual flow without any scientific argument. Biodiversity conservation and wildlife mitigation measures are limited. In EIA studies no proposal for construction of fish paths, forest restoration, and compensation for property acquisition, sediment management, reconstruction and maintenance of the fish spawn areas, are given. Only SEA proposes design measures for fish passage, reconstruction and maintenance of the fish spawn areas. No measures to conserve threatened species or efforts for *in situ* or *ex situ* conservation of important species affected by the project. Cumulative impact assessment was not conducted in most cases.

Alternatives are given and generally evaluated in few cases. The alternative was no-go alternative.

Positive conclusion is given although some important issues require detailed research or significant impacts is identified with no possible mitigation measures.

It is not clear whether the water condition act were available at the time of preparation of EIAs. Water conditions are aimed to determine the conditions which will guarantee optimal and rational and ecologically sustainable use of water and water resources, and to secure advancement of water regime.

It often happens that preparation of the EIA / SEA starts in the phase of the main project design, or in the case of the SEA when the DPP is in the final stage. In such cases, it is not possible to integrate mitigation measures in the project design or project solution. In such cases only negative conclusion is possible, i.e. refusal of the study.

The consultant is selected by the Project developer. This makes the Consultant fully dependent on the project developer. The terms of reference for the contracted consultancy are based on the content of the study prescribed by the law. The Agency has no influence on the scope of contracted work, selection of experts in terms of expertise needed for qualified EIA/SEA for hydropower project. The law sets only requirement for "multidisciplinary" expertise.

In order to overcome those problems we recommended to:

- a) Rise quality requirements through the formal procedures:
 - Specify by the decision on scope and content of the SEA/EIA study subject, methods and scope of research needed for the description of the baseline situation, methods for impacts assessment. This would require expertise work in the "screening and scoping" phase that should result with detailed scope and content of the study and methodology of work. Thus, the decision on the content of the study i.e. terms of reference should be prepared by the Evaluation Committee of the Agency. Part of the expertise needed could be/should be provided by the water directorate. The "TOR" should include the criteria for selection of the consultant such are: field of expertise and specific experience.

b) Procedural changes:

- SEA should be done in parallel with process of development DPP. This will allow DPP developers to integrate mitigation measures or change the project solution in early possible stage. This is in line with Article 8 of the Law (The SEA procedure shall be carried out in the procedure of preparation of plans or programmes that may have significant impacts on the environment prior to their enactment or submission to the competent authority for adoption).
- All existing plans for hydropower development should be revised taking into account climate changes, socio-economic aspects (including other water users) and ecological sensitivity, thus identifying areas suitable for new hydropower projects, less-favourable and non-favourable areas.
- Preliminary assessment (screening) should be done at the level of conceptual design, while the EIA Study should be done at the level of preliminary design. In this way, it is ensured that environmental, economic and social criteria are taken into account at the earliest stage of development project documentation. After approval of the EIA study, development of the main project design should follow for the adopted alternative.
- Determination of Environmental Flow prior to EIA /SEA is asset. EIA/SEA cannot be completed without elaboration of the EF.
- The water condition act should be issued before or during the EIA process. The EF should be part of the condition given in the water condition act. Requirements set by the water authority must be integrated in the EIA/SEA

c) SEA/EIA Study:

- In case of more than one HPP in the watershed the cumulative impact assessment must be elaborated.
- The EIA/SEA should address all aspects given in the Annex 1 of the report including risks assessment as well. This includes at least seismic stability, flooding events, geotechnical stability, etc.
- The baseline study should be based on up to date and target research of conditions in the affected area.
- The mitigation measures should be precisely defined and listed so to allow monitoring and inspection
- Alternatives must be presented and assessment of alternatives must be ensured in the development of energy policies, strategies and plans. Assessment should be done taking into account environmental, social and economic criteria.
- Number of alternatives decreases as the level of project documentation increases. At the level of conceptual design in the context of a feasibility study, the largest number of alternatives should be considered. When evaluating alternatives one should take social, economic and environmental criteria. The cost analyses should take into account costs of mitigation and monitoring measures
- Cross-border impact should be analyzed in details. Specific international agreements to which Montenegro is signatory should be elaborated.

d) Legal changes:

- To precisely define method for determination of EF by a legal act

5 Part B – Root causes of weak EIAs/SEAs

5.1 Executive summary

5.2 Methodology used

The analyses of the procedure for EIA/SEA and the licensing procedure for consultancy firm are based on the analyses of the legal framework. Identification of the human capacity of administrations mandated to lead and manage the IA/SEA process, level of involvement and of civil society in consultation process (e.g. how many comments are submitted) will be done on basis of the interview with the ministries.

5.3 Short description of EIA/SEA lifecycle with emphasis on all participants to and mechanisms of approval process

The requirements of the EIA Directive 2011/92/EU are transposed through the **Law on environmental impact assessment (O.G. MNE, no. 80/05, 40/10, 73/10, 40/11)** and the **Regulation on projects that are subject to EIA (O.G. MNE, no. 20/07)**. The Regulation 20/07 contains two annexes, Annex I with the list of projects for which EIA is mandatory, and Annex II with the list of projects for which the Ministry decides on the need for EIA.

The EIA procedure consists of three steps:

1. decision on the need for EIA (for the projects from Annex II only)
2. determination of the scope and content of the EIA Study
3. decision on the approval of the EIA Study

Installations for hydroelectric energy production are listed in the Annex II, meaning that the responsible ministry will decide on the need for an EIA based on the environmental screening. **Dams and other installations designed to hold water or store it on a long-term basis are included in the Annex I** meaning that that EIA is obligatory.

The project owner submits the *Request for deciding on the need for EIA* which contains description of the project location, project itself, possible significant impacts on environment, and filled in the EIA questionnaire, as prescribed in the **Rulebook on content of documentation submitted with the Request for deciding on the need for EIA (O.G. MNE, no. 14/07)**. In a case that the Ministry decides that EIA is needed, the project owner will prepare the EIA Study that analyses all segments of environment and their sensitivity to impacts, mutual impact of existing and future activities, direct and indirect impacts of the project on the environment, as well as measures and conditions for prevention, mitigation or remediation of negative impacts to environment and human health. The general content is prescribed by the **Rulebook on content of the EIA Study (O.G. MNE, no. 14/07)** and specific content by decision of the Ministry in step 2 of the procedure.

The study will give a description of the possible impacts and propose mitigation measures in all phases of the project: development, construction, use and demolition. The proposed mitigation measures will be integrated into construction permit and should be taken into consideration by the designer while developing the main design. These measures should be also integrated into mandatory documents on the construction site. If the authority responsible for issuing construction related permit determines that measures proposed in the EIA Study are not taken into consideration in the design documents and later on during construction, it will not issue the approval for use.

Strategic Environmental Assessment in Montenegro has been regulated by the **Law on Strategic Environmental Assessment (O.G. MNE, no. 80/05, 73/10, 40/11, 59/11)** that transposes requirement of the SEA Directive 2001/42/EC. The SEA procedure shall be carried out in the procedure of preparation of plans or programmes that may have significant impacts on the environment prior to their enactment or submission to the competent authority for adoption.

The SEA procedure shall be composed of the following stages:

- Decision on the need for strategic assessment elaboration,
- Defining the scope and contents of SEA Report,
- Decision on granting the approval for the SEA Report.

The competent authority shall carry out SEA simultaneously with the elaboration of plans or programmes and obtain the approval for the SEA Report from the competent environmental protection authority. The SEA Report shall contain data describing and assessing the potential significant impacts on the environment that could be caused by the implementation of plans or programmes and alternatives that have been considered taking into account the objectives and geographical scope of plans or programmes. The competent authority responsible for preparation of plans or programmes shall submit the SEA Report to the authorities and organisations concerned requesting their opinion. The authorities and organisations concerned shall submit their opinions within 30 days. When there is the possibility of transboundary impacts, the competent state environmental protection authority shall initiate the procedure of exchange of information on transboundary impacts.

The competent authority responsible for preparation of plans or programmes shall inform the public and the public concerned about the methods and deadlines for public inspection into the contents of the SEA Report and method of submission of opinions, as well as about the time and venue of public debate holding. Public debate cannot be held sooner than 30 days from the date of announcement to the public and the public concerned. The competent authority responsible for preparation of plans or programmes shall compile the report on participation of authorities and organisations concerned and about the public debate.

Table 3 Gap analyses of national requirements for EIA/SEA procedure

EU Requirements	National requirements	Analysis of the gaps
<p>The requirements for environmental assessment of project are set in the Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (so called the EIA Directive).</p> <p>Installations for hydroelectric energy production; and Dams and other installations designed to hold water or store it on a long-term basis (projects are included in the Annex II of the Directive (discretion of Member States to decide whether an EIA is needed).</p> <p>Annex II a information referred to in article 4(4) (information to be provided by the developer on the projects listed in annex ii) Annex III- selection criteria referred to in article 4(3) (criteria to determine whether the projects listed in annex II should be subject to an environmental impact assessment) Annex IV- information referred to in article 5(1) (information for the environmental impact assessment report)</p>	<p>The requirements of the EIA Directive 2011/92/EU are transposed through the Law on environmental impact assessment (O.G. MNE, no. 80/05, 40/10, 73/10, 40/11) and Regulation on projects that are subject to EIA (O.G. MNE, no. 20/07).</p> <p>Installations for hydroelectric energy production are listed in the Annex II, meaning that the responsible ministry will decided on the need for an EIA based on the environmental screening. Dams and other installations designed to hold water or store it on a long-term basis are included in the Annex I meaning that EAI is obligatory.</p> <p>Regulation on the content of the application for EIA scoping procedure O.G. MNE, no. 14/07 . Regulation on the content of the application for EIA screening procedure O.G. MNE, no. 14/07 .</p> <p>The criteria are not defined by the Law or other regulation. Decision is made within the screening process that includes</p>	<p>There are no gaps in procedural sense, except missing criteria to determine whether the projects listed in annex II should be subject to an EIA</p> <p>EIA Study was prepared for HPP Orah, Bistrica i Raštak.</p> <p>The studies content was in line with regulations.</p>

EU Requirements	National requirements	Analysis of the gaps
	stakeholder consultations and public announcement of the procedure. The article 13 of the Law says that the competent authority will take into account stakeholder opinion and take decision. Regulation on the content of the EIA study O.G. MNE, no. 14/07 .	
The Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (so called the SEA Directive) sets requirements for assessment of plans/programmes including town & country planning or land use. The Directive 2001/42/EC sets the framework for future development consent of projects listed in the EIA Directive.	The requirements of the SEA Directive 2001/42/EC are transposed through the Law on Strategic Environmental Assessment (O. G. MNE, no. 80/05, 73/10, 40/11, 59/11).	There are no gaps in regulatory sense. The SEA has been conducted for Morača HPPs and Komarnica HPP.

In addition to the Law on SEA , Montenegro, as a Contracting Party to the UNECE Convention on the assessment of environmental impact in a Transboundary Context (Espoo Convention) and the UNECE Protocol on Strategic Environmental Assessment Environmental Impact in a Transboundary Context (SEA Protocol), is obliged to respect and apply the requirements and standards of international treaties.

5.4 EIA/SEA quality control at a national level

The quality and expertise of the consultant can be checked only by inspecting the quality of the study. Capacities of the agency are rather limited for quality check of the studies without external assistance. Agency has two (2) employees in charge of strategic environmental assessment and four (4) for environmental impact assessment. They have different professional background like: biologists (4) metallurgical engineer (1) and technology engineer. The quality control of the studies is the mandate of the Evaluation Committee/Commission appointed by the competent authority. Study of the environmental impact assessment should have been reviewed by the experts and followed by a report. According to the Law on strategic environmental assessment the competent environmental protection authority is entitled to obtain the opinions of other authorised organisations or experts in certain fields or it can establish the Evaluation Committee that shall evaluate the SEA Report. According to the Law on environmental impact assessment the Competent Authority shall establish a Commission responsible for setting the contents and scope of the Study and its evaluation, to determine the contents and scope of the Study and evaluate the Study. The Environmental Impact Assessment Commission members shall be appointed among the employees of the Competent Authority and other experts. The decision on the establishment of the Environmental Impact Assessment Commission shall stipulate its membership, composition and methods of its work. Persons who participated in the Study elaboration, or employees of the legal person or entrepreneur that elaborated the Study, cannot be members of the Environmental Impact Assessment Commission. Members of the Commission for hydropower projects are biologists, hydrologists, geologists, specialists in environmental protection, civil engineers - hydro, representatives of Municipalities - Secretariat for urban planning and environment, cultural heritage. Members of the Commission shall draw up individual reports, meet and discuss until they have a common conclusion and consolidated report.

The stakeholder consultation process and public consultation process starts from the early beginning. The Competent Authority shall submit the complete application to the Commission responsible for setting the contents and scope of the Study and its evaluation. The Competent Authority informs the project developer, authorities, organisations, and the public concerned about the proposal of the Commission. They may submit their opinions to the Competent Authority within 15 days from the receipt of the Commission's proposal. In taking a decision, the Competent Authority shall take into account the opinions

of authorities and organisations and public concerned. The Competent Authority shall deliver the decision on the contents and scope of the Study to the project developer and it shall inform the authorities, organisations, and the public concerned about such decision within seven days from the date on which it has been passed.

The information is made to public in at least one local or daily paper published in the territory affected by the intended project, as well as by means of electronic media. The Competent Authority informs the authorities and organisations concerned delivering written notices by fax and electronic media.

The public opinion is subject of the discussion and review by the Commission/Evaluation Committee. The authority responsible for preparation of plans or programs shall compile a Report on the participation of authorities and organizations concerned and the public hearing. Agency and Commission is responsible only for process of Evaluation of the SEA Report. The Report shall be prepared within 30 days from the date of completion of public hearing and shall include the rationale for all the accepted or rejected comments. The decision on the relevance of the submitted comments bring officials of the body responsible for preparation of plans / programs in cooperation with the institution responsible for preparation of the plans / programs and Consultant report on Strategic Environmental Assessment. In case of Environmental Impact Assessment the decision on the relevance of the submitted comments are taken jointly by the Commission and Agency staff. The interested public is then informed about the decision in written form.

Table 4 Review of the public hearing practices

Consultancy firm (name, year when the licence was obtained)	Consultation		
HPP Moraca Status: ongoing	Montenegro	Skadar/Adriatic	Year of SEA: 2010
COWI	<p>The public consultation process started by announcement in the newspaper. The government organized round tables, asked for suggestions, comment and recommendations in written form submitted electronically or by snap mail. The consultation period was 15.03.-13.04. 2010</p> <p>Ministry of Physical Planning and Environment has sent a request to the Albanian side to take stand and comment on the strategic assessment of the environmental impact for the DSP relevant to the multipurpose reservoirs area on the river Morača.</p> <p>Pursuant to the Article 23 of the Law on Strategic Environmental Impact Assessment Montenegro has implemented the exchange of information on trans boundary impact of the Plan has and called on the Albanian government to tsubmit comments and suggestions relevant to the Plan in the period from 15 March to 27 April 2010. Suggestions have not been delivered in the given period, therefore, on 19 June 2010, representatives of relevant departments from Montenegro, DSP Revisor and representatives of the Albanian Ministry of Environment, Water and Forests have held a meeting, after which Albania has delivered a written comments.</p> <p>Public consultation process in Montenegro was organized in the premises of:</p> <ul style="list-style-type: none"> • University of Montenegro (March 23, 2010), • Municipality of Podgorica (March 24), • Municipality of Kolašin (March 26) and • Montenegrin Academy of Sciences and Arts – CANU (March 29). <p>During the public consultation process, the Metropolitanate of Montenegro and the Littoral (March 25), NGO Forum 2010 (March 31) and Scientific Council of the Public Enterprise for National Parks (March 30) have organized roundtables with the aim of gaining a more comprehensive overview of the subject documentation.</p> <p>Also, several meetings were held with the representatives of WWF and NGO “Green Home” in order to enable a better insight into potentially contentious issues arising from the documentation offered at the public consultation process.</p> <p>The Agency has established a Commission for purposes of professional evaluation of the Report.</p> <p>The competent authority has prepared a report (relevant to the public consultation) stating the relevant objections on the basis of which amendments to the SEA have been requested.</p> <p>Relevant and accepted objections were provided by: Marina Marković, independent consultant, WWF and Green Home, Faculty of Civil Engineering, NGO Expeditio, NGO „Ozon“, Government of Albania, INTEGRA NGO „MANS“ Podgorica, Italian company A2A, Radovan M. Radović, Municipality of Kolašin.</p>		
HPP Komarnica	Montenegro	Black sea	Year of SEA: 2012

Consultancy firm (name, year when the licence was obtained)	Consultation
Status: Finalized	
WINsoft	The public on consultation process started 05.08.2012 by announcement in the newspaper. The government organized round tables, asked for suggestions, comment and recommendations in written form submitted electronically or by snap mail. The consultation period was 08.05.-08.06. 2012 in organization of the Ministry of Sustainable Development and Tourism. Public consultation in form of round tables:
Urbi Montenegro	
Geateh – Slovenija	<ul style="list-style-type: none"> • Municipality Savnik (15.05. 2012), • Municipality Pluzine (16.05.2012), • University Rectorate (23.05.2012), • Round table with representatives of NGO • Green Home (06.06.2012) <p>During the public consultation has been prepared TV's Reportage for television news 08.06.2012 god. (TV News), with aim to familiarize the general public with the details of The Plan and SEA.</p> <p>Municipality Šavnik (15.05. 2012) – 10 participants provided comments Municipality Pluzine (16.05.2012) - 5 participants provided comments University Rectorate (23.05.2012) – 3 participants provided comments</p> <p>During the public consultation Ministry received 9 formal-written documents with 99 comments which are sorted as follows:</p> <ul style="list-style-type: none"> • Plan text: 15 comments • Plan and SEA: 10 comments • SEA – graphic: 1comment • SEA – text: 6 comments • Other: 6 comments <p>Relevant and accepted comments - partly: NGO Green Home, NGO MANS, Socialist People's Party of Montenegro, Marina Marković – independent experts, NGO OZON. The authority responsible for preparing the plan (Ministry of Sustainable Development and Tourism) submitted the SEA Report to the Environmental Protection Agency for approval, in addition to the report on participation of authorities and organizations concerned and the public hearing. Having received the Report, Environmental Protection Agency obtained the opinions of other authorized organizations in particular fields to evaluate the SEA Report.</p> <p>Obtained opinions from: All Municipalities, National Parks, Forest Administration, Directorate for Water, Forest Administration, University of Montenegro, Ministry of Rural Development and Agriculture, Ministry of Health, Faculty of Civil Engineering, Electrical Utility MNE.</p>

Consultancy firm (name, year when the licence was obtained)	Consultation		
	<p>Negative opinions: Faculty of Civil Engineering and Directorate for Water – accepted from Environmental Protection Agency. According to the opinions of the authorized organizations, Agency prepared Conclusion with all requested comments and suggestions that must be included in final SEA Report.</p> <p>The deadline for submitting of SEA Report with corrections was 45 days.</p> <p>Environmental Protection Agency refused to grant an approval for the SEA Report because the competent authority (MSDT) didn't submit SEA Report with corrections within the 45 days.</p>		
HPP Raštak Status: Finalized	Montenegro	Black sea	Year of SEA: 2012
Lars Fire	<p>The public has been informed about screening process on 13.05.2010. The public consultation process related to EIA started on 23.03.2013. The public has been informed that EIA is approved. on 01.07.2013. The all announcement are published in the newspaper Pobjeda. The EAI study was available in printed form in Agency premises. The stakeholder invited to participate in consultation processes are :</p> <ul style="list-style-type: none"> - Ministry for sustainable development and tourism - Ministry for health - Ministry of economy - Hydro-meteorological Institute of MNE - Institute for nature protection - Water directorate - Forest directorate - PE National parks of MNE - Municipality Kolašin - Secretariat for urbanism, communal affairs and environmental protection <p>On the public consultation attended only representatives of agency and project developer without organisations, and the public concerned. During this process Agency didn't receive any comment or suggestion.</p>		
HPP Bistrica Status: Finalized	Montenegro	Black sea	Year of SEA: 2013
Lars Fire	<p>The public has been informed about screening process on 08.01.2013. The public consultation process related to EIA started on 23.03.2013. The public has been informed that EIA is approved on 26.04.2013. The all announcement are published in the newspaper Pobjeda. The EAI study was available in printed form in Agency premises and Municipality Berane. The stakeholder invited to participate in consultation processes are :</p> <ul style="list-style-type: none"> - Ministry for sustainable development and tourism - Ministry for health - Ministry of economy 		

Consultancy firm (name, year when the licence was obtained)	Consultation		
<ul style="list-style-type: none"> - Hydro-meteorological Institute of MNE - Institute for nature protection - Water directorate - Forest directorate - PE National parks of MNE - Municipality Berane - Secretariat for urbanism, communal affairs and environmental protection - Public hearing event has been organized on 12. 03. 2013 in the Municipality Berane. 			
HPP Orah Status: Finalized	Montenegro	Black sea	Year of SEA: 2012
Lars Fire	<p>The public has been informed about screening process on 23. 04. 2009. The public consultation process related to EIA started on 14.01.2012. The public has been informed that EIA is approved. on 27.03.2012. The all announcement are published in the newspaper Pobjeda. The EAI study was available in printed form in Agency premises.</p> <p>The stakeholder invited to participate in consultation processes are :</p> <ul style="list-style-type: none"> - Ministry for sustainable development and tourism - Ministry for health - Ministry of economy - Hydro-meteorological Institute of MNE - Institute for nature protection - Water directorate - Forest directorate - PE National parks of MNE - Municipality Berane - Secretariat for urbanism, communal affairs and environmental protection - The EIA has been reviewed by Velimir Brakočević (inhabitant) , Đurica Labudović, Darko Novaković (Hydro-meteorological Institute of MNE) . - Public hearing event has been organized on 31. 01. 2012 in the Municipality Berane. 		

5.5 Root causes behind the low quality of EIAs/SEAs

Transparency:

- There are no significant gaps in national legislation related to procedure of SEA and EIA. However, SEA is not prepared for all plans.
- Public consultation and public hearing procedure is fully organized in line with legal requirements
- SEA/EIA document is available, but not electronically. This should be improved.
- The final report for EIA / SEA is not public, so the final measures to minimize and avoid negative impacts are not known to the general public.
- The mitigation measures should be included in the construction permit. However, the construction permit only refers to EIA studies, so that the measures that were approved are not visible. According to available information, the environmental inspection receives measures that need to be inspected.

Quality control:

- The expertises provided by the consultant for the preparation of the EIAs are not relevant for the hydropower projects. The ministry have no influence on selection of the consultants.
- The quality control system is based on the Evaluation Committee/Commission expert review.
- The capacity of the Agency is not sufficient for QC of HPP projects in terms of required expertise.
- During the preparation of this report, their comments were not available, but from the fact that the studies are adopted, follow, that the group members did not professionally perform their job.
- Additionally QC is done by stakeholders and public. The stakeholders are actively participating in the consultation procedure, while concerned public is not giving important contribution to the public hearing. There are only few NGOs and few independent experts giving relevant contribution and review of the documents. Although just a little number of them participated they provided significant number of comments. The comments given are very professional and act as a substitute for Evaluation Committee/Commission.

5.6 Conclusions and recommendations

Built capacities of the authorities, consultants:

- Develop guidelines for environmental impact assessment for hydropower plants that will be used by the Agency during screening and scoping process and by the Consultants. The guidelines should list best available techniques for mitigation of environmental impacts and monitoring measures.
- Develop guidelines for SEA and cumulative impact assessment,
- Develop guideline for evaluation of the EIA/SEA for HPP that will be used by member of the Evaluation Committee/Commission
- Deliver tailor made trainings for Agency staff, Consultants and Experts engaged by the Agency in order to build their capacities for EIA for HPP projects.

Procedure:

- Required profile expertise for the EIA/SEA study should be defined in the decision on the content of study.
- Experts for Evaluation Committee/Commission should be carefully selected having in mind their relevant expertise.

- Experts of the water directorate should be involved in both, the scoping phase as well as evaluation phase.
- The SEA/EIA document should be available electronically on web sites of the competent authorities during public hearing process
- The construction permit should clearly specified the mitigation measures
- Adopted version of SEA/EIA should be available electronically on web sites of the competent authorities
- Cross-border impacts should be addressed in a timely and adequate manner. Hydropower development on transboundary water bodies must be subject to consultation processes with potentially affected neighbouring countries. The SEA and EIA both require an assessment of cross border impacts

Annex 1: detailed description of issues to be addressed by the EIA study for hydropower projects:

Potential impact of the Hydropower projects that will be at least taken into account:

A. Land Environment

- | | |
|--------------------|--|
| Construction phase | <ul style="list-style-type: none">• Change in land use patterns.• Changes in landscape• Loss of properties (movable and immovable).• Generation of waste (muck): Muck leads to adverse impacts on the land, water, air environment, vegetation and health of people.• Reservoir impoundment.• Induces land-slides.• Impact on soil due to (i) loss of topsoil, (ii) failure to refill and re-vegetate borrow areas and temporarily used land, (iii) erosion, (iv) soil contamination/pollution by raw materials used for the project construction, and (v) failure to re-utilize displaced earth during the construction period.• Generation of solid waste from labour camps/colonies and construction sites. |
| Operation phase | <ul style="list-style-type: none">• River fragmentation: The flooding of the reservoir obstructs the free-flowing nature of the river. Diversion of the river into tunnels leads to dry stretches of the river in the downstream.• Reduction in the flood plain area.• Downstream erosion: Reservoir sedimentation reduces the sediment and nutrition load of the river. This leads to increased soil erosion in downstream and damages the biological and economic productivity of the river.• Reservoir triggered seismicity/earthquake: The large amount of water that is impounded alters the pressure on the geological structure of the earth below. This may trigger earthquakes.• Land contamination due to the release of chemical waste, sanitary waste, oil and hazardous waste from induced development near the project area. |

Water resources & water quality

- | | |
|--------------------|--|
| Construction phase | <ul style="list-style-type: none">• Loss of natural springs due to tunneling activity• Increased turbidity in the downstream due to muck disposal and infrastructure development in the dam area like road building, labour camp, etc.• Run off from crushed and ground rock material from the drilling, blasting and stone crushing plant (quarry) pollute the water bodies.• Oil and chemical spills from workshop and release of chemical wastes lead to water pollution.• Sanitary effluent from the labour camp is a major concern which affects the water quality. |
| Operation | <ul style="list-style-type: none">• Reservoir sedimentation over a period of time reduces the live storage |

phase

and the power generation.

- Eutrophication risks.
- Modification of the hydrologic regime of the river.
- Decrease in dissolved oxygen levels thereby impacting the aquatic life.
- Thermal stratification of the reservoir

C. Biodiversity: Aquatic and Terrestrial ecology

Construction
and Operation
phase

- Due to flow regulation, the riverine ecology gets degraded in the upstream and downstream regions of the project.
- The damming of the river leads to loss of aquatic habitat and also loss of spawning and breeding areas.
- The decreased dissolved oxygen in the reservoir and eutrophication of the reservoir decreases the fish productivity and fisheries yield.
- Adverse impacts on flora and fauna due to increased accessibility in the area and increased level of human interferences.
- Loss of economically/ genetically/ biologically important plant species.
- Loss of forest cover, landscape degradation.
- Impacts on wildlife habitats and corridors due to acquisition of forest and other categories of land for various project appurtenances.
- Migration of workers leads to increase in pressure on the local resources such as fuel wood, drinking water etc.
- The change in hydrological regime downstream of the dam leads to destabilization of the hilly terrain vegetation. The loss of flood plains downstream leads to loss of agricultural lands and grazing lands.

D. Socio-Economic Aspects

Construction
phase

- Involuntary displacement and loss of livelihood.
- Loss of community properties.
- Pressure on existing infrastructure facilities like traffic infrastructure, water intakes, sewage outflow, other users,
- Cultural conflicts.
- The flooding of the impoundment zone behind a hydropower dam may results in the irreversible disappearance, fragmentation or dislocation of existing human settlements and infrastructure. It also leads to the loss through submergence or fragmentation of riverine agricultural land, vegetation and alluvia, forests and wildlife areas, mineral resources, historic, cultural and religious resources, and scenic areas.
- Impacts on vulnerable minority groups and indigenous people.
- Impacts on human-heritage and cultural landscapes.

Operation
phase

- Reduced fish catch may result in loss of livelihoods
- The damming of a river can also obstruct the traditional mechanisms of transportation like mountain passes and bridges across rivers. Log driving may also be affected due to changes in the water resource regime.

- Class or Gender Related Impacts: The change in the economy and in the society near the project area changes the employment and livelihood scenario. This may create class based differences and also gender related issues. The dispossessed small land holders often become farm workers dependant on seasonal wages.
- Impacts on Community Traditions and Ways-of-Life: Improved access to the outside world can lead to a loosening of social bonds and solidarity within the community, and to increased risks of competition or conflicts with outsiders for available resources.

E. Air Pollution

Construction and Operation Phase

- Fugitive emissions and increased dust levels from construction machinery, vehicular movement, tunnel construction, rock blasting, quarry sites, foundation excavation, cement mixing, and road construction. The construction activities will generate airborne dust as well as NO_x, SO_x and particulate matter.
- Impacts due to emissions from Diesel Generator (DG) set
- Induced development activities due to the hydropower project leads to overall degradation of the air quality.

F. Noise Pollution

Construction and Operation Phase

- During construction, noise is generated from vehicular movements, sand and aggregate processing, concrete mixing, excavation, machinery, construction noise and blasting.
- Noise due to increased vehicular movement and other construction equipment
- During operation, noise will mainly be generated from the power station.

G. Public Health

Construction Phase

- Increased incidence of water related diseases.
- Transmission of diseases by immigrant labour population.
- Risk and accidents: Workers on hydropower project sites are exposed to various hazardous situations, operate heavy machinery and other potentially dangerous equipment.

Operation phase

- Increased incidence of vector borne diseases
- Spread of new diseases due to migration of population and workers
- Land-slide prone areas on the banks of reservoir also poses a threat.
- Risk of Dam failure and floods.

Questionnaire for the Ministry

Section 1 General questions related to the EIA/SEA process

1. Selection of consultancy firm

- a) by investor
- b) by the ministry

2. Capacity of administrations mandated to lead and manage the EIA/SEA process

2.1. Total number of employees responsible for EIA/SEA process
.....

2.2. Number per profile of expertise:

- a) Geology
- b) Environmental engineering.....
- c) Biology.....
- d) Chemical Engineering
- e) Mechanical engineering (Process engineering).....
- f) Mechanical engineering (energy engineering).....
- g) Civil Engineering (hydro-engineering).....
- h) Other (specify).....

3. Do you formally request the project developer or the Consultant to integrate water consent or water permit in to the EIA study?

- a) Yes
- b) No

If not, why?.....

4. Do you engage the expert working group to determine the scope of the EIA study, after screening process?

■

- a) Yes
- b) No

Section 2- CONSULTATION PROCESS

Name of the EIA study:

1. Form of public announcement:
 - a) web site of the ministry
 - b) newspaper
 - c) poster announcement in the public places
 - d) radio
 - e) tv
 - f) letter
 - g) other (specify)

2. Length of the public consultation process started from the date of announcement in public newspaper in the screening phase:
 - a) 15 day
 - b) 30 days
 - c) other.....

3. Length of the public consultation process started from the date of announcement in public newspaper in the scoping phase:
 - d) 15 day
 - e) 30 days
 - f) other.....

4. Did you make available the whole of EIA document to public?
 - a) yes
 - b) no

If yes, in which form:

- a) Hardy copy available on request only in the office of the ministry
 - b) Submission of the hard copy to the address
 - c) Electronic version available on internet to wider public
 - d) Electronic version available on request
-
5. Stakeholders involvement

Please specify who has been consulted during the stakeholder consultation process:

- a) NVO (please specify names).....
- b) Other ministries
- c) Water directorate.....
- d) Forest directorate.....
- e) Directorate for protection of culture
- f) Effected citizens
- g) Other (specify).....

Did you ask officially (in written from) for their opinion?

- a) yes

b) no

Did they submit their comments?

a) yes

b) no

Did you discuss their comments with Evaluation Committee ?

a) yes

b) no

Did you (and Evaluation Committee) found their comments relevant/adequate?

a) yes

b) no

If not, please explain why:.....

Did you discuss their comments with them?

a) yes

b) no

If not, please explain why:.....

Did you take some of their comments on board?

a) yes

b) no

If yes, please specify which one:

Who provided that comment:.....

Did you reply to their comments in written form?

a) yes

b) no