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PERMANENT MISSION OF MONTENEGRO TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA
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The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, in connection to its note Reference:2010 DSLO of February 5 2010, has the honour to convey the Answers regarding Questionnaire on good practices related to access to safe drinking water and sanitation.

The Permanent Mission of Montenegro to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



11 May, 2010

Office of the High Commissioner for Human Rights
GENEVA

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Practice description

Practice title: Legislation in the field of use of potable water and wastewater management – The Law on Waters, Official Gazette of the Republic of Montenegro No. 27/07 of May 17, 2007), the Law on Water Management Financing (Official Gazette of Montenegro No. 65/08 of October 29, 2008), the Law on Public Utility Activities (Official Gazette of the Republic of Montenegro No. 12/95); the Law on Local Self-Government (Official Gazette of the Republic of Montenegro No. 42/03, 28/04, 75/05, 13/06, Official Gazette of Montenegro No. 88/09), the Law on Regional Water Supply of Montenegrin coastal region (Official Gazette of Montenegro No. 13/07) and bylaws of these laws.

Practice objective: Ensure sufficient quantities and adequate quality of potable water and the quality of service necessary as regards discharge of waste waters

Target group(s): Population and business operators

Partners involved: the Government of Montenegro, through the competent ministries; local self-government, companies for waterworks and sewerage

Practice duration: continuous

Financing (short-term, mid-term, long-term): Long-term. In accordance with the Law on Financing of Water Management, the Law on Regional Water Supply of Montenegrin Coastal Region and strategic planning documents.

A short description of the practice: the Law on Waters lays down that management of waters and water land includes activities and measures undertaken for the purpose of management and improvement of the water regime in a single water system in a specific area for the purpose of: ensuring adequate quantities of water of the quality prescribed for specific purposes (as well as protection of waters against pollution and protection of harmful effects of waters). In order to accomplish this objective in the field of legislation related to use of potable waters, a set of bylaws has either been adopted, or is planned to be adopted.

The Law on Public Utility Activities governs the issues related to provision of public utility services (which include water supply and waste water management) and deliver of public utility products (water), which are an irreplaceable condition for life and work of citizens, companies and other entities in the territory of the local self-governance unit.

The Law on Local Self-Government (Official Gazette of the Republic of Montenegro No. 42/03, 28/04, 75/05, 13/06, Official Gazette of Montenegro No. 88/09), lays down that local self-governance unit organize activities of direct and joint interest for the local population.

In accordance with the Law on Public Utility Activities, carrying out of public utility activities means provision of public utility services and delivery of public utility products, which are an irreplaceable condition for life and work of citizens, companies and other entities in the territory of the local self-governance unit. As such, the public utility activities are of public interest.

The public utility activities include, among others, the following:

- 1) water supply, which includes capture, treatment and supply of water to users for drinking and other needs;
- 2) treatment and ducting of wastewaters, which means collecting and ducting of wastewaters from the consumers, ducting by the sewer network, treatment and pumping out of the network;

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Carrying out of public utility activities is governed and ensured by the local self-government unit (municipality), in accordance with the law.

In accordance with the Law on Local Self-Government, the needs of direct and joint interest for local population, including water supply and wastewater management, are met in the municipality.

1. How does the practice meets the availability criterion?

Answer:

Approximately 75% of the population is connected to the public water supply systems in Montenegro, where the situation in urban settlements is much favourable, since more than 96% of the population is supplied with water from public waterworks.

Waterworks of cities – municipal centres – supply, to a large extent, also other, urban, suburban and rural settlements on the territory of the municipality. Some of the waterworks may be treated as municipal water supply systems, since they cover almost all the settlements on the territory of the municipality. Waterworks of coastal municipalities Herceg Novi, Kotor, Tivat and Budva belong to that category.

For public water supply of urban settlements as well as a larger number of suburban settlements, water intakes as set by the Decision on designation of water intakes intended for regional and public water supply (public waterworks) and designation of their boundaries (Official Gazette of Montenegro No. 36/08 of June 10, 2008) are used.

Water supply is mainly done by capturing ground waters (3.3 m³/s), with the exception of Herceg Novi and Pljevlja, where water from accumulation lakes (approximately 0.4 m³/s) is captured for water supply purposes.

Rural settlements are supplied with water in several ways:

- a. In an organized way, through urban waterworks, where some of such settlements are treated as suburban settlements;
- b. Through independent waterworks of public character, operation and maintenance of which lies with the public utility organizations, local community centres, etc.;
- c. Through private small-capacity waterworks, supplying two or more households, built and maintained by owners;
- d. Individually, without using any waterworks.

(Note: data from the Water Master Plan of Montenegro)

Since public utility activities are activities of public interest, the local self-government units are bound to provide organized and lasting supply and development of public utility activities, including the supply of services of water supply and wastewater management, which includes the required scope and quality of services.

The Law on Public Utility Activities lays down that provision of a public utility service, or supply of a public utility product may not be denied to a user, and in case of distortion or interruption in supply of public utility services due to a force majeure or other reasons that could not have been foreseen or prevented, measures aimed at elimination of the cause of distortion or termination shall be taken without delay, or supply of public utility services ensured in some other way.

Generally, Montenegro is rich in high-quality potable water, which does not require any other treatment but chlorination prior to its entry into the water supply system. The problem in water supply occurs only in the coastal region during summer months (in dry periods) where, due to an increased consumption of tourism industry and unfavourable climatic conditions,

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deficit in potable water (often used for other purposes, since there is no system for use of technical water) occurs from time to time. The problem of the deficit is being solved by construction of the regional waterworks for the Montenegrin coastal region. The Law on Regional Water Supply of Montenegrin Coastal Region lays down that supply of this area with water is an activity of public interest and an irreplaceable condition for life and work of citizens, companies and other entities, and it provided legal preconditions for organizing companies that will manage the construction and operation of the regional water supply system. Once it is put into operation, the system will provide additional 1,500 l/s of water for the population of coastal municipalities. Putting of the system into operation is planned for June 15, 2010.

As with water supply, the wastewater ducting services are provided by companies founded by local self-governments. The sewer network covers mainly the urban and a number of suburban settlements, while rural settlements use septic tanks. Depending on the municipality, the urban sewerage systems cover 40-100% of the population in urban settlements of the municipalities. Implementation of activities as provided for by the strategic planning documents, the situation in this field has been already significantly improved.

2. How does the practice meet the accessibility criterion?

Answer:

The Law on Waters (Article 48) lays down that local self-government unit shall provide public water supply on its territory for all settlements with population above 200 or with average annual water need above 100 m³/day, while water supply of rural and other settlements or parts thereof, which do not meet these criteria, as well as water supply of one or several users, is done in accordance with the regulation of a local self-government unit, laying down the conditions for starting the construction, use, maintenance and management of water supply facilities and systems.

The water supply activities are, in accordance with the Law (Article 50), carried out by public enterprises, that is, by companies – enterprises for waterworks and sewerage, registered for carrying out the water supply activities.

In order to increase the number of water supply facilities and provide adequate quantities of quality water for rural population, the Government of Montenegro takes part in financing of works on water supply facilities in rural areas through annual programs of use of funds in water management, adopted in accordance with the Law on Financing of Water Management. The funds earmarked by the Program are allocated to local self-governments, competent bodies of which provide project documentation, approvals needed and they also monitor the works.

In order to provide the conditions for meaningful and planned action as regards increasing the level of services in the field of water supply and wastewater management, the Government of Montenegro adopted the strategic planning documents in these areas. The implementation of activities as provided for by the Master Plan of water supply of Montenegrin Coastal Municipalities is already providing conditions for including as much of the population of the region into the public water supply system, that is, of supplying water to every settlement for which there are conditions for solving the water supply issue in this way. The construction of the regional waterworks will increase the available quantities of potable water that will be distributed to the population and businesses in Montenegrin coast through local water supply networks.

According to the strategic master plans in the field of wastewater management, all settlements with population above 2,000 will be covered by adequate sewerage network and wastewater treatment facilities. Since these projects require significant investments, that require more than 560 million EUR by 2028, their implementation is planned in three phases.

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3. How does the practice meet the affordability criterion?

Answer:

The amount of the fee paid by water supply companies for capture of potable water and public utility needs is set by the Decision on the amount and method of calculation of water fees and criteria and method of determining the level of water pollution (Official Gazette of Montenegro No. 29/09 of April 24, 2009). The water supply and sewerage companies pay an amount of 0.015 €/m³ of water supplied. The amount of the fee paid by citizens that use the water supply system to companies for water supply and sewerage is set by documents of such companies and in most cases it does not cover all the costs of the company, which is why the local self-government, since those are public companies established by it, supports their work.

The services of wastewater ducting are charged together with water supply services, in single bills, and these amount to 50% of the water supply services. For population not connected to the urban sewerage network, the public companies are bound to empty the septic tanks at invitation of citizens, for a fee set by the company's documents.

Generally, the amount of the fee for use of water in Montenegro is not high, which is confirmed by the information that water consumption is two times higher than in Western European countries, which means that the following habits of citizens need to be changed by economic measures and education: use of water from the urban waterworks for watering of gardens during dry periods, duration of showers, possibility of use of technical water for watering, cleaning, etc.

The strategic planning documents provide for setting of an economic price that will, in addition to system operation and maintenance costs, include also the depreciation costs, investments, repayment of credits. In 2007, the Government of Montenegro adopted the Plan of Reform of water supply and wastewater management sector which suggests such price setting method, but it also sets subsidies for population that cannot afford to pay the costs of the services provided.

4. How does the practice meet the quality/safety criterion?

Answer:

The Law on Waters (Articles 56-57) and the Rulebook on designation and maintenance of zones and strips of sanitary protection of water intakes and restrictions in such zones (Official Gazette of Montenegro No. 66/09 of October 2, 2009) lay down that in areas where water intakes that, by quantity and quality, may be used for drinking, the zones of sanitary protection of water intake are designated in order to protect them against pollution and other influences that may have an adverse effect on abundance and health safety of potable water.

Testing water quality at water intake is done in accordance with the Program of systematic testing of water quality in water intakes (sanitary protection zones) and public bathing places (Official Gazette of the Republic of Montenegro No. 13/00). As regards the quality of water, there is also the Rulebook on hygienic suitability of potable water (Official Gazette of the Federal Republic of Yugoslavia No. 42/98 and 44/99), while, according to the Law, development of a new Rulebook on type, method and scope of testing water quality at water intake is planned, to be adopted by the Ministry competent for health issues.

Measuring, collecting and processing of water quality data for all public waterworks is done by the Institute for Public Health of Montenegro, in cooperation with the hygiene-epidemiology services of the primary health care centres and the Centre for Ecotoxicological Researches.

The obligations of the waterworks and sewerage companies are:

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- 1) to establish and maintain sanitary zones of water intakes;
- 2) to install the devices and ensure continuous and systematic registration of water quantity and testing of the water quality in a water intake;
- 3) to undertake measures for ensuring health safety of potable water;
- 4) to undertake measures for ensuring good working order of the devices. (Article 51)

In accordance with the Law on Public Utility Activities, continuance functional capability of public utility facilities has to be ensured, while general terms of use, protection and maintenance of the facilities are laid down by the competent body of the local self-government unit. The functional capability of public utility facilities is ensured by maintenance of constructions and other facilities, plants and equipment used for carrying out the public utility activities.

Generally speaking, Montenegro is rich in high quality drinking water, requiring no treatment other than chlorination prior to its entry into the water supply system.

Taking into account the striving to have as many citizens included in the urban water supply systems, maintained and managed in accordance with the law, where sanitary suitability of potable water is ensured, the safety criterion is met. The rehabilitation of existing water supply networks, in accordance with the strategic planning documents, result in having users supplied with sanitary safe water of high quality.

Implementation of strategic planning documents in the field of wastewater management also results in having as many citizens as possible covered by the services of wastewater ducting and treatment through a constructed sewerage system, providing the needed quality of service and preventing the negative effect of inadequate waste water management to the population health.

5. How does the practice meet the acceptability criterion?

Answer:

Testing of water quality at the water intake, already described in the answer to question no. 4, according to the Program and the Rulebook stated there, include analysis of physico-chemical indicators for potable water, which include odour, colour and taste.

Water treatment at the water intake: disinfection of water is done in water intakes of ground waters used for public water supply, while waters taken from accumulations are treated additionally in treatment plants.

The quality of spring waters in Montenegro satisfies the criteria for potable water, while companies providing water supply and wastewater management services take care of adequate supply of water to the population.

By provision of conditions for connecting to the public sewerage all citizens are given the opportunity to provide their sanitary facilities, in accordance with their cultural needs, in the way that suits them most.

6. How does the practice ensure absence of discrimination?

Answer:

Provision of adequate quantities of healthy drinking water is the main precondition for health, longevity and generally, survival of humans in a specific area. It has to be a priority for all human communities.

The Law on Waters (Article 47) lays down the priorities for water supply.

Use of waters for water supply, in the following order: supply of the population with potable

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water, defence of the country, sanitary needs and watering of livestock has priority over the use of water for other purposes.

Waters used or intended to be used for water supply may not be used for other purposes in a way that would have an adverse effect on the needed quantity and characteristics of waters for water supply.

Provision of potable water is an activity of public interest that local self-governments are in charge of. Water is supplied to the population regardless of the skin colour, gender, religion, political affiliation, national or social origin and other differences. The quality of the service provided depends on the level of development of the water supply network. In accordance with the Law on Public Utility Services, the public utility services, that is, the supply of public utility product (water) may not be denied to a user. Imbalance in quality of services, originating from inadequately developed water supply systems in certain areas, shall be alleviated by implementation of projects provided for by strategic planning documents at the national level and developmental plans and programs at the local level.

The same applies as regards provision of conditions for ducting and treatment of wastewaters, that is, the activities related to implementation of strategic planning documents in the wastewater management field. In accordance with the priorities set, projects that would increase accessibility to sewerage systems are implemented for all citizens living in an area, without any discrimination elements. The priority is given to projects that serve as many citizens as possible, and that solve possible urgent needs, both as regards the needs of citizens and the environmental protection.

7. How does the practice ensure active, free and significant participation?

Answer:

The Law on Waters (Articles 30 and 31) lays down that the competent public administration body shall provide active participation of public and persons interested (in form of remarks, proposals and suggestions) in the procedure of development and adoption of water management plan.

The Law provides for establishing of a Water Information System (Article 159) where, among other things, development of water infrastructure and water management is planned. The Water Information System is set up and kept by the competent public administration body in accordance with the Law and the Decree on contents and method of keeping the Water Information System (Official Gazette of Montenegro No. 33/08 of May 27, 2008), and data of the Water Information System are public.

According to the Law on Local Self-Government, meeting the needs of direct and joint interest for local population is done in local self-government units. Citizens take part in making of decisions on their own needs and interests directly and through their freely elected representatives in the local government bodies. In carrying out of their activities, the local government bodies provide equal protection of rights and legitimate and legal interests of the local population and legal persons.

Local government provides conditions, encourages and assists the participation of local population in local self-governance activities through various forms of participation of the population in declaring of and deciding on activities of joint interest. The forms of direct participation of citizens in declaring and decision-making are: initiative, civic initiative, citizens meeting, referendum (local and municipal) and other forms of declaration and decision-making.

In order to ensure the participation of local population in making decisions of direct and joint interest, the local government parliament adopts a special decision governing the method

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and procedure of participation of citizens in carrying out public activities. The citizens have the right to present initiative before competent bodies for discussing and making decision on certain issues of interest for the local population.

In the procedure of adoption of regulations and strategic planning documents in the field of water supply and wastewater management, workshops are organized, where all parties interested take part. The strategic planning documents are developed based on the needs of local self-governance unit directly in charge of organization of water supply and waste water management activities. The initiatives for solving of concrete problems made by citizens themselves, through their local communities, are incorporated into developmental plans of the municipalities, while in development of strategic planning documents as a part of the general addressing of water supply and waste water issues, care was taken of needs of citizens presented in that way.

Furthermore, in implementation of concrete projects, in the procedure of obtaining the environmental approval, the public interested takes part by presenting remarks and suggestions.

8. How does the practice ensure responsibility?

Answer

Authority in the field of water supply lies with:

- Public administration bodies:
 - Ministry of Agriculture, Forestry and Water Management,
 - Ministry of Spatial Planning and Environmental Protection,
 - Water Administration;
- Local self-government units that provide and organize carrying out of activities of public water supply and public sewerage on their respective territories.

In accordance with the Law on Local Self-Government, satisfying the needs of direct and joint interest for local population takes place in self-government units, while in accordance with the Law on Public Utility Activities, the local self-government units provide organized and lasting carrying out and development of public utility activities and in particular: (1) material, technical and other general conditions for carrying out of public utility activities and development thereof; (2) the necessary scope and quality of public utility services; (3) carrying out of supervision and control in carrying out of public utility activities. In accordance with these provisions, organization of activities of water supply and waste water management is in the primary competence of local-self governance units.

The Law lays down that public utility activities are carried out by the public company for carrying out of public utility activity, other enterprise or entrepreneur, depending on the nature of the public utility activity and conditions and needs of the local self-government units, in accordance with the law. The competent body of the local self-government unit decides on organization of public utility activities. The local self-government units entrust these activities to companies they founded themselves for carrying out of these activities or other companies and entrepreneurs, upon conclusion of an appropriate contract, guaranteeing carrying out of public office in the way that protects the interests of citizens in this field.

Since implementation of strategic planning documents in the field of water supply and wastewater management requires significant financial and human resource potential, that most of local self-government units in Montenegro do not dispose of, the state has undertaken the obligation of providing the funds for implementation of such projects through credit arrangements with international financial institutions.

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For construction and management of the regional water supply system, the Parliament of Montenegro has, by adoption of the Law on Regional Water Supply of Montenegrin Coastal region (Official Gazette of Montenegro No. 13/07), established a separate company, Public Company "Regional Waterworks of Montenegrin Coastal Region", which is responsible for construction of the system and supply of contracted water quantities to municipalities in the Montenegrin coastal region, that is, to their local waterworks.

For the purpose of better coordination of investment activities in the field of water supply and wastewater management, the municipalities of Montenegrin coastal region established a joint service and coordination company for water supply and wastewater ducting, Vodacom.

For implementation of projects as provided for by strategic planning documents that funds of international financial organizations have been provided for, a national unit for project implementation Procon was established, entrusted with provision of logistical support to local self-governance units in implementation of these projects and also for implementation of the funds granted.

9. What is the influence of the practice?

Answer:

Since waters, as a natural resource, are the property of the state and that due to their natural characteristics and particular purpose serve the general use, it is in the interest of Montenegro to lay down, by a law, the general conditions for development of protection and use of surface and ground waters and water resources that serve their general use, and under that also the exercising of general interest in this field.

The existing legal framework provided the conditions for organizing the activities of water supply and wastewater management so that through implementation of concrete projects they would contribute to improvement of the situation in these fields in general, and hence of every citizen. Under the activities provided for by the Master Plan of water supply for Montenegrin coastal region, a significant part of the existing water supply network has been rehabilitated in towns in this region, and new ones have been built. New water pump stations have been constructed, contributing to a better quality of water supply for the citizens in this region.

The true effects of construction of the regional waterworks will be known after it is put into operation, in mid June this year. However, it is certain that putting these waterworks into operation would solve the deficit of water during summer period, which has been occurring in the past few years, both for meeting the elementary needs of citizens as well as for business.

As regards activities concerning the implementation of strategic planning documents in the field of wastewater management, in the past few years, several dozen of kilometres of new sewerage network have been constructed in Montenegrin towns, wastewater treatment plant in Podgorica has been revitalized, and a new plant constructed in Mojkovac. In this way, the citizens of areas where projects were implemented exercised their right to a more reliable, more comfort and better quality public utility service and healthier environment.

10. Is the practice sustainable?

Answer:

The Law on Waters provides for acquiring of water documents for facilities that may have an effect on the water regime, or that the regime water may have an effect on. During the construction of water supply facilities, these documents stipulate sustainable use of waters, that is, exploitation from water intake to the level that makes possible long-term supply of

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water from the water intake in question, without any significant change of the specific abundance and quality of waters.

On the occasion of capturing surface waters downstream from the water intake, the guaranteed minimum must be provided in order to ensure the good status of waters in accordance with the Rulebook on the method of determining the guaranteed minimum of flow downstream from water intake (Official Gazette of Montenegro No. 22/08 of April 2, 2008)

Carrying out the activities of public water supply and public sewer (Article 155) is provided and organized by the local self-government unit, which, for the purpose of carrying out and sustainable development of this activity, adopts long-term, mid-term and short-term plans, in accordance with the Water Management Plan.

Implementation of investment activities in the field of water supply implies sustainability of these projects in the period of their exploitation, which is one of preconditions for project implementation. For all projects implemented, the check of their feasibility is provided for through making of appropriate studies. Feasibility of a project is reflected in positive economic, environmental and social effects of the project.

Final remarks, challenges, experiences gained:

In the Law on Waters, the Law on financing of water management and their bylaws, it has been acknowledged that waters are exclusively the property of the state, and that due to their natural characteristics, they are in general use, so they serve the public interest and the interest of individuals. The requests for rational use of this natural resource, through its general valorisation and raising the water protection to a higher level, are in line with that.