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TPP & Coal Mine Pljevlja, existing and new unit, EPCG, Power utility Montenegro

EIA ESIA Legal framework Montenegro

IFIs projects appraisal cycle

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EIA – ESIA framework in Montenegro (International Financial Institutions IFIs appraisal process)

Environmental and Social Impact Assessment (ESIA) describes the potential environmental and social impacts that construction and operation activities in energy-mining-infrastructure production will have, and describes actions that will be taken to reduce those impacts.

An Environmental Impact Assessment (EIA) of certain projects is required to be carried out in Montenegro in accordance with the Montenegrin Law on Environmental Impact Assessment (Official Gazette of MN no. 80/2005, 40/2010 and 27/2013) and associated secondary legislation. This law and the associated secondary legislation sets out the requirements for undertaking environmental assessments of potential environmental impacts of public and private projects which are likely to have a sig-

nificant impact on the environment before development consent / construction permit is granted in the form of an approval for project implementation. Impacts on the environment can include impacts on human beings and biological diversity; soil, water, air and other natural resources and climate; historical and cultural heritage as well as the interaction between these elements. Hence, it is required that before development consent is granted for certain types of projects, an EIA has to be carried out. The EIA process is meant to anticipate potential environmental harm and to avoid or mitigate such harm while balancing environmental, social and economic objectives.

The whole EIA process includes three specific procedures. They are the following:

1. 'screening' (i.e., the stage of determining whether an EIA is required)
2. 'scoping' (i.e., the stage of determining the scope or extent of the environmental impact assessment), and
3. 'review' (i.e., the stage of reviewing the EIA study to see if it has been undertaken to an acceptable standard and in accordance with the legal requirements).

The Montenegrin Environmental Protection Agency is the administrative competent authority for the EIA process for projects for which project development consent (e.g. construction permit) is issued by a state (national) authority.

The types of projects that require an EIA are determined by the "Decree on determining projects for which an environmental impact assessment shall be carried out" - EIA Decree (Official Gazette of MN no. 20/2007)

Under the EIA Decree, projects are classified in two groups (lists): projects listed in List 1 are all subject to compulsory EIA while for projects in List 2, the assessment contains an element of discretion, noting that an EIA procedure will, in any event, be required for projects with potentially significant environmental impacts. The public and other parties are to be consulted on the EIA.

Appraisal decision making process by International Financial Institutions IFIs

Almost all energy-mining-infrastructure-production facilities related project requires a full environmental assessment process in compliance with the national

EIA legislation and development of an EIA study.

ESIA report is to serve as the main input to the environmental and social appraisal by the IFIs like EBRD, EIB, WB IFC for funding decisions.

Through its environmental and social appraisal and monitoring processes the EBRD seeks to ensure that the projects it finances are:

- ☒ are socially and environmentally sustainable,

- ☒ respect the rights of affected workers and communities, and

- ☒ are designed and operated in compliance with applicable regulatory requirements and good international practice.

In order to translate this objective into successful practical outcomes, the EBRD has adopted a comprehensive set of specific Performance Requirements (PR) that clients are expected to meet, covering key areas of environmental and social impacts and issues.

EBRD's 2008 document "Environment and Social Policy" (the Policy) and related Performance Requirements (PR) detail the commitments of the Bank to promote in

the full range of its activities, environmentally sound and sustainable development.

Projects categorised by EBRD as "A" require special formalised and participatory assessment processes.

The development of A projects has to meet the following EBRD's PRs (Performance Requirements):

- ☒ Environmental and Social Appraisal and Management

- ☒ Labor and Working Conditions

- ☒ Pollution Prevention and Abatement

- ☒ Community Health, Safety and Security

- ☒ Land Acquisition, Involuntary Resettlement and Economic Displacement

- ☒ Biodiversity Conservation and Sustainable Management of Living Natural Resources

- ☒ Cultural Heritage

- ☒ Information Disclosure and Stakeholder Engagement Serbian Regulatory Context on Environmental Impact Assessment

Key legislation in the area of the environment:

- Law on the Environment (Official Gazette of Montenegro no. 48/2008)

This law fully transposes key EU environmental legislation and regulates: the principles for environment protection and sustainable development, planning aspects and documents for environment protection, subjects and instruments for environment protection, environmental monitoring and information systems, public involvement in environment matters, environmental labeling, financing issues and supervision aspects. The main instruments for environmental protection identified in the law include: (i) standards for environment quality and technical environmental standards; (ii) strategic environmental assessment (SEA); (iii) environmental impact assessment (EIA); (iv) integrated pollution prevention and control (IPPC); (v) spatial plans and (vi) environmental management audit systems (EMAS).

- Law on the Environmental Impact Assessment (Official Gazette of Montenegro no. 80/2005 and 40/2010) and associated by-law documents

This law regulates the administrative procedure for the environmental impact assessment for projects that are likely to cause significant effects on the environment. It

also defines the content of the EIA study (EIA Report) and the stakeholder engagement and public involvement process.

- Law on Strategic Environmental Assessment (Official Gazette of Montenegro no. 80/2005)

This law stipulates the conditions, methods and procedures for undertaking of strategic environmental assessment (SEA) of certain plans or programmes through the integration of environmental protection principles into the procedures of preparation, adoption and implementation of plans or programmes that are likely to have a significant impact on the environment. The competent authority responsible for the preparation of plans or programmes can not submit a plan or programme for further adoption procedure without having previously obtained approval for the SEA Report from the authority responsible for environmental protection issues.

- Law on Protection against Non-Ionizing

This law regulates the conditions and measures for protection of human health and environment from the harmful impact of non-ionizing radiation (electric and magnetic fields – EMF) generated through the utilization of various radiation sources. Professional health and safety requirements,

i.e. protection against the exposure of workers to electromagnetic fields are included in this law. Exposure due to medical reasons or from medical devices is excluded from the law.

- Law on Nature Protection (Official Gazette of Montenegro no. 51/2008 and 21/2009) and associated bye-law documents

This law regulates nature protection and promotion. It identifies principles for nature protection, inter alia: principle for sustainability, precautionary principle, prevention principle and user-pays principle. The law also determines types of planning documents for nature protection, the legal bases for protected areas (manner of establishment and categorization) and regulates the aspects of the EMERALD ecological network.

- Law on National Parks (Official Gazette of Montenegro no. 56/2009)

This law five national parks in the territory of Montenegro are established as protected areas. The law includes the geographical description of the borders and therefore defines the territory of each NP. In addition, the law determines measures for protection, development and promotion of the national parks, including activities that are not allowed in the national parks,

as well as rules for utilization of natural resources and goods within the national parks. An exclusion list of activities that are forbidden in the NP is introduced in the law. This list does not include construction of OHL and therefore no explicit legal constraint exists for development of transmission lines in the territory of the national parks. Management of the national parks as well as manner of protection of their natural resources and values are to be conducted by following planning documents: (i) Spatial Plan and (ii) Management Plan.

- Law on the Air Protection (Official Gazette of Montenegro no. 25/2010) and associated byelaws.

This law regulates air quality monitoring, air protection measures, air quality assessment, planning documents for air quality management, inspection and supervision.

- Law on Waters (Official Gazette of Montenegro no. 27/2007, 32/2011 and 47/2011) and associated bye-law documents.

This law regulates the legal status and manner for integrated water management, water infrastructure, conditions and manner for water economy.

- Law on Waste Management (Official Gazette of Montenegro no. 27/2007, 80/2005

and 73/2008) and associated bye-law documents.

This law regulates the types and classification of waste, waste management planning, rights, obligations and responsibilities of legal bodies and physical persons, conditions for issuing waste licenses, inspection and supervision, etc.

- Law on Noise Protection in the Environment (Official Gazette of Montenegro no. 28/2011) and associated bye-law documents.

This law regulates protection against noise in the environment and determines measures for mitigation of harmful effects of the noise on human health, including normative, urban planning and technical measures. This law excludes noise in working and living environment.

- Law on Forests (Official Gazette of Montenegro no. 74/2010). This law regulates protection, conservation and promotion of forests, planning aspects, manner and conditions for use of forests, construction and maintenance of forest roads, forest land and forestry issues.

Other key relevant legislation:

- Law on Energy (Official Gazette of Montenegro no. 28/10)

- Law on Spatial Planning and Construction of Structures (Official Gazette of Montenegro no.

51/2008, 34/2011 and 47/2011)

- Law on Culture (Official Gazette of Montenegro no. 49/2008)

- Law on Cultural heritage (Official Gazette of Montenegro No. 49/2010)

Other relevant documents:

- Strategy for Development of Energy Production of Montenegro until 2025; 2007

This strategic document identifies concrete goals in the energy sector and defines mechanisms and actions to achieve safe and reliable energy production and supply on an environmentally sound basis. It determines directions for overall development of energy production and infrastructure in Montenegro based on a set of legal, economic, institutional and promotional measures for its implementation. The strategy includes goals and actions for development of the electricity transmission network based on a set of criteria: reliable connection of new energy production facilities, safe energy supply to main cities and re-

gions in Montenegro, reduction of energy losses and regional interconnection with the neighboring countries.