



LEGAL VIOLATIONS RUNNING RIVERS DRY



KOSID

KOSOVO CIVIL SOCIETY CONSORTIUM FOR
SUSTAINABLE DEVELOPMENT

KONSORCIUMI KOSOVAR I SHQËRISË CIVILE PËR
ZHVILLIM TË QENDRUESHËM

November 2020

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- A C R O N Y M S -

CZ	Cadastral Zone
EIA	Environmental Impact Assessment
EO	Economic Operator
ERO	Energy Regulatory Office
HPP	Hydropower Plant
IMWC	Inter-Ministerial Water Council
KEK	Kosovo Energy Corporation
KEPA	Kosovo Environmental Protection Agency
KICN	Kosovo Institute for Conservation of Nature
KOSTT	Kosovo Transmission, System and Market Operator
KWI	Kosovo Water Institute
MED	Ministry of Economic Development
MEE	Ministry of Economy and Environment
MESP	Ministry of Environment and Spatial Planning
MW	Mega Watt
RES	Renewable Energy Sources
RRBA	Regional River Basin Authority
SAA	Stabilization and Association Agreement
SHPP	Small Hydropower Plants
SIA	Strategic Environmental Assessment
SPZ	Special Protective Zones

- INTRODUCTION -

The construction of new generating capacities for the production of electricity from renewable energy sources, specifically from the country's water resources using hydropower plants, is a relatively new phenomenon in the Republic of Kosovo, but it has been evolving rapidly. In this direction, as the demand of economic operators for the production of hydropower increases, the same holds true for the growing concerns of the community living near these water flows. In fact, it is safe to say that an autochthonous movement is emerging in Kosovo to protect the country's water resources, in order to ensure their proper use and management as well as to protect the environment in accordance with the applicable legislation.

The construction of hydropower plants, contrary to the legislation in force, documents and strategic plans of the country, as well as improper use of water resources by illegitimate operators, has degraded the water resources Kosovo possesses. Initially, these actions reduced or even completely prevented citizens' access to the use of water resources consequently causing droughts on agricultural land near the water flows on which hydropower plants are being built. The plants have also reduced the amount of water resources for general use, thereby changing and damaging the ecosystems in the regions they are built in, damaging natural landscapes, protected areas and those of strategic interest to the country, as well as damaging Kosovo's natural tourism. In fact, in most cases, construction of hydropower plants has led to a complete disruption of the life of citizens, nature and ecosystem in these regions as a whole.

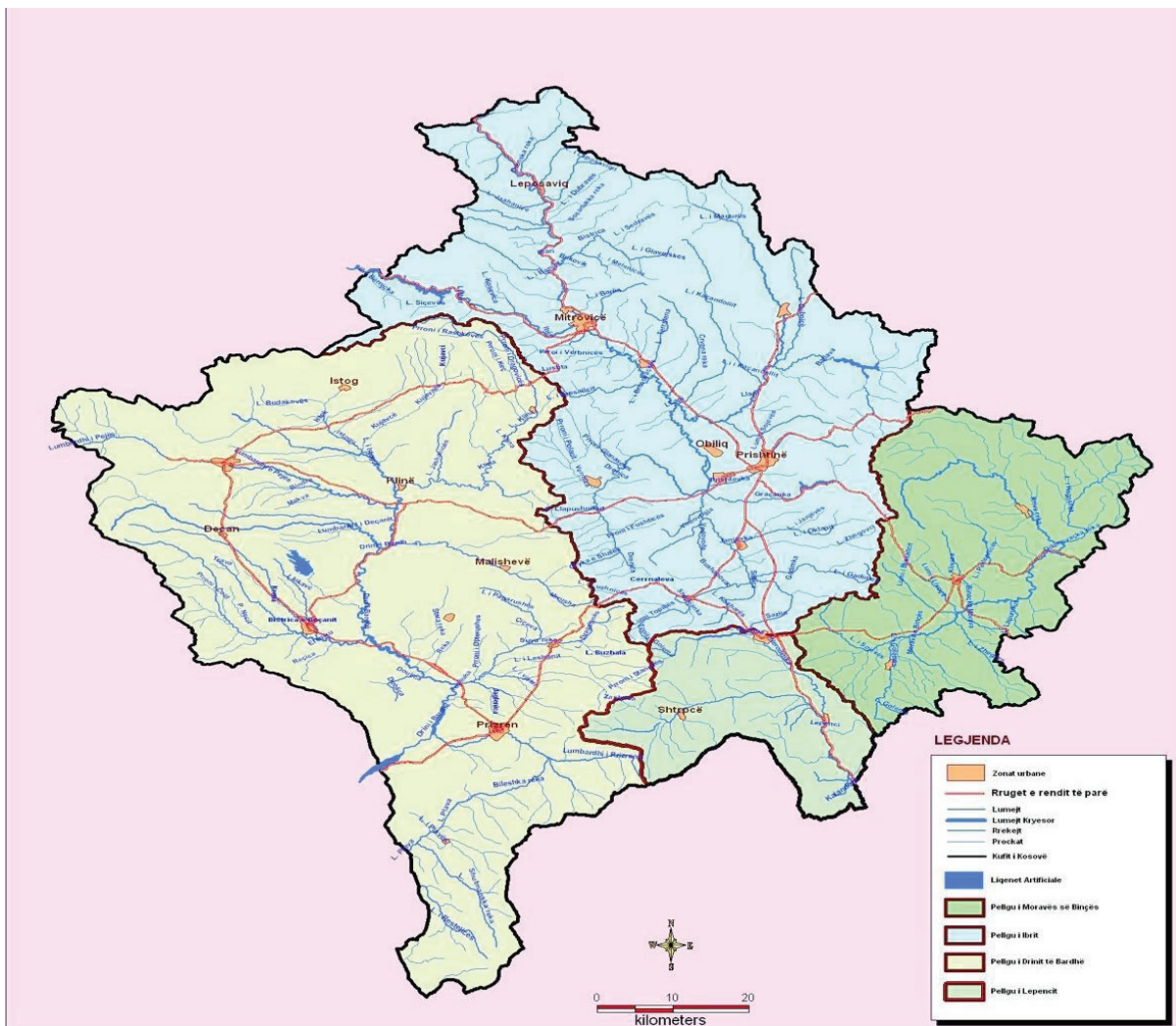
This legal analysis on hydropower plants in Kosovo aims to shed light on these irregularities committed by natural and legal persons, from both the private and public sectors. These violations have been committed by investors, by using these water resources without legal permits / authorizations or in contradiction with the requirements and criteria deriving from them. This report identifies violations committed by the institutions of the Republic of Kosovo themselves, by failing to intervene in order to prevent the construction of hydropower plants, by issuing public documents that are not a reflection of proper implementation of applicable laws, and based on which they permitted the plants to operate.

Through this report, KOSID provides: 1. An overview of current state of play in terms of construction and operation of hydropower plants in Kosovo; 2. Analysis of legal violations observed in the construction of hydropower plants in Kosovo, specifically related to the infringement of the rights of communities; 3. An overview of the country's legal framework regulating the scope of hydropower plant activity; 4. A summary of the national institutional framework; 5. An overview of the instruction provided by the legal framework, that can serve the community, to enjoy its rights, through legal procedures, and 6. Specific recommendations addressed to the country's public institutions and relevant stakeholders in terms of legal actions that can be taken related to the situation created and recommendations for supplementing or amending the relevant legislation and improving its implementation.

Finally, KOSID contacted all Kosovo institutions responsible for water permits and strategies in order to seek their comments on all violations identified in this analysis. None of these institutions, including: Ministers of Environment, Inter-Ministerial Water Council and the Energy Regulatory Office commented on these violations. Thus, up to the publication of this paper, none of the institutions have denied these violations when given the opportunity.

I. CURRENT STATE OF PLAY RELATED TO CONSTRUCTION AND OPERATION OF HYDROPOWER PLANTS IN KOSOVO

This analysis is based on Republic of Kosovo data,¹ which divides the hydrography of Kosovo river flows into 4 river basins: Drini i Bardhë, Ibri, Morava e Binçës, and Lepenci. Kosovo rivers are discharged into three sea catchments, mainly, the Black Sea, the Adriatic Sea and the Aegean Sea. The main rivers that belong to the Black Sea catchment include: Ibri, Sitnica with its branches; (Llapi, Drenica), and Morava e Binçës. While, the following belong to the Adriatic Sea: Drini i Bardhë with branches (Lumëbardhi i Pejës, Lumëbardhi i Deçanit, Lumëbardhi i Prizrenit, Lumi i Klinës, Ereniku, Mirusha, Toplluha and Plava). On the other hand, the Lepenc river with its headflow (Nerodime) drains into the Aegean Sea. Dividing lines (catchment basins) flow in different directions. The flow rate ranges from 3.93 l / sec / km² (Morava e Binçës) to 42.46 l / sec / km² (Lumëbardhi i Deçanit). Their characteristic is that Drini i Bardhë is the longest in kilometers within the territory of Kosovo with 122 km, while Lumëbardhi of Prizren is the shortest one with 31 km.



Map - Kosovo river basins and rivers²

1. See: http://www.ammk-rks.net/repository/docs/Resurset_ujore_te_Kosoves.pdf
 2. Source: http://www.ammk-rks.net/repository/docs/Resurset_ujore_te_Kosoves.pdf

2018-2020 data published by the ERO³ show an increase in the construction of hydropower plants by private investors. With one exception⁴, the ERO has continued to issue final authorizations to contractors for the construction of HPPs, as well as to issue licenses for electricity generation for applications received by 4 June 2019, described in Annex I.

As these data show, there are **4 HPPs** in operation generating **34.04 MW**. Construction of 15 other HPPs is being finalized, and according to the projections, they will generate **44.023 MW**. In addition, there are **4 HPPs** in the initial construction stages, and as planned they will generate **10.16 MW**.

Based on Government planning provided by **Law No. 05/L-081 on Energy, National Renewable Energy target for 2020 should reach 25%⁵ i.e. 240 MW of overall gross energy consumption in 2020 shall be covered by hydro energy⁶**. On the other hand, the **indicative energy target from renewable sources for 2020 amounts to 29.89% of final gross energy consumption⁷**, surpassing the targets stipulated by the law.⁸

However, the situation in reality differs from these plans. According to the ERO's 2020 Electricity and Thermal Energy Annual Balance⁹, annual generation of electricity by HPPs, connected to the distribution system totals **202 MW** (HPP Ujmani 97 MW and HPP- Cascade of Lumbardhi 105 MW) or **84% of the set target, with 16% of the set target of generating electricity from hydro energy, not being met.¹⁰** Therefore, **the government target of 240 MW has not been achieved, considering that the current electricity generation capacities from HPPs provide 38 MW less.**

Abuse and misuse of water resources was made possible and aggravated through a process of issuing water permits to EOs, based on the **Decision of the Inter-Ministerial Water Council on issuance of water permits for the construction of HPPs¹¹**. However, a new Inter-Ministerial Water Council has recently been established with the arrival of the new government.¹²

Firstly, the implementation of **Law No. 04/L-147 on Waters of Kosovo**, was completely circumvented, that requires that the use of water resources for economic purposes of electricity generation be done only through a concession.¹³ Here, the Government took a decision contrary to this law, by completely removing the public tender procedures for the use of water resources through concession, for the generation of electricity by Economic Operators, EO. They also abused their official duty, by acting beyond their authorizations and competencies provided by the law, enabling the Government itself to issue water licenses, based on this decision, quote *“Until the legal framework for awarding concessions for water use is established, the Ministry of Environment and Spatial Planning shall be obliged to*

3. See Annex I - Data are collected within the individual search of each applicant, as the register published by ERO does not include the latest updates on the issuance of these documents, until 09.09.2020, see: <https://www.ero-ks.org/zrre/sq/legjislacioni/vendimet>

4. ERO Decision Dt. not to extend the operating license to Kelkos company, taken on

5. Article 15 of Law No. 05/L-081 on Energy, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12689>

6. Republic of Kosovo Energy Strategy 2017-2026, March 2017, National Renewable Energy Sources Action Plan, pg. 16, See: https://mzhe-ks.net/repository/docs/Strategjia_e_energjiise_2017-26_-_pdf

7. MED Administrative Instruction No. 05/2017 on Renewable Energy Targets, Article 3, Paragraph 1, Sub-paragraph 1, See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14893>

8. MED Administrative Instruction No. 05/2017 on Renewable Energy Targets, Article 3, Paragraph 1, Sub-paragraph 3, See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14893>

9. See: <http://ero-ks.org/2020/Sektoret/Bilanci%20Vjetor%20i%20Energjiise%20Elektrike%20dhe%20Termike%20per%20viti%202020.pdf>

10. This includes all HPPs in operation, those treated in this analysis and previous HPPs.

11. Decision No. KNMU/V/02/2017, dated 10.01.2018, see: https://kallxo.com/wp-content/uploads/2019/10/KNMU_vendimet2-2.pdf

12. Government Decision No. 07/31, dated 21.09.2020 on the establishment of the Inter-Ministerial Water Council, composed of the Prime Minister of Kosovo, Minister of Economy and Environment, Minister of Agriculture, Forestry and Rural Development, Minister of Finance and Minister of Health, see: <https://kryeministri-ks.net/wp-content/uploads/2020/10/Vendimet-e-mbledhjes-s%C3%AB-31-t%C3%AB-t%C3%AB-Qeveris%C3%AB.pdf>

13. Article 78 of Law No. 04/L-147 on Kosovo Waters, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8659>

implement the process of issuing water permits”¹⁴. So, the decision acknowledges that, for the use of waters, the regular procedure should be implemented through the concession, however this has been violated by the decision of the Government¹⁵.

Secondly, this decision provides that MESP “shall implement the process of issuing water permits based on planning documents for the management of water resources (such as the Kosovo Hydroeconomic Base, 1983)”, which provides an outdated assessment, and it does not correspond to the current state of water resources in the country.

For more information on the current state of play of Kosovo waters, based on World Bank Report¹⁶ on Kosovo Water Security Outlook, it results that Kosovo in general is:

- a) Water stressed, and also has lowest level of water resources developed with infrastructure;
- b) Young and not very effective institutions enforcing critical water (quality) issues; and
- c) Awaiting normalization of relations on arguably one of its key water sources in the north of the country.

This report also stressed that “... Kosovo’s waters are unevenly distributed in time and space. **In the next 20 years it is expected that all Kosovo’s basins will be water stressed.**” According to the report, as a consequence of this “Kosovo is increasingly vulnerable to flooding and dry spells, and both can have profound impacts on the people and the economy. With increased water stress, water quality will become an ever-growing problem if not addressed at its multiple sources (domestic, industrial, agricultural and from catchment).” In this direction, “... Kosovo has adequate framework and strategies and high-level coordination, and needs to shift focus to on the ground implementation of its strategies, building the base for information, institutions and infrastructure in water management with real impacts and tangible outcomes.”

In this regard, concerns and reactions of citizens / community on their legal rights on use of water resources and environmental protection have been voiced, with focus on the misuse of water resources and the construction of HPPs that mainly comes down to:

- Complete exclusion of the community from all debates, consultations and public announcements, when reviewing the supporting documents for permitting the construction of hydropower plants;
- Lack of timely information or obstruction of access to information that could involve the community in public consultations;
- Failure to include comments, remarks and requests for improving criteria and conditions when issuing legal acts (consent, permit, license, etc.) for the construction of HPPs by public institutions;
- Inaccurate description of the real state of water resources and environmental conditions during the construction of HPPs, as well as their impact on pollution, degradation, destruction or depletion of water resources, as well as damage to the environment, nature, while compiling the EIA report;¹⁷

14. Sub-paragraph 2 of the dispositive of Decision No. KNMU/V/02/2017, dated 10.01.2018,

15. Decision signed by the then Prime Minister of Kosovo Mr. Ramush Haradinaj;

16. Kosovo Water Security Outlook, World Bank, June 2018;

17. See: <https://kallxo.com/lajm/gropa-ne-vend-te-rezervuarit-te-ujit-decanasit-denoncojine-kompanine-qe-ndertoi-hidrocentralet/>

- Failure to return the environment to its previous state, after the completion of HPP works.¹⁸
- Construction of HPP without relevant permits, according to applicable legislation;
- Non-compliance with the legislation in force during the construction of HPPs, especially national parks and special protective zones, etc.

⇒ Residents protesting against HPP construction in CZ Strpce, November 2019, © WWF



⇒ Images from the construction of four HPPs along Lepenc River, November 2019, © WWF

HPP SHARRI

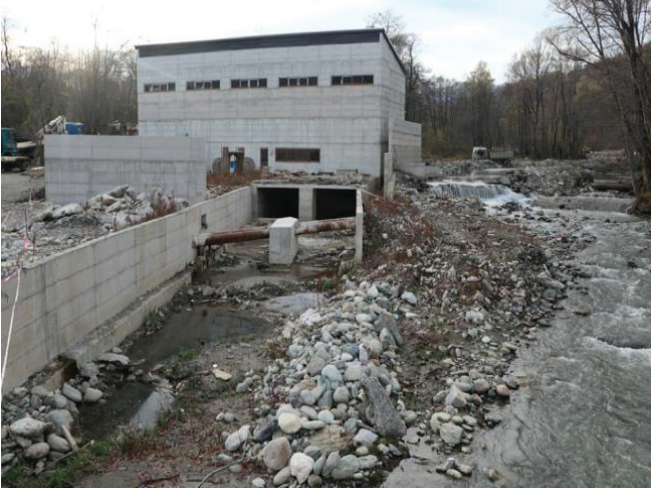


HPP SHTËRPCE



18. See: <https://kallxo.com/lajm/gropa-ne-vend-te-rezervuarit-te-ujit-decanasit-denoncojne-kompanine-qe-ndertoi-hidrocentralet/>

HC BREZOVICA



HC VICA



HC LEPENCI 3



These complaints and concerns were also raised in the meeting between the residents of the village of Biti e Poshtme and representatives of NGOs and the media, on the issue of construction of hydropower plants in Strpce, as follows:

“In terms of the complaints, I do not know whether there is anyone we hadn’t complained to. We were left without a drop of water for 3 months and then they filled it from Lepenci. All our equipment and appliances are broken because of the dirty water. I took the bottle full of mud and it turned out to be drinking water. I was wondering what you had done in these cases, because it makes no sense. They are coming from all sides and I want to know if there is any way forward, as for us water is life and the one and only request that we have is that you do not take the river away from us, because this is our right”.

Agron Rushiti, resident of Biti e Poshtme village - Strpce¹⁹

19. Exclusive statement for Kallxo.com, in Biti e Poshtme, Municipality of Strpce, dated 11 July 2020;



Meeting with residents of Biti e Poshtme village, Municipality of Strpce²⁰

“We have tried everything and in the beginning the lawyers opposed us, as they were paid more by the Economic Operator. We went to the municipality, they did not receive us ... They did not even call us when the public hearing was held in other municipalities. Even the Serbs who are with us today, if caught on camera (protesting) will be dismissed. Another thing I want to mention is that we also had violence against us, when we went out to protest. They threw spray in our eyes and Europe saw this. No police officer has taken these things into account, even though they said that the case would be investigated. We are here all alone, those residents who have not emigrated. We have told them that we did not oppose (the hydropower plant), we just asked for it to be constructed openly, considering that we have been irrigating our land with this water and we had fish here, and now it’s all gone. We are grateful to all those people who helped us. ”

Hamdi Rushiti, resident of Biti e Poshtme village - Strpce²¹

This discussion took place in a meeting with activists from Albania who shared similar experiences, as well as the ways in which they approached this issue:

“People are losing their most precious resource, water. In these situations, residents are either informed late or they are not informed at all. In Albania we have the Vjosa River and we have the last wild river in Europe.

Residents have undertaken joint legal actions, with petitions, protests and even lawsuits. We have succeeded to some extent and we are still in court proceedings, which pertain to the protected areas. Hydropower plants are terribly damaging. Small hydropower plants are mainly present in developed countries.

20. Meeting with residents of Biti e Poshtme village, organized by NGO Eco-Albania, broadcasted live by Kallxo.com, dated 11 July 2020;

21. Exclusive statement for Kallxo.com, in Biti e Poshtme, Municipality of Strpce, dated 11 July 2020;

Small hydropower plants are no longer competitive and are not suitable for energy. Solar and wind energy are more profitable, while these are connected to politics, as things become acceptable for them. You should always have allies such as the media. What comes now is the legal battle and for that you need lawyers who are always a matter of trust. Rest assured that the building company has made an environmental assessment, but (this assessment) has nothing to do with reality. You have to protect your homes, your neighbors can help you, but in the end it is you who will have to protect your homes.”

Olsi Nika, NGO EcoAlbania²²

Also, large-scale protests erupted against the construction of HPP near the Lumbardh river by EO KelKos Energy, in Peja.



Protests in Peja on 25 February 2019 under the slogan “DO NOT TOUCH MY LUMBARDH”²³

Following numerous complaints received from residents related to the issuance of legal acts (consents and permits) for the construction of HPPs, numerous violations by EOs and public institutions, and numerous requests of EOs for construction of HPPs, as of 5 June 2019, the ERO has not been accepting “*new applications*”. The ERO took a Decision²⁴ to suspend the receipt of these applications for authorization for construction of new generation capacities, as it has faced a high number of applicants for preliminary authorizations and inclusion in the Support Scheme as “pending applications” outside the available RES targets.²⁵

Recently, the new Inter-Ministerial Water Commission has been established²⁶.

Through an email sent on 28 October 2020, KOSID requested the Inter-Ministerial Water Council to comment on these violations, however no comment was received by the date of this publication.

22. Statement by Olsi Nika, from the NGO Eco Albania, in the meeting with KOSID and resident of the village of Biti e Poshtme on 11 July 2020;

23. See: <https://www.njeshi.com/index.php/2019/02/25/drejtperdrejt-protesta-ne-peje-mos-ma-prek-lumbardhin/>

24. Decision, ERO Code: No. V_1160_2019, dated 05 June 2019, see: http://ero-ks.org/2019/Vendimet/V_1160_2019.pdf

25. Available targets set based on Administrative Instruction 05/ No. 05/2017 on Renewable Energy Sources Targets.

26. Government Decision No. 07/31, dated 21.09.2020, see: <https://kryeministri-ks.net/wp-content/uploads/2020/10/Vendimet-e-mbledhjes-se-31-te-të-Qeverisë..pdf>

II. LEGAL VIOLATIONS OBSERVED IN THE CONSTRUCTION OF HYDROPOWER PLANTS IN KOSOVO

Analysis of the process of issuing consents and permits (water, environmental, construction, etc.) by public governmental and municipal institutions, for the construction of hydropower plants in Kosovo, reveals that this whole process has started illegally, and was also followed by other legal violations.

Initially, the treatment of requests of economic operators by public governmental and municipal institutions for the issuance of water permits was done in contradiction with **Law No. 04/L-147 on Kosovo Waters**.²⁷

These requests were treated as ordinary applications for water permits and public competition procedures were not applied. However, the law provides that ***business activities conducted with the water use from surface and underground water bodies shall be realized through the award of a concession, in compliance with the Law***.²⁸

Also, the award of these concessions should be done in accordance with **Law no. 04/L-045 on Public-Private Partnership**,²⁹ and shall be aimed ***at provision of Public Services and/or Public Infrastructure in all economic and social sectors, including, but not limited, to production, distribution, treatment, collection and administration of water, sewage, drainage, irrigation, channels***.³⁰

Therefore, applications for water permits for hydropower plants can not be treated as ordinary applications, as they pertain to water property and resources which are public. Subsequently, these resources can not be made available to EOs for their use for economic purposes through ordinary water permit applications. Such applications should legally be treated and issued only through concessions and public competition procedures.

Granting a concession to EOs on the use of water resources for the purpose of electricity generation, should be done through a public vacancy, providing criteria of allocating resources to be used through concession, to which EOs shall apply.

The concession is granted for a certain time period, specifying conditions in which the EO must restore the state of nature and facilities constructed on the HPP site, and the amount and manner of the concession compensation, which must be paid to the Kosovo Budget.³¹

In this regard, according to the competencies, the allocation of concessions is done by the **Ministry of Economy and Environment**.³² Concession must be awarded through a public competition, organized in accordance with the provisions of Law no. 04/L-147 on Kosovo Waters, MESP Administrative Instruction No. 03/2018 on Water Permit Procedures, and Law No. 04/L-045 on Public-Private Partnership.³³

In addition, the concession cannot be granted if it jeopardizes the supply of drinking water, the balance of food production and other economic balances.³⁴ It is also well known that water resources are public

27. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8659>

28. Article 78 of Law No. 04/L-147 on Kosovo Waters.

29. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2784>

30. Article 2, para 1.4 of Law No. 04/L-045 on Public-Private Partnership

31. Article 78, Para. 6 of Law No. 04/L-147 on Kosovo Waters.

32. Former Ministry of Economic Development (MED) and former Ministry of Environment and Spatial Planning (MESP) which were merged, according to Article 2, Annex 9 of Regulation (GRK) - No. 07/2020 amending and supplementing Regulation No. 06/2020 on Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=29389>

33. Article 79 of Law No. 04/L-147 on Kosovo Waters.

34. Article 78, Para. 4 of Law No. 04/L-147 on Kosovo Waters.

resources protected by the Constitution³⁵ and relevant legislation. Despite all these rights specified in the legislation, all of them have been completely bypassed and ignored thus far.

This alarming situation has been confirmed by the assessment of water expert, Avdi Gjonbalaj

“No one is entitled to exempt economic operators from concessional compensation when using water resources in order to obtain economic benefits through electricity generation. Therefore, all permits (water, environmental, construction, etc.) to EOs on HPPs have been issued in violation with Law No. 04/L-147 on Kosovo Waters.

In addition, all these permits issued so far on HPPs, were not followed by proper hydrological, environmental analysis, they did not analyze and take into account any of the previous analysis and parameters developed by institutions in the past.

Unfortunately, this was the case when issuing these permits in Lepenc, in the accumulation area in Firajë, and when the possibility of accumulating water in Slopkë, Bistrica e Deçanit was removed. Thereby, they sentenced Deçan to not having water to meet elementary subsistence and irrigation needs of residents of Deçan.

Also, the measurements of water resources at the national level have not been updated, while the circumstances have changed, as the topography has remained the same, but water inflows have fluctuated, and the capacity of water use and utilization has changed.

When issuing permits to EOs, public government institutions have not obliged EOs to conduct automatic measurement of water capacity prior to water intake and its release. So, the state should know when and how an EO meets the criteria for water use.

No work has been done in terms of hydrology, to clearly specify how many months the hydropower plant will operate, thereby removing the minimum and maximum capacity of water that can not be put in pipes, as well as to calculate the real amount of water used for electricity generation. All this, should serve as a basis to calculate the amount of concessional compensation to be paid to the state.

All these loopholes constitute serious economic crimes, as no one possesses authorizations to hand over public properties to the EO's disposal, for purposes of economic benefits, and even more so without compensating the state.

Also, we should bear in mind to develop public policies based on sustainable development in Kosovo, and in this instance we have to think about future generations, as Kosovo does not have other ways of securing water, except through water accumulations.

Consequently, we as a state are not collecting the necessary and complete revenues from the operation of HPPs as we deserve, while EOs are not obliged to do so based on the concession act, providing that occasion of terminating their operation contract, HPP facilities should be inherited and remain under the management of state public institutions. To summarize, all these are in contradiction with all state regulation norms.”³⁶

Avdi Gjonbalaj, Hydrology Engineer

35. See Article 122 - Use of Property and Natural Resources, Para. 1 of Constitution of the Republic of Kosovo, quote “ Natural resources such as water, air space, mineral resources and other natural resources including land, flora and fauna, other parts of nature, immovable property and other goods of special cultural, historic, economic and ecologic importance, which have been determined by law to be of special interest to the Republic of Kosovo, shall enjoy special protection in accordance with law”.

36. KOSID interview with Avdi Gjonbalaj, Hydrology Engineer, with long-standing work experience with the Ministry of Environment, and other public institutions, related to water management in Kosovo, 2 October 2020;

In order to address these irregularities and legal violations, the community supported by NGOs, including KOSID itself, have reacted in various ways to the degradation of rivers that is taking place in some parts of Kosovo causing damage to water resources, the population and nature.

Consequently, to address these serious irregularities that have took place in Kosovo, the Assembly of Kosovo on 14.08.2020 established a **Parliamentary Inquiry Commission for Licensing, Operation, Oversight and Application of Hydropower plants**,³⁷ expected to identify and address these HPP occurrences at the national level. The Speaker of the Assembly herself was also committed to addressing this issue:

“Commitment to direct assessment of developments around small hydropower plant projects in Kosovo is not only a professional one, as the head of the highest legislative institution in the country, but is above all my moral obligation, as a citizen of this country and as a delegate of citizens to protect their interests, considering that the damage done to the environment is increasingly becoming irreparable as the days pass. One thing is clear, as long as we continue with the mindset that economic development should be achieved at the expense of the environment, we will not be able to guarantee full well-being of our citizens, as our health is closely related to the health of nature.

Without any doubt, Economic development is the common goal of all of us, however any investment made in our country with the potential to contribute in this direction must be in accordance with applicable legislation. (This investment) must be done by enabling the direct involvement of our citizens, and it must make our lives - lives of all without any distinction and not just the lives of a certain group - better and not the other way around.

Renewable energy sources are the future, but investments in this direction, especially in hydropower, make sense only when those sources remain genuinely such - renewable and are not exploited and degraded by irresponsible groups in our society. Realizing how serious the situation is, we have established an investigative commission in the Assembly of Kosovo that will delve into the process of licensing, operation, oversight and application for hydropower plant permits in the Republic of Kosovo. We have no rivers to give away, so I will spare no effort to protect them!”³⁸

Vjosa Osmani, Assembly Speaker

Regarding the construction of hydropower plants in the National Park “SHARRI”, the officials of the relevant public institutions also opposed it:

“The Directorate for the Administration of the National Park is against any degradation of nature and any disruption of the habitats and ecosystems of the National Park” SHARRI “for personal gain, as the National Park “Sharri” is an area protected by law.”.³⁹

Bujar Kafexholli, Director of the Directorate for Administration of National Park “Sharri”

37. See: <http://www.kuvendikosoves.org/shq/komisionet/>

38. KOSID interview with Vjosa Osmani, Assembly Speaker, 01 October 2020;

39. KOSID interview with Bujar Kafexholli, Director of the Directorate for Administration of National Park “Sharri”, 06 October 2020;

The same assessment was provided by the Institute for Conservation of Nature:

*“We are of the opinion that the construction of hydropower plants in the National Park “Sharri” is unacceptable and directly degrades its biodiversity, affecting destruction of flora and fauna in the National Park “Sharri”.*⁴⁰

Fadil Bajraktari, Director of Institute for the Conservation of Nature

In addition, in terms of official communication between public institutions, while reviewing the requests for construction of HPPs by EOs in national parks, official and competent representatives within the Kosovo Environmental Protection Agency reacted in writing to the Ministry of Environment, respectively against the former Minister Fatmir Matoshi and the former Secretary of the MESP (now MEE) by requesting the ban on the issuance of environmental permits for the construction of HPPs in national parks.⁴¹

However, despite this, former Minister Matoshi and former MESP Secretary General Mr. Çitaku allowed the continuation of works as the HPPs were under construction, ignoring the assessments of professional and competent staff. Such a summary was developed specifically at the request of the EO for the construction of the HPP in the Sharri National Park, for which again the former Minister and former Secretary of the MESP, ignored the requests of professional assessment staff within MESP, who requested not to issue environmental permits in the park. In addition to being a special area protected by law, the construction of HPP also entails major negative legal, environmental and socio-economic consequences in the Sharri National Park.⁴²

KOSID requested a comment from the Minister of Economy and Environment, Mr. Blerim Kuçi in regard to these violations via an email sent on October 29, 2020. However, no comment was received by the date of this publication.

A more detailed legal reflection on current cases involving HPPs in Kosovo reveals the following:

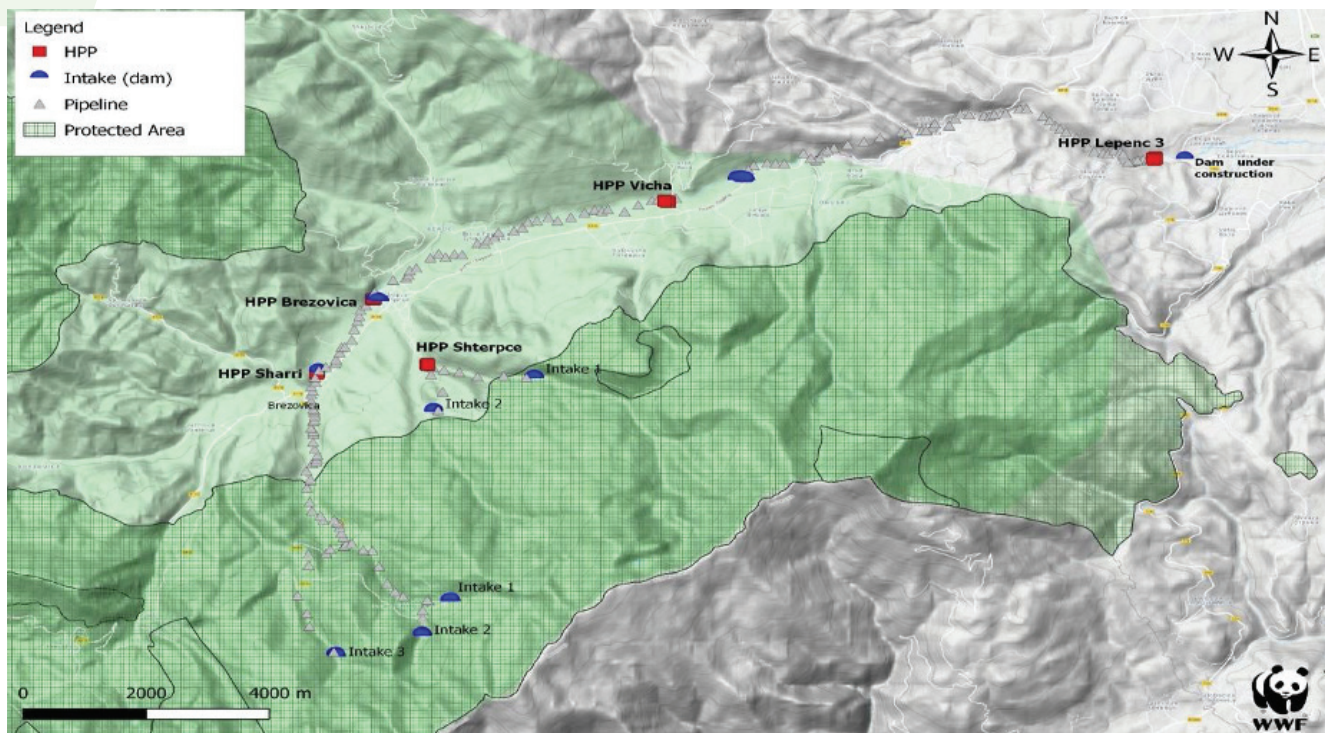
⇒ Four HPPs, **HPP Sharri (6.453 MW)**, **HPP Vica (4.6 MW)**, **HPP Brezovica (2.01MW)** and **HPP Strpce (5.031MW)**, were constructed by the same EO, and all of them have a joint source of water deriving from the Lepenc River.⁴³ Moreover, in July 2020, **HPP Lepenci 3 (9.998MW)** was provided a licence to generate electricity, and again it is being built by the “Matkos Group” LLC. as a joint investment with other investors.⁴⁴

The report and at the same time the request of Fadil Bajraktari, Director of IKMN, Fatmir Morina, Director of the National Park “Bjeshkët e Nemuna” and Bujar Kafexholli, Director of the National Park “Sharri”, was directed to the Minister Fatmir Matoshi and the Secretary of the Ministry for Environment and Spatial Planning, Arben Çitaku, on 04.03.2019, KEPA, under prot. no. 1146/19, consisting of 6 pages, titled “Hydropower plants in National Park “Sharri”.

Report on the negative legal, environmental and socio-economic consequences of mini hydropower plants for Sharri National Park, developed by Bajram Kafexholli, Director of Administration of “Sharri” National Park, addressed to former Minister Fatmir Matoshi and former Secretary Arben Çitaku, AMMK, date: 557/19, as of 04.02.2019;

43. Decision on final authorizations, issued by ERO, on HPP Shtrpce, Decision No. V_1226_2020 dated 12.02.2020, see: http://ero-ks.org/2020/Vendimet/V_1226_2020.pdf; on HPP Sharri - Decision Vr. V_1225_2020, dated 12.02.2020, see: http://ero-ks.org/2020/Vendimet/V_1225_2020.pdf, and on HPP Vica-Decision NO. 1202_2019 dated 27.11.2019, see: http://ero-ks.org/2019/Vendimet/V_1202_2019.pdf

44. See HPP Hydropower, Decision No. ZRRE/Li_63_20, dated 03.07.2020;



Hydropower plants being built near Lepenc river © World Wide Fund, November 2019⁴⁵

In relation to the construction of these HPPs near the Lepenc river, the local residents protested⁴⁶ continuously and complained⁴⁷ about the construction of these HPPs and the problems caused. The HPPs have damaged the ecosystem of the country, caused floods, degraded the soil and disrupted water flows along agricultural and residential lands.

Some of the most prominent legal violations of the national legislation in force done by EOs while constructing the **HPP along the river of Lepenc**, include:

► **Environmental Impact Assessment of the MATKOS GROUP LLC.**⁴⁸- Numerous legal violations were found in the assessments and findings of the EIA report on these HPPs, including:

1. The report does not include at all the impact of the construction of an HPP in the Protected Area of the Sharri National Park, the erection of dams for water supply / accumulation for these HPPs (See WWF map of hydropower plants, November 2019), thereby gravely violating Law No. 04 / L-087 on the Sharri National Park.⁴⁹
2. The EIA report includes a narrative description, whilst not offering any assessments on the current state of play with units of measurement and specific parameters on the state of the flora, fauna, ecosystem as a whole, and by not referring at all to measurements or parameters of environmental impacts.

45. The data obtained from the 2014 EIA of Matkos Group, based on the old system of geographical maps, as well as on the on-site observation and works until November 2019, which may not be very accurate, but are approximate..

46. See: <https://kallxo.com/lajm/banoret-e-bitise-se-poshtme-ne-protesta-edhe-ne-kohen-e-coronavirusit/>

47. See: <https://kallxo.com/lajm/shterpce-banoret-protestojne-serish-ne-mbrojtje-te-lumit/>

48. Report on Environmental Impact Assessment of Matkos Group LLC., compiled by the EIA authorized expert Mr. Islam Fejza, Company: Geo-Mining, Address: Prishtina

49. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2866>

3. In the “Impacts during the operation of hydropower plants” section, pg. 77, describes “*impacts on reducing the amount of river water, negatively affecting the flora and fauna in the river.*” This poses a serious natural threat to the amount of water for the residents of the country, who also protested over this issue.

4. The report refers to the catchment of 60-65% of the normal water inflows in each season, 35-40% remaining portion and the biological minimum will be calculated and depending on the amount of inflows the amount of water will be used, and in case that the amount of inflows is low, the work of hydropower plants will be interrupted.⁵⁰ This indicates the large amount of water consumption by HPPs, which naturally points to an imbalance of water presence in the ecosystem as a whole, thereby affecting the environmental, nature disorder, reducing the power of water for irrigation purposes, for the residents of the country.

5. The report has not foreseen any combined environmental impact with other existing projects and those to be built in the future.⁵¹

6. The report does not include any estimates of the environmental sensitivity of the geographical areas that may be affected by the project in terms of the quantity, quality and regenerative capacity of natural resources in that area, as well as the impacts on the population.⁵²

7. The report does not provide a detailed description of the potential and significant impacts of the proposed project on the environment, including: direct impacts and any indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary impacts.⁵³

- **HPP Sharri** (6.45MW) - built (reservoirs and pipelines), see (Supply 1, 2 and 3) within the **Protected Area** in accordance with **Article 8 of the Law No. 03/L-233 on Protection of Nature, and Law No. 04/L-087 on the Sharri National Park**. Moreover, “*National park is a large area of the land and/or water, with extraordinary and diversified natural values, including one or more of natural ecosystems conserved or least-changed and especially dedicated for conservation of nature authentic values.*”⁵⁴ Hereby, **Article 11, para 4, of the Law on Protection of Nature was violated**, quote **“In the national park are prohibited economical uses of nature goods park.”**
- **HPP Strpce** (5.031 MW) - built (reservoirs and pipelines), see (Supply 1 and potentially Supply 2) within the Sharri National Park, an area protected by law. The legal violations relating to natural protection and national park legislation, correspond to those in the case of HPP Sharri.

In relation to these hydropower plants, even the Management Plan of the Sharri National Park provides that in cases of potential construction, the same must be subject to **“territorial concessions within the area, subject to legal agreements, providing the boundaries and requirements of construction, use, activities and environmental conditions.”**⁵⁵

50. Point 6.3. Undertaken water protection measures, EIA report, pg. 83.-84.

51. Required based on Annex 3 of the Law No. 3/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

52. Required based on Annex 3 of the Law No. 03/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

53. See Article 15 of Law No. 03/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

54. See Article 11, Para 1 of Law No. 03/L-233 on Protection of Nature;

55. SHARRI National Park Management Plan, 10-year Management Strategy 2014-2023, 7.3 - Sustainable Use Area, Point 5, see: https://mmp.h.rks-gov.net/assets/cms/uploads/files/Publikimet/Plani_i_menaxhimit_i_PK_Sharri_verzoi_shqipe_342423.pdf

- **HPP Lepenci 3** (9.998 MW) received **License No. ZRRE/Li_63/20 on generation of electricity from RSE as of 03.07.2020 for a forty (40) year period**,⁵⁶ without previously obtaining the Environmental Permit, in accordance with Article 14 - Environmental License. According to this article **“License holder shall send a copy of the Environmental Permit to the Regulator on environmental protection and other documents issued by the relevant Ministry for Environment”**.

KOSID requested MATKOS Group LLC. to comment on these violations, via an email sent on 27 October 2020, however no response was received by the date of this publication.

Even in the case of this economic operator, the ERO authorized issuance of the Environmental Permit in the meantime. This can not be tolerated as it **is a violation of Article 31 of Law No .03/L-214 on Environmental Impact Assessment**, which provides that *“Constructed facilities, installations and machinery that have been subject to Environmental Impact Assessment cannot commence operations without an Environmental Permit from the Ministry.”*⁵⁷

This implies that, at the time it was issued a permanent license for 40 years by the ERO, the EO did not possess or submit an Environmental Permit to ERO when applying for licensing, **thereby violating Article 30, Paragraph 1, Sub-paragraph 3 and Para. 2 Sub-paragraph 3 of the Law No. 05/L-84 on Energy Regulator**, which states *“energy enterprise which provides evidence that the energy facilities to be used to perform the activity meet health, safety and environmental protection requirements,”* and *“criteria for granting a license shall, to the extent relevant to the license in question, relate to the protection of the environment.”*

In summary, when it comes to these conditions, the **ERO can not ignore legal provisions and issue a license to an EO, provided that the EO in the meantime ensures the Environmental Permit and submits it to the ERO, whenever available.** This is specified by Article 30, Para. 3 of the Law on Energy Regulator, which states **“Licenses may contain such conditions as the Regulator considers necessary for the activities to be undertaken, and may include conditions relating to:...”** However this includes other issues as well, and not only the Environmental Permit.

With such actions, **Article 9, of Regulation on Licensing Electricity Activities, 2017 was violated.** The article states that *“An applicant applying for a license for the generation of electricity, in addition to the requirements shall also submit to the Regulatory the following documents/evidence: **Environmental Permit issued by a competent institution** (where applicable); Environmental consent is sufficient for the application stage”*. As well known, in practice the Environmental Permit and the Water Permit are legal documents / instruments which also serve to protect natural resources and community rights.

After NGOs reacted against the ERO regarding the HPP in the Deçan Gorge, asking how it was possible to issue an operation permit before obtaining an environmental and water permit for the HPP in Deçan, the ERO ultimately, in a meeting held on 14 October 2020 decided not to extend the operation license, withdrawing the operation license to KELKOS, the company managing the HPP in Deçan Gorge. This occurred after the engagement of local NGOs and media coverage of this issue, and also after many years of degradation the Deçan Gorge was subjected to, that activists referred to as use of water resources

56. Decision No. V_1184_2019, dated 03 July 2020, issued by Energy Regulatory Office Board, signed by Mr. Arsim Janova, Acting Board Chairperson, see: https://www.ero-ks.org/zrre/sites/default/files/Publikimet/Vendimet/V_1267_2020_0.pdf, and license see: https://www.ero-ks.org/zrre/sites/default/files/Publikimet/Vendimet/Licence%20per%20Prodhim%20te%20Energjise%20Elektrike%20-%20Hidroen-ergji%20Sh_P_K_2.pdf

57. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

beyond any permitted norms, degrading thereby the entire ecosystems in that region as well.⁵⁸ This was also found in inspections done by the municipal inspectorate.⁵⁹

KOSID requested that the ERO comment on these violations, through an email sent on 29 October 2020, however no comment was received by the date of publication.



Bistrica river after the onset of HPP construction in 2018: Atdhe Mulla

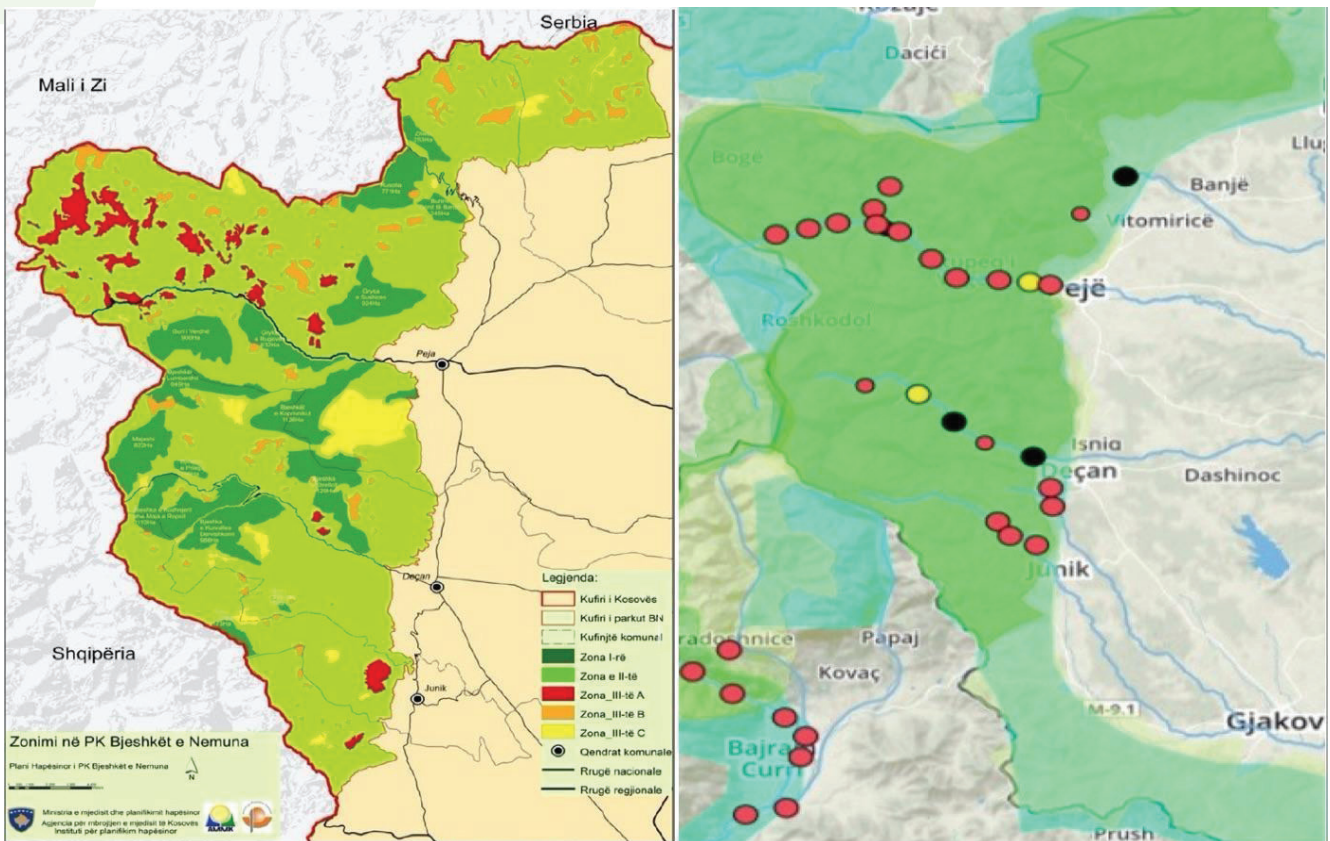
“For me this is the biggest tragedy when it comes to crimes against nature in Kosovo”

Shpresa Loshaj, NGO “Pishtarët” from Deçan⁶⁰

58. See: <https://prishtinainsight.com/the-fight-for-kosovos-vanishing-rivers-mag/>

59. See: <https://kallxo.com/gjate/hulumtim/vjetersohet-lenda-ndaj-kompanise-qe-planifikon-te-investoje-miliona-ne-hidrocentrale/>

60. See: <https://kallxo.com/lajm/gropa-ne-vend-te-rezervuarit-te-ujit-decanasit-denoncojne-kompanine-qe-ndertoi-hidrocentralet/>



Harta 1. Parku Kombëtar Bjeshkët e Nemuna – Zonimi (Burimi: MMPH, 2018). Harta 2. Parku Kombëtar Bjeshkët e Nemuna – Hidrocentralet ekzistuese (zezë) dhe ato në planifikim (kuqe)/ndërtim (verdhë), (Burimi: Riverwatch, 2018).

⇒ The most significant legal violations committed through the works of EOs while constructing 3 HPPs in the gorge of Deçan by the same EO include:

► **Environmental Impact Assessment of “KelKos Energy” LLC.**⁶¹ - Based on the evaluation of the findings of the EIA report on HPPs built along the Deçan River, a number of legal violations were found. Residents complain that the report does not present the real conditions and circumstances of the state and water and environmental resources, but that the same descriptions are adapted to the requirements and interests of EOs. KOSID analysis identified the following related to this EIA:

1. In terms of its content, “Kelkos Energy” LLC EIA report does not include at all the intervention of the construction of HPPs in the Protected Area of the National Park “Bjeshkët e Nemuna”, the erection of dams for water supply / catchment for these HPPs (See Riverwatch map, 2018), thereby gravely violating Law No. 04 / L-086 on the National Park “Bjeshkët e Nemuna”.⁶²

2. The construction of HPP in the Special Protective Area of Deçan Monastery **is in contradiction with Article 5 of Law No. 03/L-039 on Special Protective Zones**, which states “Any new activities in the following areas shall be prohibited such as the exploration and exploitation of mineral resources and the building of dams, power plants or power lines.”⁶³

61. Report on Environmental Impact Assessment of KelKos Energy LLC, compiled by the EIA authorized expert Mr. George Berger, Company: Chartered Engineering Consultant Tschernutter, Address: 9500 Villach, in Austria, March 2011, and Engineering Contractors for EIA Report: Kelag -Kärntner Elektrizitäts-AG, Address: Arnulfplatz 2, 9020 Klagenfurt, Austria;

62. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2865>

63. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2529>

3. The signing of the Cooperation Agreement between the Monastery of Deçan⁶⁴ and the EO KelKos Energy, is contrary to Law No. 03/L-039 on Special Protective Zones, as this law does not envisage such an opportunity.
4. There is no mention whatsoever of the inclusion / non-inclusion of local residents while compiling this report. In this regard, it is clear that the Monastery of Deçan does not represent all the inhabitants of the area, affected by the HPP works in the region.
5. The EIA report makes no mention or consideration of inclusion of the Municipality of Deçan, with territorial competencies in that region.
6. The report has not foreseen any combined environmental impact with other existing projects and those to be built in the future.⁶⁵
7. Descriptions of the poor condition of roads or state of nature in some parts of the vicinity of the sites of HPP construction according to the EIA report, should not favor one EO and enable it to construct an HPP, noting it would fix the roads for the benefit of HPP, and at the same time bring benefits to the municipality, with the regulation and pavements of roads by EO. This is a responsibility of the utility services and no favorable treatment should be offered, by ranking the EO and HPP construction high, as the same EO can pave roads but cause other irreparable damages to the environment. The report is written only to favor the EO in terms of construction of HPP, and not to provide an account of the real situation.
8. The EIA has foreseen the construction of a water reservoir, which will continue to exist as an artificial lake, but it has not been built at all.⁶⁶
9. The report does not include any assessments of the environmental sensitivity of geographical areas that may be affected by the project in terms of the quantity, quality and regenerative capacity of natural resources in the area, impacts on the population, and especially the issue of how the construction of HPP will affect water creatures and fishing has not been treated at all.⁶⁷
10. The EIA report does not provide a detailed account of the potential and significant impacts of the proposed project on the environment, including: direct impacts and any indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary impacts.⁶⁸
11. In point 1.3.5 the report states that the licensing procedure shall be done through a Concession, while in practice, the procedure entailed a simple ERO licensing procedure, not subject to public competition.
 - **HPP Deçani** (9.8 MW) - one of the HPPs built within the **Protected Zone** listed as such under **Article 8 of the Law No. 03/L-233 on Protection of Nature, and Law No. 04/L- 086 on the Bjeshket e Nemuna National Park** which states that the “national park is a large area of land and/or water, with extraordinary and diversified natural values, including one or more of natural ecosystems conserved or least-changed and especially dedicated for conservation of nature

64. Represented by Mr. Bishop Teodosije, concluded on 9 June 2010 and KelKos Energy LLC., represented by Director Mr. Georg Woeber;

65. Required based on Annex 3 of the Law No. 3/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

66. The EIA report described the construction of the artificial lake, but it was not built at all. This has been confirmed by the local residents as well, who spoke to the media, See: <https://kallxo.com/lajm/gropa-ne-vend-te-rezervuarit-te-ujit-decanasit-dennoncojne-kompanine-qe-ndertoi-hidrocen-tralet/>

67. Required based on Annex 3 of the Law No. 03/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

68. See Article 15 of Law No. 03/L-214 on Environmental Impact Assessment, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

*authentic values.*⁶⁹ Hereby, **Article 11, Para 4, of the Law on Protection of Nature, which states that “in the national park economical uses of natural resources are prohibited” was violated.**

Another legal matter includes the issuing of **Provisional License No. ZRRE/Li_49/16 on generation of electricity from RES** to the EO on **14.10.2019**, which is valid for 12 months,⁷⁰ enabling the EO to obtain the license without an Environmental Permit and thereby to secure it in the meantime, based on Para. 8 of the Decision reasoning, quote **“provided that the enterprise submits to the Regulator an Integrated Environmental Permit, within (12) months from the date this decision is issued).** Therefore, the EO had not possessed and submitted an Environmental Permit to the ERO while applying to be licensed for energy production.

In this case, the ERO enabled the EO to obtain the Environmental Permit in the meantime. This can not be tolerated as it entails a violation of **Article 31 of Law no. 03/L-214 on Environmental Impact Assessment**, which provides that *“Constructed facilities, installations and machinery that have been subject to Environmental Impact Assessment cannot commence operations without an Environmental Permit from the Ministry.”*⁷¹

Thus, **this is a violation of Article 30, Para 1, Sub-paragraph 3 and Para. 2 Sub-paragraph 3 of the Law No. 05/L-84 on Energy Regulator**, which states that an *“energy enterprise which provides evidence that the energy facilities to be used to perform the activity meet health, safety and environmental protection requirements,”* and *“criteria for granting a license shall, to the extent relevant to the license in question, relate to the protection of the environment.”*

Therefore, regarding these conditions, the **ERO can not ignore legal provisions and issue a license to the EO, provided that “in the meantime” the EO submits the Environmental Permit to the ERO, “whenever” available.** This is specified by Article 30, Para. 3 of the Law on Energy Regulator, which clearly states that: **“Licenses may contain such conditions as the Regulator considers necessary for the activities to be undertaken, and may include conditions relating to:..”** However this includes other issues as well, and not only the Environmental Permit.

With such actions, **Article 9, of Regulation on Licensing of Electricity Activities, 2017 was violated.** The article states that *“An applicant applying for a license for the generation of electricity, in addition to the requirements shall also submit to the Regulatory the following documents/evidence: Environmental Permit issued by a competent institution.”*

- **HPP Lumbardhi II** (6.2 MW) alongside the same violations found related to HPP Deçani, the situation in this case was aggravated by the fact that this HPP was disconnected⁷², as its EO did not conclude an agreement with KOSTT.⁷³ Moreover, this HPP was illegally licensed by the ERO with **Provisional License No. ZRRE/Li_64/18 on generation of electricity from RES**, valid for 12 months⁷⁴.

69. See Article 11, Para 1 of Law No. 03/L-233 on Protection of Nature;

70. Decision No. V_1184_2019, dated 14 October 2019, issued by Energy Regulatory Office Board, composed of: 1. Arsim Janova, Acting Chairperson, 2. Besim Sejjijaj, Member, 3. Selman Hoti, Member, 4. Izet Rushiti, Member, see: https://ero-kos.org/2019/Vendimet/V_1184_2019.pdf

71. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

72. See: <https://kallxo.com/lajm/zrre-licencon-operimin-e-tri-hidrocentraleve-ne-decan-njeri-licencohete-edhe-pse-eshte-i-shkycur/>

73. See: <https://kallxo.com/gjate/analize/zrre-vendos-ta-shkyce-nga-rjeti-hidrocentralin-lumbardhi-ii/?fbclid=IwAR0T3c6BbëHaPelIKAPMXP-NKi-OG4pNyYygfqXBe2bXqOIQgUxggSoSVvAI>

74. Decision No. V_1182_2019, dated 14 October 2019, issued by Energy Regulatory Office Board, composed of: 1. Arsim Janova, Acting Chairperson, 2. Besim Sejjijaj, Member, 3. Selman Hoti, Member, 4. Izet Rushiti, Member, see: https://ero-kos.org/2019/Vendimet/V_1182_2019.pdf

In accordance with the regular procedure, HPP Lumbardhi II should first obtain the connection permit from KOSTT, which should be attached to the application documents, and then the case should be reviewed for approval by the ERO.

Therefore, the ERO has enabled the EO to obtain an Environmental Permit in the meantime. This can not be tolerated as it entails violation of Article **31 of Law no. 03/L-214 on Environmental Impact Assessment**, which provides that “*Constructed facilities, installations and machinery that have been subject to Environmental Impact Assessment cannot commence operations without an Environmental Permit from the Ministry.*”⁷⁵

This is a violation of general EO licensing criteria, in accordance with **Article 30 of the Law No. 05/L-84 on Energy Regulator**, and specific application criteria for generation licenses **Article 9 of Regulation on Electricity Activity Licensing, 2017**.

- **HPP Belaje** (8.06MW) - legal violations are the same as those described in HPP Deçani, in the case of its Provisional Licensing, based on **Provisional License No. ZRRE/Li_50/16 on generation of electricity from RES**, which is valid for 12 months⁷⁶. All these irregularities and legal violations subsequently led to a chain of violations of several other laws, which directly affect the rights of citizens / residents, protection of nature and environment, noise, forests, air, waste, construction, etc.

On 27 October, 2020, KOSID contacted KELKOS requesting a comment on all these violations but the company did not provide a response by the time of publication.

⁷⁵ See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

⁷⁶ Decision No. V_1183_2019, dated 14 October 2019, issued by Energy Regulatory Office Board, composed of: 1. Arsim Janova, Acting Chairperson, 2. Besim Sejfiqaj, Member, 3. Selman Hoti, Member, 4. Izet Rushiti, Member, see: https://ero-kos.org/2019/Vendimet/V_1183_2019.pdf

III. RIGHTS OF COMMUNITIES TO JOINT DECISION-MAKING ON CONSTRUCTION OF HYDROPOWER PLANTS IN KOSOVO

Community participation in joint decision-making regarding the construction of hydropower plants in Kosovo is envisaged in almost all stages of collection of applicants' supporting documents to allow the construction of HPPs. Direct participation and respect for the opinions and attitudes of the community in the regions, areas and municipalities in which hydropower plants are intended to be built, are included at the following stages:

1. EIA REPORT⁷⁷ - The main conclusions and recommendations, included in the EIA Report related to Environmental Consent, are subject to **public debate**.

2. CONSTRUCTION CONDITIONS CONSENT⁷⁸ - Competent body / Ministry provides construction conditions for construction of category III buildings within thirty (30) days. Within seven (7) days from the date of receipt of the completed request on Construction Conditions, the competent body in coordination with the applicant posts a **public announcement**.

3. ENVIRONMENTAL CONSENT⁷⁹ - The results of the public consultations and the information gathered in the EIA report should be taken into account when making the decision on Environmental Consent.

4. WATER CONSENT⁸⁰ - Public participation is ensured in the procedures for granting water consent related to water conditions for facilities or activities which are carried out for commercial purposes through **public notices**.

5. CONSTRUCTION PERMITS⁸¹ - **Competent Body/Ministry** provides the construction conditions for the category III construction - within 45 days and issues the construction permit. After assessing the applicant's documentation for the issuance of the construction permit, the competent body (Ministry / Municipality) **decides whether there will be a need to convene a meeting of stakeholders**.

6. WATER PERMITS⁸² - The procedures for involving stakeholders in decision-making on the issuance of a water permit are the same as the procedures for issuing a water consent.

7. ENVIRONMENTAL PERMITS⁸³ - Public consultation is not foreseen while issuing an Environmental Permit to the applicant. However, the inclusion of the public is envisaged when issuing the environmental consent as well as the evaluation of the EIA report, including public consultation / debate.

77. See Articles 20 and 21 of Law No. 03/l -214 on Environmental Impact Assessment;

78. See: Article 3, Para 1. Sub-paragraph 15, Article 17, Para 1. Sub-paragraph 1, Article 18, as well as Annex 1, Para 1. Sub-paragraph 6 of Law No. 04/L – 110 on Construction and Article 12 of MESP Administrative Instruction No. 01/2019 on Procedures for the Preparation and Review of Requests for Construction Conditions, Construction Permits and Demolition Permits for Category III Constructions;

79. See: Articles 20 and 21 of Law No. 03/l -214 on Environmental Impact Assessment;

80. See: Article 4, Para 1, Sub-paragraph 32, Article 71, Para 1, Sub-paragraph 2 of Law No. 04/l-147 on Kosovo Waters, and Article 25 of MESP Administrative Instruction No. 03/2018 on Water Permit Procedures,;

81. Article 3, Para 1. Sub-paragraph 17, Article 17, Para 1. Sub-paragraph 2., Article 21 and Annex 1, Para 1. Sub-paragraph 6 of Law No. 04/L – 110 on Construction and Articles 14 -18 of MESP Administrative Instruction No. 01/2019 on Procedures for the Preparation and Review of Requests for Construction Conditions, Construction Permits and Demolition Permits for Category III Constructions;

82. See: Article 4, Para. 1, Sub-paragraph 12, Article 72, Para 1. of Law No. 04/l-147 on Kosovo Waters, and Article 25 of MESP Administrative Instruction No. 03/2018 on Water Permit Procedures;

83. See Articles 20 and 21 of Law No. 03/L-214 on Environmental Impact Assessment;

8. ELECTRICITY GENERATION LICENSE⁸⁴- Licenses issued for the production of electricity by HPP with a power over 5 MW, including provisional and permanent licenses, are subject to **public consultation**. In this case, the ERO obliges the EO that applied for license, to publish the notice on application for license, in two daily newspapers with large circulation in Kosovo. The stakeholders have the right to object the issuance of the license, within 8 days from the date of publication, and to address these objections to the ERO. The ERO should take these objections into account and address them when deciding whether or not to issue a license.

In summary, all public consultations on decisions to be made while issuing the necessary documents to EO, must be in compliance with Law no. 03/L-040 on Local Self-Government⁸⁵, and Administrative Instruction (MLGA) No. 06/2018 on Minimum Standards of Public Consultations in Municipalities.⁸⁶

84. Article 6 of Rules on Licensing Energy Activities in Kosovo, Article 3, Para.1. See: http://ero-ks.org/2017/Rregullat/2017.01.17_RREGULLA%20PER%20LICENCIMIN%20E%20AKTIVITETEVE%20TE%20ENERGIJE%20NE%20KOSOVE.pdf

85. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18425>

86. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18425>

IV. COMMUNITY LEGAL RIGHTS IN TERMS OF PROTECTION OF THEIR RIGHTS AND THE PROTECTION OF THE ENVIRONMENT

Republic of Kosovo legal framework in force provides community and environmental rights through legal remedies, at each institution and at each stage of construction of HPPs, as follows:

⇒ **REQUEST FOR ACCESS TO PUBLIC DOCUMENTS** - everyone has the right to access public documents issued by public institutions of Kosovo. In terms of possession of public documents which affect their certain interests and the protection of their rights, the interested parties can do so by submitting the Request for access to public documents according to Law no. 06/L-081 on Access to Public Documents⁸⁷.

⇒ **TYPE OF APPEAL / CLAIM** - parties dissatisfied with decisions / legal acts issued by public institutions can file their appeals / claims through individual or joint appeal / claim. It can be done by natural or legal persons, or both. This applies to all phases and to all institutions.

⇒ **CHALLENGING OF PUBLIC INSTITUTIONS' ADMINISTRATIVE ACTS** - each party/s, whose rights have been violated or state interest has been violated, can use legal remedies at public institutions against administrative acts (consent on construction conditions, water consent, environmental consent, EIA report, water permit, environmental permit, construction permit, certificate of use, provisional / permanent license for electricity generation, etc.), as well as through court proceedings, as follows:

I. PUBLIC INSTITUTION COMPLAINTS COMMITTEE - by filing a **complaint to the Complaints Committee** of the institution that had issued a legal act subject of the appeal. According to the legal framework of public institutions, each institution has its own complaints committee. Upon receipt of a dissatisfactory response / decision to the complaints of the parties, the appellants again have the right to file a **Second Appeal to the Second Instance Appeals Committee** at the institution that issued the challenged document / decision, which is also the last opportunity to use legal remedies in public institutions (this does not include / imply the exhaustion of right of filing an appeal / claim in court proceedings).

II. COURT PROCEEDING - The parties dissatisfied with the decision of the second instance Appeals Committee on parties' appeal, from the date of receipt of the decision / final response by the public institution that has decided on the first / second appeal, according to Law no. 03/L-202 on Administrative Conflicts⁸⁸ may file an **Appeal / Administrative Claim** against the appealed decision to the **Basic Court in Prishtina - Administrative Department**, which is the one and only court operating Kosovo-wide.

In cases where the appellants receive no responses from the public institution regarding the appeal, the parties can file an appeal / claim against the administrative silence of the institution to the court.⁸⁹ However, if the parties have not used the legal remedies (first and second instance appeals) with the public institutions within the legal deadlines, they cannot address this court. This procedure is implemented according to Law No. 05/L-031 on General Administrative Procedure.⁹⁰

87. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=20505>

88. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2707>

89. See: Article 127 of the Law No. 05/L -031 on General Administrative Procedure.

90. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12559>

⇒ **REQUEST FOR COMPENSATION OF DAMAGE** - based on Law No. 04/L-077 on Obligations⁹¹, the parties may file a compensation claim for inflicted damages, through a **Compensation Claim / Liability Lawsuit**⁹² to the **Basic Court in the Municipality where the damage was inflicted**,⁹³ according to the legislation in force.⁹⁴ The court proceeding in this case is held in accordance with Law No. 03/L-006 on Contested Procedure.⁹⁵ The claim for compensation of damage can be filed by the injured party against any natural / legal person considered to have inflicted the damage, including HPP investors and public institutions that have enabled it, while the investor was subject to institutional procedures in relation to the HPP.

⇒ **REPORTING OF DAMAGE, POLLUTION, DEGRADATION OR DESTRUCTION OF WATER AND ENVIRONMENT** - Any person aware of damage done to the environment, should **REPORT** it to the **Inspectorate for Environmental Protection / Ministry of Economy and Environment** or other relevant bodies, including local ones. Also, the police and authorized public officials, who, during the performance of their official duty, receive information on environmental disturbance, must notify the aforementioned bodies.⁹⁶ Whoever pollutes, degrades or destroys the air, water or soil or excessively uses or exploits natural resources, and commits destruction of the environment or endangerment of protected natural resources, or uses natural resources without legal authorizations given by the national public institutions (without consent, permission, authorizations, licenses, etc.), meaning cases involving interference of natural / legal persons in the use of natural resources without public authorization, constitutes a criminal offense under Code no. 06/L-074 - Republic of Kosovo Criminal Code.⁹⁷ In this direction, public persons or bodies may file **CRIMINAL CHARGES**⁹⁸ in accordance with Code No. L-123 on Criminal Procedure⁹⁹ for commission of the act of polluting, degrading or destroying of air, water or soil or excessive use of natural resources and if the EO has no state authorizations / permits, and criminal charges against officials of public institutions who issued legal acts in contradiction with applicable law.¹⁰⁰

91. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2828>

92. See: Article 357 of the Law No. 04/L-077 on Obligations, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2828>

93. For territorial competency organization of basic courts in Kosovo, in accordance with Law No. 06/L0054 on Courts, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18302>, is as follows:

1. Basic Court of Prishtina with its seat in Prishtina, covers the territories of Municipality of Prishtina, Fushë Kosovë, Obiliq, Lipjan, Podujevo, Gllgovc and Gracanica;

2. Basic Court of Gjilan with its seat in Gjilan, covers the territories of Municipalities of Gjilan, Kamenica, Novo Brdo, Ranilug, Partesh, Viti, Klokot and Vërboc;

3. Basic Court of Prizren with its seat in Prizren, covers the territories of Municipalities of Prizren, Dragash, Suhareka and Mamusha;

4. Basic Court of Gjakova with its seat in Gjakova, covers the territories of Municipalities of Gjakova, Malisheva and Rahovec;

5. Basic Court of Peja with its seat in Peja, covers the territories of Municipalities of Peja, Decan, Junik, Istog and Klina;

6. Basic Court of Ferizaj with its seat in Ferizaj, covers the territories of Municipalities of Ferizaj, Shtime, Shtërpçë and Hanit të Elezit;

7. Basic Court of Mitrovica with its seat in Mitrovica, covers the territories of Municipalities of Mitrovica South and Mitrovica North, Leposavic, Zubin Potok, Zvecan, Skenderaj and Vushtrri;

94. See: Articles 1356-372 of Law No. 04/L-077 on Obligations;

95. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2583>

96. See: Article 39 of Law No. 03/L-025 on Environment Protection;

97. See: Article 338 – Polluting, degrading or destroying environment, Chapter XXVII - Criminal offenses against the environment, animals, plants and cultural objects of Code no. 06/L-074 - Republic of Kosovo Criminal Code.

98. Articles 78-80 of Code no. 04/L-123 on Criminal Procedure

99. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>

100. Articles 414 and 416 of Code No. 06/L-074 - Republic of Kosovo Criminal Code.

V. LEGAL FRAMEWORK ON HYDROPOWER PLANTS IN KOSOVO

a) Republic of Kosovo Constitution

Natural resources such as water, air space, mineral resources and other natural resources including soil, flora and fauna, other parts of nature, enjoy special protection in accordance with the **Republic of Kosovo Constitution**¹⁰¹ and relevant legislation in force.

Also, in accordance with the reasonable conditions provided by respective legislation, the Republic of Kosovo's population may enjoy the country's natural resources, however it can not violate the obligations stipulated by international treaties on economic co-operation.¹⁰²

b) International Treaties

Republic of Kosovo is a contracting party to the **Treaty Establishing the Energy Community**¹⁰³, in force as of 1 July 2006 and obliging the Republic of Kosovo to implement important sections of relevant EU legislation (acquis) in respective areas, in whole.

Also, the Republic of Kosovo and the European Union signed a **Stabilization and Association Agreement, alongside the European Atomic Energy Community**,¹⁰⁴ which has been in force since 1 April 2016. Article 114 - **Energy**, Article 115 - **Environment**, Article 116 - **Climate Change**, Article 117 - **Civil Protection**, and Article 120 - **Public Administration**, stipulate that the parties shall develop and strengthen their cooperation in the field of **energy** in accordance with the principles of the market economy and the Treaty Establishing the Energy Community, in the field of **environment** and start improving the environmental situation for the purpose of sustainable development in Kosovo, in the field of **air and water quality, as well as nature protection**.¹⁰⁵

c) Strategic documents of Republic of Kosovo public institutions

In order to implement the SAA, the Kosovo Government adopted the **National Program for Implementation of the Stabilization and Association Agreement 2020-2024**¹⁰⁶. Whereas, the **Energy Strategy of the Republic of Kosovo 2017-2036**¹⁰⁷ and the **State Water Strategy in Kosovo 2017-2036**¹⁰⁸, are in force.

101. See Article 122 - Use of Property and Natural Resources, Para. 1 of the Constitution of the Republic of Kosovo;

102. Ibid 97, para. 1 and 2;

103. Treaty Establishing Energy Community, October 2005, see: https://mzhe-ks.net/repository/docs/traktati_per_komunitetin_e_energjiise.pdf

104. Law No. 05/L -069 on the Ratification of the Stabilization and Association Agreement between the Republic of Kosovo, on one hand, and the European Union and the European Atomic Energy Community, on the other, see: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=11239>

105. Ibid 6, SAA, Title VIII - Co-operation Policies;

106. National Program on Implementation of the Stabilization and Association Agreement (NPISAA) 2020 – 2024, see: [https://www.mei-ks.net/repository/docs/1%20PKZMSA%202020-2024%20Final%20\[miratuar%20nga%20Qeveria\].pdf](https://www.mei-ks.net/repository/docs/1%20PKZMSA%202020-2024%20Final%20[miratuar%20nga%20Qeveria].pdf)

107. Republic of Kosovo Energy Strategy 2017-2026, March 2017, National Renewable Energy Sources Action Plan, pg. 16, See: https://mzhe-ks.net/repository/docs/Strategjia_e_energjiise_2017-26_-pdf

108. State Water Strategy in Kosovo 2017-2036, see: http://knmu.kryeministri-ks.net/repository/docs/Strategjia_Shteterore_e_Ujrave_shqip.pdf

d) Laws

The set of laws governing the scope of construction of hydropower / hydropower plants, including the field of environment and ensuring sustainable development in Kosovo, consists of a range of laws, as follows:

- Law No. 05/L-081 on Energy;¹⁰⁹
- Law No. 05/L-084 on Energy Regulator;¹¹⁰
- Law No. 05/L-085 on Electricity;¹¹¹
- Law No .04/L-079 on Energy Efficiency;¹¹²
- Law No .04/L-147 on Kosovo Waters;¹¹³
- Law no .03/L-233 on Nature Protection;¹¹⁴
- Law no .03/L-025 on Environment Protection;¹¹⁵
- Law No .03/L-214 on Environmental Impact Assessment;
- Law No .03/L-043 on Prevention and Integrated Pollution Control;¹¹⁶
- Law No. 04/L-110 on Construction;¹¹⁷
- Law on Public-Private Partnership;¹¹⁸
- Law No. 04/l-042 on Public Procurement in the Republic of Kosovo and its amendments;¹¹⁹
- Law No. 02/L-26 on Agricultural Land¹²⁰
- Law No .06/L-092 on Use and Exchange of Municipality Immovable Property;¹²¹
- Law No. 04/L-060 on Waste;¹²²
- Law No. 2003/3 on Kosovo Forests;¹²³
- Law No .2004/29 on amendments and supplements of Law No. 2003/3 on Kosovo Forests;¹²⁴

109. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12689>

110. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12694>

111. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12744>

112. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18216>

113. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8659>

114. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2716>

115. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2631>

116. See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2635>

117. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2833>

118. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2784>

119. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>

120. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2804>

121. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18917>

122. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2829>

123. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3247>

124. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3247>

- Law No. 03/L-039 on Special Protective Zones¹²⁵
- Law No. 04/L- 086 on National Park “Bjeshkët e Nemuna”.¹²⁶
- Law No. 04/L- 086 on National Park “Sharri”.¹²⁷

e) Bylaws

- Regulation GRK- No. 11/2014 on Operation of Inter-Ministerial Water Council;¹²⁸
- Regulation No. 03./2014 on Internal Organization and Systematization of Jobs in Kosovo Environment Protection Agency¹²⁹
- Regulation MESP No. 221/2013 on Internal Regulation of National Parks;¹³⁰
- Administrative Instruction MESP No. 07/2017 on Environmental Permits;¹³¹
- Administrative Instruction MESP No. 03/2018 on Water Permits Procedures;¹³²
- Administrative Instruction No. 01/2019 on Procedures for Preparation and Review of Requests for Construction Conditions, Construction Permits and Demolition Permits for Category III Constructions¹³³
- Administrative Instruction MESP No. 05/2016 on Status of Water Property¹³⁴
- Administrative Instruction MESP No. 05/2017 on Inspection Oversight and Issuance of Certificates of Use¹³⁵
- Administrative Instruction MESP No. 08/2012 on Environmental Consent Applications Documents, based on type and nature of products¹³⁶
- Administrative Instruction MESP No. 16/2015 on Information, Participation of Public and Interested Parties in Environmental Impact Assessment Procedures¹³⁷
- Administrative Instruction MED No. 06/2017 on Promotion of Use of Energy from Renewable Energy Sources;¹³⁸
- MED Administrative Instruction No. 05/2017 on Renewable Energy Sources Targets;¹³⁹

125. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2529>

126. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2865>

127. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2866>

128. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10372>

129. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9916>

130. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8930>

131. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14821>

132. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=17824>

133. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=21118>

134. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=13027>

135. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14820>

136. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8174>

137. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11676>

138. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14964>

139. See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=14893>

VI. INSTITUTIONAL FRAMEWORK AND RESPONSIBILITIES IN TERMS OF CONSTRUCTION OF HYDROPOWER PLANTS IN KOSOVO

The key institutions with authorizations in water management and use of water resources for the benefit of public good or good of legal entities and that deal with the development of hydropower plants in Kosovo, include the following central and local institutions:

- ⇒ **MINISTRY OF ECONOMY AND ENVIRONMENT (MEE)** / former **Ministry of Environment and Spatial Planning (MESP)**, has public responsibilities and authorizations related to energy, environment protection, waters, and spatial planning.¹⁴⁰ It also ensures the development and implementation of policies and the National Energy Efficiency Plan and monitors Municipal Energy Efficiency Plans.¹⁴¹ It oversees and ascertains the state of the environment, in particular the impact of industrial activity, public services and economic activity, as these are also related to environmental protection.¹⁴²
- **REGIONAL RIVER BASINS AUTHORITY** - operates within the Ministry as an independent body for the purposes of water management, and it has the responsibility to ensure a sufficient amount of surface and ground waters of good quality, as needed for a sustainable, balanced and equal use of water. It is also responsible for ensuring the sustainable development of water resources essential for public health, environment protection and socio-economic development of the Republic of Kosovo.¹⁴³
 - **KOSOVO WATERS INSTITUTE** - is envisaged as an independent body within the Ministry, for purposes of development and research and design progress.¹⁴⁴ However, this institute has not been established yet, and only exists in law.
 - **KOSOVO ENVIRONMENTAL PROTECTION AGENCY** - is a government institution and is committed to preserving the quality of air, water, soil and biodiversity through integrated environmental monitoring, efficient environment information system and continuous reporting on the state of the environment, to promote the use of renewable energy sources and the sustainable use of natural resources in order to provide a healthy environment for present and future generations, in line with the progress of economic and social developments.¹⁴⁵
 - **KOSOVO INSTITUTE FOR CONSERVATION OF NATURE – Protective Zones and Monuments of Nature Management Section** - operates within the Ministry / Agency for Environmental Protection in Kosovo, and maintains the ecosystem cadaster and monitors the situation regarding threatened ecosystems.¹⁴⁶ It also conducts permanent monitoring of protected natural areas.¹⁴⁷

140. Article 2, Annex 9 of Regulation (GRK) - no. 07/2020 amending and supplementing Regulation No. 06/2020 on Areas of Administrative Responsibilities of the Office of the Prime Minister and Ministries, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=29389>

141. Ibid 137, Article 2 Par. 6;

142. Ibid 137, Article 2 Par. 13;

143. See Articles 21 and 22 of Law No. 04/L-147 on Kosovo Waters.

144. See Article 20. Para 1 of Law No. 04/L-147 on Kosovo Waters.

145. Article 9. para 1 of Regulation No. 03./2014 on Internal Organization and Systematization of Jobs in Kosovo Environmental Protection Agency;

146. Article 46, Para. 2 of Law No. 03/L-233 on Protection of Nature;

147. Ibid 27, Article 9, Para.1, Sub-paragraph 2;

- **KOSOVO HYDROMETEOROLOGY INSTITUTE - Hydrology and Water Monitoring Section**, conducts hydrological and monitoring of surface and ground waters in Kosovo.¹⁴⁸
 - **ENVIRONMENTAL PROTECTION AGENCY DIRECTORATES, including:**
 - **DIRECTORATE FOR ADMINISTRATION OF SHARRI NATIONAL PARK** - drafts management plans and projects for the protection, development and rational use of natural resources of the Sharri National Park, and has the duty of care for the natural resources of the National Park and termination of any illegal activities, deforestation, hunting, fishing, construction of facilities and illegal occupation of property therein.¹⁴⁹
 - **DIRECTORATE FOR ADMINISTRATION OF THE BJESHKETE NEMUNANATIONAL PARK** - performs activities relating planning, conservation and the sustainable management of forest resources, as well as inspection and prevention of illegal actions in the park.¹⁵⁰
 - **ENVIRONMENT DIRECTORATE / WATER AND SOIL SECTION** - is responsible for assessing and analyzing the condition of soil, surface water, ground waters, bathing water, as well as the condition of waters and the impact of discharges into water.¹⁵¹
- ⇒ **KOSOVO ENERGY REGULATORY OFFICE** - The Regulator certifies the origin of energy produced from renewable energy sources.¹⁵² The Regulator takes into account all policies, guidelines and regulations related to the generation of energy from renewable sources.¹⁵³ The ERO is competent for assessing applications for the construction of hydropower plants, as well as to issue licenses for the production of electricity from HPPs.¹⁵⁴ It is worth noting that energy activities for which a license is not required include the generation of electricity in an energy location with a total capacity not exceeding 5 MW.¹⁵⁵
- ⇒ **ELECTRICITY ENTERPRISES** include the natural or legal person who performs one or more licensed activities of generation, transmission, distribution, supply, trade, organized electricity market and is responsible for commercial, technical or maintenance tasks related to the aforementioned activities, excluding the final customer.¹⁵⁶ Energy enterprises licensed for transmission of electricity and natural gas, including the Transmission System Operator, may not obtain a license for the generation or supply of electricity, or for the production of thermal energy.¹⁵⁷ Major energy enterprises in Kosovo include the Kosovo System, Transmission and Market Operator (KOSTT JSC.), the Kosovo Electricity Corporation (KEK JSC.), and district heating plants.
- ⇒ **REPUBLIC OF KOSOVO MUNICIPALITIES** have full and exclusive competencies, in terms of local interest, abiding by the standards set out in the applicable legislation, in terms of provision and maintenance of public and utility services, including water supply, sewage and drainage, wastewater treatment as well as waste management.¹⁵⁸

148. See Article 12, Para 1 of Law No. 04/L-147 on Kosovo Waters.

149. See Article 19 of Regulation No. 03./2014 on Internal Organization and Systematization of Jobs in Kosovo Environmental Protection Agency;

150. See Article 21 of Regulation No. 03./2014 on Internal Organization and Systematization of Jobs in Kosovo Environmental Protection Agency;

151. See Articles 22 and 23 of Regulation No. 03./2014 on Internal Organization and Systematization of Jobs in Kosovo Environmental Protection Agency;

152. See Article 1, Para. 6 of Law No. 05/L-084 on Energy Regulator;

153. See Article 38, Para 2 of Law No. 05/L-084 on Energy Regulator;

154. Rules on Licensing Energy Activities in Kosovo, Article 3, Para.1. See: http://ero-ks.org/2017/Rregullat/2017.01.17_RREGULLA%20PER%20LICENCIMIN%20E%20AKTIVITETEVE%20TE%20ENERGIJE%20NE%20KOSOVE.pdf

155. Article 3, Para. 2 of Rules on Licensing Energy Activities in Kosovo;

156. See Article 3, Para. 1 Sub-paragraph , 46 of the Law No. 05/L-085 on Electricity;

157. See Article 35, Para. 2 of Law No. 04/L-079 on Energy Efficiency;

158. Articles 17 and 18 of Law No. 03/l-040 on Local Self-Government, see: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2e30>

VII. CONCLUSIONS

1. The large difference between the duration of public policies and the lengthy operation permits for HPPs, often extending to 40 years often demonstrate **an asymmetric public policy planning in the water resources management sector**. This difference naturally leads to inappropriate and unconsolidated public planning.
2. **Issuance of water permits for HPP construction is being based on a study conducted in 1983 by the MEE. This action is very harmful, and the study is not realistic, paired with the current state and circumstances of water resources in Kosovo.** Developments that have taken place in the country since then are numerous:
 - a) the time period of over 30 years is too long, and it would likely be illogical for the findings of this study to be accurate and appropriate to issue a water permit in 2020;
 - b) Bombings in different places of Kosovo have caused deformations in nature, geographic relief, and water resources, changing the beds of river basins and courses;
3. Since the war in 1999, numerous constructions have taken place in Kosovo, sometimes without permits and without any proper assessments on construction rights and construction sites, which has undoubtedly brought about an impact on water bodies and river basins.
4. All requests by the EO for obtaining consents and permits (water, environmental, construction, etc.) for electricity generation, and the issuance of licenses for electricity generation, were issued in violation of the **Law no. 04/L-147 on Waters of Kosovo**, and punitive measures are due to be imposed upon responsible persons, as this law requires that the utilization of water resources for economic purposes of electricity generation can only take place through a concession.
5. **The absence of a Kosovo Water Institute**, an independent body that would operate on the premises of research and development for design and progress, represents a major deficiency in public planning and design for water bodies, monitoring, protection, management and proper utilization of water resources, especially in terms of HPP construction.¹⁵⁹
6. Based on HPP construction records, Kosovo is moving towards a **monopoly of several electricity generating EOs in several regions, enabling them a dominant position**, as the same EOs are building three other HPPs in the same region. These EOs include the MATKOS Group, KELKOS Energy, and Hydro Line.
7. **EOs have established a practice of constructing two or more HPPs on the same water body, albeit with smaller capacities, less than 5 MW.** Thus, to avoid environmental permit procedures for HPPs with over 5MW, EOs have chosen to construct smaller capacity HPPs. In this regard, public institutions must address this phenomenon, but also, the examination of circumstances and conditions for HPP construction must be cumulatively conducted, to include the existence of other HPPs in the area, which are powered by the same water source, because ultimately, this ends with a depletion or major reduction of flows of rivers.

159. Still, it does not necessarily mean that with the Institute's establishment, waters would be protected. Because we do have a Kosovo Institute for Conservation of Nature, and nature has not been that protected.

8. The assessment, which includes water flow measurements, within the HPP permit procedure, is not conducted in a continuous manner, with real-time measurements, and determining parameters in terms of remaining water flows upon HPP commissioning. Thus, the sampling of water in the river is mandatory, while measurements of flow volumes are required, in order to make a fair assessment of the generating capacities for water production, so as not to affect water supply needs of the residents and nature. **Therefore, failure to estimate water flows and capacities in real-time, which would then include all climate change, seasonal variations, etc., will lead to inaccurate data, and consequently an inappropriate examination of requests for water consents and permits for HPP construction by public institutions.** Further, this contributes to mismanagement and improper utilization of water resources in the country.
9. Pursuant to the **ERO Licensing Rules for Electricity Activities in Kosovo**, EOs/enterprises are allowed to illegally apply for a license, without obtaining an Environmental Permit, since they only require an Environmental Consent in the case of provisional licenses, and they then have a full year to obtain an Environmental Permit. Such tolerance in law by the **ERO goes beyond the principle of proportionality**, thereby posing a high degree of risk, and rendering the water resources to HPPs, without requiring an Environmental Permit for the HPP, which is the key document providing a proper assessment of water resources, environmental issues and the rights of the affected parties, pursuant to an EIA report.
10. The ERO is allowing EOs to initiate and enter into major investments spanning 40 years, which bear major social, economic and environmental impacts, without requiring an Environmental Permit. By such actions, ERO **precludes the EOs from obtaining environmental permits from MEE**. On the other hand, due to the absence of an Environmental Permit issued to the EO by the MEE, there is a high risk of EOs filing claims for reimbursement of HPP investments, degradation of waters and the environment, but also risk of failure to restore and rehabilitate the waters and environment to the original state. Hence, the ERO is rendering water resources available to EOs, and is favoring EOs over the public interest.
11. The **ERO has applied double standards**, as in some cases it issued permanent electricity generation licenses for EOs having not obtained an Environmental Permit, thereby allowing them to submit the permit post-factum (see: License HPP Lepenci 3 No. ERO/Li_63/20, dated 03.07.2020), while in other cases, it issued a provisional electricity generation license to EOs, on the condition that the EO obtains and submits an Environmental Permit to the ERO (See: License for HPP Lumbardhi II No. ERO/Li_64/18, License of HPP Deçani No. ERO/Li_49/16, and License of HPP Belaje No. ERO/Li_50/16, all three issued on 03.07.2020). Such a practice creates suspicions around corruption.
12. The legal framework for HPPs consists of numerous legal acts, which contain many inconsistencies and over-establishment. Part of the legislation is not adopted yet, and all of these represent legal gaps, which only contribute further to irregularities in the HPP construction process. **The lack of engagement of the line Ministry and municipalities in every phase of assessment and issuance of all consents and permits, for all categories of HPPs, with no distinctions made in generation capacities**, makes it difficult for their actions to be in coordination with common public policies, public planning, and provides constant room and possibility of issuance of legal acts by public institutions not being in full compliance with all applicable legislation, and mischief by EOs.

13. Citizen protests against the construction of HPPs in Kosovo show that the **applicable legislation is not enforced** by public institutions of the country and the EOs, especially the legal requirements related to the issuance of **water, environmental and construction permits**.
14. **The ERO has not enforced all legal requirements in its issuance of licenses for electricity generation from RES/water**, specifically by not requiring EOs to obtain environmental permits.

VIII. RECOMMENDATIONS

⇒ For public institutions:

1. Conduct **a new detailed study on the state of water resources** in Kosovo, that presents the most recent and accurate data on the state of waters, to deter any reference to the Water Resource Assessment in the 1984 study.
2. Based on the new study of water resources, develop **an assessment report on the RES electricity generation capacities, including private investment opportunities**, at appropriate sites and in accordance with applicable law.
3. Publish **an official assessment report by public institutions on the state of water resources in Kosovo and construction options** (with accurate statistical data on water capacities in each geographical region, as well as construction possibilities divided by potential sites), upon which all public institutions of the country would refer to the same data in their planning and management of water-related works.
4. Take legal measures to stop violations of and failures to implement the **Law no. 04/L-147 on Waters of Kosovo**, and impose punitive measures against responsible persons, as this law requires that the utilization of water resources for economic purposes of electricity generation can only take place through a concession.
5. **A new decision must be taken by the IMWC and the ERO on assessment of “new applications” for obtaining documents to support the issuance of permits and licenses for RES/water based electricity generation** on the basis of the new study and the new official water report, which will be the reference documents for any planning document on utilization of water resources for electricity generation.
6. Enhance the **commitment, contribution and visibility of the work of the Inter-Ministerial Water Council**, to ensure the consolidation of the work of government bodies on public water policies.
7. **Halt all applications for the utilization of water resources for commercial purposes in Kosovo, and discontinue the issuance of Water Permits and Environmental Permits until the development of new assessments at the national level, pursuant to the new study and report**, so that future permits are in line with the report, ensuring the proper utilization of legal resources and in full compliance with the entire legal framework of the country.
8. **Re-evaluate all preliminary, final authorizations and existing licenses** of EOs for the construction and operation of HPPs in Kosovo against the findings of the new study, and **establish additional requirements for termination or modification of specifications pursuant to the new specifications arising from the new water assessment/report**.
9. Since Kosovo is a small country, and can only supply water from water reservoirs, in HPP construction cases, **require an Environmental Impact Assessment, and consequently Water and Environmental Permit for HPPs starting from 2 MW of electricity generation capacity**, adhering to an average of

countries in the region, such as Bosnia and Herzegovina, Georgia, Serbia, etc.¹⁶⁰

10. Revise and amend all relevant legislation on HPP activities, to address issues such as:

- a) Devising relevant restrictive criteria to **prevent creation of a dominant position of EOs in electricity generation** from hydropower;
- b) The specified criteria for issuing a **water permit, construction permit, environmental permit**, as well as a **license for electricity generation from RES/water**, must be incorporated in primary laws, thereby disallowing public institutions to individually soften the criteria on their own, or to amend them through secondary acts (regulations, administrative instructions, decisions, etc.), as well as through ERO.

11. **The municipal level (municipalities) and central (ministry) authorities must be involved jointly in each phase when issuing legal acts (water, environmental, construction permit, etc.)** for HPPs, in each application for environmental permits, regardless of generation capacities, and such involvement must be enshrined in laws, not assigned to secondary legislation. The current situation allows incoming governments/minister's cabinets to amend such secondary law to the interests of certain individuals/groups, and not to the public interest as a whole.

12. In the process of issuing environmental permits, review and meet the criteria for environmental permits, thereby including a **cumulative assessment of all water and environmental conditions**, when assessing applications for environmental permits for EOs, **thereby expanding the area of impact to be assessed**, but also take into account the existence of other HPPs operating on the same water resources, and their cumulative impact.

13. Establish a **task force for the protection of natural resources**, according to the needs and findings of a Parliamentary Inquiry Committee on the Licensing, Operation, Supervision and Application Process for Hydropower Plants. This task force would coordinate works relating to on site monitoring and utilization of water resources.

14. Since reports compiled so far by legal entities licensed by the MEE (former MESP) are proven to not have been compiled and completed with all the data required by applicable law, a **reassessment of EIA reports** should be conducted, a **re-assessment of legal entities licensed to compile EIA reports**¹⁶¹, and if necessary to re-license them pursuant to a transparent procedure and on the basis of merit.

15. **Establish a monitoring and control mechanism within public institutions to verify and ensure the full implementation of all legal criteria when compiling EIA reports by licensees/legal entities.**

160. Policy Guidelines by the Energy Community Secretariat on Small Hydropower Projects in the Energy Community, 4.6. Overview of the Regulatory Scope of Small Hydropower Plants in the Contracting Parties pg. 31, See: https://cdn.fsbx.com/v/t59.2708-21/120114202_629450844436642_8479941373002951294_n.pdf/Annex-1-Policy-Guidelines-on-small-hydropower-projects-in-the-Energy-Community.pdf?nc_cat=108&nc_sid=0cab14&nc_ohc=Q4hEhtcv8TAAX9zSXrd&nc_ht=cdn.fsbx.com&oh=ea53a

161. For a list of legal entities licensed to compile Environmental Impact Assessment reports for hydropower plants, see: [https://mmp.h.rks-gov.net/assets/cms/uploads/files/Leje%2CLicensa%2CPelqimet/Lista_personave_juridik_të_licencuar_për_hartimin_e_Raportit_për_Vlerësimin_e_Ndikimit_në_Mjedis_\(VNM\)_146420.pdf](https://mmp.h.rks-gov.net/assets/cms/uploads/files/Leje%2CLicensa%2CPelqimet/Lista_personave_juridik_të_licencuar_për_hartimin_e_Raportit_për_Vlerësimin_e_Ndikimit_në_Mjedis_(VNM)_146420.pdf)

⇒ For citizens and the community:

1. To actively engage them in the enjoyment of their rights, through legal means (complaints, lawsuits, criminal charges, etc.), within all possibilities and circumstances of relevant cases. For each phase, the guidelines and legal remedies to be used by the citizens/community are described in section IV of this report. (*Community legal rights in terms of protection of their rights and the protection of the environment*).
2. They should take immediate action whenever they obtain data on HPP construction, request access to supporting HPP documents, to be properly informed, as well as address legal issues within the legal deadlines.
3. Collaborate closely with the media and civil society in raising their concerns, grievances and demands at all state levels.
4. Initiate petitions, depending on the circumstances and possibilities, pursuant to legislation on petitions and their submission to the competent public institutions.
5. Unite all NGOs and media at the national level for raising their voice, to swiftly respond, and to ensure the best and largest representation in numbers, in order to establish **a community task force to protect water resources and the environment**.
6. Be physically present in front of relevant institutions when informed about important decisions such as permit extensions, environmental consents, etc., and request to monitor such meetings, securing a seat around the table deciding on natural and water resources they use.

IX. ANNEXES

ANNEX I. LIST OF LICENSES AND AUTHORIZATIONS ISSUED BY ERO FOR HYDROPOWER PLANTS IN KOSOVO

⇒ Licenses issued for Electricity Generation from RES (water)

No.	Enterprise Title	Owner Name and Contacts:	Nr. of License and No. of Decision	Date of issuance	Type of License	HPP	Region/Site	MW Capacity
1.	Hydroenergji LLC.	1. Ragip Zymberi 2. Zeqir Shamolli 3. Nderim Rexha 4. Valon Ademi, Fisnik Dragusha, 5. Jon Arifi - P.A. Phone: 044-660-185, email: nderimrexha@gmail.com	ZRRE/ Li_63/20 & V_1267_2020	03 July 2020	Permanent (40 years)	HPP Lepenci 3	Slatina, Mun. Kacanik	9,98 MW
2.	Kelkos Energy LLC - HPP Lumbardhi II	1. George Leopold Wober, 2. Ingo Preiss, 3. Martin Pieter Dolzer Phone: +38338717729; E-mail: office@kelkos	ZRRE/ Li_64/18 & V_1182_2019	14 October 2019	Provisional (12 months)	HPP Lumbardhi II	Deçan, CZ. Deçan	6,2 MW
3.	Kelkos Energy LLC. - HPP Deçani	1. George Leopold Wober, 2. Ingo Preiss, 3. Martin Pieter Dolzer Phone: +38338717729; E-mail: office@kelkos-decan.net	ZRRE/ Li_49/16 & V_1184_2019	14 October 2019	Provisional (12 months)	HPP Deçani	Deçan, CZ. Deçan	9,8 MW
4.	Kelkos Energy LLC. - HPP Belaje	1. George Leopold Wober, 2. Ingo Preiss, 3. Martin Pieter Dolzer Phone: +38338717729; E-mail: office@kelkos-decan.net	ZRRE/ Li_50/16 & V_1183_2019	14 October 2019	Provisional (12 months)	HPP Belaje	Deçan, CZ. Deçan	8,06 MW
Total: 4 Hydropower plants in 2 regions								34,04 MW

⇒ Final Authorizations for the Construction of HPPs for Electricity Generation from RES (water)^[1]

No.	Enterprise Title	Owner Name and Contacts:	Decision no.	Date of issuance	Final Authorization for Period/ Deadline for assess.	HPP	Region/ Site	MW Capacity
1.	Eurokos JH SH.P.K. (LLC)	1. N.P.T. Al-Vis 2. Arbresha Ademi Rrukiqi, 3. Fehmi Cakiqi, P.A. Phone: +383 44 220 362;	V_1243_2020	06.04.2020	1 year, valid until 09.02.2021	HPP Restelica 3	CZ Krushevë & Glloboqica, Mun. Dragash	2,35 MW
2.	Eurokos JH, LLC.	1. Yll Shamolli, 2. Yllka Saraçi, 3. Ylber Shamolli, 4. Jalldyze Shamolli, Phone: +383 45 600 595;	V_1242_2020	06.04.2020	1 year, valid until 09.02.2021	HPP Brodi 1	Brod, CZ Brod, Mun. Dragash	2,48 MW
3.	NPN Renelual Tahiri LLC.	1. Ali Hoxha, 2. Lulzim Hoxha, 3. Nebi Hoxha, 4. Refki Hoxhaj (Owner & PA/ Director);	V_1241_2020	06.04.2020	1 year, valid until 29.03.2021	HPP Dragash	CZ Radesh, Plavë and Rapçe, Mun. Dragash	3,4 MW
4.	Hydro-Line, LLC.	1. Termo Cosing, 2. Nuha Baunternehmung gmbh & co.kg, 3. Muhamer Ibrahim (Owner and PA) Phone: +383 44 600 505;	V_1229_2020	12.02.2020	1 year/ valid until 27.02.2021	HPP Albaniku 4	CZ Selac and Vidisic, Mun. Mitrovica	1,119 MW
5.	Hydro-Line, LLC	1. Termo Cosing, 2. Nuha Baunternehmung gmbh & co.kg, 3. Muhamer Ibrahim (Owner and PA) Phone: +383 44 600 505;	V_1228_2020	12 .02.2020	1 year/ valid until 27.02.2021	HPP Albaniku 1	CZ Vllahi, Mun. Mitrovica	1,868 MW
6.	Matkos Group HPP Shtpce, LLC	1. Labinot Vitija, (PA), 2. IGT Corporation, JSC; 3. "Karaxha Invest" sh.pk, Phone: +383 44 900 900;	V_1226_2020	12 .02.2020	1 year/ valid until 28.01.2021	HPP Shtpce	CZ. Shtpce, Mun. Shtpce	5,031 MW
7.	Matkos Group HPP Sharri, LLC	1. MG HCE Shterpca L.L.C., 2. Labinot Vitija, (Director), 3. "Reinvest Group" LLC Phone: +383 44 900 900;	V_1225_2020	12 .02.2020	1 year/ valid until 28.01.2021	HPP Sharri	CZ Shtpce, Mun. Shtpce	6,453 MW

8.	2 Korriku LLC	1. Ejup Kovaçi, Phone: +383 44 113 514;	V_1224_2020	12 .02.2020	1 year/ valid until 18.01.2021	HPP Soponica	CZ Doganaj, Mun. Kačanik/ Kačanik	1.3 MW
9.	Hydro-Line, LLC.	1. Termo Cosing, 2. Nuha Baunternehmung gmbh & co.kg, 3. Muhamer Ibrahim (Owner and PA) Phone: +383 44 600 505;	V_1113_2019	28 .02.2019	6 months / valid until 27.07.2019	HPP Albaniku 1	Batahir, CZ. Mitrovica	3,556 MW
10.	Matkos Group HPP Viça LLC.	1. Labinot Vitija, 2. Alba Group, 3. MG-HCE-Shterpca, Phone: +383 44 900 900;	V_1202_2019	27.11.2019	4 months / valid until March 2020	HPP Vica	CZ. Drekoc, Mun. Shtrpce	4.6 MW
11.	Eko-Energji LLC.	1. Islam Hyseni, 2. Zymer Dragobuzhda, 3. Muzafer Dragobuzhda, 4. Kemajl Dragobuzhda, 5. Islam Hyseni (PA) Phone: +383 44 135 976;	V_1167_2019	10.07.2019	1 year/ valid until 15.12.2019	HPP Binça	CZ Binça, Mun. Viti	1 MW
12.	NPN Renelual Tahiri LLC	1. Ali Hoxha, 2. Lulzim Hoxha, 3. Nebi Hoxha, 4. Refki Hoxhaj (Owner & PA/ Director);	V_1116_2019	28.02.2019	1 year, valid until 27.02.2020	HPP Orqusha	CZ Orqushë, Mun. Dragash	4 MW
13.	N.N. Dilli - Com	1. Kujtim Zena, 2. Amir Milaimi, 3. Astrit Behra, Phone: +383 44 678897; 4. Amir Milaimi (PA) E-mail: amir.milaimi@outlook.com;	V_1090_2019	28.01.2019	1 year/ valid until 14.12.2019	HPP Bresana	CZ Bresana, Mun. Dragash	0.31 MW
14.	Hidro Forca LLC.	1. Ramiz Topojani, 2. Naim Kabashi, Phone: +491715428105	V_986_2018	13.06.2018	2 year/ valid until 12.06.2020	HPP Soponica 2	CZ Soponicë, Mun. Kačanik/ Kačanik	3 MW
15.	Hydro-Line LLC.	1. Termo Cosing, 2. Nuha Baunternehmung gmbh & co.kg, 3. Muhamer Ibrahim (Owner and PA) Phone: +383 44 600 505;	V_935_2018	29.03.2018	1 year/ valid until 21.01.2019	HPP Albaniku 2	CZ Batahir, Mun. Mitrovica	3,556 MW
Total: 15 Hydropower plants in 6 regions								44,023 MW

⇒ **Preliminary Authorizations for the Construction of HPPs for Electricity Generation from RES (water)**^[2]

No.	Enterprise Title	Owner Name and Contacts:	Decision no.	Date of issuance	Final authorization for period/ deadline	HPP	Region/Site	MW Capacity
1.	Dino Energy LLC	1. Ramadan Salihu, 2. Abedin Salihu, 3. Ibrahim Salihu, Phone: +383 44 206 685;	V_1227_2020	12.02.2020	6 months / valid until 20.06.2020	HPP Lepenci 2	CZ Kaçanik, Mun. Kaçanik/ Kaçanik	3.3 MW
2.	gEnCi LLC.	Ekrem Cërvadiku, Phone: +383 44 113 003;	V_938_2018	29.03.2018	6 months / valid until 11.05.2018	HPP Prizreni 4	CZ Jabllanicë, Mun. Prizren	2.83 MW
3.	gEnCi LLC	Ekrem Cërvadiku, Phone: +383 44 113 003;	V_937_2018	29.03.2018	6 months / valid until 11.05.2018	HPP Prizreni 8	CZ Nebregoshtë, Mun. Prizren	2.1 MW
4.	gEnCi LLC	Ekrem Cërvadiku, Phone: +383 44 113 003;	V_936_2018	29.03.2018	6 months / valid until 11.05.2018	HPP Prizreni 9	CZ Reçan, Mun. Prizren	1.93 MW
Total: 4 Hydropower plants in 2 different regions								10.16 MW

[1] Final authorizations include all works on the construction of hydro-power plants.

[2] Preliminary authorizations are issued to applicants/investors to complete documentation for obtaining other supporting documents from public institutions, such as construction permit, etc.

ANNEX II

DOCUMENTS REQUIRED FOR OPERATION OF HYDROPOWER PLANTS IN KOSOVO

DOCUMENTS REQUIRED FOR OPERATING HYDROPOWER PLANTS IN KOSOVO										
DOCUMENT	ENVIRONMENTAL IMPACT ASSESSMENT REPORT	CONSENT ON CONSTRUCTION TERMS	ENVIRONMENTAL CONSENT	WATER CONSENT	CONSTRUCTION PERMIT	WATER PERMIT	ENVIRONMENTAL PERMIT	INTEGRATED ENVIRONMENTAL PERMIT	PROVISIONAL ENERGY PRODUCTION LICENSE	PERMANENT ENERGY PRODUCTION LICENSE
PURPOSE	Assessment of potential impacts of the project on humans and the environment (flora and fauna, soil, water, air, climate and landscape, material goods and cultural heritage).	Definition of technical construction terms and conditions that serve as a basis for the construction of hydro-power plants.	Prevention and reduction of adverse environmental impacts by public and private activities. Also, to ensure the compliance of the project with the plans and programs of public institutions, to ensure a high degree of protection of the environmental and human health.	Define the requirements to be met during the performance of works, submission of records for damage compensation incurred by third parties during the performance of works during the implementation of the water consent.	Secure perimeter of the facility/hydro-power plant site, in accordance with the Construction Code, as well as the implementation of spatial planning documents.	Integrated, sustainable water management and administration, to ensure sufficient quantity and quality for all water users.	Prevention and reduction of adverse environmental impacts by public and private activities.	- Prevention and reduction of adverse impacts by activities on the environment and human health when constructing various plants, especially when dealing with nature protected areas and places of strategic interest to the country, when issuing a permit for operation.	Enabling the commencement of works by a temporary license holder to exercise its activities in the energy sector, in which a permanent license needs to be obtained within a year, in accordance with the provisions of the laws related to the energy sector.	Enabling the commencement of works by the license holder to exercise its activities in the energy sector, for which a license is required to be obtained in accordance with the provisions of the laws related to the energy sector.

SCOPE	- Combined impact on the environment by existing and/or future projects; - Utilization of natural resources; - Waste generation; Pollution and disturbance;	- Definition of construction terms and conditions that serve as a basis for the construction of hydro-power plants.	- Environmental Impact of the project; - Impact on human health;	- The construction of the hydropower plant designed in accordance with the water terms, water legislation and planning documents for the respective region.	- Ensure the construction of the facility/hydro-power plant preserves the livelihood of the citizens, preserves agricultural land and natural resources.	- Determine the use, manner and conditions of water utilization, the workflows of facilities and plants, manner and conditions of wastewater discharge, manner and conditions of disposal of liquid and solid waste, and other terms.	- Establish an integrated environmental protection system, to reduce risks of environmental pollution, human life and health according to the concept of sustainable development.	- Protection of human Health; - Environmental Protection	- Electricity generation; - Utilization of natural resources in accordance with applicable law.	- Electricity generation; - Utilization of natural resources in accordance with applicable law.	- Electricity generation; - Utilization of natural resources in accordance with applicable law.
REQUIRED FOR:	Any public or private project	Any public or private project	Any public or private project	Any public or private project	Any public or private project	Any public or private project	Any public or private project	Any public or private project	Hydro-power plants with generation capacity over 5MW.	Hydro-power plants with generation capacity over 5MW.	Hydro-power plants with generation capacity over 5MW.
CONDITIONS/RELATIONS WITH OTHER DOCUMENTS	None	None	An EIA Report is required, and if yes, within two (2) years from the date of receipt of the Decision on Environmental Consent: The applicant cannot obtain the Construction Permit or other approvals for the project implementation; or, the site for project implementation was not prepared, nor has any operational activity launched.	- Required obtaining of: - Environmental consent, - Construction Terms, - Water terms.	- a Municipal or Ministerial Consent for Construction Terms is required;	- a construction permit is required; and - water consent;	- Municipal Environmental Consent and/or Environmental Permit is required.	Cannot be issued without an Environmental Consent.	- Environmental Permit or Integrated Environmental Permit (for protected areas) to be obtained from the Ministry within one year. - water permit; - construction permit;	- Environmental Permit or Integrated Environmental Permit (for protected areas) to be obtained from the Ministry within one year. - water permit; - construction permit;	- Environmental Permit or Integrated Environmental Permit (for protected areas) to be obtained from the Ministry within one year. - water permit; - construction permit;

INSTITUTIONS COMPETENT TO ISSUE	Natural and legal persons licensed by the Ministry to compile reports.	- Ministry, for HPPs over 10MW; - Ministry, for HPPs under 10 MW.	Ministry/RRBA	Ministry/RRBA	- Ministry, for HPPs over 10 MW; - Municipality, for HPPs under 10 MW.	- Ministry/RRBA	Ministry / Department of Environmental Protection	Ministry	Energy Regulatory Office;	Energy Regulatory Office;
	None	2 years	2 years	2 years	1 year	40 years	5 years	5 years	1 year	40 years
VALIDITY TERM	None	None	None	None	None	Every 5 years by the Municipality.	None	None	None	None
REVISION DEADLINE	None	None	None	None	None	None	None	None	None	None

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