

Strasbourg, 31 May 2018
[files02e_2018.docx]

T-PVS/Files(2018)2

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

38th meeting
Strasbourg, 27-30 November 2018

Possible file

**Development of a commercial project in Skadar
Lake National Park and candidate Emerald site
(Montenegro)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
The Informal Citizens Group from Virpazar, Montenegro*

- 17 May 2018 -

UPDATE

Complaint No. 2016/4: Development of a commercial project in Skadar Lake National Park and candidate Emerald site (Montenegro)

The former Environmental Protection Agency (recently integrated into the Ministry of Sustainable Development and Tourism as Nature and Environmental Protection Agency-NEPA) has called interested parties for public debate on environmental assessment study for new tourist settlement Standard 5* at 10 am on 29.05.2018 in Grand Hotel, Cetinje.

New development by MJ Property Ltd. - Standard 5* (UP2/UP3) is part of State Location Study "Mihalovici" in zone III of the National Park Skadar Lake alongside existing Porto Skadar Lake (UP1). New development is covering area of 16.812 m2 and will accommodate 222 persons mainly in residential apartment type of accommodation (69%) and hotel type of accommodation (31%). See attached photo.

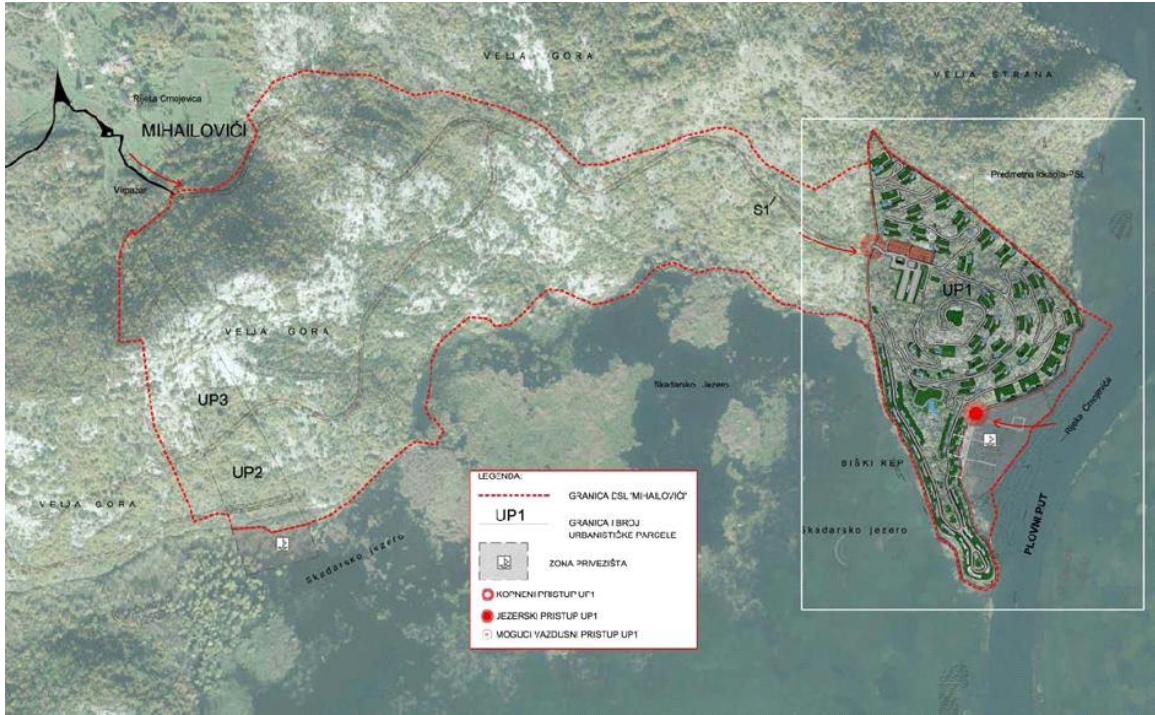
Current study assessing environmental impact is only available for viewing at the premises of NEPA in Podgorica during working day hours 8-11 am. Interested parties are invited to submit their comments by 30th of May 2018. Again this is giving all interested parties limited access to information and very short time to analyze and respond to this study.

It seems that Montenegrin Government is favouring private, commercial, large scale tourist developments within NP Skadar Lakes untouched highly functional shore line instead of small-scale, sustainable ecotourism and services, preferably making use of already existing facilities.

It is highly likely that this EIA study will be adopted and all relevant building permits will be issued. As previously stated this is clear signal to other investors to follow suit with their development plans. In current socio - economic environment in Montenegro there is clear lack of institutional capacity to monitor, regulate and persecute illegal let alone legal activity. This has been recognised in previous EU Parliaments and Commissions reports on Montenegro.

We fear that allowing this development and disregarding importance for the conservation will have detrimental effect on biodiversity and sustainable future of this site as Emerald and Natura 2000 site. Visual aspect of the area is already degraded. See attached photos

Milan Knezevic



- 18 January 2018 -



CONTRIBUTION TO THE EUROPEAN COMMISSION 2018 REPORT ON MONTENEGRO

Environmental and climate activities are not a priority of the Government of Montenegro. Limited progress has been made in transposing the EU's environmental and climate change Acquis. Harmonization had been slowed down and characterized by lack of clear vision and the delay in adoption of sub-laws. The legislative activities are characterized by the lack of adequate public debate and insufficient coordination among relevant parties. This confirms that capacities of public administration are limited.

The main environmental challenges are:

- Lack of inter- sectoral coordination;
- Insufficient funding for the implementation of activities;
- Personnel capacity are insufficient in terms of quantity and quality;
- Lack of adequate cooperation with Civil Society Organizations;
- Establishing an inadequate and unsustainable eco-fund;
- Concession Acts are issued without the implemented SEA;
- Air pollution in Pljevlja is still not resolved;
- Construction of Porto Skadar Lake in the Skadar Lake National Park;
- Status of Ulcinj salina;
- Implementation of the Law on Spatial Planning and Construction of Objects;
- Fear of failure to meet IPPC permit requirements until 01.01.2018. years;
- Plans for the construction of a new block of TPP Pljevlja, an opposition to the Paris Agreement;
- Opening a public dialogue on climate changes and energy issues;
- Revision of the Energy Development Strategy of Montenegro by 2030 and alignment with the Paris agreement and EU Energy and Climate policies;
- Establishment of the climate legal framework in preparation of the Low Carbon Development Strategy of Montenegro;
- Revision of Nationally Defined Contribution - INDC in line with EU goals.

General comments

Some progress has been made in the legislative part. Law on Spatial Data Infrastructure, Law on Management of Municipal Waste Water, Law on Chemicals are adopted as well as the Law on the Confirmation of the Protocol on the Register of Release and Transfer of Pollutants (Official Gazette of Montenegro - International Agreements, No. 6/17), Law on the Confirmation of the Amending of the Stockholm Convention (adopted on October 11th 2017) and Law on the Confirmation of the Paris Agreement (adopted on October 11th 2017).

The Expert Working Group on Water and the Expert Working Group on Nature Protection were established. The Expert Working Group on Nature Protection, established in May 2017, did not hold any meeting.

The Ministry of Agriculture and Rural Development started an initiative for the proclamation of a moratorium on the exploitation of sand and gravel from riverbeds. The coordination team monitors the implementation of this moratorium.

Besides the MSDT duties and obligations to secure compliance with EU Acquis other ministries or departments of the national government must be involved at various stages in the planning and implementation process. Those institutions are: ministries with responsibilities for agriculture, economy, foreign affairs, internal affair, local government, and trade and industry. This needed involvement could potentially cause conflicts since **there is no coordination of their tasks and clear distinctions of their respective roles or clear State's strategies in the area of environment.** Many fields of environment are missing the clear institutional set-up, technical assistance actions, capital infrastructure and operational actions especially after the **merging of the Environmental Protection Agency (EPA) to the Ministry of Sustainable Development and Tourism (MSDT).**

In this stage it is necessary to identify conflicting legislation, prepare amendments to the legislation, to integrate primary legislation and secondary acts needed for full and effective legal transposition and relative timeline and to identify actions needed for full implementation and enforcement. Confirmation that it goes in some other direction is the merging the EPA to the MSDT which has been implemented with lack of transparency and without consulting important stakeholders. As a consequence, there is a clear conflict of interest in operating of those two bodies. Having in mind lack of transparency of this process (implemented without public consultations) and threatening independence within decision- making process of EPA (that is now under the Ministry –Directorate for Environment) in further period it is expected to get a process of advocating controversial projects and investments driven by different interest groups through MSDT. Also, the proposed transformation of National Parks from a public enterprise into a limited liability company is questionable as well as the realization of certain infrastructure facilities at the heart of the reserves, i.e. strictly protected areas (catering facilities in NP "Biogradska gora", NP "Durmitor", NP "Lovćen" and "Porto Skadar Lake" in NP "Skadarsko jezero") according to the new Governmental policy of sustainable financing of protected areas and regarding the new **Law on Spatial Planning and Construction of Objects.** Spatial planning and correlated sustainable development of valuable areas is threatened by the adoption of this Law. The main principle of this Law is based on centralisation of the decision making process, which is opposite to EU recommendations. Namely, this law is annulling local spatial plans as well as spatial plans of special purposes such as those for National parks and coastal zone. For example, this Law is annulling just recently adopted Local spatial plan for Municipality of Ulcinj that identified Ulcinj Salina as protected area (which protection is negotiation benchmark). Inadequate level of planning documentation such as the Plan of General Regulation which will threaten the national parks makes possibility to marginalize nature protection in relation to its economic valuation, which is carried out in an environmentally unsustainable manner. All levels of jurisdiction for establishment of protected areas and most of ecological programmes are being developed and implemented primarily through the Spatial Plan of Montenegro and after that through the different government and local plans and programmes. Parliament of Montenegro will have a responsibility for adoption of Spatial Plan of Montenegro and Plan of General Regulation. The Government of Montenegro and Ministry of Sustainable Development and Tourism will have big responsibility. Responsibility of local government will be process of adoption the Urban Project. There is possibility of the conflict between the Law of Spatial Planning and Construction, on one hand, and the Law on Nature Protection and the Law on National Parks, on the other hand, in part of mechanism of nature protection and hierarchy of planning documents which is necessary for realization of Management plans for national parks.

Lack of human resources regarding the capacities of civil servants at the end reflects on the delay in preparation and adoption of relevant by laws that would enable efficient implementation of legal framework. Additional reason for concern is insufficient capacities of inspection bodies which due to the small number of employees are not able to timely and efficiently carry out inspections in the field.

Also, there is a need to assess financial implication of actions performed in accordance with specific issues. 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 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 million¹ 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 2017, the amount of 1.8 mil. € or 0.09% of total expenditures of the current and budget funds were allocated for the Program "Environmental Protection and Communal Development" 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 forth 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 commitment of the decision makers 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 Government is mainly securing the necessary funds from the available budget. However, financial programming of infrastructure projects requires the readiness of the project in terms of completing the necessary technical documentation, implementation of SEA and EIA, economic and financial sustainability, conducted cost-benefit analysis. Technical assistance was requested for the preparation of projects in an environmental field in total amount of € 18.51 million for the period 2017-2020. The total value of the proposed projects is approximately 331.57 million.

A more **transparency and cooperation towards civil society** is necessary. Further monitoring of legislative activities, by the EU institutions, better communication with environmental CSOs as well as publishing of the opinions given by the European Commission to the drafted legislation will contribute to the quality of legislative process. Although competent CSOs monitor, participate, argue and insist on dialogue in all important processes of national interest, this is largely ignored by the line ministry and responsible institutions. Competent CSOs are not participating in important process or their opinion has been mostly marginalized in important cases such as: establishment of Eco Fund, protection of Ulcinj Salina, development of Porto Skadar Lake, building of second block of TPP Pljevlja, adoption of new Law on Spatial Planning and Construction of Objects. Cooperation with civil society in the early stages of information and consultation regarding the decision-making process and effective public participation remains is low.

Comments related to specific areas

In the area of **horizontal legislation**, the 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

¹ National Strategy for transposition, implementation and enforcement of EU environment and climate change Acquis (NEAS) with Action plan for period 2016-2020, pg. 118

data infrastructure in the European Community (INSPIRE). The law will be in force from January 1st 2019. The Law on the Confirmation of the Protocol on the Register of Release and Transfer of Pollutants was also adopted on July 26th 2017. („Official Gazette of Montenegro - International Agreements“, No. 6/17). Government adopted the National Strategy for Sustainable Development until 2035. Preparation of the Draft Law on EIA is ongoing.

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). There is no obligatory to implement the **SEA for the concession 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. The quality of studies for impact assessments and public consultations with civil society and other stakeholders needs to be improved. An efficient coordination between the stakeholders is missing. Enforcement should be improved strengthening the EPA's and local government's capacities.

According to the Article 79 of the Law on Environment, local self-government units have possibility to prescribe compensation for the protection and improvement of the environment, in accordance with their needs and specificities. Criteria, type and amount of compensation, method of payment, taxpayers, as well as facilities for certain categories of payers are prescribed by the local self- government unit, with the prior consent of the Government. The collected funds must be used for protection and improvement of the environment on the territory of the local self-government unit. In practice, the implementation of this article is a problem because the Government does not approve the Proposed Decisions with explanation of the double taxation on the same basis (an example is the Municipality of Pljevlja).

Better implementation and enforcement of the Directive about access to information, and better transposition, implementation and enforcement of the Directives about access to justice and public participation are needed.

The administrative and judicial procedures are not effective as well as access to environmental information, public participation and justice. The implementation of Directive 2008/99/EC is not at satisfactory level due to the unclear provisions of the Criminal Code, the possibility of subjective interpretation by the participants in the proceedings and insufficient capacity of the inspection, prosecutor's office, and the judiciary and court experts.

The implementation of Directive 2004/35/EC (ELD) is missing.

Cooperation with the civil sector often represents only the formality while essentially it's absent. Considering the good functioning of the four Aarhus centres which is pointed out in the Progress Report for 2016, it is necessary to stress the differences in the operational functioning of these centres. Namely, the two centres (Podgorica and Berane) are the organizational units of the Nature and Environmental Protection Agency, while the other two (Nikšić and Pljevlja) are active within NGOs "Ozon" and Ecological Society "Breznica". There were no employees in the Aarhus Center in Podgorica during 2016. and obligations were assumed by other officials, which undoubtedly reflected on the quality of work and poorer interaction, as well as communication with the interested public. The Aarhus Centre of Berane acts as a prominent office of the EPA, with two employees. Due to the lack of autonomy in work and limited resources and capacity, this office failed to position itself as the Regional Centre for the North. Although the communication with local administrations and non-governmental organizations from the northern part of Montenegro exists, the Aarhus Centre of Berane is unable to influence the quality of information flows and more transparent work of local self-governments and public enterprises dealing with environmental issues. In contrast to them, the Aarhus Centres in Nikšić and Pljevlja are regularly informing the public about the ongoing projects and programme of ongoing public hearings. In addition, they monitored the work of the State Network of measuring stations for monitoring of the air quality in 2016, which is one of the major problems in the country.

Environmental monitoring is also a particular challenge. A collision in laws can lead to their inadequate enforcement. The monitoring program for 2017. was adopted on February 16, 2017. although it is planned for the IV quarter of 2016., while the Information about Environmental State for 2016., although planned for the second quarter of 2017. and prepared in June 2017 by the Agency for Nature Protection and Environment, the Government adopted on October 19th, 2017. Funding for the Monitoring Program for 2017. is €330,000, while for 2016 it amounted to €322,500.

In the field of **air quality**, limited progress is achieved regarding to transposing of EU Acquis. In the reporting period, two bylaws were adopted: Regulation on Limit Values of Contaminants in Liquefied Fuels of Petroleum Origin ("Official Gazette of Montenegro", No. 17/17) and Program for Monitoring the Quality of Liquefied Fuels of Oil Origin for 2017 ("Official Gazette of Montenegro", No. 33/17). The essential problem is reflected in the implementation of the National Air Quality Management Strategy with AP for the period 2013-2016, which has not been fully implemented. The Government adopted the Fourth Report on the Implementation of the National Strategy for Air Quality with the Action Plan, which states that 40 of the planned 54 measures have been implemented. A real-time air quality reporting system has been established, but a network of measuring stations has not been improved. A comprehensive information system in this area has not been established. The choice of technological solutions is more than worrying. The implementation of the adopted action plans, the implementation of air quality plans, the quality control of marine fuels, the establishment of maximum national emissions and the preparation of the National Program for Progressive Emission Reduction remains a challenge and full implementation also. Problems in implementation are: lack of reliable historical data; emission projections and verifications the improvement of the emission data/accuracy of inventory data; assessment of the critical loads and lack of specifically knowledge in this field in key institutions. Action plans for Pljevlja, Podgorica and Nikšić have been adopted where the deterioration of air quality has been noted. There are no action plans for other municipalities where air quality deterioration has been recorded.

During the last year in Nikšić, due to the failure of the measuring instrument (27.06.2016 -02.12.2016), PMs particles were not sampled, so a real estimate was that it was significantly more than 72 days of overrun. Average annual concentration of PM10 particles was 52.5 µgr/ m³, which is above the prescribed limit value.

Pljevlja had even incredible 181 days of exceeding the mean PM10 concentration limits. Average concentrations of PM2.5 particles on yearly level was above the prescribed limit value with 44,86 µg/m³. Also, increases in concentrations of SO₂, NO_x, and benzoapyrene are evident.

Also, in Bar municipality, which deserves more attention of the institutions when the air quality is concerned, a total of 37 days were recorded in 2016, with average daily concentrations of suspended PM10 particles exceeding.

In Podgorica, 81 days were loaded with high concentrations, which were above the prescribed limit values, and the biggest pollution was during December, even 25 days, just like in Nikšić.²²

Pollution inventories of air pollutants and ozone precursors are not updated.

For the project "Implementation of measures to reduce pollution and heating of Pljevlja" in the budget for 2017, € 850.000,00 was allocated. Although under the public monitoring, **implementation of the Local Plan for Pljevlja** is not at satisfactory level, due to the concrete results are not evident and the level of pollution remained at the same level as in the previous years. Also, there is no harmonization of medium and long-term measures for improvement the air quality in this municipality. The planned heating plant, as a medium-term measure, will not be part of a long-term system or will require significant additional financial investments. In addition, the municipality of Pljevlja as the most polluted in the country, has not developed a local plan for the case of extraordinary pollution which could be expected in view of air quality in that city. It is

² Information of t Environmental State in Montenegro for 2016.

obvious that the Government plans the **contracting of the second TPP block**, as a measure that will improve air quality, but such a measure is questionable, bearing in mind that it is a technology that definitely emits pollutants, and that EU practice and recommendation is to leave dirty energy sources. In this regard, the Resolution of the EU Parliament stresses the concern over the Government's plan to implement the project for the construction of the second block of TPP Pljevlja, which is not in line with the Paris Agreement. Also, during the preparation of the Elaborate for solving the problem of pollution in Pljevlja, prepared by the Faculty of Mechanical Engineering, there were no public consultations or discussions, although it was a document of general public interest, and without a doubt the health of the citizens themselves. Despite the constant promotion of the construction of the second block of TPP Pljevlja, as measures for improving the quality of air in this municipality, **the harmonization of this project with the BAT standards (the Best Available Techniques) of the European Union has not been achieved.** The technology of gas discharge through a cooling tower is not recognized as a BAT for flue gas extraction, and is not particularly recommended for the Thermal Power Plant in Pljevlja, due to the geographical characteristics of this city, where, even without additional pollutants, air circulation in the basin is low.

Transparency in decision-making and involvement of the **civil sector** in the preparation of acts is at an unsatisfactory level. In the process of the adoption of the Action Plan for the implementation of the National Air Quality Management Strategy for period 2017-2020, we would like to point out that the public debate wasn't organized and the Strategy is not updated. 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).

There is a lack of specific expertise in this area, especially in key institutions for transposing, implementing and enforcement of legislation, and there is evident a lack of financial capacities.

In the area of **waste management** clear option for waste treatment is lacking. Decree on the criteria for ending the status of waste from iron, steel, aluminium, copper and glass was adopted ("Official Gazette of Montenegro", No. 26/17, 31/17). The level of implementation of the EU Acquis in this sub-area is not very high and many other important steps still must be taken such as the establishment of an adequate network for waste disposal, prioritizing waste reduction and prevention, the establishment of a register for waste producers. The consent for local management plans for communal and non-hazardous construction waste got the 20 of 23 municipalities in Montenegro. 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 resolving this problem. However, it is obvious that envisaged recycling rate of 25% envisaged by the Law cannot be nearly reached within the prescribed deadline (December 31th, 2017). Municipal solid waste collection (about 243,941t is produced per year), in accordance with the Law on Waste Management and municipal regulations is responsibility of the local self-government (LSG). The responsibility for the implementation of these activities has been transferred to municipal utility companies.

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 large number of local self-governments dispose waste at temporary dumpsites although the deadline for their closure has expired, and a large number of illegal landfills is evident (about 350 according to EPA's records). The problem is also the issue of disposal of sewage sludge (example of municipalities Budva, Tivat, Kotor and Herceg Novi. 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). 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. Poor equipment of local businesses is worrying. The uncoveredness of the rural area with containers is still worrying, given that the waste is either burned or disposed of in the streams or rivers.

The institutional framework and cooperation between local and central authorities is not at the satisfactory level. The main problems in implementation of PCB/PCT Directive 96/59/EC are: the lack of inventories of the existing PCB equipment; the unavailability of data on storage and removal of the obsolete equipment and waste oils containing PCB; the lack of uniform instructions for identification, decontamination, use, transport, storage and disposal of PCB equipment or products. There are no implementation plans for "heavy" directives.

Certainly the biggest challenge is the establishment of an efficient and sustainable inspection system, as well as adequate penal policies that will be consistently implemented.

In the area of **water quality**, the Law on Communal Waste Water Management was adopted ("Official Gazette of Montenegro" No. 02/17) 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 br. 31999L0271) of 21 May 1991 concerning urban waste- water treatment, OJ L 135, 30.5.1991 and Commission Implementing Decision of 26 June 2014 concerning formats for reporting on the national programmes for the implementation of Council Directive 91/271/EEC (notified under document C (2014) 4208), OJ L 197, 4.7.2014. Currently the system of competences in this area is fragmented. Ministry of Agriculture is the Competent Authority. According to the fragmented competences the level of implementation and enforcement of the water legislation is not adequate. The Government adopted the National Strategy and Action Plan but still missing the many important documents such as Management plans for river basins and clear actions on this field. The construction of sewerage networks and wastewater treatment plants is being delayed. WWTPs are missing for many municipalities while existing ones, e.g. in Podgorica, do not correspond either with capacity or technology standards. Water supply is troublesome in Herceg Novi and Cetinje. There are frequent restrictions of water supply, especially in the summer period. Reports on the implementation of the Millennium Development Goals indicate large losses in the water distribution network in urban settlements throughout the country (in 2015. it was 58.4%). The percentage of connection to the sewage network in urban settlements in 2015. is 85%, while the scope of treated wastewater in relation to the total quantity is 25.8%. Most cities continue to distribute water using asbestos-cement pipes whose negative impact on health has been proven. An effective monitoring and enforcement system is not established. A preliminary flood risk assessment to identify the river basins and associated coastal areas where there is a potential significant risk didn't set up. A measure to eliminate the pollution of inland surface waters, territorial waters and internal coastal waters by dangerous substances is not implemented.

Bylaws adopted on the basis of the Law on Waters, in 2017 are: General plan for protection against harmful effects of waters, for waters of importance for Montenegro, for the period from 2017 to 2022. ("Official Gazette of Montenegro", No. 17/17); Program for testing the quality of water for water supply on water intakes for 2017. ("Official Gazette of Montenegro" No. 12/17); Decision on Determination of Sensitive Areas in the Water Area of the Danube and Adriatic basins ("Official Gazette of Montenegro", No. 46/17 and 48/17) and Decision on granting a concession for the construction of a small hydro power plant "Bukovica" on the part of the Bukovica watercourse based on the energy permit ("Official Gazette of Montenegro", No. 40/17).

Monitoring in 2016. shown that the the largest sources of pollution of surface and groundwater are municipal wastewater. The most polluted watercourses were Vezišnica and Čehotina bellow the Pljevlja, and Ibar bellow the Rožaje. Moderate pollution was caused by the waters of the middle and lower streams of Lim, Rijeka Crnojevića, Grnčar in the area of Gusinje and Morača on the part below the watershed of the city collector Podgorica, good quality status had Kutska Reka (Zlorečica), Cijevna on Trgaj and Tara on the Trebaljevo- Šćepan polje part, and very good Bojana and Zeta, especially in the lower flow, and excellent water quality had the river Piva.

In the continental part, the natural quality of water almost at all sources of groundwater is deteriorating. According to the results of microbiological tests, 6,6 percent of the chlorinated drinking

water samples do not meet the prescribed hygienic standards, most often due to the increased presence of bacteria and faecal contamination.³

Administrative capacity in the water sector at the state and local levels is not strong enough to respond to the challenge of an efficient process of harmonization of domestic legislation with the EU Acquis and does not establish a financial framework for their development.

Mini hydropower plants are mostly constructed without adequate hydro potential analysis. One example is the rupture of the Kutska and Mojanska rivers, where the rivers have been dried up in certain parts of the riverbed. The construction of mini hydroelectric power plants is being viewed passively and there isn't an adequate response to the conservation of natural resources.

The construction and planning of the construction of tourist complexes in the marine area (Porto Montenegro, Porto Novi) and in the protected area (Porto Skadar Lake) has not been accompanied by an adequate reaction of professionals from the water protection sector in order to integrate measures for the prevention of potential risks. The civil sector has contributed to protecting Skadar Lake, but without the possibility of changing anything in the planning process.

Montenegro is not working on the preparation of the Marine Strategy.

Nature protection field is facing numerous problems as well. After one year of enforcing the Law on Nature Protection, MSDT has prepared only three by-laws (Rulebook on detailed criteria for determining the area of the ecological network ("Official Gazette of Montenegro", No. 45/17), Rulebook on the content of the study on the appropriate assessment for the area of the ecological network ("Official Gazette of Montenegro", No. 45/17) and Rulebook on the detailed content of transportation of protected wild species of plants, animals and fungies ("Official Gazette of Montenegro", No.61/17)) while numerous by-laws are necessary for the full transposition of EU Acquis. In March 2017, the Government adopted the Decision on the Temporary Limitation of Exports of Certain Timber Assortments ("Official Gazette of Montenegro", No. 23/17) until May 2019, which was a step forward in this area. However, as early as August 2017, the Government has adopted the Decision on supplementing the Decision on the temporary limitation of exports of certain timber assortments allowing the export of certain timber assortments. The numerous by-laws are adopted which got a base for concession of forest's and hunting's resources.

The realization of the project "Establishment of the Natura 2000 network" has started but there are many ongoing projects and often with incompatible goals. The project does not cover the southern belt of Montenegro. This leaves the possibility of devastation of sites that can be part of the NATURA 2000 network or the determination of purpose for other purposes by strategic and/or planning documents. 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 categories and the application of the specific methodologies and collection of data in accordance to the standards of NATURA 2000.

In the area of National Park "Skadar Lake", the site of Biški rep, Mihailovići, the construction of a luxury tourist complex and the "Porto Skadar Lake" marina is planned. In the Strategic Environmental Assessment Report, "Mihailovići" SSL states that the implementation of the solutions planned by the State Study of this location will affect the environment predominantly at the sites planned for construction and in the immediate environment, except in part of the socio-economic issues where the impacts are of a wider significance. Negative impacts that can occur during construction and during the exploitation of the hotel complex are fragmentation, total or partial destruction of habitats, as well as the loss of a number of individuals from the species present, whether it is destruction or migration from the habitat.

The enforcement of the provisions of the Criminal Code through subjective interpretations, as well as the lack of understanding of the importance of nature protection by the prosecution lead to an extremely low rate of punishment for the individuals who have committed crimes against the

³ Information of Environmental State in Montenegro, 2016.

environment. It is particularly problematic to continuously illegally transfer hunted protected species across the border, as well as insufficient training of customs officers to recognize protected species. The issue of unauthorized and illegal keeping of wild animals, many of which are smuggled into the country (the case of tigers, wolves) is also worrying.

A protected area database (www.prirodainfo.me) is established. The re-categorization of protected areas wasn't done, which was a legal obligation. Many protected areas have lost the characteristics that have been recommended for protection. Management of categories of protection under the II category according to IUCN almost does not exist.

The Ulcinj Salina is not protected yet. According to the Spatial-Urban Plan of Ulcinj adopted by the Government of Montenegro on February 16th 2017 in subsection 3.1.3. Protected natural assets states that Ulcinj Salina is planned for the nature park, IUCN category V/IV. In accordance with the Spatial Plan of Montenegro as an umbrella planning document, the development of tourist accommodation is planned in this area. In 2012, the Parliament of Montenegro adopted the Decision on Amendments and Supplements to the Spatial Plan of Montenegro until 2020 ("Official Gazette of Montenegro, No. 44/2012") recognizing in the category "nature monument" or "area of special forms" Ulcinj salina with knetas and Ada Bojana. However, in November 2015, the Constitutional Court of Montenegro passed the Decision on termination of the validity of the Decision on amendments and supplements to the Spatial Plan of Montenegro until 2020. Ulcinj salina is still not protected at the international level, nor have the competent institutions provided an adequate water management regime, as well as a hunting stopping in one part of Ulcinj Salina, where such activity is permitted by municipal decision. According to the new Law on Spatial Planning and Construction of Objects, the local spatial planning documents don't exist anymore and SUP Ulcinj also. It is evident that the political will is questionable to protect the Ulcinj Salina, which is best supported by the fact that in the three years since the undertaken obligations, the Government did not significantly engage in any national or even international protection, as well as hunting prohibition, which is still permitted in one part of this important site. In addition, the site has been degraded to the level that it begins to behave as an ecological trap for millions of migratory birds. The process of changing the ecosystem character has begun, i.e. the process of converting saltwater into the freshwater ecosystem type, which will have inconceivable ecological and biodiversity consequences in this area.

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.

There is a tendency to announce tenders for the construction at sites of great natural value, which are also recognized as potential Natura 2000 habitats (Porto Skadar Lake, Buljarica), in contrast to the valid spatial planning documents.

With the lack of adequate biodiversity monitoring at the state level, one may conclude that management, spatial planning, urbanization and protection measures are based on modest data, which are the cause of the inadequate monitoring programs, inadequate methodology, so decisions based on such data are controversial.

The problem is allowed hunting quotas, lack of shortening of hunting seasons, unauthorized hunting for which there is not even a strategic commitment of the department to start working on its effective suppression. Especially it is worrying the practice of fishing with illegal means like as dynamite in the sea and electric generator in the Skadar lake. Hunting ranger services should be enhanced with technical equipment.

Montenegro, except 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 not have neither a service for protection nor the needed equipment (boat). Inspection services at sea do not have adequate equipment.

In the area of **industrial pollution** the two bylaws are adopted: Rulebook on the detailed content and manner of keeping the cadastre of the polluters ("Official Gazette of Montenegro", No. 45/17) and Rulebook on the detailed conditions, criteria and procedure for obtaining the right to use the ecological sign ("Official Gazette of Montenegro", No. 50/17). The competent authority was the EPA which is part of the MSDT now. By 2016, EPA issued five integrated permits. For others, listed in the “Program on harmonization of particular economies with the Law on Integrated Prevention and Control of the Environmental Pollution” among which are the biggest polluters in the country, deadlines were prolonged for three years, from 1st January 2015 until 1st January 2018 with fairly realistic expectations to extend the deadline again. A confirmation of this expectation is also the fact that the Environmental Protection Agency rejected the request for the issuance of an IPPC license to KAP in bankruptcy on October 9th 2017.

Additional issue is transposition, implementation and enforcement of Seveso Directive that needs establishing of coordination unit since the jurisdiction is divided between MSDT and Ministry of Internal Affairs (MIA). The enforcement of regulations in this field is not satisfactory bearing in mind the delay in the deadlines for obtaining IPPC permits. Untreated industrial wastewater is a source of surface water pollution. There are no known quantities of hazardous waste. There is no hazardous waste landfill but only temporary storage, after which waste is exported in accordance with the Basel Convention. There is no recycling of the battery and it is not known where it is disposed. BAT-BREF principles have not been established. Due to the absence of a transposition of a higher degree of the SEVESO III directive, large quantities of hazardous waste are in practice classified into non-hazardous waste. According to the available information only at the dumpsite of lead and zinc mine in Gradac, Pljevlja has deposited over 4.5 million tons of hazardous waste, which has been classified in a non-hazardous, and for whose rehabilitation it takes 6 million euros. Also, at the Maljevac landfill, about 4 million tons of ash and slag were deposited, which was recycled into non-hazardous waste, for which the rehabilitation costs 5 million euros. In the Bijela Shipyard more than 50 million tons of hazardous waste (dangerous grit) has been postponed, which has been classified into a non-hazardous one, for which removal will be necessary 17 million euros. For remediation of industrial waste in KAP, 12 million is required, and for the rehabilitation of the red sludge pool, just over 3 million. Estimates have been made for the purpose of concluding a loan agreement with the World Bank and is expected to be higher after their correction.

In the area of **chemicals** the new Law on chemicals was adopted on July 26th, 2017. ("Official Gazette of Montenegro", No. 51/17) which is fully complies with Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonization of laws, regulations and administrative provisions relating to the application of the principle of good laboratory practice and the verification of their enforcement in the examination of chemical substances. The law is partially harmonized with Regulation (EC) no. Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and the establishment of a European Chemicals Agency and amending Directive 1999/45/EC and the entry into force of Council Regulation No. 793/93 and Commission Regulations (EC) No. 1488/94 as well as Council Directive 76/769/EEC and Commission Directive 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC; Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16th December 2008 on the classification, labelling and packaging of substances and mixtures, amending and abolishing Directives 67/548/EEC and Directive 1999/45/EC and amending Regulation (EC) 1907/2006; Regulation (EU) No. 649/2012 of the European Parliament and of the Council of 4th July 2012 on the export and import of dangerous chemicals (amended) and Regulation (EC) No. 648/2004 of the European Parliament and of the Council of 31st March 2004 on detergents.

The Law on the Confirmation of the Amendment to the Stockholm Convention on Long-Term Organic Pollutants was adopted on October 11th 2017.

Implementation in this area is hampered by complicated procedures, lack of capacity and expertise in this area for the preparation and delivery of a dossier for the identification of dangerous substances. There is no national service to help users providing information and advice (producers, importers and distributors) on the responsibilities and obligations according to the REACH Regulations. The special attention should be given to residual chemicals in old abandoned industrial warehouses (Berane, Bijelo Polje, Rožaje), among which are some dangerous since their validity date has expired.

The PIC procedure (approval procedure based on the prior notification) is carried out for the import i.e. export of chemicals contained in the Chemicals List for the PIC procedure and for chemicals from the List of the Rotterdam Convention.

Montenegro does not produce chemicals, but it is necessary to collect data on chemicals that are entered in the chemicals register. The established Registry is not supported by the IUCLID 5 software (International Uniform Chemical Information Database) developed for the purpose of collecting and storing data on substances, as well as submitting data to the European Chemicals Agency in the correct format.

Safe chemical management is a challenge for Montenegro because it requires specific narrow knowledge and the implementation of strict procedures. Identifying sites that are contaminated with PCB substances and the treatment of PCB waste is a challenge for institutions. The lack of data on the amount of fuel consumed in traffic makes it impossible to record the source of PCDD/PCDF emissions in the air and does not provide the necessary data on the quantities of uncontrolled combustion of waste. Evidence of the concentration of PAH released in power plants is not available.

There is no comprehensive database on chemicals on the Montenegrin market. Priority should be the establishment and development of an information system for the management of chemicals that will enable the establishment and constant updating of the database on chemicals, biocidal products, i.e. the chemicals register, as well as the planning of preventive measures for risk reduction and the implementation of inspection control.

A system for controlling the collection, storage and export of metal mercury and keeping records has not been established.

The establishment of a permitting system for the use of detergents, an inventory of the release of POPs in water and land, the issuance of permits for the use of animals for scientific purposes requires additional effort.

Centre for the control of chemical poisoning has not been established.

The challenge is implementation of the Asbestos Directive. The distribution water supply network in most cities consists of asbestos-cement pipes. Disposal of construction waste containing asbestos is not regulated in an adequate manner.

Directive 2010/63/EU on the welfare of animals used for scientific purposes has not been transposed.

There are no authorized laboratories for testing hazardous properties of chemicals in accordance with the principle of good laboratory practice.

Mechanism required to issue certificates to laboratories for the examination of the toxicological and eco-toxicological properties of hazardous chemicals in accordance with Regulation (EC) 440/2008 isn't established.

The division of competencies in this field requires good inter-sectoral cooperation.

The POPs and PAH monitoring program in the environmental segments (soil, water, air) needs to be improved.

In order to fully implement the Rotterdam Convention, it is necessary to raise the capacities of customs officers.

Regarding **noise**, Rulebook on Amendments to the Rulebook on Methods for Calculating and Measuring the Noise Level in the Environment was adopted ("Official Gazette of Montenegro",

No.27/14, 17/17). Work on the preparation of strategic noise maps and action plans has not yet started. 21 municipalities were adopted Decisions about acoustic zoning in their territory.

In the area of **civil protection**, in the legislative part weren't activities. In the implementation part, despite the number of projects that are in the implementation phase, there is a lack of a system for quick action in emergency situations. Lack of adequate fire and flood protection plans. The latest fires have shown that Montenegro has no capacity, despite the superfluous efforts of protection and rescue services, for an adequate response. Poor equipment and capacities of protection and rescue services, the division of competences at central and local level, inadequate protection and rescue plans has led to inadequate reactions to major fires that broke out in Montenegro in the summer of 2017. Also, Montenegro cannot effectively fight disasters because it is necessary to organize resources in rescue teams, transport, equipment, medical teams.

In **climate change** sector the legislative framework for implementation of EU Acquis is missing. According to the Law on Energy, the adopted Rulebook on the methodology for calculating the impact of bio fuels on greenhouse gas emissions ("Official Gazette of Montenegro", No. 45/17) was adopted. The Law on Ratification of the Paris Agreement was adopted on October 11th 2017. It is necessary to ensure a strong focus to the EU-ETS and MMR. The involvement of stakeholders as a key point for success is necessary at an early stage. The main roles in these activities can have the Montenegro Business Alliance and/or the Chambers of Commerce to explain to the business sector the importance of implementation of the CC Acquis. The transposition of EU legislation that regulates climate change issues is at the initial stage in Montenegro, which makes the implementation much more difficult. The implementation of the National Strategy has not yet achieved the goal of adequately integrating climate policy into related sectoral policies. The importance of planning in the field of climate change in Montenegro is still not recognized in the right way.

Montenegro has to make considerable efforts to ensure the fulfilment of its international obligations and the EU acquis in the field of climate change.

It is necessary to establish a wide dialogue, in co-ordination between the Ministry of Sustainable Development and Tourism and Ministry of Economy, with representatives of industry, agriculture and the civil sector. It also needs revision of the National Energy Strategy in line with the Paris Agreement, which in the near future will bring unification of national energy and climate strategies into a unified strategy which will enable better integration of climate policies into energy as well as an early insight into whether national efforts be ambitious and coherent enough to meet EU goals. In parallel with the revision of the Energy Strategy, the Ministry of Sustainable Development and Tourism intensifies activities on the preparation of the Climate Legal Framework, which implies the preparation and adoption of a whole series of documents by 2020: the Law on Climate Protection, the Third National Report on Climate Change, the two-year unified Montenegro report on climate change, the preparation and adoption of the Low Carbon Development Strategy and the adoption of the National Climate Change Adaptation Plan.

These strategies should also include the revision of the National Defined Contribution (INDC) under the United Nations Framework Convention on Climate Change (UNFCCC) in order to improve and align with the EU objectives in this area. The Montenegrin INDC or the goal of reducing GHG emissions predicts their reduction by 30% compared to 1990 base year. In practice, this actually means an increase in emissions compared to current values. As a result of the drastic fall in economic activity since 1990, Montenegro recorded GHG emissions by less than about 40% in 2013, compared to 1990, so that the 30% reduction in INDC's practice enables growth of emissions compared to the current situation for some 10%.

Regarding the acceptance and implementation of the EU ETS system, Montenegro has made some preparatory steps for transposing Directive 2003/87/EC on emissions trading in terms of taking over the definition of GHG and the assessment of installations to participate in the EU ETS system. In the context of this Directive, Directive 2009/28/EC on the promotion of renewable energy sources and Directive 2009/30/EC on the mechanism for monitoring and reducing GHG emissions are also relevant. The legal basis for their transposition is determined by the Energy Law, but it is necessary to adopt by-laws in order to transpose these directives into domestic regulations. The transposition of these regulations is under the responsibility of the Ministry of Economy.

Preparing the Law on Climate is in delay. We would like to express our fear that the insistence on the construction of a new block of thermal power plants is not in line with the EU policies in the field of climate change.

Podgorica 27.10 2017

on behalf of Coalition 27

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