

MIODRAG LJ. RADUNOVIĆ



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**WATER RIGHT
IN
MONTENEGRO**

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INTRODUCTION	4
DEVELOPMENT OF WATER RIGHT	7
RELEVANT WATER RIGHT	10
SOME IMPORTANT ISSUES FOR WATER MANAGEMENT AND IMPLEMENTATION OF WATER RIGHT IN COMPLIANCE WITH WATER LAW	16
WATER MANAGEMENT CONCEPT AND PRINCIPLES	17
CLASSIFICATION OF WATERS AND OWNERSHIP REGIME OF WATERS AND WATER GOOD AND TERMINATION OF THE PUBLIC WATER GOOD STATUS	19
NATIONAL WATER MANAGEMENT PROGRAMME AND WATER MANAGEMENT PLANS	20
GENERAL AND SPECIAL USE OF WATER AND STATUS OF WATER FACILITIES AFTER TERMINATION OF WATER RIGHT	22
WATER SUPPLY PRIORITIES	23
PUBLIC AND INDIVIDUAL WATER SUPPLY	24
WATER QUANTITY AND QUALITY CONTROL AND THE PROTECTION OF THE WATER SPRINGS REGULATION OF WATER STREAMS AND THE EXPLOITATION OF RIVER SEDIMENTS	26
CLASSIFICATION AND CATEGORIZATION OF WATERS IN ORDER TO PROTECT WATERS FROM POLLUTION	27
IMPORTANCE OF ESTABLISHMENT OF FLOOD AREAS	28
WATER ACTS IN FUNCTION OF EXERCIZING RIGHTS OF SPECIAL USE OF WATERS AND WATER GOOD	29
WATER AND WATER GOOD CONCESSIONS	32
WATER BOTTLING, ACCOMPLISHMENTS AND FUTURE	33
LIMITATION OF RIGHTS AND OBLIGATIONS OF OWNERS AND USERS OF LAND AND WATER FACILITIES	35
FUNDING OF THE WATER MANAGEMENT	37
INSTITUTIONAL COMPLETION OF THE ORGANIZATION OF THE WATER MANAGEMENT SYSTEM	38
INTERNATIONAL COOPERATION IN THE WATER FIELD	40
INNOVATIONS IN THE SUPERVISION OF THE IMPLEMENTATION OF THE PROVISION OF THE REGULATIONS ON WATER	44
THE WATER LAW	46
I GENERAL PROVISIONS	46
II WATERS AND WATER PROPERTY	52
III WATER MANAGEMENT AND WATER FACILITIES	56
IV WATER AND WATER GOOD CONCESSIONS	101
V LIMITATION OF RIGHTS AND OBLIGATIONS OF OWNERS AND USERS OF LAND AND WATER FACILITIES	104
VI ORGANIZATION OF WATER MANAGEMENT	109
VII ADMINISTRATIVE SUPERVISION	112
VIII. PENALTY PROVISIONS	114
IX. TRANSITIONAL AND FINAL PROVISIONS	119
RESPONSIBILITIES IN COMPLIANCE WITH THE WATER LAW	122
I – FOR THE MONTENEGRIN GOVERNMENT	122
II – FOR MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT	122
III – FOR THE DIRECTORATE FOR WATER	123
IV – FOR OTHER MINISTRIES	125
V – FOR THE HYDROMETEROLOGICAL SERVICE	126
VI – FOR THE LOCAL GOVERNMENT (COMPETENT AUTHORITY OF LOCAL SELF-MANAGEMENT, OR LOCAL GOVERNMENT)	126
SUMMARY OF ACTS (REGULATIONS, PROGRAMMES AND PLANS) FORESEEN BY WATER LAW ..	128

INTRODUCTION

Montenegro is mainly hilly-mountainous country with complex and specific geomorphologic features and terrain ranging from the sea level to 2500 m above sea level. By its water balance, per square metre, Montenegro belongs among the largest in Europe as well as the world. The most beautiful water surfaces are the river Tara with its UNESCO protected canyon, canyons of the Piva and the Mora a, Skadar Lake as the biggest in Balkans and numerous lakes, especially mountain – glacial lakes (Crno Lake, Biogradsko Lake etc.) as a natural rarity and a magnificent natural beauty.

The position of Montenegro along the south coast of Adriatic Sea has a specific influence on precipitation regime, with precipitation on some locations among the highest in Europe (over 4500 mm of precipitate annually). That is also why precipitation is higher in the south than in the north of Montenegro. Precipitations in Montenegro form approximately totally 14 billion m³ of annual precipitation. In spite of plenty of precipitation on its spacious limestone terrains, there is a lack of surface water and abundance of ground water. That is why on relatively small distance we have both richness and lack of water, as almost nowhere in the world.

Out of total gross hydro power potential, estimated as almost 10000 GWh/year, only approx. 17 % is used up to now. In the relevant technical documentation, besides use of hydro power potential in natural flow, there is planned possibility of its use by integration of specific water courses, i.e. by transfer of water from one basin to the other.

The rivers Piva and Tara form almost 40% of total water of the river Drina, with no more than 20% of its basin area. These rivers, with water of the Lim and the ehotina, also from the area of Montenegro, participate with approx of 63% of the Drina flow at its mouth to the river Sava.

As far as water courses are concerned, Montenegro forms mainly upstream country, waters of its own basin are more than 95% total flow off on its territory while only 5% are transit waters.

By flow off, surface and ground waters from Montenegro territory belong to Black Sea basin (7260 km² or 52, 5%) and Adriatic Sea basin (6267 km² or 47, 5%). The most important Montenegrin rivers of the Black Sea basin are: the Piva, the Tara, the Lim, the ehotina and the Ibar, and from Adriatic Sea basin are: the Mora a, the Zeta and the Bojana.

The significant part of these waters flows into Adriatic Sea or Black Sea through neighbouring countries, like waters of: the Piva, the Tara, the Lim, the ehotina, the Ibar and the Bile a Lake, which is partially situated and filled up

from the territory of Montenegro; while waters of Skadar Lake and the Bojana river are crossing or flow along the border of Albania. That is why these waters appear as trans-boundary and their use or constructions of facilities which can change their regime are treated as trans-boundary.

On the contrary of, globally speaking, richness of waters in Montenegro, mankind faces with increasing lack of drinking water. It is estimated that there is more than a billion people without access to clean water and more than two billion of those who use water with difficulties or in insufficient quantities. Accordingly, right to water as a basic resource for dignified life is violated. Based on this fact, on the international scene, due to the lack of political will, preferably managed by market principles, the attempt to confirm right on water as human right remains only an attempt. For the time being, the highest degree of recognizing this right is present in Rome Declaration from 2003 where, among others, the "right on water should be a constitution category in highest legal acts of all State Parties of Universal Declaration of Human Rights, and in the highest legal acts of local communities as well. Also, because of its importance, right on water shall be introduced in the scope of rights in the frame of Universal Declaration itself, by certain modifications" was established as an important principle. Out of other adopted principles, the important ones are: "Water shall become an instrument of peace ... "; "To stop excessive consumption of water by the year 2010, and to reduce its consumption to half of the current annual consumption"; "To establish worldwide cooperative financial system, which will enable the development of world system of water distribution."

It can be frequently heard in professional circles that lack of drinking water could in 10-15 years lead to world crisis: "in some wider concept of negation of right to water, at the same time personal dignity and the right to life, as basic, irrefutable and unchangeable right of individually each person, can result in wider tensions, even war conflicts. Accordingly, it is only logical that water has been accepted as a good belonging to all the mankind and all living beings. Dealing with complicated and opposed relationships and interests in field connected with water, the state is responsible for establishing laws, policy, institutions and procedure at interior area, which will enable adequate regulation and their conducting: for exterior area, the state is responsible for establishing cooperation with neighbouring countries, as well as with the countries in the region when needed.

Now is the moment when Montenegro, faced with challenge of its own responsibility, while accepting international principles and standards, with emphasize on European Union right, works intensively on harmonization and upgrading its own legislative, as a prerequisite for necessary accession not only to legal and institutional system but to the practices of the Union members as well.

One of the important steps on this way is recently adopted Water Law, the solutions of which, scope and prospective will be addressed here. Besides popularization of water and its importance, the purpose of this proposal is also the effort to bring, in connection with this Law, these issues closer to reader and motivate him/her, by widening the knowledge, to contribute (by undertaking or

stopping some actions) – at work, at home or in the nature – to improve situation in this area. This is one of the unusual proposals with approach to the water problems from legal-publicist point of view and that is why it is expected to enable comprehensive insight in the meaning and essence of Water Law and water issues generally to the lawyers and others, especially youth. In the same paper, besides review of the most interesting points from that Law, the integral text of the Law, responsibilities of state and local community authorities and review of regulations (norms, programs and plans) originated from this Law can be found. The importance of deeper insight in these issues can be illustrated with words of Valtazar Bogisic from Article 993 of General Property Law from 1888: “Who only knows the words of the law, doesn’t know the law itself unless he can understand the sense and meaning”.

We would like to remind of considerable works concerning water issues in the region, made by lawyers like: PhD Slavko Boganovi , from Novi Sad, PhD Dejan Popov, from Belgrade and Zdravko Sparavalo from Sarajevo. They have given invaluable personal contribution to the development and affirmation of water law in the area where, during long lasting common life, in the water law field has been developed almost identical law school and tradition, which is to be further developed and strengthened.

DEVELOPMENT OF WATER RIGHT

The importance of water for life and common activities, from ancient times until today resulted in the need for certain rights to be regulated as a law, especially rights related to usage and utilization of water.

The oldest known law regulating issues concerning water is Hammurabi's Code written approximately 2000 years B.C. By this Code Babylon ruler Hammurabi regulated rights related to irrigation of agricultural land, protection of water and sailing. Right to water usage and utilization is connected with ownership of agricultural land on the shores of water courses and channels, protecting rights of the owner of neighboring agricultural land.

From historical point of view, water law attains its full development in the frame of Roman law which is, as in other fields, the foundation of modern European law. "Roman Law recognizes that water is a public good by natural right". Even today, following guidance and law rules are well known: all running waters are public; private waters are only ones which are not possible or not intended to be controlled by society (water in wells, etc), while owner of the land where well is situated can use water but without damage to others; running waters, sea and sea shores are intended for use by all people, and they cannot be private property and cannot be the subject of trade; everyone is entitled to use water in the frame of one's own needs, but the water course must be free in order to supply the owners of downstream properties. For accomplishment of public interest in this sphere, a number of limitations of ownership rights are introduced, including use right establishment, and for the first time a possibility of expropriation.

There is no valid data about water law in the region of Montenegro after Roman Empire disintegration. However, it can be assumed that rights related to water have been exercised on the basis of general legal rules of states existing here, such as customs, declarations, privileges etc. After Middle Ages Zeta was conquered by the Ottoman Empire and Venice, and the legal life of the governed territories spread out on the biggest part (predominantly urban) of today's Montenegro, during centuries, Venice i.e. Ottoman law must have been applied. After international recognition of Montenegrin independence by Berlin Treaty in 1878, the prerequisites were set out for its sovereign (knjaz), later king Nicholas to start with reforms aimed to lead Montenegro to become modern European state with contemporary legislation. As a result of such ambition, only 10 year later, in 1888, Civil Code (author Valtazar Bogišić) came into force. The Code, judging by the originality of its legal expressions and beauty of the language represents precious part not only of Montenegrin but also of European legislation. The Code was officially cancelled in 1945, with Law on Cancellation of Legislation of old Yugoslavia and the period of occupation. However, it was still exercised as old rule, without mentioning the source. Concerning waters, this Code was significant because for the first time in our country under it, codified legal rules referring to water were prescribed. These rules have certainly originated from national tradition and customs. Rules are systematized in articles about water generally (Articles 117-121), soil soaking (Articles 122 – 132) and

about streams (Articles 133 - 135).

It is interesting to emphasize that these rules are substantially coincident with appropriate articles of valid Water Law. The most obvious examples can be found in articles concerning priorities in water use and limitations of rights and obligations of landowners. So, in the Article 117, paragraph 1, it is stated: "A lower land is obliged to accept water naturally coming from higher neighboring land...", and in paragraph: The owner of lower land is not allowed to redirect by his own will natural course of water to the adverse impact to upper land ..."; in the Article 120: If there is a spring of water on some land being there without any effort nor costs of landowner, and it is tradition to be freely used by neighbors or villagers, the same will happen in the future ... with conditions a) "the owner has priority in use ; b) "those who use water are obliged to repair any damage caused by this use"; in the Article 124 " The order in soaking is based on the rule: land closer to the water has a priority in useThe distance is measured from the spring not from the water bed, or... from the point of redirection of the water"; in the Article 130: Neighbouring Villagers, ..., can use any water which is inside of village borders for irrigation, even if the spring is not on the community land but on the land of some villager. In that case, the owner of this land is entitled to use article 120..."and in Article 135: No neighbor is entitled to move the bed of a river or spring, without consent of all concerned neighbors. However, if some of neighbours without reasonable explanation refuse to give his consent court can use the authority to replace refused consent"

In pre-war Yugoslavia, following documents were passed in order to regulate relations concerning the water: Law on Control of Torrents from 1930 and Rulebook on Realization of the Law from 1931, Law on Use of Water Powers from 1931 Decree on Fund for Reclamation of Land and Rulebook for Conducting of the Decree from 1938. Out of listed regulations, the most important one was certainly the Law on Use of Water Powers, which established institutes of giving pre-privilege or privilege for construction of plans for use of water power on public water, similar to today's Water order and Water no-objection. By application of these institutes, the priorities in use have been established with incentives for businesses, and for construction of facilities and plants for use of water powers.

After 1945, legislative – jurisdiction activities in water sphere, depending on competence, were developed on the level of federation and republics. At the level of federation (FPRY, SFRY and FRY) following regulations were adopted:

- General decree on water communities ("The Official Journal of FPRY", No 6/52);
- Rulebook on establishing water contribution ("The Official Journal of FPRY", No 24/52);
- Rulebook on property and use of property of water communities ("The Official Journal of FPRY", No 24/52);
- The decision on compensation payable by industrial and mining organization for use or utilization of waters ("The Official Journal of SFRY", No 25/63);
- Basic water law ("The Official Journal of SFRY", No 13/65, 50/69 and

60/70);

- Law on basis of water regime of interest of two or more republics and inter-state watercourses ("The Official Journal of SFRY", No 2/74, 24/76 and amend. 31/76);
- Law on water regime ("The Official Journal of FRY", No 59/98).

It has to be emphasized that before passing of the first law concerning water on the state level, some important issues were partially regulated under laws from the agricultural sector (like Basic Law on Use of Agricultural Land "The Official Journal of FPRY", No 43/59 and 53/62). Mentioned laws were followed by a number of conducted decrees (bylaws) passed based on these laws. By passing of existing Water Law in Montenegro, the last federal regulations repealed.

As for Montenegro, the first adopted laws in this field were: Law on Republic water fund ("The Official Journal of SRM", No 5/65) and Law on water contribution for year 1966 ("The Official Journal of SRM", No 33/65), while soon after that, the first complete Montenegrin Water Law was adopted ("The Official Journal of SRM", No 1/67, 20/67, 2/69 and 15/70). Later on (republic) law was amended and upgraded with adoption of Water Law ("The Official Journal of SRM", No 22/74), then Water Law ("The Official Journal of SRM", No 25/81, 12/86 and 6/90), Water Law ("The Official Journal of RM", No 16/95) and finally valid Water Law ("The Official Journal of RM", No 27/07), in a manner that with each new law, the former was repealed. All these laws were followed by appropriate amendments of bylaws adopted for their implementation.

During the course of history, water law was followed by significant changes and harmonization aimed to regulate the quality regulation of water field legislation, as very important segment of social activities. Recently, the intention is also harmonization with legal system of European Union and widely accepted international standards and principles, especially because by adoption of Constitutional Charter of Serbia and Montenegro, and recognition of Montenegro as independent state, water law became the exclusive obligation of state Montenegro.

RELEVANT WATER RIGHT

Relevant water legislation in Montenegro consists of regulations of interior right passed by its competent authorities, related to water management, i.e. activities and measure undertaken for maintenance and improvement of water regime, in order to: ensure required quantities of water with prescribed quality for specific purposes, water protection from pollution and protection from adverse impact on water, as well as regulations of international law important for management, preferably with cross border waters.

The regulations that belong to the category of interior rights are:

- Water Law ("The Official Journal of RM", No 27/07) and prescriptions of Article 40 paragraph 2 and Article 42 – 49 Water Law ("The Official Journal of RM", No 16/95);
- Rulebook on procedures for testing of quantitative and qualitative inflections of water ("The Official Journal of SRM", No 19/82);
- Rulebook on procedures for measuring and observation of inflection of coastal water quality for bathing and recreation ("The Official Journal of RM", No 9/91);
- Rulebook on content of technical documentation required for water order and water license ("The Official Journal of RM", No 4/96);
- Rulebook on procedure for specifying the guaranteed minimum flow ("The Official Journal of RM", No 4/96);
- Rulebook on content and procedure for keeping a registry of water book and water cadastres surface and ground waters, users and polluters, torrent streams and erosion areas and water management facilities and plants ("The Official Journal of RM", No 5/96 and 19/96);
- Decree on classification and qualification of waters ("The Official Journal of RM", No 14/96, 19/96 and 15/97);
- Decision on criteria, tariffs and procedure for payment of compensation for water protection from pollution, compensation for material extracted from the and compensation for utilization of water management facilities ("The Official Journal of RM", No 15/96, 19/96 and 35/98);
- Rulebook on the procedure for definition of sanitary protection of drinking water sources zones maintenance and limitations in those zones "The Official Journal of RM", No 8/97); Rulebook o conditions 10 which shall be fulfilled by legal entities performing specific types of water quality testing ("The Official Journal of RM", No 10/97 and 21/97);
- Rulebook on quality of waste waters and the procedure for their discharge into the public sewerage system and natural recipient ("The Official Journal of RM", No 10/97 and 21/97);
- Rulebook on dangerous materials which are forbidden to be discharged into the water ("The Official Journal of SFRY", No 3/66 and 7/66), applied as republic regulation;

- Decision on local governments on conditions for use and maintenance of rural water supply systems, public fountains, wells, and rural captions (adopted by all municipalities in Montenegro).

From the review of listed regulations it is obvious that after new Water Law came into force, some prescriptions from the former Law on Water have been kept in force like the ones related to financing, i.e. compensation payable, which will be in force up to adoption of special Law on financing of management of waters, as well as bylaws adopted based on former laws (mainly Law on Water from 1995, which will be in force until adoption of bylaws based on existing Water Law). Because of the importance of laws for its regulation, adoption of Law on financing of management of waters is announced by competent ministry and the Government of the Republic of Montenegro as a priority, so adoption of this law can be expected very soon. However, the adoption of bylaws can be expected in the prescribed period, i.e. in one year from the adoption of existing Water Law.

International legislation important for water management is contained in corresponding international conventions, recommendations, declarations, decrees etc. Montenegro, i.e. SFRY or FRY, as its legal predecessors, have ratified only a small part. However this fact does not influence their importance. The reason is that their presence as international standard or good legal practice, are getting the status of international common law. In addition, having in mind that membership in European Union includes harmonization of interior rights with right of European Union, listed legal acts, especially those adopted or accepted by European Union, appear as obligatory. Out of them, especially important are:

- Directive 2000/60/EC of the European Parliament and of the Council, in short, the EU Water Framework Directive;
- Nations Convention on Non-navigational Uses of International Watercourses (New York, 1997);
- Convention on the protection and use of trans-boundary watercourses and international lakes (Helsinki, 1992);
- The Helsinki rules on the uses of the waters of international rivers (Helsinki, 1966);
- Recommendation Concerning the Safeguarding of the Beauty and Character of Landscapes and Sites (General Conference of UNESCO, 1962);
- World Heritage Convention (Paris, 1972), based on which river Tara is listed into »World Heritage List«;
- Recommendation Concerning the Protection, at National Level, of the Cultural and Natural Heritage (General Conference of UNESCO, 1995);
- Convention for the protection of the Mediterranean Sea against pollution (Barcelona 1976) and protocol adopted based on this convention;
- The Rio de Janeiro Convention of biological diversity (Rio de Janeiro Convention, 1992);
- Convention on the trans-boundary effects on industrial accidents (Helsinki, 1992.);
- Convention on the assessment of environmental impact in the trans-boundary context (Espo, 1992.);

- Convention on cooperation for the protection and sustainable use of the Danube river (Sofia, 1994);
- Declaration on cooperation in the field of environmental protection of the Adriatic-Ionian initiative.

It is to be noted that some of listed documents, to some extent, contain ecological component also, belonging to environmental law as well, pointing out on mutual dependence of environmental and water law, i.e. environmental quality and water management.

Nevertheless, out of listed documents, the most important for water management in general (regardless of type - interior or trans-boundary waters) is Water Framework Directive, while for management with trans-boundary water the most significant are: Nations Convention on Non-navigational Uses of International Watercourses Convention, Convention on the protection and use of trans-boundary watercourses and international lakes and The Helsinki rules on the uses of the waters of international rivers.

Water Framework Directive

Water framework Directive was adopted by European Union, in Luxemburg in 2000, in order to establish the framework for Union's action in the area of protection of inland surface waters, transitional waters, marine waters and ground waters. With regard to the aim of its adoption, this Directive appears as a basic document in the field of water management. By treating water potentials as a foundation for the sustainable development in the XXI century and in compliance with its long term vision, Framework Directive has extraordinary political, economical and social importance.

Based on a number of goals, i.e. reasons for its creation (in the Directive are listed 53 reasons), all issues important for their achievement, creating conditions, for the first time, for unification of public law regime in this field, and prerequisites for harmonized activities of member states in European Union by Framework Directive are stated. Adopted methodology is especially important for the implementation of Framework Directive, according to which totality of waters is divided into geographic and administrative units: river basin, river basin districts and body of water, while body of water shall be unitary sub-unit of water basin (water district) related to environmental goals of the Directive. From the aspect of implementation of Framework Directive, water body is key factor for typology, referent conditions, classification and following the condition of waters.

In the area of planning, especially important is established obligation of adoption of plans for river basin management, which is a basic unit for water management. In terms of this plan and taking in account specifics of river basin, the state policy in this sector is defined. Plan is reviewed and innovated every six years. The complexity of these plans requires longer time period for their creation, as well as significant financial funds, therefore the Framework Directive has given a deadline of 9 years for their creation.

The prescriptions of Framework Directive on cooperation with the public in

the preparation process of the plans point to the especial importance of the plans for river basin management. These prescriptions foresee obligatory active participation of the public on the one hand and the procedure and the manner of this participation on the other. Accordingly, the public will be informed about the beginning of the preparation at latest three years prior to the beginning of the related and for each published document in the frame of the plan preparation period concerned person can submit the comments in written, latest six months after its publishing which is from the point of view of deadline is a unique case in the planning area.

For implementation of the aims set out by these plans, a program of measures is planned to be created in Framework Directive, setting out especially: the measures related to water protection, the measures related to water and water courses regulation and protection from adverse impact of water, including priorities for its implementation as well as measure related to water utilization. Besides listed measures, the program can contain additional measures, if required in order to provide satisfactory status of the water. Also, the review and the amendment of the program (if needed), are planned to be performed every six years.

For trans-boundary waters management, however, of the especial importance can be the provision from the Directive, which is related to the situation where a Member State identifies an issue which has an impact on the management of its water but cannot be resolved by that Member State. In that case, the state may report the issue to the Commission and any other Member State concerned and may make recommendations for the resolution of it. The Commission shall respond to any report or recommendations from Member States within a period of six months.

United Nations Convention on Non-navigational Uses of International Watercourses

United Nations Convention on Non-navigational Uses of International Watercourses (Water Convention) was adopted in New York, in 1997. Assuming that successful codification and progressive development of rules of International law regarding non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations, the aim was to establish the framework to ensure the utilization, development, conservation, management and protection of international watercourses and the promotion of the optimal and sustainable utilization thereof for present and future generations. The uses of international watercourses for navigation is not within the scope of the Convention except in so far as other uses affect navigation or are affected by navigation.

The water utilization, in the Convention, is based on basic principles: equitable and reasonable utilization and participation, obligation not to cause significant harm, general obligation to cooperate, regular exchange of data and information, relationship between different kinds of uses. It can be concluded,

therefore, that generally accepted principle of equitable and reasonable utilization and participation, established by the Helsinki rules, is incorporated in this Convention as well. This principle is strengthened by the principle of the obligation not to cause significant harm, in the absence of agreement to such use, take all appropriate measures, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

Besides listed principles, Convention also establishes the obligations of the states related to planned measures, i.e. obligations related to regular exchange of data and information, in exchanging of the information and consulting other interested countries. Convention also establishes the obligations on protection, maintenance and management of the international flows, damages and special situations, as various obligations important for usage and protection of the international flows, including the principles or solving disputes, and, if necessary, negotiate on the possible effects of planned measures on the condition of an international watercourse, including provisions of settling disputes.

Convention on the protection and use of trans-boundary watercourses and international lakes

The Convention on the protection and use of trans-boundary watercourses and international lakes was adopted by European Commission of United Nation in Helsinki in 1992. The Convention is a very important regional international agreement in this area.

Emphasizing that cooperation among member countries in regard to the protection and use of trans-boundary waters should be implemented primarily through the elaboration of agreements between countries bordering the same waters, especially where no such agreements have yet been reached, by Convention are established obligations important for preventing, controlling and reducing any trans-boundary impact; to ensure sustainable management of waters; to ensure that trans-boundary waters are used with the aim of ecologically sound and rational water management, conservation of water resources and environmental protection; related bilateral and multilateral cooperation, consultation, monitoring etc.

The Helsinki rules on the uses of the waters of international rivers

As a result of long lasting work, stimulated by undeveloped international water right, complexity of the problem and growing lack of water International Law Association, The Helsinki rules on the uses of the waters of international rivers were adopted in Helsinki, in 1996. In the meantime the Association has adopted some additional rules, described as guidelines for application of Helsinki rules from 1966.

Adopted as compromise between quite different points of view, Helsinki rules have been adopted as law, having a character of international common law.

The exception of the application of Helsinki rules is given in the Article 1, in

that general rules of international law are applicable to the use of the waters of an international drainage basin, except as may be provided otherwise by convention, agreement or binding custom among the basin states.

The extraordinary importance of Helsinki rules is reflected in the establishment of the principle of reasonable and equitable share in the beneficial uses of the waters, as basic rule for establishment of the rights and obligations of states in international drainage basin. This principle of the beneficial uses of international drainage basin is fitted for achievement of rational water management. Rules are set out, but do not exhaust, the list of relevant factors which serve as a base for establishing the principle of reasonable and equitable share in the beneficial uses of the waters of international drainage basin.

Based on the application of the principle of reasonable and equitable uses of the waters, on all rights and obligations of the states established by Helsinki rules, the rules related to : pollution, navigation, timber floating, protection from flood, protection of water resources during wars, administration of international water resources, procedures for the prevention and settlement of disputes.

Helsinki rules bind states in the basin to cooperation in good faith, concerning issues related to waters in the basin, and represent guidelines for the negotiations of the future agreements on management of trans-boundary waters.

SOME IMPORTANT ISSUES FOR WATER MANAGEMENT AND IMPLEMENTATION OF WATER RIGHT IN COMPLIANCE WITH WATER LAW

Water Law ("The Official Journal of RM", No 27/07) was passed by the constituent assembly of the Republic of Montenegro, on its session on May 8, 2007. By adopting this law, except in the part concerning financing i.e. compensation payable in water field, former Law on Waters (Official Journal of RCG", No. 16/95) was repealed. According to content of relations settled in terms of this Law, it can be concluded that this Law is complex and multidisciplinary, that is a systemic law in water area.

The reasons for adopting new Water Law, primarily originate from the important changes which have happened during the long lasting application of former Law on Waters, which are basically:

- changes in the international law – especially European Union laws caused by adoption of the Nations Convention on Non-navigational Uses of International Watercourses and Water Framework directive, as described above;
- the change in the legal and state status of Montenegro, which, because of the restoration of its independence, resulted in transfer of complete state authority from State Union of Serbia and Montenegro to state Montenegro, including responsibility for regulation in water sector;
- request for democratization and decentralization of the society, by adoption of appropriate international standards, as well as need for institutional upgrade of water sector in compliance with Public administration reform Strategy in Montenegro between 2002-2009, adopted at the session of the Government of Montenegro in March 2003, and development needs of this sector (through profiling of Directorate for Water, as an specialized administrative body for activities on water management and need for establishing of Directorate for Water, as advisory and expert Government body);
- weaknesses of former Law on Water, including, inter alia, a need for regulation of some institutes, like concessions in the water and water good concessions and issues originated from international documents, especially in the framework of planning (adoption of the water management plans and programme of measures aiming at achievement of the objectives of these plans).

In the procedure preceding its adoption, it was judged that with newly adopted Water Law all the above mentioned reasons were fully accepted and the regulation framework for fast implementation and aligning of this law with the EU water related legislative is ensured. At the same time, all solutions that belong to the scope of positive experience and the praxis were kept.

As an illustration of this evaluation, instead of typical comment on this law, following text provides a short description of some of most important issues related to water management and implementation of water right, in compliance with this law.

WATER MANAGEMENT CONCEPT AND PRINCIPLES

Waters and water good management, in many aspects, represent the most important part of this law, aiming to create legal presumptions for organized and useful activity focusing on maintenance and improvement of the water regime in an integrated water system in a relevant area. That is why waters and water management comprises the set of activities, decisions and measures aiming to ensure the necessary quantity of water of the required quality for various uses, protection of waters from pollution and protection against adverse impacts of waters, and shall be implemented in accordance with this Law.

In the concept of the Law, it is obvious that intention of legislator is to completely align the public-legislation regime of the protection and utilization of water with appropriate elements from Water Framework Directive, focusing on establishment of productive legal communication with corresponding legal system in the framework of European Union as a base for creating prerequisites for dynamic component of maintenance of water as a precious natural wealth, representing basic coordinates of the strategy for the overall development of Montenegro as an ecological and tourist state.

In the creation of these relationships, the importance of water in the environment, ecological ambient and natural wealth of Montenegro, as irreplaceable condition for life and economic activities is emphasized. The starting point was the reality – degree of pollution of water in present conditions and growing risk of this condition worsening due to technological development – as well as need for legal solutions to contribute to ensuring the required quantity of water for all purposes, as well as for healthy environment.

In addition, the fact that waters are exclusively state owned, and that due to their natural properties they are in general public use, serving to the accomplishing of public interest as well as of personal interest which is in accordance with public interest is established.

In compliance with this description, the principles and concept aimed to ensure adequate management of waters in achieving the defined objectives are established in this law.

As a legal framework, primarily in the water protection domain, the Law establishes main principles of waters and water management so that they:

- prevent deterioration and protect and enhance the status of aquatic ecosystems, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystem;
- ensure the good status of waters;
- encourage economic and social development;
- protect and improve the ecosystems through specific measures for the progressive reduction of pollutions of the priority hazardous substances;
- promote sustainable water use based on a long-term protection of available water resources;
- ensure the progressive reduction of pollution of groundwater and prevents its further pollution;
- contribute to mitigating the effects of floods and droughts;
- contribute to the provision of the sufficient supply of good quality surface

water and groundwater as needed for sustainable, balanced and equitable water use; a significant reduction in pollution of groundwater, the protection of territorial and coastal waters; achieving the objectives fixed by the relevant international agreements;

- ensure public participation in making decisions related to waters;
- create the conditions for meeting international obligations in the area of waters;
- prevent and resolve conflicts related to water use and water protection.

For accomplishment of above listed and other objectives, according to Law, waters and water good management shall be based on the following principles:

- 1) irreplaceable character of water as a resource and a condition for survival - as a natural public good, water may be used exclusively so as not to endanger its substance and not to exclude its natural role;
- 2) completeness – natural processes and water as their significant component, as well as the connections and interrelations between aquatic and riparian ecosystems must be respected;
- 3) integrated water system – the need for integral water management in united water area in line with the development of the Republic and establishment of integrated water information system; respecting the international agreements with other countries in the river basin in area of sustainable water management;
- 4) sustainable development whereby the needs of the present generations are met without threatening the possibility for the future generations to meet their needs;
- 5) long term protection of water quality and sustainable use of the available water sources;
- 6) the right to protection against adverse impacts of water following the need to protect the population and their assets, respecting the laws of natural processes, protecting the natural values and economic justifications for the protection;
- 7) economic evaluation of waters, which incorporates full recovery of costs of water production and treatment for different users, water regulation and protection against pollution based on the “user pays - polluter pays” principle;
- 8) continuous water management because waters must be managed consistently on all levels of planning and at all stages of water regulation, use and protection;
- 9) public participation in the processes of preparation and adoption of water management plans;
- 10) adoption of the best available technologies and new scientific developments related to the laws of nature.

The appropriate elaboration of established principles and concept is made in the specific provisions of the Law, at the same time as their accomplishment through water activity, as an activity of general interest, comprising: water management; provision of waters with long-term water quality and water source protection; protection of waters against pollution; regulation of waters and water

currents; adverse important protection. Besides above mentioned principles, their importance is in enabling of correct interpretation of specific provisions of the Law and adequate application of the Law, through creation of legal and planned documents originated from the Law, and specific legal situations.

CLASSIFICATION OF WATERS AND OWNERSHIP REGIME OF WATERS AND WATER GOOD AND TERMINATION OF THE PUBLIC WATER GOOD STATUS

According to their natural state, waters are classified as running and stagnant surface waters on the surface of the earth and ground waters on the surface and sea.

From the point of view of water management, however, of the particular importance is classification made in terms of importance or cross border impact on water important for Republic Montenegro (Republic) as a whole and those of local importance. In the conformity with this classification, management of water and water lands is planned in a manner that the governmental authority shall be responsible for waters important for the country whereas local authorities are responsible for local level waters. There are possibilities for the exception set out in terms of this Law, originating from the responsibility of competent authority of the state responsible for water management (Directorate for Water). The main purpose of the classification is the creation of the basis for more significant participation of the local government in the water management as compared to the former law, at the same time for the responsibility share for the status in this area, which is important for the improvement of this status. A considerably larger role of the local government in this area is ensured throughout participation in the almost all segments, especially in the prescription of conditions for general usage and utilization of waters of local importance for water supply, irrigation etc., than in planning and implementation of the procedures from the field of adverse impact protection, water legislative, concessions from the competence authority and inspection supervision.

In comparison with the former law, this law regulates water good in compliance with its importance, and also includes natural and artificial water bodies and water lands within category of water good.

It is obvious that Law, in compliance with Water Framework Directive, for the first time, defines water body as separately observed and spatially defined element of surface and ground waters, which will represent, due to its importance and role set out in terms of this Law, irreplaceable element of almost all forthcoming legislation-planning and other activities in the water area. The water body of surface waters includes: a lake, a reservoir, a stream, a river or channel, part of a stream, river or canal, transitional water or a stretch of coastal water and body of groundwater means a distinct volume of groundwater within an aquifer or aquifers (subsurface layers).

As per waters, in terms of this Law, the classification of water good is made on Republic and local levels, defining in such a manner the responsibility of state or local authorities.

Having in mind the importance of water as natural wealth and good in general use, as well as its natural properties making it irreplaceable condition for life, work and clean environment, in terms of this Law, water is state owned. On the other hand, water land may be privately and state-owned in accordance of law.

The possibility of private ownership of specific water land depends on its ownership nature and on the natural properties of the related water good. In that sense, in terms of this Law is imperatively prescribed that the public water good is in property of the State and that shall not be subject to legal transactions; however, under the terms and conditions of the Law it may be subject to limited use (concession, etc.). Here is important to emphasize that public water good can be natural or constructed and that the natural public water good includes water bodies and water land.

The type of ownership in terms of this Law is only generally defined, since the Law provides legal basis for the termination of the natural public water status, under the following conditions: if water land do not satisfy necessary conditions because of natural process or activity in space, if the competent body of the State defines the use of the given water good differently, (this situation is related to decisions i.e. plans from the water or spatial planning area) in accordance with law. The decision about natural public good status termination is issued by a competent authority of the State or local competent authority, depending on whether the water or water good is of republic or local importance.

It should be emphasized that the establishment of the possibility of limited use of public water good and termination of public water good status has an extraordinary legal, developmental and political significance, because it enables legally established regulated, controlled and expert based procedure of providing the appropriate purpose for a specific public water good. Due to complexity of this issue, this type of decisions may be issued based on cooperation between responsible authorities in water physical planning, development and environment protection, in the frame of the procedure which will take into account all legitimate requirements and interests. There are a lot of activities in this area (neglected, worn and unregulated areas in the Gra anica Lim etc, river beds on the one hand and requirements for the construction of commercial, infrastructural and other facilities on the other hand can provide a very good example.

NATIONAL WATER MANAGEMENT PROGRAMME AND WATER MANAGEMENT PLANS

Besides the Water Master Plan, which was up to now the basic and long term national water management programme (it shall be reviewed every 10 years following the revision or time) aimed to ensure integrated water district on the level of Montenegro for water districts. As a basic unit for water management, Water Law predicts that the Government of Montenegro for water district adopts other important plan – water management plan for water district of river basin, and according to need, for river basins as parts of water district, at the proposal of Ministry. The competent authority of the State shall prepare Water Management Plans for water areas and river basins. As stated by this Law,

Montenegro includes two river basin districts: the Black Sea river basin district and the Adriatic Sea river basin district and therefore for its territory two water management plans shall be issued.

A Water Management Plan shall, through taking into account specific properties of some water district, specify the water management elements defined in terms of this Law and at the same time state policy in this area. Water Management Plans shall be reviewed in 6 years time after passing or reviewing. (Such a provision ensures validity of preceding water management plan up to issuing new one), and because of its complexity, development of the first plan requires longer period of time and significant funds. Already mentioned data that Water Framework Directive prescribes nine years for the publishing of the first such plans in European Union countries can serve to illustrate complexity of this plan.

Due to the obligations and responsibilities of European Union states, and Montenegro in perspective, have in the implementation of these plans, the Law, in compliance with Water Framework Directive, defined the conditions and procedure for the amendments and alterations of the plan, as well as exceptions, which are in all cases responsibility of the Government, based on the investigation of the possible causes that led to a given situation.

The Law has also given the possibility to, according to need; adopt a special Water Management Plan for specific watercourse categories of water management issues if the Water Master Plan cannot be implemented under the Water Management Plans for the relevant river basin, i.e. water district.

Particular innovations in the Law are provisions on public participation in preparation of the plans, including both obligatory active participation of public and the procedure and manner of its implementation. From the fact that the competent authority of the State shall notify the public media about the beginning of the drafting of the Water Management Plan at least three years before the beginning of the period covered by the plan results the conclusion that the period for preparation of such a plan must not be shorter than three years. For each published document in the preparation of the plan it is foreseen that can submit proposals and suggestions in writing, within six months from the day of its publishing.

For the accomplishment of the objectives set out in the Water Master Plan and water management plans for the water districts of river basin, in terms of this Law for each water district at the proposal of the Ministry competent for water management Government of the Republic of Montenegro shall adopt the programme of measures and procedures for implementation of the established goals in terms of protection against adverse impact of waters, protection of waters against pollution including the priorities of their realization and measures related to the use of waters.

The importance of the water management plans shows that conditions and limitations set out in these plans form obligatory basis for the planning of the purpose of the districts in physical planning documents, which can influence protection, regulation and use of water. That is why the physical planning documentation includes the areas under special protection (sensitive buffer

zones around water supply sources and natural bathing sites) and endangered areas (flood and erosion prone), water infrastructure facilities, as well as the flood lines. Concerning relationship between Water Master Plan and water management plans, i.e. water management programmes, it is to be emphasized that Law prescribes supremacy of Water Master Plan, treating it as the strategic planning document in the water management.

As the result of above mentioned facts, the prerequisites for consistent implementation of provisions of the Law related to planning documents ensure that integral and complete water management in Montenegro is established.

GENERAL AND SPECIAL USE OF WATER AND STATUS OF WATER FACILITIES AFTER TERMINATION OF WATER RIGHT

Regulation and use of water and in this frame also general and specific use of water is one of three basic water activities. Water regulation is primarily directed towards providing: quantitative, spatial and time distribution of water for public and industrial supply; survival of aquatic and riparian ecosystems; increasing of the volume of water in streams in dry periods and use of water on: abstraction, pumping and use of surface and ground waters for different purposes.

Water usage is based on principles of rationality and economy, as well as on the need that every user uses water so as to preserve the natural water balance and not limit the legal rights of other water users. From the point of view of quantity, purpose and manner of use, Water Law differentiates between general and specific use.

General water use implies the use of water without prior treatment, i.e. without use of special equipment (pumps, etc.) or construction of water facilities for: domestic uses (drinking, sanitary uses, cattle watering, etc.); bathing and recreation on surface waters; fire fighting and protection of persons and property; and navigation and it has a priority over special use. The competent authority of the local government shall adopt the regulation specifying in greater detail the ways and conditions for general use of water, aimed to enable everybody to use water of natural sources, natural water streams, natural lakes, public fountains and public wells under equal conditions.

Any water usage beyond general one shall constitute a special usage subject to water rights, like public and individual water supply, irrigation, power generation and other driving purposes, fisheries; exploitation of river sediments (sand and gravel) etc. In this case, the usage is more demanding and extensive, and Law for these purposes prescribes gaining of water right – with water license or concession agreement, and for the exploitation of river sediments – with water no-objection and concession agreement prior to the usage.

The importance of water for life, economic activity and improvement and protection of the environment, has caused the formulation of legal possibility that right on use of water may be temporarily limited or suspended in case of natural phenomena or human activity (including material damage of water infrastructure requiring reconstruction works), the supply of adequate water volumes or water quality is undermined, and the balance of aquatic and riparian ecosystems or

safety from adverse impacts of water threatened.

It is in the connection with legal provision that upon expiry of the water rights (water license or concession contract); the water rights holder shall be liable to remove the constructed facilities for the water rights implementation, at his expense within a defined deadline. If the facility may be used for water quality protection, regulation and usage of waters, protection against adverse impacts of waters, or preservation of ecosystems, the facility and the land under the facility shall become the property of the State. Setting out this obligation, i.e. prescribing the change in ownership status of the facilities upon expiry of the water right is in compliance with the principle that there are not absolute rights in water right and that these rights are time limited (for the time of validity of water license or concession agreement), and their use depends on real needs of water and possibility of their satisfaction related to available quantities and priorities in its use in conformity with planning documents from water field. On the other hand, water facilities and systems serving for water activity, as an activity of public interest, are concerned, and it is exclusive right of the competent authority to evaluate whether these facilities will further serve to its purpose or not.

WATER SUPPLY PRIORITIES

Usage of water for water supply is one of the basic needs for water, and existential need, especially in the situations when there is a lack of water for all purposes in the same area. This is why the Water Law has established following priority: drinking water to the population, country defense and water for sanitary use and livestock use, in the given priority order, over the use of water for other purposes. In the providing of this priority, the Law went a step further prescribing that the use of water in the water source area shall have the priority over the use of water for the same purposes outside of the specified area for five years from the day of the request submitted, except if these needs cannot be satisfied on more economic and rational manner, shall have the priority over the use of water for other purposes.

Hence, only after usage of water for water supply for listed purposes, the use for other purposes like: irrigation, power generation and other driving purposes, fisheries; sport, tourism, bathing and recreation could be taken into account. In the case of water use for other purposes, it should be emphasized that in terms of Law, water used or intended for water supply cannot be used for other purposes if this use can have negative impact for quality or quantity of water for water supply for the priority set out in terms of the Law.

It can be concluded from the Law that priorities in water supply are set out in corresponding spatial development documents (Water Master plan and water management plans), as well as in water acts out of which water conditions have special importance. The achievement of priorities in water supply has been fully accomplished in Montenegro, especially during the period of application of former Law on Water, which included introduction of water conditions into the legal life. Therefore, competent authorities now possess rich administrative and legal praxis.

PUBLIC AND INDIVIDUAL WATER SUPPLY

Articles of the law devoted special attention to water supply, which according to the source of supply can be either public or individual.

According to the standard from Water Framework Directive, adopted for following and controlling the water bodies whose purpose is drinking, as well as development needs and possibilities, Law prescribes that the local government shall be liable to organize and ensure public water supply in its territory to all settlements exceeding 200 inhabitants or with average annual water demand exceeding 100m³/day (1.16 l/s). Prescribing this obligation is a significant step forward in comparison to the former Law on water, because according to the new one, those water supply systems whose purpose is supplying rural and other settlements, which were not paid great attention to will now become jurisdiction of local governments.

The Law also prescribes that public water supply of two or more units of local government can be provided by organizing regional water supply system.

In order to perform the duties of public water suppliers, units of local governments need to develop short-term, mid-term and long-term plans, which in domain of usage of water have to be compatible with the plan on water management.

Like the former Law, the new one prescribes that water supply of rural and other settlements or their parts which do not fulfill the requirements for public water supply as well as the water supply of one or more users, is to be performed in accordance with the regulations of the unit of local government. This part of the law determines the conditions for construction, using, maintenance and managing the objects and systems for water supply.

Unlike the public water supply (regional and public water supply system), for which water regulations are issued by the responsible department of the water supply management administration, and the duties of inspection and supervision are performed by the competent ministry embodied in the water inspector, the Law prescribes that for other water supply (which does not fulfill the requirements for public water supply) the direct authority is in hands of the local government.

According to the Law, the water supply activities (water abstraction, protection of water sources, water treatment, water production metering, water supply to the point of consumption and water distribution to users) can be performed by a public company which is registered for performing those duties, which in terms of equipment as well as the organizational and individual capabilities satisfies the requirements determined by the ministry itself.

For providing regional water supply the Law proposes that two or more units of local government can establish public company and that the government can be the founder or one of the founders of such public company.

WATER QUANTITY AND QUALITY CONTROL AND THE PROTECTION OF THE WATER SPRINGS

The Law on waters prescribes that the water supply and wastewater

companies shall: install the equipment to ensure continued and systematic recording of water volumes and water quality testing at the water intake point; implement the measures ensuring good quality of drinking water; implement the measures ensuring good technical condition of the equipment; to deliver the data to the competent authority of the State, to be entered into the information system.

The Law, in comparison to the former one establishes the obligation of a company to: install the equipment to ensure continued and systematic recording of water volumes and water quality testing, as well as providing evidence on this for the purpose of updating water information system. Establishment of this obligation is aimed to provide needed data in the area of planning as well as providing needed quantities of water of quality prescribed for water supply of certain purposes.

Systematic testing of water quality for water supply and bathing shall be conducted at the water intake or bathing points, following an annual schedule prepared by Ministry, in accordance with opinion Ministry related for environmental protection and Ministry related for health. This testing can be conducted only by authorised company with valuable contract signed by the owner or the user of the water supplying or recreational facilities.

Apart from the above mentioned, in order to use and protect surface and ground waters, the Law envisages the obligation of following quantitative and qualitative parameters of water. These parameters are followed by the authority in charge of hydro-meteorological duties, according to the annual programme created by the government.

Devoting special attention to preserving and protecting the waters which are used or are to be used for water supply, the Law prescribes that the areas which have the water sources of surface or ground waters and which are used or are planned to be used for public water supply should be protected against deliberate or accidental pollution and other impacts that might adversely affect the yield of water sources and good water quality (sanitary protection zones).

The protection of surface or ground water sources shall be implemented in accordance with the decision on water source protection preceded by the research works, and which is brought by the competent authority for water permitting in cooperation with the Ministry related to health.

For sanitary protection of the sources for public water supply (settlements exceeding 200 inhabitants or with average annual water demand exceeding 100m³/day (1.16 l/s) in accordance with hydrologic, hydro-geologic and other features of the soil and water areas and predicted way of their use, three zones of protection are set up: wider protection zone, closer protection zone and zone of immediate protection. Zone of sanitary protection of the spring determined by the spring protection decision are incorporated in the Water Management Plans and special purpose physical plans. Because of special significance for the state, the Law prescribes that those potential regional sources for water supply of the zone of sanitary protection should be determined by the Water Master plan.

Although from the above mentioned in can be inferred that the obligation of determining a zone of sanitary protection exists only for sources for water

supply, it should be stressed that the sanitary protection of sources is needed also for all the other sources that are intended for drinking water supply or for food production and processing and for sanitary and hygiene purposes. This is so for the simple reason that water which is intended for those purposes has to, in terms of quality, fulfill certain proscribed criteria, which are primarily achieved by determining the zone of sanitary protection. Determining the sanitary protection of sources and ways of its maintenance, in this particular example is performed by the water acts and especially by issuing the water permit of the appropriate technical documentation.

REGULATION OF WATER STREAMS AND THE EXPLOITATION OF RIVER SEDIMENTS

Regulation of water streams and other waters is one of the basic activities related to waters. Under these activities one can account work on construction and maintenance works in the riverbed and water good, river bank and riverbed stability preservation and other works that ensure controlled and harmless watercourse maintenance, i.e. maintenance of their water, ice and sediment capacities and their use, as well as construction and maintenance of water facilities and systems for various purposes.

Under maintenance of water courses and water good one can count also removing of river sediments and their exploitation. Therefore, the Law on waters prescribes that river sediments from renewable and non-renewable banks can be exploited in those areas where exploitation brings about the preservation and improvement of water regime, in the scope which does not harm the water regime, stability of the river banks and natural balance of water ecosystems and coast ecosystems. Exploitation of river sediments is performed on the basis of water approval and concession contract, which have to be preceded by project of water deposit exploitation, created in compliance with the project of regulation which is created by the authority of state government in charge of the agriculture; and the approval of the ministry for environmental issues when the exploitation of sediments in national parks.

Because of the need for proper exploitation of river sediments, the Law prescribes that this exploitation can be performed by the company registered for performing the exploitation of river sediments, which has at least one employee of appropriate skills and in possession of appropriate mechanization. The company needs to keep track of the kind and quantity of excavated river deposit and the data is to be transmitted to the authority in charge of issuing water approval in order to provide appropriate control.

Accordingly, the Law also prescribes that the exploitation of river sediments should be banned when the exploitation leads to the disruption of water regime, and can be discontinued to determine whether further exploitation would lead to the disruption of water regimes and have negative influence on water ecosystems. The competent authority for water permitting shall adopt the decision on the ban.

In the same sense is the legislative designation that the company which does damage while exploiting the sediments is competent for compensating for it, in accordance with the general legislation on compensating for damages.

CLASSIFICATION AND CATEGORIZATION OF WATERS IN ORDER TO PROTECT WATERS FROM POLLUTION

Protection of waters is one of the pillars of Water Law and it consists of a group of measures and actions which preserve the quality of waters and which bring to the level proscribed for usage of waters for certain purposes. Actually, protection of waters from pollution is performed in order to enable unharmed and uninhibited use of waters, protection of public health, protection of flora and fauna and environmental protection. It is achieved in the widest sense by: organizational, economic, and technological and water measures.

Significant quality of the Law is establishment of aims in the area of environment protection, in the domain of water protection both for surface and ground ones, as well as for the protected water areas, which according to the law and in accordance with the Water Framework Directive are determined by a programme of measures for implementing Water Management Plan and plans for managing water on the water areas, in order to achieve those aims, that is achieving good status of waters.

For achieving mentioned aims, classification and categorization of surface and ground waters is performed; passing and implementation of plan for protection against waters pollution; passing and implementation of operative plan for protection of waters against pollution accidents, which is passed also for waters significant for the state and those of local importance; and establishment of bans with the aim of water quality protection.

In order to achieve stated aims, the Law predicts the obligation of wastewater treatment which is to be performed by the pollutant in such a way that substances that can pollute water, before the discharge into the public sewerage system or other recipient, remove partially or completely such substances in compliance with the regulations on effluents (emissions). There are other obligations which are related to: appropriate use of objects for protection of waters from pollution, setting up devices for measuring, and measuring the volumes and test the quality of wastewater and the impacts on the recipient, and shall submit the relevant data to the competent authority of the State.

An important innovation in the Law is determining the obligation of local government to plan and invest funds into wastewater treatment plants to the level predicted by plan of construction wastewater treatment plants for at least 2000 people equivalent.

In order to protect waters from pollution, systematic tracking of quality of waters is to be performed by the state authority in charge of hydro-meteorological activities, in accordance to the annual programme created by the competent ministry.

In addition, protection of waters from Contamination with Mineral Oils is also addressed, with special emphasis to pollution from sailing objects, or from banks or inside of water source zones. Furthermore, the specified piers and ports shall install the necessary equipment to collect larger volumes of mineral oil waste, oil mixtures, wastewater and other waste from vessels; and the owner or the user of that part of the coast, the captain of the sailing object or other

responsible person on the object, and in the end citizen to immediately report to the competent authority (ministry in charge of sailing, competent inspections and state authorities for police), if they notice the pollution of water in the river, lake or the sea.

All mentioned aims, measures and actions, which are related to protection improvement of quality of surface and ground waters could not be achieved without classification and categorization of surface and ground waters. Classification of the waters is performed through classification and categorization of water bodies of surface water and categorization of water is performed with respect to the Montenegrin Government's rules by which it, as the authority, at the same time determines the policy in this area with the aim to keep or provide good status of waters in relation to their ecological and chemical status and ecological potential when it comes to the surface waters, quantity and chemical status of ground waters. Categories of water bodies are expressed through water management plans.

IMPORTANCE OF ESTABLISHMENT OF FLOOD AREAS

Unlike the former law, the current one has a detailed assessment of the important for the flood areas.

In that sense, the Law predicts that, for providing the protection from the adverse impact of waters the area that is endangered because of the floods should be determined and kept into the real estate registry.

Flood areas, as defined by Law, are water lands and other land areas periodically overflowed with water beyond water land, due to special circumstances.

Flood areas on waters of importance for Republic are determined by the competent ministry, and on waters of local importance the local authority, with the preceding opinion of state authority in charge of water management.

Flood areas are determined depending on the level of probability for adverse impact of water to occur, number of potentially endangered inhabitants and the dimensions of potential damage on objects, land and property.

The boundaries of flood areas shall be drawn on the relevant topographic maps and physical development plans, and the cadastral plots in those zones shall be registered in the information system and in the public real estate registry.

The land on flood areas shall be classified in accordance with the level of risk (risk zones). The classification shall be based on the maps of flood areas, indicating high water flood lines for different retreat periods. The Ministry, in cooperation with the Ministry in charge of physical planning, shall specify the methodology and criteria for identification of endangered areas and the methodology for classification according to the level of risk (risk zones).

The significance of mentioned law covenants is immeasurable. Up to now, we would be aware of it only during the hydrologic maximums of retreat period, in facing the greater floods, which cause significant material damage to residential areas, especially in the river valleys.

The aim of mentioned covenant is, therefore, to approach the problem in

organized and competent way by determining flood areas and classifying the land in that area according to the level of threat (zones of risk). Only on the basis of this approach competent authorities can be able to make a decision on whether to allow construction on certain location or not, through the process of planning and passing single acts (conditions, permits, etc.)

WATER ACTS IN FUNCTION OF EXERCIZING RIGHTS OF SPECIAL USE OF WATERS AND WATER GOOD

In contrast to use of water which does not exceed the limit of general use, for every use which is considered special use of water, water right is needed. This right, as already mentioned, is achieved by water order or by concession contract, for exploitation of river sediments from water field – by water order and concession contract.

In the process of achieving water right (right to water), Law on water prescribes the obligation of gathering water acts: water conditions, water no-objection and water order, while by issuing water prescription, according to the need, regulation of rights achieved by the permit is regulated. Those acts provide integral management of waters and unity of water regime, as well as just access to water for all people. Therefore their issuing must be in compliance with the Water Master Plan, plans on water management and appropriate technical documentation.

In order to issue water acts, method of positive numeration is used, which distributes the competency between the state authority in charge of water management and competent local authority. This distribution is, in general, performed according to the importance of waters or their trans boundary influence and is in accordance with the classification done by Law on waters important for the state and those of local importance. This kind of separation of responsibility makes sure that capital objects of great interest for the state are the responsibility of state authorities, while those objects and works of local importance are under jurisdiction of local authorities.

The procedure of issuing water acts is performed in accord with the covenants of general governing procedure, which is why against water acts, as well as governing acts, there is possibility of filing complaint. After a complaint against water acts which are passed by the competent local authority, the final decision is made by the main administrator of the local authority, while on the level of the state the decision is made by competent ministry.

First act in the sequence that needs to be gathered in order to enjoy water right is water conditions. Therefore, water conditions have characteristics of an act which determines the possibility of achieving water right, under certain conditions. The exceptions are the concessions where decision on giving a concession and signing of concession contract precedes the water condition issuance. However, it needs to be emphasized that in this case the proposal of water conditions must be an integrated part of tender documentation which would allow the interested to get to know the basic elements of the concession before applying for the tender (advertisement, public call, etc.) Aside from this, water conditions are acquired in order to create technical documentation for

construction of new or reconstruction of existing objects and performing geologic researches and other work which can influence the changes in water regimes permanently, frequently or temporarily, which means that they precede the creating of technical documentation (general if needed and main project) and represent the obligatory basis for its creation. It needs to be emphasized that water conditions are gathered, although not exclusively, for the creation of technical documentation on which the construction permit is obtained, in accordance with the law that regulates areas of planning and construction. The water law predicts certain exceptions when obtaining water conditions is not necessary, like in case when use of water that does not exceed the scope of general use of waters; when new or reconstructed housing, or smaller business and other buildings (constructed in compliance with the relevant urban development or physical development plan) are connected to the public water and sewer works, and the water is used strictly for drinking and sanitary purposes; construction of wells in aquifers for the supply of drinking water to one household, on its land, whereby the right of higher priority of another user is not threatened, in compliance with the law; use of water for fire fighting; use of water for the protection of land; use of flood and inundation areas as pastures, meadows or cultivated land.

Water conditions are aimed to determine the conditions which will guarantee optimal and rational and ecologically sustainable use of water and water resources, and to secure advancement of water regime. For this reason, before issuing water conditions, the Law, depending on the kind of object and the way and nature of its influence on water regime or the influence of water regime on this object prescribes acquiring more opinions of competent authorities, organizations, institutions, companies, community, taking into account that the necessary opinions are gathered by the authority in charge of issuing water conditions, while the other optional stances are gathered by the investor, if requested by the authority.

It needs to be emphasized that in case when gathering opinions is done by the competent authority, the expenses incurred in this process are an obligation—to be paid by the investor.

The next water act in sequence of acquiring and issuing is water no-objection. The Law prescribes that the investor needs to gather water no-objection prior to the initiation of construction new or reconstruction of existing objects and facilities. Water no-objection establishes that technical documentation is created in accordance with the existing water conditions. Water no-objection is issued by the authority which issues water conditions. The right earned on the basis of water no-objection cannot be, without the consent of the competent authority which had issued it, transferred to another person.

In water no-objection a deadline of its validity is stated, and it depends on the nature, complexity and scope of construction or reconstruction object or alignments, and other works which require water no-objection, the date of expiry of construction no-objection, when its acquisition is necessary, as well as conditions set, assuming that the deadline cannot be longer than two years after the time of its issuance, that is up to date of expiry of construction no-objection

and the same is discontinued if the construction of object or other work does not initiate in designated time period. Flexible way of determining the validity of water no-objection needs to be accompanied with the possibility of exceptional continuation of its validity for construction or reconstruction of objects and alignments, and other works which do not require construction no-objection, with the limit of two years, but under the condition that investor provides evidence that he performed at least one third of the projected work before the expiration of the no-objection.

After the construction is finished, and before use of the object and alignment which requires water no-objection, the investor needs to obtain water permit, by which he acquires water right, that is, from the point of view of water regulations, the right on legal use of water. Water order allows the competent authority to ascertain that the facility and plant are built in accordance to the water no-objection. Apart from this, water order ascertains: way and conditions on the use of waters, emission of toxic waters, storing and emission of dangerous substances which can pollute water and conditions for works which influence the water regime. Water order is issued by the authority which issues water no-objection. Depending on the complexity of the case, that authority determines the issuance of water order on the basis of report created by a single expert, commission or scientific or expert organization.

Considering the established principle that water cannot be given for use for unlimited time period and that after certain time period (primarily planning period) there is a need for reconsidering the needs for water or redistribution of water, the Law prescribes that water order should be issued for a limited duration, up to 10 years, and for using hydro accumulations for generation of electric power up to 30 years (period to which according to the current law the concession could be awarded). Similarly to the water no-objection, the right acquired in basis of water order cannot be transferred to other user without the consent of competent authority. Unlike water conditions and water no-objection whose validity cannot be extended (some exception in case of water no-objection), the duration of water order can, on the request of investor, be continued for another period, if there are no obstacles for this in the relevant legislative and planning acts. For positive solution to the request, the request needs to be submitted on time (at latest two months before the expiration of the current water order), and for companies and other organizations and entrepreneurs the measuring devices need to be in place and used regularly. It is important to emphasize that the law provides covenants determining the works for which water order is not needed, as well as the conditions under which the right acquired on the basis of water order is revoked.

Important innovation in the law is the establishment of water order as water act. This act does not guarantee the water right, but it is proscribed that during the validity of water order, in order to remove the danger of potential or already occurring anomaly, and in order to establish the state which is in accordance with the conditions from work permit, the obligation is established for the person who owns the water order to perform certain duties or work in a designated time period. The need for issuing is established by the authority

which issues both the water instruction and the water order, and this is especially important from the standpoint of achieving public interest. From the same reason, the Law prescribes that the complaint on the water order does not postpone its execution.

WATER AND WATER GOOD CONCESSIONS

Water and water good are our important natural and commercial resource. Montenegro is among the countries in the world which are rich in water quantity per measurement unit. The quality of this water can be treated as favorable related to its physical and chemical features. To the contrary of this fact, we are facing with the deficit of water in the water supply, especially in bigger urban areas (Montenegrin coast etc), deficit in the production of electric energy, which can be covered by the utilization of part of the unused hydro potential of Montenegro and unregulated relationships in the use of water and water good for various purposes, leading to legal insecurity, which is non - stimulating to the economy and future investments. Described situation couldn't be improved by application of the Law on participation of the private sector in the public services („The Official Journal of RM“, No 30/02), as system law in the concession area. From the very beginning of the application, this law seemed to be insufficient for the regulation of specific relationships in the various economic areas. In described situation, the prescriptions on water and water good concessions, in the Water Law, represent important improvement and expectation that this field will be finally properly regulated in order to enable valorization of significantly increased interest of investors for use of water and water good in different purposes.

The purpose of concessions on public water good is in the improvement of the water systems, i.e. ensuring more efficient use of the water based on the long-term protection of available water resource and regular, economic and effective use of water good and provision of financing for development of water sector, shall be given a concession. The concessions at the same time represent extraordinary development opportunity, where state solves big infrastructural and other development issues, and from the other side, in the situation of lack of financial funds, enables investment of interested investors based on competitive principles. Having in mind that use of public water good is concerned, it is to be emphasized that this situation determines specific BOT arrangement in granting concessions.

Regulation of these issues is of specific importance because of well known fact that water is in the public use due to its natural features and that it is in use of high number of users – legal entities or persons. That is why this Water Law for the first time defines which use of water is to be treated as concession, based on own and comparable experiences. Granting of the concessions is defined in terms of procedure defined by this law. At the same time, all others uses of water and water goods will be regulated by obtaining of water acts in accordance with Water Law. Having in mind that this law regulates very precisely and in details issues related to right of use of water, validity of water no-objection, granting of water rights through water no-objections, including the obligation of

the compensation for its use, which will be stipulated by separate law, it can be concluded that implementation of water right through water no-objection differs from the concession, only in the manner of the implementation.

The importance of concessions for other countries, especially countries in transition, can be illustrated with the fact that concessions are followed by liberalization of economy elimination of barriers for the flow of capital, people and goods.

Based on the described designations, by this law is set out that subject of concessions can be: use of water for the public water supply serving the settlements with more than 200 inhabitants; use of water for the production of beverages; use of water for drinking water bottling, for filling foreign tank with water, water diverting or taking for the selling; use of water power for generation of electricity and operation of plants; use of water by legal entities for technological and similar purposes of legal persons in the quantity of more than 86 m³ per day; pumping of ground waters in the quantity of more than 86 m³ per day; abstraction of water for irrigation of agricultural land in the quantity of more than 175 m³ per day; water for fisheries for commercial and other purposes; exploitation of river sediments, in the quantity of more than 100 m³ of sediment;

Exceptionally from listed purposes, it is prescribed by this Law that concession is not required for implementation of works and the construction of facilities in accordance with the plans of the relevant institutions managing the public water good in a certain area, if the investors of such investments and performers of such works are the public enterprises and if the water is used for the public functions for which the public company was established.

The Government shall decide, at the proposal of the competent authority of the State and an opinion of the Ministry, on granting and termination the concessions for the construction, maintenance, and use of water facilities of importance for the State and the use of the public water good.

The proposal on granting the concession for use of water power for electric power generation, submits the competent authority for energy, in cooperation with competence authority of the State and the Ministry.

For the construction, maintenance and use of water facilities of local importance, the decision on granting and termination the concessions shall be given by the relevant authority of the local government, subject to the prior consent of the competent authority of the State.

What is specific for water field, in addition to the contents stipulated by the law on concessions on natural wealth, the Law for sets out concessionaire rights and obligation which are obligatory content of concession agreement, as well as conditions for concession termination, depriving of concession and breaking of concessions contract.

WATER BOTTLING, ACCOMPLISHMENTS AND FUTURE

In the field of concessions in Montenegro, during present period, related to use of public water good, the most important results have been achieved in water bottling.

The natural prerequisites for this are present for centuries, as a divine natural gift represented by water clean as crystal being a symbol of life and eternity, in the favorable ecological ambient of Montenegro, as an upstream mountain country. There are lots of clear mountain springs with water of high quality, which can satisfy strict rules of world health organization. However, the appearance of first concessions has resulted just from frequent interests of domestic and foreign businessmen for the use of water in commercial purposes.

Being aware of this fact, Government of the Republic of Montenegro and competent ministry, have implemented all required measures for the creation of legal ambient (the Government has adopted The Decree on procedure and conditions for the concession granting for water use for drinking, agriculture, industry, foodstuffs and other purposes (»The Official Journal of RM«, No 32/03), and competent ministry the Rulebook on content and elements of concession report for use of water for drinking, agriculture, industry, communal and similar purposes ("The Official Journal of RM", No 36/03) and identification of potential resources, in order of use of increased interest of potential investors as an important development perspective.

The concession for water bottling have been granted to 11 concessionaires by BOT arrangement, with support of Government, while for five new requirements, at the moment, the procedure of concession granting is being completed. It is impressive that up to now, within a relatively short period of time, five factories have been constructed, with issued water management permits, while two factories will be constructed in near future. Out of the constructed factories, the products of two are remarkable in the market, while considerable amount of bottled water are subject of export arrangements.

Four of constructed factories are located at the territory of Kolašin municipality, so Kolašin can be called water city. Of course, this is starting investment cycle, which is being more and more intensive, so there are real prerequisites for Montenegro as whole to be state of water.

The pioneers in this activity besides Rada from Bijelo Polje, known by bottling of mineral water, are factories for bottling of natural drinking water from sources: "Veliki Maljen" in Bukovica, " edov izvor" in Radigojno, "Ropušica" in Gornje Lipovo, "Bukovi ko vrelo" in Trebaljevo, "Jeremija" near Kolašin, "Lu i ko vrelo" near Rožaje and »Gusarevci« near Šavnik.

This business is favorable for all stakeholders: society with new important investments, construction of factories with clean technology wich is very important from the ecological point of view; use of water as renewable natural resource without conflict in compliance with sustainable water management, accepted as generally accepted imperative on the level of European Union in forthcoming period; production i.e. bottling of big quantity of water, wich will lead to export improvement, form one and substitution of import of bottled water, from the other side; new employment; more intensive development of the areas of Montenegro; budget income from compensation, with bigger portion directed to local government etc; while concessionaires opportunity for good choice for investment and return of investment with profit.

It is important to emphasize that Government grants related concessions

for a definite period of time, 30 years longest and in BOT arrangement, meaning that upon expiry of concession all facilities and plants become state ownership. Of course, upon expiry of concession, it is to be expected granting of new concession, i.e. establishment of new concession period, but now, because of changed circumstances, under more favorable arrangement for the state.

Permanent orientation of Montenegro to base its own development on strictly ecological criteria, adoption of Water Law in conformity with regulations and standards of European Union and forthcoming institutional completion, points out that Montenegro is in the process of completion of organizing of all prerequisites related to water bottling and the time of more adequate valorization of its important natural potential is in front of us.

In such a situation, having in mind that lack of water is present at the moment in many countries, Montenegro can become very important exporter of drinking water, especially because of its geographical position as a Mediterranean country.

LIMITATION OF RIGHTS AND OBLIGATIONS OF OWNERS AND USERS OF LAND AND WATER FACILITIES

For the accomplishment of general interests in water management, in terms of water law, are established limitations of rights and obligations of owners and users of land and water facilities.

The purpose of establishment of these limitations of rights and obligations is provision of general use of water good, as well as implementation of right established by water no-objection. In lot of possible situations because of contradictory interests, this right could not be implemented without this. As in other legal situations related to implementation of general, i.e. public interest, by Law is prescribed that depriving or owner right limitation on water land, costal or other land, shall be put into condition and in accordance whit the Law which regulated the exploitations. The legal basis for the establishment of a.m. owner rights and obligations of its holders is contained in Constitution of the Republic of Montenegro which prescribes that: no person shall be deprived of his property, nor may it be restricted except when so required by the public interest, as prescribed by law, subject to fair compensation which may not be below its market value (article 45, paragraph 2); the right to own property and the freedom of earning may be restricted by law (article 48); the state shall protect environment and freedom of earning and free entrepreneurship shall be restricted by environment protection (article65). It is to be emphasized that in other laws in this field the similar legal solutions are adopted.

In conformity with above mentioned, the Law prescribes prohibited activities on water constructions and the water good, prohibited activities on erosion areas, right limitations of owners and users, obligations of owners and users of water land or water facility on the banks, including use rights; use of land on erosion areas and possibility of connection to constructed water supply facility, as well as remediation of damage to water facility, water land, water regime or have exacerbated the erosion status on an erosion area.

The prohibited activities in water constructions and water good,

systematized in 13 items, are prescribed for the purposes of the preservation and maintenance of the natural and artificial water bodies and other water constructions, prevention of the degradation of the water regime, ensuring the passage for high waters, and the implementation of flood protection, and environmental protection. These activities, among all, are: on embankments and other water constructions to extract and dispose material, graze large live-stock, pull timber, etc; on water land: to construct permanent and temporary facilities that reduce the capacities of the riverbed, to dispose solid waste and hazardous and dangerous substances, to perform uncontrolled exploitation of river sediments, other activities are primarily those which could endanger stability and complicate maintenance of regulation, protection and other facilities.

In the prohibited activities in erosion areas, systematized in nine items belong actions contributing to erosion and creation of torrents like : devastation, clearing and cutting down of forests; removal of the vegetation cover and baring the soil; uncontrolled digging and storing of meadows, pastures, etc; filling in water sources and uncontrolled collection and pumping of such water; storage of wood and other materials; construction of facilities without adequate planning and project documentation.

Out of established limitations of rights of owner i.e. user of water land or water facility on the banks or other land, for providing the national use of water good and for achieving rights defined in water agreement, shall be separated obligation of owners i.e. users of water land or water facility on the banks or other land to: allow the common use of the water land; allow access over the land for the persons authorized to survey, scan, design and mark the land or waters for the purposes of the construction or reconstruction of water facilities, the persons conducting inspection, as well as to the persons implementing the works on the construction, reconstruction, and maintenance of such facilities, i.e. their use; allow the use of the high water bed and the riverbanks in the width of 5 m for the persons authorized to inspect the status and maintain the riverbeds and riverbanks; allow access for persons and machines engaged in the implementation of flood protection and, with that aim, to allow the use of the adequate material from his land;

Obligations of owners i.e. users of water land or water facility on the banks or other land are to: participate, in accordance with the technical instructions of the relevant water authority and in accordance with Law, the implementation of minor works (cutting shrubbery, bushes, low vegetation, removing stones and earth from the banks, stabilizing the banks, planting trees and bushes, and similar works); participate in the maintenance of the high waters beds and banks, excluding low water beds, to prevent erosion, rockslides on the banks, or the reduction of the capacities of the water beds caused by harmful vegetation or other barriers; remove or participate, in accordance with the technical instructions of the relevant water authority and in accordance with Law, in the removal of the objects that might disrupt the water regime from the streams; removal of trees from the torrent beds if it comes from their land.

In the domain of water use, it is of special importance to establish the obligation of owner i.e. user of water land or water facility to allow access over

the land for the other owners i.e. users of land to implement drainage, i.e. water supply works to their land, if there is no more technically and economically justified solution. The reason for this is in the fact that the location of the source, ownership of the property in the source area, need for water on different configuration of the terrain etc. in most of cases cause this situation in the area of Montenegro in construction of bigger facilities for use of water. It is to be noted that Law prescribes mutual agreement between the owners, i.e. users of the land and if parties don't make an agreement court shall make a decision.

Legal entities and physical persons that did not participate in the construction of an existing water supply system may be connected to the water supply system under the following conditions: in case their needs can be satisfied in terms of the water supply system capacities; if there is no more technically and economically rational solution for their water supply. Legal entities and physical persons connected to the constructed water supply system shall: reimburse the proportional share of the cost of its construction; from the date of the connection, bear the proportional share of the cost of the maintenance and operation of the water supply system; bear the full cost of the connection.

There are many situations which within the period of use of the constructed facility for water supply, i.e. validity of water order, can lead to the need for the connection to that facility. Therefore the connection to this facility is logical and natural solution, enabling solving of the right on water as existential issue. But, by the establishing of this right, also the rights of owners i.e. users of constructed facilities for water supply are protected because this approach is restrictive, limited on only justified cases. At the same time, the corresponding financial satisfaction is predicted by Law, by reimbursement of the proportional share of the cost of its construction and bearing the full cost of the connection by person who is connecting.

FUNDING OF THE WATER MANAGEMENT

Funding of the water management constitutes one of the most important segments in the total content of relationships in water management. Without this segment, established concept cannot accomplish corresponding results. However, legislator has decided not to regulate this financing of water management by Water law which is system law in water field. But still this matter has been treated by this law through the prescription that the funding of the water management tasks and activities shall be regulated under a separate law.

Concerning long term regulation of these issues, the adoption of new law for funding of the water management is prescribed by the Water Law. The reasons for this orientation are motivated by the complexity of this matter and need for its harmonization with Framework Water Directive, which prescribes that Member States shall ensure by 2010:

- that water-pricing policies provide adequate incentives for users to use water resources efficiently, and thereby contribute to the environmental objectives of the Directive,

- corresponding contribution for different use of water at least for industry, agriculture and households, with the aim of recovery of the costs of water services including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle.

Besides this, Member States may in doing so have regard to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.

Member States shall not be in breach of the Directive if they decide in accordance with established practices not to apply the provisions of a.m. paragraph, for a given water-use activity, where this does not compromise the purposes and the achievement of the objectives of the Directive.

It is clear that preconditions for implementation of this issue are subtle and detail analyses, what will unavoidably lead to the revision of existing compensation system, along with need for introduction of some new, as well as with their increase, with aim to provide sufficient funding for meeting the objectives of Framework Directive. For all this, additional time is required, which was obviously the basic reason why legislator has decided to prescribe the need for separate law concerning this matter. There are examples in the comparative laws of the same approach, with some advantages, enabling the flexibility during bringing and need for amendment of the law. It is to be emphasized that according to Action plan of the Government of the Republic of Montenegro, the preparation of the draft of this law is planned for the fourth quarter of 2007.

During the transition period, i.e. period prior to bringing of separate law on funding of the water management, Water law refers to provisions of preceding Law on Water (provisions of the Article 40 paragraph 2 and Chapter V, Articles 40-42). Thus, required legal continuity for calculation and payment of these compensations, necessary for functioning of defined concept of the water management as whole, is established.

The listed provisions of the Law on Water refer to: compensation for use of water, compensation for protection of water against pollution; compensation for extracted material from water courses and compensation for use of water management facilities. It is also prescribed that the assets from these compensation, being the income of the budget of Republic of Montenegro, belong to special-purpose funds used for the water field, according to plan brought by the government. As an exception, it is prescribed by the same law that part of funds from compensation for use of water for the electric power production shall be used for commercial development and environmental protection in the areas where hydro accumulation facilities are located.

INSTITUTIONAL COMPLETION OF THE ORGANIZATION OF THE WATER MANAGEMENT SYSTEM

Water Law, along with legislative as a whole, similar as in comparative laws, creates the corresponding legal framework for the establishment of the optimal organization for the water management in Montenegro.

As far as the organization of the administration is concerned this issue can

be observed on the level of state administration (Republic of Montenegro) and local governments.

At the level of Republic, e.g. state level, at the first place, there is Government, as an executive authority, with numerous competences set out by the Law. The role of the Government is bringing of cardinal planning documents, then most important decisions and enactments and establishment i.e. forming of executive bodies relevant for water field.

After government, there is a competent Ministry for the water activities (the Ministry Of Agriculture, Forestry And Water Management), which is authorized to propose setting out of the policy, to conduct it, to implement international cooperation, to bring and in compliance with Law, to implement specific planning documents, bring regulations from its competence and perform administrative including inspection, supervision from its competence.

In any case, from the point of view of the water management, the most important executive body for this area, at the state level shall be state administration body in charge for the water management – Directorate for Water – which was already established in December 2004, by governmental Decree on amendments and alterations of Decree on organization and procedure for functioning of the state administration („The Official Journal of RM“, No 78/04). However, with coming into force of corresponding law, all perquisites for creation of organizational, personnel and financial profile have been created. It is obvious from the competence set out by this law, that this body will have key role in the implementation of the same law and to be expert service to the government and competent ministry, at the same time in some cases to act with attributes of the agency, i.e. regulatory and supervision body. Considering scope of the activities, in terms of the Law this body can transfer carrying out of expert activities in the planning and management to the specialized organizations in compliance with the law.

In addition to these bodies, because of the importance of waters, whose resources are recognized among key ones for the complete development of Montenegro, for the first time, Law prescribes forming and functioning of the Directorate for Water as an advisory and professional committee of the Government, with members appointed from amongst the prominent scholars and professionals in the water sector, economy and finance; which consider and give opinion on the draft laws and other regulations on water management; consider and give their opinion on the strategic solutions from the water sector related to regulations, planning documents, proposals for improvement of the conditions etc.

With the distribution of the competence given in the Law, the important part of activities from the water management area is located on the level of local government. Generally, this classification was made in compliance with classification of water in terms of importance as water on Republic and local importance. In that sense, the local government unit is competent and responsible for adoption of specific planning documents and regulations, concerning water management at the local level, including administrative and inspection supervision from its competence. For direct implementation of the part

of the law related to local water management, identification of the specific body in charge is subject of the autonomy of local administration which will regulate this matter with the appropriate organizational documents.

As dedicated by the Law, the activities of general interest pertaining to the water policy shall be implemented by public and other enterprises, as the entrusted activities, in accordance with the Law. If the founder of the public enterprise or corporation (public company) is the Republic or local government, the foundation act shall be adopted by the administration, i.e. relevant authority of the local government.

Based on the established organization of the state administration, in terms of the Law, the local governments shall be responsible for the performance of public water supply and sewerage activities. The local governments shall adopt long-term, medium-term and short-term plans for the performance and development of these activities. The long-term and medium-term plans shall comply with the Water Management Plan for water districts or river basins, as parts of water district.

Having in mind the importance of the regional water supply in Montenegro, according to the Law, two or more local governments may establish the public enterprise or corporation for the purpose of regional development of water supply. Also, the Law predicts possibility that the Government may establish or participate in establishment of the public enterprise or corporation for the purpose of regional water supply

Knowing that water field needs animation, harmonization and provision of different interests in use of water for water supply, irrigation, fisheries, etc or for protection against adverse impacts of waters and almost always engagement of significant funds, the stakeholders may establish water associations for the purposes of ensuring the conditions for various water uses (irrigation, water supply, fisheries, etc.) or for protection against adverse impacts of waters, in accordance with the Law.

After the establishing of described organization of water management, it seems that the corresponding upgrade of former system of the institutional organization has been performed, forming the legal framework for different forms of organization and action specific for the market conditions. At the same time, some specific features of water, water good and water activity as goods i.e. activities of general interest are taken into account. The implementation of such a system requires corresponding institutional and personnel enforcement, on all organizational levels. In absence of this enforcement it is illusory to expect adequate implementation of the Law and accomplishment of its objectives. In addition, for the performing of some activities, the engagement of numerous institutions and experts out of established system, will be needed, as well as for some specific projects outside of Montenegro.

INTERNATIONAL COOPERATION IN THE WATER FIELD

Because of importance of water for life and commercial activities and resources with increased limitations, up to lack of water in the numerous countries and regions all over the world, water is now accepted as good which

belongs to the whole mankind and all beings. It is reasonable that water attracts more and more attention of corresponding international organizations. As a result of activity of these organizations, it can be concluded that we have developed water right, contained in appropriate international conventions, recommendations, declarations, charters etc.

Besides international cooperation in global terms of exceptional importance is also regional cooperation, i.e. cooperation between interested states, concerning management of trans-boundary water resources. That is why this cooperation is regulated with the Water Law, where is stated that international cooperation in the field of the trans-boundary water resources management in the basins specified in this Law constitutes the need and interest of the Republic. Further, this cooperation is prescribed to implement in accordance with long-term, i.e. short-term strategic directives adopted by the Government, at the proposal of the competent Ministry.

From the point of view of interests of Montenegro and its water resources, this cooperation should be expected with all neighbouring countries, and regionally – for the waters of Black Sea basin- in the frame of Sava and Danube commission.

The typical example of the activities and facilities with (most frequent) cross boundary impact are: construction of capital hydro power plants, water transfer from one to the other basin, construction of the wastewater treatment plants, especially big polluters, regulation of rivers and other waters etc.

Some outstanding issues worth mentioning for the management of trans-boundary waters are:

- 1) Related to Republic Albania: regulation of Skadar Lake, Dram and Bojana, being for a very long period subject of attention and present in the contacts with Albanian side;
- 2) Related to Bosnia and Herzegovina: use and protection of the river Trebišnjica basin, and corresponding distribution of its hydropower potential, especially for the fact that, without consultations and consent from Montenegro, which were obligatory in compliance with the Law, BiH has used part of water which belongs to Montenegro for the construction of the hydro power plant Grn arevo (Bile ko Lake). As a result of this, the inflow for more than 40 years from Montenegrin territory, is used for the power production; use of water from tank Plat for water supply of Herceg Novi; possible transfer of water from Black Sea to Adriatic Sea basin. Being extremely interesting, some of these issues are to be solved in the trilateral agreement with Republic of Croatia and Republic of Serbia;
- 3) Related to the Republic of Croatia: regulation on trilateral basis (with BiH) of use and protection of the river Trebišnjica basin, and in this framework fair distribution of its hydro potential, and bilateral use and maintenance of international infrastructural facility for water transport (penstock) Plat – Herceg Novi, at the part of the route through the Republic of Croatia;
- 4) Related to the Republic of Serbia: use and protection of Black Sea water basin and in this framework possible transfer of water from Black Sea to Adriatic Sea basin.

For the regulation of relationships between Montenegro and listed countries, in the water management field, the conclusion of agreement i.e. contract which represents the supreme legal document (instrument) from this field.

During existence of former SFRY, the legal basis for the regulation of relationship in the water field between states formed after its disintegration, has been contained in the laws: Basic water law from 1965, then Law on basis of water regime of interest of two or more republics and inter-state watercourses from 1974 and finally related to Serbia and Montenegro, Law on water regime from 1998.

Two first laws, generally, have referred to the agreement between republics when the construction of new or reconstruction of existing water supply and other facilities located on the trans boundary water course which can cause changes in the natural or artificial water regime in the upstream or downstream republic was required.

In any case, these laws prescribe that prior to construction or reconstruction of the facilities, water no-objection is required, and prior to their use – water license, issued after consent of the competent body of the republic (Assembly) on which water regime can be influenced planned construction or reconstruction.

The obligation of concluding of mutual agreement, i.e. treaty, even common master plan and water regime for trans-boundary water current has been also defined. In the implementation of this idea, when Montenegro is concerned, it is known only Agreement on use of hydro power and water supply potential of the river basins of Drina and Morača, concluded between Serbia, BiH and Montenegro in 1984. However this agreement has remained only as attempt, because after its conclusion, based on the Decision of Federal Constitution Court from 1987, it has been repealed because its contrariety with World Heritage Convention, as a state law (this convention has been ratified by adoption of federal law of its ratification in 1974).

By quoted laws it has been predicted that for the use of water from accumulation at the trans-republic water currents, making the boundary between republics, the water contribution for the used water in favour of both republics, based on mutual agreement shall be paid. For the possible criteria, the payment of the contribution proportionally to: area of the basin, accumulation area, investments for the construction of the accumulation, damages upstream or downstream of accumulation and other appropriate measures. Besides this, it has been obligation of payment, i.e. part of income as a result of use of hydro power plants in favor of municipality (somewhere republic) at whose territory hydro power facility is located.

In contrast to these laws, with the Law on water regime which has been in effect at the level of Federal Republic of Yugoslavia, later state union Serbia and Montenegro, the obligation of provision water no-objection for construction of new and reconstruction of existing facilities and plants, as well as for performing of the works which can cause the change of water regime regulated by this law, by federal body competent for agriculture, has been defined.

After disintegration of SFRY and later FRY, i.e. state union Serbia and Montenegro, all quoted laws have been repealed, and conclusion of the agreement i.e. contract on management of trans-boundary water is necessary legal instrument for regulation of mutual relationship between former members of these states.

From Montenegrin, as well as from comparative legal praxis results that these agreement i.e. contracts establish basis for integral, continual and long term setting out of issues important for management of water of mutual interest, i.e. trans boundary impact, based on the principles of cooperation, equality and mutual respect, in the accomplishment and implementation of both specific and common rights and interests. The conclusion of these contracts, i.e. agreements shall enable unique and fair solving of current and future issue of mutual interest, related to water field.

Implementations of these agreements, i.e. contracts imply the obligation of detailed analyses of each open question in order of achievement of acceptable aim. This includes need of active participation of appropriate bodies and offices in systematic and planned following of all relevant parameters important for the quality decision bringing.

The first and up to now the only agreement was concluded between Montenegro and Republic of Albania in 2001. However, the content of this contract is not completely harmonized with Framework water directive, as a new established framework for acting of European Union in the field of water policy; it is to be expected from two sides to harmonize it in the near future.

In order of conclusion of such agreement, i.e. contract, the government of the Republic of Montenegro, in the meantime, in 2005, accepted initiative from Bosnia and Herzegovina referred to former state union Serbia and Montenegro and adopted the platform related to it. But, up to now, BiH as an initiator (in spite of the interventions of Montenegro, made in diplomatic way), hasn't appointed the first meeting in order to finally start with negotiations.

Montenegro was negotiated in 2006 the similar contract with Croatia after intensive communication, concerning permanent provision of required quantity of water for water supply of Herceg Novi. However, because of the delay of Croatian side, this contract was signed just in September 2007, in Zagreb and its formal adoption by the government and ratification in the Assembly of the Republic of Montenegro is expected.

From the point of view of interests and needs of Montenegro, negotiation and conclusion of similar agreement i.e. contract with Serbia which was for the longest period in the state union with Montenegro, is expected.

It can be, without doubt, concluded that there is a need for signing contract i.e. agreement in the very complex area characterized by unsolved relations, especially among countries which existed in the frame of the same state union. It is obviously the basic reason of delay in the negotiation and conclusion of these agreements.

INNOVATIONS IN THE SUPERVISION OF THE IMPLEMENTATION OF THE PROVISION OF THE REGULATIONS ON WATER

In compliance with the content of the Law, by Water Law is prescribed that the supervision of the implementation of the provision of the Law and the regulations adopted on the basis of the Law shall be conducted by the competent Ministry, the Ministry of health, and the Ministry of environmental protection, the Ministry for geology and competent authority of the local administration.

The inspectional supervision from its competence shall be conducted by the Ministry, through water inspectors, in compliance with the Law.

It is prescribed by the law that the water inspector has a right and responsibility to supervise especially: construction of facilities and the implementation of other works that might cause qualitative or quantitative changes in the natural or artificially established water regime; water acts, flood protection documentation, cadastres of waters, water polluters, torrent streams and water constructions, acts for more rational water use (documents pertaining to communal activities), financial statements and other documents; compliance with the conditions from the water acts and the compliance of the use of water constructions with the issued water no-objections, i.e. water no-objections and certificates; operation of the equipment on the water constructions of public interest, as well as in other facilities and plants whose inadequate operation might endanger the water regime; the regime and quality of water in streams, lakes and ground waters, in accordance with the data of the Hydro-Meteorological Authority of the Republic and other authorized legal entities; operation, condition, and efficiency of wastewater treatment facilities; oil pipeline, connection of ships with costal equipment and storage equipment for mineral oils; compliance with the prescribed water regime in term of the minimal guaranteed flow downstream from the point of withdrawal of water.

When the water inspector establishes a fact on violation of the law, other regulation, the standards and norms, he shall undertake following measures and activities: ban, i.e. suspend the works implemented in violation of the issued water no-objection, i.e. water no-objection, or without holding a water no-objection, i.e. water no-objection; ban or limit water use, discharge of water, exploitation of materials, i.e. use of facilities and plants in the cases specified by this Law; order the removal of trees and shrubbery constructions, i.e. planted without a water no-objection; order the removal of the pollution source from a water facility, water land or the water regime and its restitution to the original condition; order temporary suspension of operations of legal entities, if determined that the contents of hazardous and dangerous substances in their effluents exceed the standards, until the levels of such substances are reduced below the standards; order the planting of trees and shrubbery in the cases specified by this Law; order demolition of structures and plants, and removal of certain objects, materials and other items that may disrupt the established water regime.

From the content of listed obligations and competence results that the appropriate legal system of the supervision and protection of the water as

important natural resource, is established in the law, in such a way which ensures that all relevant elements from corresponding fields of action are recognized and followed.

However, the most important innovation in the supervision, in comparison with former law, is the authorization of the local government in the frame of its competence to conduct supervision of the implementation of the existing Water Law and the regulations adopted on the basis of the Law. This authority will in the future conduct supervision, including inspection in all administrative matters which belong in the scope of that authority of local government, in compliance with the law, in the field of water and water good management.

THE WATER LAW

(The Law was brought by the Constituent Assembly of The Republic of Montenegro, on the session from May, 08, 2007 and published in the Official Journal of the RCG, No 27/2007 from May, 17, 2007)

I GENERAL PROVISIONS

Contents

Article 1

This Law shall regulate 44 the legal status and way of management with waters, water lands and coastal lands and water facilities; the terms and conditions for implementation of water management activities and other issues related to implementation of management with water and water good.

The funding of the water management tasks and activities shall be regulated under a separate law.

Application

Article 2

The provisions of this Law shall apply to:

- Surface and groundwater's and partly saline waters in mouths of the rivers that run into the sea;
- Mineral and thermal waters;
- Water good;
- Sources of drinking water in the territorial sea;
- Coastal waters protection from pollution from the land.

The Law is not applying for the extraction of minerals and thermals water for production of raw material and geothermal energy.

The Government of the Republic of Montenegro (hereinafter: The Government), at the proposal of the Ministry competent for water management (hereinafter: The Ministry) and as advised by the Ministry of Maritime Affairs, shall establish the boundaries between inland waters and coastal waters.

Main Principles of the Water Managements

Article 3

The main principles of management with water and water good shall be the following:

- Prevents deterioration and protects and enhances the status of aquatic

ecosystems, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystem;

- Ensures the good status of waters;
- Encourages economic and social development;
- Protects and improves the ecosystems through specific measures for the progressive reduction of pollutions of the priority hazardous substances;
- Promotes sustainable water use based on a long-term protection of available water resources;
- Ensures the progressive reduction of pollution of groundwater and prevents its further pollution;
- Contributes to mitigating the effects of floods and droughts;
- Contributes to the provision of the sufficient supply of good quality surface water and groundwater as needed for sustainable, balanced and equitable water use; a significant reduction in pollution of groundwater, the protection of territorial and coastal waters; achieving the objectives fixed by the relevant international agreements;
- Ensures public participation in making decisions related to waters;
- Creates the conditions for meeting international obligations in the area of waters;
- Prevents and resolves conflicts related to water use and water protection.

Water Activity

Article 4

The water activity is an activity of general interest for Republic of Montenegro (hereinafter: The Republic).

The water activity from paragraph 1 of this article shall imply: water management; provision of waters with long-term water quality and water source protection; protection of waters against pollution; regulation of waters and water currents; protection from waters.

Definitions

Article 5

For the purposes of this Law the following definitions shall be applied:

- 1) **Surface water** means all waters, excluding ground waters, transitional waters, partly saline waters and coastal waters;
- 2) **Ground water** means all waters which are below the surface of the ground;
- 3) **Inland water** means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;
- 4) **Potable or drinking water** means all water of suitable quality complying with the public health standards;
- 5) **Water intended for human consumption** means all water complying with quality standards regulated under special regulations;
- 6) **Mineral water** means all groundwater with natural mineral substance in quantity of one gram per liter;

- 7) **Thermal water** means all groundwater with natural raise temperature similar or higher then 20 degrees centigrade;
- 8) **Thermo-mineral water** means all thermal water with characteristics of mineral water;
- 9) **River** means a body of inland water flowing mostly on the surface of the land, but which may flow partly underground;
- 10) **Lake** means a body of standing inland surface water;
- 11) **Transitional waters** are bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows;
- 12) **Water current** means a riverbed including its banks and the permanent or periodical stream flow containing;
- 13) **Coastal water** means surface water on the landward side of a line, which every point is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of transitional waters;
- 14) **Artificial water body** means a body of surface water created by human activity;
- 15) **Heavily modified water body** means a body of surface water which as a result of physical alternations by human activity, is substantially changed in character, according to regulations;
- 16) **Body of surface water** means a discrete and territorially defined element of surface water such as a lake, a reservoir, a stream, river or canal, part of a stream, river or canal, transitional water or a stretch of coastal water;
- 17) **Bathing water** means all surface water body, or its section, intended for general use, and complying with the sanitary protection regulations;
- 18) **Aquifer** means a subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater;
- 19) **Body of groundwater** means a distinct volume of groundwater within an aquifer or aquifers;
- 20) **River basin** means the area of land from which the surface run-off flows through a sequence of streams, rivers and, possibly, lakes into the sea at a single river mouth, estuary or delta;
- 21) **River sub-basin** means the area of land from which the surface run-off flows through a series of streams, rivers and, possibly, lakes to a particular point in a watercourse (normally a lake or a river confluence);
- 22) **River basin district** means the area of land and sea, made up of one or more neighboring river basins or sub-basins on the territory of the Republic, together with their associated ground waters and coastal waters, which is identified as the main unit for river basin management;
- 23) **Low water bed (riverbed)** means a natural riverbed carrying low and medium water streams, i.e. plain perennially covered by the waters of natural lakes or other surface waters;

- 24) **High water bed** means a land area carrying high floodwaters of withdrawing character once in 100 years, i.e. a land area between constructed flood-protection facilities, and a land area carrying high flood lake or reservoir waters that may occur once in 100 years;
- 25) **Inundation plain** means a zone of land between a low water bed and the border (flood) line of the high water bed in an area with no flood-protection infrastructure in place (unregulated inundation plain), i.e. a land area between a low water bed and the outer foot of a flood protection facility including an area of land required for its maintenance (regulated inundation plain);
- 26) **Water regime** means a qualitative and quantitative status of ground and surface waters in a given area and for a given period;
- 27) **Water regime inflection** mean all inflections in water regime appeared by any natural or human activities;
- 28) **Bank** means a zone of land extending along a stream, lake, reservoir and other surface waters high water bed, up to 20 m wide, for the water in responsibility of the Republic, or up to 10 m wide, for the water in responsibility of Municipality, depending on the volume of stream, lake, reservoir and other surface waters and configuration of the terrain;
- 29) **Seashore** means a zone of land bordering with the sea, related at least six meters away from the highest waves line, unless otherwise defined by other law in order of sea property protection;
- 30) **Water land** means the riverbed including the bank of rivers, lakes, coastal water, reservoirs and other surface waters;
- 31) **Water balance** means a qualitative and quantitative ratio of the available and required surface and ground water within given period and for a given area;
- 32) **Guaranteed minimum flow** means the flow downstream from a structure ensuring the survival and development of downstream habitats and species;
- 33) **Minimum water flow** means the flow downstream from a structure or a dam which must not be under the projected value ensuring the survival and development of downstream habitats and species, preservation of the water flow quality in accordance with the regulations, and meeting the rational needs of the downstream users;
- 34) **Endangered land with erosion** means all land endangered by wind and water activity, affected by or subject to soil rain-washing, furrowing, undermining and sliding;
- 35) **Wetlands** means all area in which the ground water table is permanently or temporarily above the ground level, i.e. in which the ground water is in permanent or periodical connection with surface water or in which, due to its the geological structure, surface waters cannot sink into the earth;
- 36) **Surface water status** is the general expression of the status of a body of surface water, determined by the poorer of its ecological status and its chemical status;
- 37) **Good surface water status** means the status achieved by a surface

- water body when both its ecological status and its chemical status are at least "good" regarding compliance with the regulations;
- 38) **Groundwater status** is the general expression of the status of a body of groundwater, determined by the poorer of its quantitative status and its chemical status;
 - 39) **Good groundwater status** means the status (condition) achieved by a groundwater body when both its quantitative status and its chemical status are at least „good“ in terms of compliance with the regulations;
 - 40) **Quantitative status** is an expression of the degree to which a body of groundwater is affected by direct and indirect abstractions;
 - 41) **Good quantitative status** of a body of water means the status of water which is endangered for encroach ecological goals, which don't have influence at the redoubling status of water and which don't make damage to ecosystem;
 - 42) **Hazardous substances** means substances or groups of substances that are toxic, persistent and liable to bio-accumulate, and other substances or groups of substances which give rise to an equivalent level of concern, in accordance with the regulations;
 - 43) **Priority substances** mean the substances presenting a significant risk to or via the aquatic environment, in accordance with the special regulations;
 - 44) **Priority hazardous substances** mean the substances specified together with the applied measures under special regulations, in accordance with the international regulations;
 - 45) **Pollutant** means all substance liable to cause pollution of water, in particular those listed under special regulations;
 - 46) **Direct discharge to groundwater** means discharge of pollutants into groundwater without filtering through the soil or subsoil,
 - 47) **Pollution** means the direct or indirect introduction of substances or heat into the air, water or land which may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, which result in damage to material property, or which impair or interfere with amenities and other legitimate uses of the environment;
 - 48) **Wastewater** means the water whose physical, chemical or biological characteristics were altered as a result of human activity;
 - 49) **Ecological status** is an expression the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with the regulations;
 - 50) **Good ecological status** is the status of a body of surface water, so classified in accordance with the regulations;
 - 51) **Good ecological potential** is the status of a heavily modified or an artificial body of water, so classified in accordance with the regulations;
 - 52) **Ecosystems** mean aquatic, semi-aquatic and terrestrial ecosystems depending directly or indirectly on water;
 - 53) **Good surface water chemical status** means the chemical status required to meet the environmental objectives for surface waters

- established by the regulations, that is the chemical status achieved by a body of surface water in which concentrations of pollutants do not exceed the environmental quality standards;
- 54) **Good groundwater chemical status** is the chemical status of a body of groundwater which quality is in accordance with the regulation for quality of drinking water;
 - 55) **Emission limit value** is expressed through several specific parameters (including priority and priority hazardous substances) and the level of emission that must not be exceeded within any given period of time. The emission limit value for substances is measured at the exit point from a wastewater treatment plant. In case of indirect emission, the emission limit value of a plant is determined so to guarantee an appropriate level of environmental protection and not lead to any pollution increase;
 - 56) **Emission control** means controlling the required specific limits of pollutant emission (limit values of pollutant emission, other specific limits, conditions related to its effects, nature of the emission, other characteristics of the emission and the conditions that impact the emission);
 - 57) **Combined approach** means the control of discharges and emissions into surface waters based on "best available techniques". In the case of diffuse impacts the "best environmental practices" will be applied;
 - 58) **Water resources** mean all surface and ground water, by quantity and quality;
 - 59) **Available groundwater resources** mean average volume of total perennial renewable ground water, decreased by average perennial flow ensuring good ecological conditions for surface waters, in accordance with the regulations, in order to prevent any significant degradation of the ecological status of such waters and any significant degradation of riparian ecosystems;
 - 60) **Water source** means an area of land (a spring, a section of a river or lake, reservoir, or a part of a reservoir, an aquifer, of a part of an aquifer) used for the extraction of water for various users;
 - 61) **Protected areas** mean areas of land used or intended for abstraction of water for human consumption providing at least 10m³/day or serving more than 50 persons, including the sensitive watershed areas; areas susceptible to eutrophication or nitrates sensitive; areas designed for protection of economic imported aquatic sorts; areas for recreation and bathing; areas for conservation of natural habitats or sorts which need good quality of water for survival and reproduction;
 - 62) **Public water supply system** is a system comprised of a set of interconnected technical and sanitary facilities and equipment, constructed for the supply of sanitary safe water to the public and industry in urban settlements;
 - 63) **Regional water supply system** means water supply system that supplies water to two or more settlements in the territory of two or more municipalities;
 - 64) **Local water supply system** means water supply system that supplies

- water to the one or group's house or industry;
- 65) **Rural water supply system** means water supply system that supplies water to a rural settlement or a part of a rural settlement;
 - 66) **Public sewerage systems** is a system for household and industry wastewater collection, treatment and discharge and storm water drainage into the corresponding recipients;
 - 67) **Recipient** means all natural or artificial streams, lakes, reservoirs or lands that receive wastewater and storm water;
 - 68) **Groundwater research** means establishment of geological, hydrological, hydrodynamic, hydrologic, physical-chemical, biological and bacteriological characteristics research and water testing of aquifer;
 - 69) **River sediments** are permanent or temporary river/torrent sediments (sand, gravel, etc.) on the water land;
 - 70) **Materials in watercourses** mean gravel, sand, mud, plants and other similar natural or artificial materials that are removed from the streams or water property;
 - 71) **Water system** consists of functionally connected natural or artificial streams with the belonging water facilities (structures) in a given area;
 - 72) **Water information system** means a system for collection, processing and transmission of all required data in the area of waters, and public information;
 - 73) **Water service** means all services provided to citizens and to industry special: scooping, storage, treatment and distribution of surface and ground water; collection and treatment wastewater and its discharge in recipient;
 - 74) **Water rights** in terms of this Law mean the rights to special use of water goods or river sediments.

II WATERS AND WATER PROPERTY

Ownership, management and use of waters

Article 6

Waters, as a natural wealth and a public good, are owned by the State. Waters shall be used under the terms and conditions fixed by this Law.

Classification of Waters

Article 7

Waters diverged at the running and stagnant surface waters and the land and sea ground waters.

Running waters are all natural streams, such as torrents, streams, rivers, both permanent and periodical, and artificial streams – canals including those originating from relocation of natural streams or partial intake of stream or stagnant waters.

Stagnant waters are coastal waters, natural lakes, including those that dry up, fish ponds, bog, swamps and other water “collectors” (abandoned

exploitation fields, lateral retentions, etc.), with permanent or periodical recharge or discharge of running or ground waters.

Stagnant waters are also reservoirs of former running water captured by dam construction or other works in area.

Waters of importance for Republic and waters at the Local level

Article 8

In the territory of the Republic waters are classified in terms of importance or cross border impact as water on Republic and local importance.

The Government strengthened, at the proposal of the Ministry, the waters in terms of the importance for Republic.

Waters in terms of importance for Republic shall be registered in the register which shall kept governmental authority responsible for water management (hereinafter: The Competent authority of the State).

Waters at local levels shall be the smallest rivers and springs with capacity less than 30 liters per seconds in hydraulic minimum, if they didn't include in regional or public water supply and if water acts didn't issued competent authority of the State; waters which have its headwaters or flow at the territory of municipality; another water which didn't defend with the Article 2 of this Law.

Waters at local level shall be registered in the registers which shall be kept by local authority.

Water good

Article 9

Water good in terms of this Law includes the following:

- Natural and artificial water bodies;
- Water lands.
- Water lands from the paragraph 1 of this Article include the following:
 - Land area permanently or temporarily covered by water, resulting in special hydrological, geomorphologic and biological relations influencing aquatic and riparian ecosystems;
 - Land under running waters, including islands and riparian land until a major geomorphologic modification;
 - Water land under stagnant waters, including the strip of land abutting the stagnant water river bed up to the maximum water level recorded;
 - Dry river beds occasionally filled with water, wetland and occasionally flooded land by actions in space;
 - Regulated inundation area;
 - Land under and neighboring water facilities.

Water good is of public interest and it is used in accordance with the terms and conditions of the Law.

In terms of importance water good are classified on water good on Republic and local levels in accordance with the Article 8 of this Law.

Water land may be privately and State-owned in accordance with the Law.

Coastal Land

Article 10

For the purposes of this Law, coastal land include the zone used for the maintenance of protective facilities and high water beds and performance of other water management activities, up to 15 m wide, for water which is on Republic levels and up to 10 m wide, for water on local levels.

Exceptionally from the paragraph 1 of this Article, the Government may specify a different width of the riparian land zone if necessary for:

- 1) Protection of waters, aquatic and costal ecosystems;
- 2) Water regulation;
- 3) Protection of properties of special importance or capital projects;
- 4) Performance of other public activities in compliance with this Law;
- 5) Facilitating common use of water resources.

Delineation of Water goods

Article 11

The boundaries of water goods shall be specified by the competent authority of the State, or by the competent authority of the local government.

The markings and boundaries of the water good shall be recorded in the public real estate registry at the proposal of the competent authority under the paragraph 1 of this Article.

The definition and boundaries of water good shall be specified by the governmental regulation.

Use of the Water Good

Article 12

The water good shall be used for following:

- Construction of water infrastructure facilities;
- Measures related to improvement of hydro morphological and biological characteristics of surface waters;
- Environment protection measures;
- Construction of facilities for water use, safety of maritime traffic and bathing waters;
- Construction of facilities for the protection of waters against pollution;
- Construction of facilities for the defense and security of the state, protection and saving of people, animals or property;
- Other purposes regulated under this Law.

The Public Water Good

Article 13

The public water good may be:

- 1) Natural and;
- 2) Constructed.

The natural public water good includes water bodies and water land.

The constructed public water good is:

- 1) Water land resulting from relocation or regulation of natural streams, damming of running waters, exploitation of mineral resources and other actions in space;
- 2) A facility on the water land (canal, regulated bank, etc.).

The public water good is the property of the State.

The public water good shall not be subject to legal transactions. However, under the terms and conditions of this Law it may be subject to limited use (concession, tenure, etc.).

The competent authority of the State or the competent authority of the local government shall issue a legal act granting the water good under the Article 9 of this Law the status of public water good.

The natural and constructed public goods shall be registered in the public real estate registry, at the proposal of the competent authority from the paragraph 6 of this Article.

Water land which is not public water good

Article 14

The natural water good, in accordance with this Law, shall exclude water land in private property, if water at this water good is not connected with surface water and land for temporary stayed high waters.

Use of the Public Water Good

Article 15

A public good is common good and may be used under the terms and conditions stipulated by this Law in a manner that has no negative effect on waters and riparian ecosystems and limits no equal rights of others.

It's possible to get special right for use of water good beyond general use.

Any use of water good beyond general use, shall constitute a special use of waters and the water good and is subject to a concession agreement, water rights permit or consent of the relevant authority, in accordance with the law.

In order to protect waters, the population and assets against any adverse impacts of waters, the competent authority of the State or local competent authority, shall specify the areas of prohibited or limited general use of the public water good, i.e. the terms and conditions for use of the public water good in such area.

Any user of the constructed public good shall be liable for its regular maintenance, in order to preserve its use.

Termination of the Public Water Good Status

Article 16

A water land shall have its public good status terminated under the following conditions:

- If water land don't satisfy necessary conditions because of natural process or activity in space,
- If the competent body of the State defines the use of the given water good differently, in accordance with the law.

Decision about natural public good status termination under the paragraph 1of this Article issue competent authority of the State or local competent authority.

The public water good status shall be terminated in the public real estate registry, pursuant to the decision of competent authority under the paragraph 2 of this Article.

Pre-emption of Water Land

Article 17

The Republic or local governments shall have pre-emption rights on water land.

An owner intending to sell water land shall previously offer it for sale in writing to the Republic or local governments.

The offer under the paragraph 2 of this Article shall be submitted to the competent authority of the State or local governments and must include the water land details (cadastre lot number, area, crop, etc.), the price and other terms for sale.

If the authority to which the offer was made fails to declare the offer accepted within 30 days, the owner may sell the water land to others, but not under more favorable conditions for the buyer.

III WATER MANAGEMENT AND WATER FACILITIES

1. CONCEPT AND PRINCIPLES

Water Management Concept

Article 18

Management with water as a common good shall be provided in accordance with condition and manners of this Law.

Water and water good management comprises a set of activities and measures focusing on maintenance and improvement of the water regime in an integrated water system in a relevant area to ensure the necessary quantity of water of the required quality for various uses, protection of waters from pollution and protection against adverse impacts of waters, and shall be implemented in accordance with this Law.

The Republic shall be competent for the State waters and water good management.

Local governments shall be competent for local waters and water good management unless otherwise regulated by this Law.

Water Management Principles

Article 19

Waters and water good management shall be based on the following principles:

- 1) Irreplaceable character of water as a resource and a condition for survival - as a natural public good, water may be used exclusively so as not to endanger its substance and not to exclude its natural role;
- 2) Completeness – natural processes and water as their significant component, as well as the connections and interrelations between aquatic and riparian ecosystems must be respected;
- 3) Integrated water system – the need of integral water management in united water area in line with the development of the Republic and establishment of integrated water information system; respecting the international agreements with other countries in the river basin in area of sustainable water management;
- 4) Sustainable development whereby the needs of the present generations are met without threatening the possibility for the future generations to meet their needs;
- 5) Long term protection of water quality and sustainable use of the available water sources;
- 6) The right on protection against adverse impacts of water following the need to protect the population and their assets, respecting the laws of natural processes, protecting the natural values and economic justifications for the protection;
- 7) Economic valuation of waters that understands full recovery of costs of water production and treatment for different users, water regulation and protection against pollution based on the “user pays-polluter pays” principle;
- 8) Continuous water management because waters must be managed continuously on all levels of planning and at all stages of water regulation, use and protection;
- 9) Public participation in the processes of preparation and adoption of Water Management Plans;
- 10) Adoption of the best available technologies and new scientific developments related to the laws of nature.

2. TERRITORIAL BASES FOR WATER MANAGEMENT

Integrated Water District

Article 20

The territory of Montenegro shall constitute an integrated water district where no borders of administrative/territorial units may limit an integrated water management.

River Basin Districts

Article 21

For providing of integrate water management, with consideration of hydrographical characteristics, unitization and water regime connection, the territory of the Republic includes two river basin districts, as basic units of water management, as follows:

- 1) The Black Sea river basin district includes the following river basins: the Ibar, the Lim, the Cehotina, the Tara and the Piva;
- 2) The Adriatic Sea river basin district includes the following river basins: the Zeta, the Moraca, the Skadar Lake, the Bojana, the Trebisnjica and the coastal Montenegro sub-basins that flow directly into the Adriatic Sea.

Melioration Area

Article 22

For the purposes of this Law, melioration area represents a part of a water district under drainage systems ensuring faster and more adequate drainage of excess waters and supplied with water for irrigation.

The competent authority of the State shall identify melioration areas and their boundaries.

3. NATIONAL WATER MANAGEMENT PROGRAMME AND WATER MANAGEMENT PLANS

The Water Master Plan of the Republic

Article 23

A long-term national water management programme shall be determined in the Water Master Plan of the Republic (hereinafter: the Water Master Plan).

The Water Master Plan shall include in particular:

- 1) Assessment of the water resources and water regime status (deployment, reserves and properties of waters) in the Republic;
- 2) Review and assessment of current status of water facilities and systems;
- 3) Formulation of water management and sustainable development objectives, pertaining to water regulation, achievement of good status of waters, use of waters and timelines for implementation;
- 4) The conditions related to the effective legal and organizational regulations in the water sector;
- 5) Water requirements in all spheres of life and work in the Republic and the capacities to supply sufficient volumes of water of the required quality for various uses;
- 6) Consideration of conflicts of interests in the areas of use, regulation and protection of waters and water land against pollution and options for their resolution;
- 7) Necessary measures for preservation of the natural water balance and necessary measures for its reinstatement and improvement;
- 8) The strategy and conditions for maintenance and improvement of the water

balance to encourage an integrated and coordinated development of the water activity in the entire territory of the Republic;

- 9) The priorities to accomplish the objectives in water management and water balance improvement, in line with the sustainable development;
- 10) The bases for a water use plan;
- 11) The bases for a plan on protection of waters against pollution, including a strategy against water pollution;
- 12) The bases for a plan on protection against adverse impacts of water;
- 13) Water balance;
- 14) Strategy for international cooperation and implementation of international agreements pertaining to water management;
- 15) Economic and financial conditions and instruments for implementation of the objectives from this paragraph, section 3;
- 16) The main guidelines for monitoring and water management in the territory of the Republic information system;
- 17) Other aspects of importance for water management and water regime requirements.

The Water Master Plan shall be adopted by the Government, at the proposal of the Ministry.

The Water Master Plan shall be reviewed after 10 years of passing or reviewing.

The Water Management Plans and programs developed pursuant to this Law must be in accordance with the Water Master Plan.

Water Management Plan for a Water District or a Part of a Water District

Article 24

A Water Management Plan shall specify the water management elements for a specified area.

Water Management Plans, if required, may be adopted for river basins from the Article 21 of this Law, as parts of a water district.

Water Management Plans shall especially include the following:

- 1) General description of the area to be covered by the plan, including generation of maps indicating the locations and boundaries of bodies of surface waters, ecological regions and types of surface bodies of water as well as generation of maps indicating the locations and boundaries of ground waters;
- 2) Outline of the major impacts of anthropogenic activities on the status of surface and ground waters including an assessment of pollution resulting from concentrated and/or scattered pollutants, an overview of land use, an assessment of pressures upon the quantitative status of water and water abstraction;
- 3) Identification and mapping of river basins;
- 4) A map of the monitoring network and monitoring results that includes the status of surface waters (ecological and chemical) and ground waters

(chemical and quantitative) as well as protected areas and possible deviations pursuant;

- 5) List of environmental protection goals pertaining to surface waters, groundwater and protecting areas with reasons for possible deviations pursuant;
- 6) Water balance;
- 7) Identification of bodies of water used for water supply providing in average more than 10m³/day, or serving more than 50 persons, i.e. intended for such use;
- 8) Overview of the adopted programme of measures and procedures for implementation of the established goals in terms of protection against adverse impact of waters, protection of waters against pollution (including the protective measures of minor water treatment in drinking water production, prohibition and control of pollutant introduction, prohibition of direct pollutant discharge into the ground waters with exceptions, accidental pollution prevention, accidental pollution impact reduction, etc.) and use of waters (supply of drinking water and water for other uses, water intake and storage, including water use prohibitions, water pricing based on full recovery of costs, etc.);
- 9) Additional measures for achievement of the established environmental goals;
- 10) List of special Water Management Plans and programs for individual parts of river basins, specifics and types of watercourses and their contents;
- 11) Outline of economic analysis on use of waters and protection against an adverse impact of waters conducted in accordance with the principle «the user/polluter pays» with recommended optimal solutions;
- 12) Outline of fund-raising for implementation of the anticipated measures, including the possibility of no requirement for fund-raising for implementation of some measures;
- 13) Outline of implemented public information measures, their results and subsequent updating of plans;
- 14) List of competent institutions for water management, definition of their status, authorities and responsibilities;
- 15) Procedures for collection of fundamental documents and information, relevant for plan preparation;
- 16) Data on the adopted measures of control pertaining to concentrated sources of pollution and regulation of the status of waters in artificial and greatly modified bodies of water;
- 17) Overview of liabilities ensuing from international agreements in the area of water management and the procedures for their implementation;
- 18) Overview of measures necessary for implementation legislation for protection of water;
- 19) Principles of establishment of a water management information system for a river basin, i.e. river sub-basin.

The artificial and greatly modified bodies of water shall be determined in accordance with the Article 75, paragraph 6 of this law.

The Government, at the proposal of Ministry, shall adopt more detailed contents and procedures for development of the plan from the paragraph 3 of this Article.

Preparation and Adoption of Water Management Plans

Article 25

The Water Management Plans shall be adopted by the Government, at the proposal of Ministry.

The competent authority of the State shall prepare Water Management Plans for water areas and river basins.

Water Management Plans shall be reviewed after 6 years time of passing or reviewing.

Revision of Water Management Plans

Article 26

If any shortcomings are identified during implementation of the Water Management Plan or the circumstances upon which the plan is based significantly change, the plan shall be revised before the time limit from the Article 25, paragraph 3 of this Law, will expired, within six months from the day of problem identification, i.e. change of circumstances.

In addition to the information from the Article 24 of this Law, the revised plan from the paragraph 1 of this Article shall include:

- 1) Outline of all changes or updates of the plan from the start date of its implementation, including the exceptions specified for some water bodies;
- 2) Assessment of the progress made in meeting the objectives, including a mapped presentation of the results of monitoring activities;
- 3) Outline of the measures stipulated in the earlier plan that were not implemented including the reasons why;
- 4) Outline of the measures not stipulated in the earlier plan that were implemented to achieve the objectives of the Water Management Plan.

Exceptions

Article 27

If in the course of implementation of the Water Management Plan from the Article 24 of this Law, monitoring activities or other forms of supervision confirm that due to physical changes in an individual body of water caused by anthropological activity or natural causes, i.e. force majeure, the objectives pertaining to achievement of good status or good environmental potential cannot be met within the planned timeline or in the planned manner, the Government shall:

- 1) Investigate the possible causes that led to the given situation;
- 2) Competent authority of the State shall reconsider the valid permits and licenses issued in accordance with this Law;
- 3) Consider and update the monitoring programme and list of primary

objectives which is defined in Article 3, paragraph 24, section 4 and 5 of this law and give proposal for it's changes;

- 4) Adopt additional measures for achievement of the objectives.

Having conducted the procedure from the paragraph 1 of this Article, the Government may determine the following actions regarding individual bodies of water:

- 1) Extension of the timeline for achievement of the objectives, without aggravate existing status;
- 2) Retreat from the declared objectives;
- 3) Temporary postponement of the achievement of the good status or good ecological potential of waters, were caused by natural causes, i.e. force majeure, extremely flood or drought or accidental situations that could not have been foreseen;
- 4) Retreat from any additional measures if the poor chances for achievement of the planned objectives because of changes physical surface water characteristics or ground water levels or new activities in accordance with sustainable water management.

The eligible exceptions from the paragraph 2 of this Article shall be established and undertaken in accordance with environmental protection regulations and shall not threaten the fulfillment of the objectives pertaining to the achievement of the good status of water or good ecological potential of waters in other bodies of water within the same water district or catchments areas.

Water Management Plan shall establish condition for implementation measures from the paragraph 2 of this Article.

Special Plans

Article 28

If the Water Master Plan cannot be implemented under the Water Management Plans from the Article 24 of this Law, the Government, at the proposal of the Ministry, shall adopt a special Water Management Plan for specific watercourse categories of water management issues.

The competent authority of the State shall prepare the special Water Management Plan.

The plan from the paragraph 1 of this Article shall be in accordance with the Water Management Plan for the relevant river basin, i.e. water district.

The Government, at the proposal of the Ministry, shall adopt more detailed regulations on the contents of the plan from the paragraph 1 of this Article.

Strategic Environmental Impact Assessment

Article 29

The Water Master Plan and the Water Management Plans in the water district, i.e. part of the water district, shall be subject to the strategic environmental impact assessment.

The strategic assessment from the paragraph 1 of this Article shall comply with the regulations governing this area.

Public Participation in Preparation of the Plans

Article 30

The competent authority of the State shall ensure active participation of the public in the processes of preparation and adoption of the Water Management Plans by making them available for comments of the public and users, together with all materials of importance for development of the Water Management Plan.

The competent authority of the State shall notify the National Water Council in writing and stakeholders through the public media about the beginning of the drafting of the Water Management Plan.

The notification from the paragraph 2 of this Article shall be submitted at least three years before the beginning of the period covered by the plan, including the general contents of the plan, the timelines for its preparation and adoption, and the address of the relevant authority that can provide additional information or gave availability for inspection of relevant documentation.

The competent authority of the State shall inform the parties from the paragraph 2 of this Article about the status of the plan preparation, including a preliminary overview of significant elements for water management in the given water district at least two years before the beginning of the period covered by the plan.

The competent authority of the State shall be liable to publish the draft Water Management Plan in one printed public newspaper at least one year before the beginning of the period covered by the plan. The competent authority of the State shall also be liable to notify all stakeholders about any eventual preparations and drafting of a more detailed Water Management Plan.

Public Participation

Article 31

The parties from the Article 30, paragraph 2 of this Law may submit written comments on each public announced document from the Article 30, paragraphs 3, 4 and 5 of this Law within six months, and for the special Water Management Plan, within one month starting from the day of its disclosure.

The competent authority of the State shall consider the submitted comments within three months after the period from paragraph 1 of this Article and notify the submitter accordingly.

Programme of Measures

Article 32

Aiming at achievement of the environmental protection objectives specified in the Article 73 and 74 of this Law, in the Water Master Plan and Water Management Plans for water districts, the Government, at the proposal of the Ministry, shall adopt a programme of measures for each water district.

The programme from the paragraph 1 of this Article shall specify the following measures:

- 1) Water protection measures - measures established by this law and the subsequent regulations (measures stipulated under other laws related to health, protection of the environment, agriculture, fisheries, etc.);
- 2) Measures of water and watercourse regulation and protection against adverse impacts of waters (measures related to preservation of water quantity, improvement of hydro-morphological status of watercourses, aiming at achievement of good ecological status and good ecological potential, protection against floods, erosion, torrents and drainage, and deciding on the necessary degree of water facilities construction) including the priorities for implementation;
- 3) Measures for water use (conditions for use, rational and cost-effective use of waters, etc.).

Besides the measures from the paragraph 2 of this Article, a programme of measures may include some additional measures necessary for achievement of the good water status (mitigation of the negative impacts on waters, adequate use encouragement, rising of public awareness, scientific-research work).

The Government shall review and if necessary update the programme of measures every six years.

Preparation measure programmes from the paragraph 1 and 2 of this Article shall be prepared by the competent authority of the State.

Preparation measures from the paragraph 1 of this Article should not to have negative impact at the pollution see water.

Compliance of the Water Master Plans with Physica Planning Documentation

Article 33

The physical planning documentation shall include the areas under special protection (sensitive buffer zones around water supply sources and natural bathing sites) and endangered areas (flood and erosion prone), pursuant to the provisions of this Law. The physical planning documentation shall also include the water infrastructure facilities envisaged in the Water Management Plans, as well as the flood lines from the Article 96, paragraph 4 of this Law.

The terms and limitations specified in the Water Management Plan from the Article 24, paragraph 4 of this Law shall constitute the base for planning of the use for the area from the paragraph 1of this Article.

4. WATER FACILITIES AND SYSTEMS

Water Facilities, Systems and Water Infrastructure

Article 34

Water facilities and systems, in terms of this Law, shall include construction and other facilities or groups of such facilities together with the belonging

equipment that constitute a technical, i.e. technological whole and serve for water activity performance.

Water infrastructure shall consist of water facilities serving for watercourse regulation and protection against adverse impacts of waters, monitoring of waters, and also as natural or artificial water streams belonging to the water system.

The Ministry shall specify the water infrastructure in more details.

Classification of Water Facilities According to their Use

Article 35

In accordance with their use, water facilities are classified into:

- 1) Water facilities for use of waters;
- 2) Water facilities for wastewater collection, treatment and discharge and protection of waters against pollution;
- 3) Water facilities for protection against adverse impacts of water;
- 4) Water facilities for watercourse regulation;
- 5) Water facilities for drainage, and;
- 6) Water facilities for water monitoring.

Water facilities for use of waters serve for:

- Water supply to households and legal entities – water intake structures (wells, captions, abstractions from watercourses, canals, lakes and reservoirs, pump stations, etc.), treatment facilities for provision of drinking water, reservoirs, transmission pipelines and other belonging facilities;
- Irrigation – abstraction of water from watercourses, canals, lakes and reservoirs, small reservoirs, distribution system and other belonging facilities;
- Hydropower generation and other uses – dams and reservoirs, supply and drainage canals with the belonging facilities;
- Fish raising – fish ponds, cages for fish, conchs and other sea-foods;
- Navigation – navigable courses on natural and artificial streams, gates, and canal locks, ports, piers, marinas and other belonging facilities;
- Sport, recreation and tourism.

Water facilities for wastewater collection, treatment and discharge and protection of waters against pollution include: canals, public sewer works, collectors, wastewater treatment facilities and waste sludge treatment facilities, facilities for treatment of the percolating wastewater from the solid waste landfills, outlets into recipients and other belonging facilities and equipment.

Water facilities for protection against adverse impacts of water include: main, secondary and summer embankments with the belonging facilities (gates, pump stations), bank and protective walls, relief and lateral canals, as well as reservoirs and retentions with the belonging flood protection facilities, facilities for protection against erosion and torrents, and other facilities for protection against adverse impacts of waters.

An integral part of the flood protection embankments under the subparagraph 2 of the paragraph 1 above shall also be the buffer strip with forest

and protective vegetation (forest buffer) in the inundation plain, 50 m wide starting from the embankment, drainage canals parallel with the embankment in the protected area, 10 to 50 meters away from the foot of the embankment (depending of the characteristics of the flow and the facilities), as well as the service roads in the protected area used for implementation of flood protection.

Water facilities for watercourse regulation include: fortified banks, partitions, structures, cross structures and other facilities in the riverbed serving to its stabilization and improvement of the regime of flow, as well as artificial canals (channels or relocated riverbeds).

Water facilities for drainage (protection from groundwater highs and excess surface waters) include: the network of primary, secondary and tertiary drainage canals with the belonging facilities and equipment (drains, siphons, bridges, stairs, cascades, drainage pump stations, etc.), and pump stations and dams for water discharge from the system into natural and artificial watercourses.

Water facilities for monitoring of water (hydrological stations) include: instruments, equipment and facilities for protection in basic and subsidiary networks of hydrological stations.

The water facilities from the paragraph 1 of this Article may simultaneously serve multiple purposes – multipurpose water facilities.

The water facilities from the paragraph 1 of this Article shall be classified into categories according to their importance.

At the proposal of the Ministry, the Government shall adopt more detailed procedures on water facilities classification and delegation of water facilities management and maintenance authority.

Water Facilities Registration in the Public Real Estate Registry

Article 36

The water facilities from the Article 35 of this Law shall be registered in the public real estate registry.

Certificate of Compliance for Water Facilities

Article 37

Water facilities from the Article 35 of this Law, i.e. their parts whose proper functioning is the precondition for the safety of persons and property, must be tested by the competent institutions before their putting in operation and at the specified timelines during their operation, in compliance with the Regulations adopted by the Ministry.

Technical Inspection of Water Facilities

Article 38

Technical inspection of the water facilities from the Article 35 of this Law after the completion of their construction or reconstruction shall be conducted in compliance with the Law which regulates building of facilities.

The person appointed by the competent authority for water permitting shall

be a member of the Commission for technical inspection of the water facilities from the Article 35 of this Law.

5. WATER ACTIVITIES

5.1. Water Regulation and Use

Regulation of Streams

Article 39

Pursuant to this Law, water regulation means a set of measures and works intended for preservation and regulation of the volume of water to ensure:

- 1) Quantitative, spatial and time distribution of water for public and industrial supply;
- 2) Survival of aquatic and riparian ecosystems;
- 3) Increasing of the volume of water in streams in dry periods.

The types and scope of the water regulation measures and works from the paragraph 1 of this Article shall constitute an integral part of the Water Master Plan and Water Management Plan from the Articles 23 and 24 of this Law.

Water Use Manner and Condition

Article 40

Everyone is allowed to use water under the terms and conditions specified under this Law.

Water must be used rationally and economically. Every user shall use water so as to preserve the natural water balance and not limit the legal rights of other water users.

Use of Waters

Article 41

For the purposes of this Law, water use may be:

- 1) Abstraction, pumping and use of surface and ground waters for different purposes (drinking, sanitary and technological requirements, irrigation, natural and mineral water bottling, etc.);
- 2) Fisheries;
- 3) Power generation and other driving purposes;
- 4) Navigation;
- 5) Sport, tourism, bathing, recreation and balneoclimatology;
- 6) Use of thermal and mineral waters (excluding the ground waters that could be used for extraction of useful mineral resources and for geothermal energy);
- 7) Use of water for ecological and other purposes, in compliance with this Law.

General Use of Waters

Article 42

General water use implies the use of water without prior treatment, i.e. without use of special equipment (pumps, etc.) or construction of water facilities for:

- 1) Domestic uses (drinking, sanitary uses, cattle watering, etc.);
- 2) Bathing and recreation on surface waters;
- 3) Fire fighting and protection of persons and property;
- 4) Navigation.

The competent authority of the local government shall adopt the regulation regulating in more details the way and conditions for general use of water from the paragraph 1, sub-paragraphs 1 to 3 of this Article.

The terms and conditions for navigation shall be regulated under a special law.

Special Use of Waters and Water Good

Article 43

Any water use beyond general use shall constitute a special use subject to water rights, unless otherwise regulated under this Law.

Water rights from the paragraph 1 of this Article shall be granted through water licenses or concession agreements.

Terms for Special Water Use under Water Management Plans

Article 44

Water Management Plan may limit or prescribe special water use under special terms in case it:

- 1) Endangers public health and security;
- 2) Endangers the natural balance of aquatic and riparian ecosystems;
- 3) Considerably constricts general water use;
- 4) Affects water regulation and flood protection.

Temporary Limitation or Suspension of Water Rights

Article 45

The special water rights may be temporarily limited or suspended in case the supply of adequate water volumes or water quality is undermined, and the balance of aquatic and riparian ecosystems or safety from adverse impacts of water threatened.

The special water rights may be also temporarily limited or suspended in case of material damage of water infrastructure requiring reconstruction works, and in other cases that might result in the shortage of water or undermined safety from adverse impacts of waters.

The decision related to the limitations from the paragraphs 1 and 2 of this

Article shall be made by the relevant authority that granted the water license or water permit.

Decision on the Status of the Facilities upon the Water Rights Expiry

Article 46

Upon expiry of the water rights, the water rights holder shall be liable to remove the constructed facilities for the water rights implementation, at his expense within one year, unless a shorter time limit is specified for justifiable reasons by the water license, water permit or concession.

In case the facility is not removed within the time limit specified in the paragraph 1 of this Article, the competent authority for water rights permitting shall have it removed at the expense of the water rights holder.

If the facility from the paragraph 1 of this Article may be used for water quality protection, regulation and use of waters, protection against adverse impacts of waters, or preservation of ecosystems, the facility and the land under the facility shall become the property of the State.

The complaints can be filed against the decision from the paragraph 2 of this Article to the main administrator if local government makes a decision, i.e. to the Ministry if competent authority of the State makes a decision.

5.1.1. Water Use for Water Supply

Water Supply Priorities

Article 47

The use of water for the supply of drinking water to the population, country defense and water for sanitary use and livestock use, in the given priority order, over the use of water for other purposes.

The uses of water from the paragraph 1 of this Article, of the required degree, in the water source area shall have the priority over the use of water for the same purposes outside of the specified area for five years from the day of the request submit.

Water used or intended for water supply can't be used for other purposes if this use can have negative impact for quality or quantity of water for water supply.

Public or Individual Water Supply

Article 48

Water supply may be public or individual.

A local government shall be liable to organize and ensure public water supply in its territory to all settlements exceeding 200 inhabitants or with average annual water demand exceeding 100m³/day (1.16 l/s).

Public water supply to two or more local communities, i.e. settlements located in their territories, may be ensured through organization of regional water system.

For water supply to rural settlements and those that do not meet the criteria from the paragraph 2 of this Article, as well as to one or more households, shall be in accordance with regulation which adopt the local government.

The general terms and conditions for water supply facilities construction, use and maintenance and management shall be definite with regulation from the paragraph 4 of this Article.

Water Quality Regulation

Article 49

Water used or intended for drinking, food production and processing and for sanitary and hygiene purposes must comply with the quality standards specified under the classification of waters and other regulations.

Water Supply Activities

Article 50

For the purposes of this Law, water supply activities shall include:

- 1) Abstraction of ground and surface waters for drinking and other purposes;
- 2) Protection of water sources against pollution;
- 3) Water treatment (preparation) for drinking and other purposes in compliance with the health standards;
- 4) Water production metering;
- 5) Water supply to the point of consumption (i.e. reservoir or service connection to the municipal water supply system or network for distribution);
- 6) Water distribution to users.

A public or other water supply and sewerage enterprise (hereinafter: Water Supply and Wastewater Companies) registered in the commercial court central registry and that meets the conditions related to the technical-technological and staffing capacities may perform the water supply activities from the paragraph 1 of this Article, in accordance with the Law.

The Ministry related for communal services in cooperation with the Ministry, shall adopt more detailed regulations on compliance with the conditions from the paragraph 2 of this Article.

The competent authority of the State shall issue a certificate to the enterprise that meets the conditions from the paragraph 2 of this Article.

The complaints can be filed against the decision from the paragraph 4 of this Article to the Ministry.

Obligation to Control Water Quantity and Quality

Article 51

The water supply and wastewater companies shall:

- 1) Install the equipment to ensure continued and systematic recording of

- water volumes and water quality testing at the water intake point;
- 2) Implement the measures ensuring good quality of drinking water;
 - 3) Implement the measures ensuring good technical condition of the equipment.

The water supply and wastewater companies shall periodically deliver the data from the paragraph 1 of this Article to the competent authority of the State, to be entered into the information system.

The Ministry shall adopt more detailed regulations of manner and procedure recording of water volumes from the paragraph 1, point 1, of this Article.

The Ministry in charge of health, in cooperation with the Ministry in charge of environmental protection, shall adopt regulations on type, way and scope of water quality testing.

Water Quality Testing

Article 52

Testing of water quality for water supply and bathing shall be conducted at the water intake or bathing points, following an annual schedule prepared by Ministry, in accordance with opinion of the Ministry related for environmental protection and Ministry related for health.

The Ministry shall adopt the schedule from the paragraph 1 of this Article until December 31 for the following year.

The institution, i.e. other legal entity registered in the commercial court central registry for the performance of such activity and delegated under a separate act with the performance of such activities, shall conduct regular water quality testing from the paragraph 1 of this Article.

Tariffs for water quality testing shall be defined with contract between the legal entity registered for the performance of such activity and owner or user water supply facilities or facilities for recreation.

Regional Water Supply Sources

Article 53

Water sources used for regional water supply shall be the water sources of special importance for the Republic.

The Government shall identify the water sources from the paragraph 1 of this Article and their boundaries.

The water sources from the paragraph 1 of this Article shall be recorded in the public real estate registry, at the proposal of competent authority of the State.

Ensuring of the Guaranteed Minimum Flow

Article 54

In the course of the surface waters abstraction, the guaranteed minimum flow must be ensured downstream from the point of intake in a river.

The Ministry shall adopt a more detailed regulation on the procedures for

specifying the guaranteed minimum flow, considering needs for providing a good status of water.

Research Works at the Water Source

Article 55

Use of water from surface and ground water sources, besides the general use of waters regulated under this Law, may be permitted only subject to prior research works verifying the feasibility of its rational use, in compliance with this and other laws.

The research works from the paragraph 1 of this Article shall include assessment of water reserves, yield of water sources and water quality at the given water source.

The scope and type of research works shall be specified by the competent authority for water permitting, in case of groundwater sources, in accordance with opinion of the Ministry related for geology.

Water Source Protection

Article 56

Areas with surface or ground water sources used in accordance with planning documents or assigned for public water supply must be protected against deliberate or accidental pollution and other impacts that might adversely affect the yield of water sources and good water quality (sanitary protection zones).

The protection of surface or ground water sources shall be implemented in accordance with the decision on water source protection preceded by the research works.

The decision from the paragraph 2 of this Article shall be adopted by the competent authority for water permitting in cooperation with the Ministry related for health.

Sanitary Protection Zones

Article 57

Three sanitary protection zones shall be identified for sanitary protection of public water supply sources, i.e. wider protection zone, closer protection zone and the zone of immediate protection.

Sanitary protection zones for potential regional water supply sources shall be identified in the Water Master Plan.

Sanitary protection zones shall be delineated taking into account the hydrological, hydro-geological and other properties of the land and river basins districts and their use.

The sanitary protection zones identified under the decision on water source protection as well as the land area assigned for a sanitary protection zone for which no decision has still been adopted, shall be indicated in the Water Management Plans and special purpose physical plans related to those water

sources.

The Ministry shall adopt the decision on the sanitary protection zones maintenance and limitations in those zones, in cooperation with the Ministry of Health and Ministry of Environment Protection and for ground water sources Ministry related for geology.

Monitoring of Water Characteristics

Article 58

For the purposes of use and protection of the existing and potential surface and ground water sources, mandatory monitoring of qualitative and quantitative water parameters shall be conducted.

The competent hydro-meteorological authority shall monitor the parameters from the paragraph 1 of this Article.

Monitoring of the parameters from the paragraph 1 of this Article shall be conducted in accordance with an annual schedule adopted by the Government until December 31 of the current year, at the proposal of the Ministry.

The data from the paragraph 1 of this Article shall be public.

Obligations of the Research Works Contractors

Article 59

If in the course of mining drillings and research or execution of other works a water-bearing layer is discovered, except for the sub-surface water-bearing layer, the contractor shall immediately inform accordingly the competent authority of the State, the competent Ministry for geology and the competent Ministry of environmental protection, and shall undertake all measures to prevent the groundwater pollution.

If the discovered waters from the paragraph 1 of this Article will not be used immediately, the contractor shall close the borehole at his expense.

Wells and boreholes with free water outflow must have the equipment for regulation of outflow and protection against pollution installed.

5.1.2. Irrigation Water use

Implementation of Irrigation Rights

Article 60

Abstraction and use of surface and ground water for irrigation of agricultural and other land shall be conducted under the terms and conditions specified in the water license.

The owners, i.e. users of the irrigation system facilities shall bear the costs of their management and maintenance.

Irrigation Water Quality

Article 61

Water intended for irrigation of agricultural crops must comply with the prescribed quality standards.

The Ministry in charge of agriculture and the Ministry in charge of public health shall adopt a more detailed regulation on the quality parameters for water used for irrigation of agricultural land.

5.1.3 Water Power Use

Procedures for Exercising Water Power Rights

Article 62

The use of water powers for the generation of hydropower or for the operation of water powered equipment shall be conducted in accordance with water licenses and concession agreements.

In cases of water power use for operation of simple equipment and facilities used by one or several households and in case of certain rare occupations and activities of importance for the life of the people in rural areas (water abstraction for water supply purposes, operation of mills, sawmills, blacksmith shops, etc.), water power rights may be granted based on the water license.

Any decision on granting the waterpower rights shall be based on the principle of higher public interest (improvement of general life standard of people, environmental protection, protection of health, more rational use of waterpower, and etc.).

The Conditions for Construction of Facilities

Article 63

Construction and equipment for use of water power must be designed and constructed so as:

- 1) To facilitate return same quality water into streams or other surface waters after the energy is used;
- 2) Not to reduce the existing volume and not to constrain the water use for water supply, irrigation and other purposes, in compliance with this Law;
- 3) Not to reduce the level of protection against adverse impacts of waters and not to hinder the implementation of such protective measures;
- 4) Not to aggravate the sanitary protection conditions and not to affect the ecological status, and;
- 5) Not to damage the special international protection of streams or other surface waters.

In designing dams and reservoirs for the use of waterpower, it should be ensured, wherever that is possible, that they have a multipurpose use (flood protection, water supply, irrigation, augmentation of flow to improve water quality in dry period, and other purposes).

The Management and Use of facilities

Article 64

Water constructions for the use of waterpower from the article 35, paragraph 2, line 3 of this Law, are considered as facilities of interest for the Republic.

The water constructions from the paragraph 1 of this Article, owned by the Republic, shall be operated by a legal entity delegated with the operation of such facilities by the Government.

Water constructions for the use of waterpower constructed by legal entities and physical persons for their own needs are considered as facilities of their own interest and shall be operated by them.

5.1.4. Navigation Water Use

Article 65

Water is used for navigation under the terms and conditions of the Law.

The construction of water constructions in the function of navigation shall comply with the provisions of this Law.

The water facilities from the paragraph 2 of this Article are considered to be of interest for the Republic.

Projects for exploitation of river sediments must be harmonized with the navigation functions.

5.1.5 Fisheries Water Use

Article 66

Coldwater fisheries, on the top quality waters, may be constructed provided they do not endanger the functions of such waters as the water sources for the supply of settlements.

Hot water fisheries may be constructed in all locations on alluvial plains, excluding the locations of the existing ground water sources or the locations planned for ground water sources or for the construction of water constructions for flood protection and water protection.

The legal entities operating reservoirs and canals shall under equal conditions have priority in the assignment of such water bodies as fishing areas.

Fish stocking projects, fisheries and fishing must be adjusted to the conditions of the main function of the reservoir and other bodies of water.

5.1.6. Sports, Recreation and Tourism Water Use

Article 67

The terms and conditions for the use of reservoirs and other bodies of water for water sports, recreation and tourism shall be specified in the physical development plans of Republic, in the physical development plans for the special purpose areas and in the other planning documentation, in accordance with this Law.

The physical planning documentation from the paragraph 1 of this Article shall specify, in accordance with the purposes of the reservoir, other water bodies and their protection regime, the activities that are allowed in the water body zones, including the activities that exceed general use of waters (parking spaces, access ways to water and around lakes, beaches and sanitary equipment on beaches, allowed activities on water and on the water good area such as rafting, kayaking, sailing, and other uses related to the purpose of reservoirs and their protection regime), and that have to comply with the provisions of this Law.

5.1.7. Exploitation of River Sediments (Sand and Gravel)

Terms and Conditions for Exploitation of Sand and Gravel

Article 68

River sediment from renewable and non-renewable deposits may be exploited on the locations where such exploitation is of interest for the preservation and improvement of the water regime, and in the scope that will not endanger the water regime, the stability of banks and the natural balance of aquatic and riparian ecosystems.

The exploitation of river sediments from the renewable and non-renewable deposits shall be conducted in accordance with water no-objections and concession agreements.

Application for water no-objection shall be supported by the following:

- 1) River sediments exploitation project, prepared in keeping with river regulation project by competent authority of the State;
- 2) Agreement of the Ministry in charge of agriculture, for the exploitation of river sediments on agricultural land;
- 3) Agreement of the Ministry in charge of environmental protection for the exploitation of river sediments in national parks;
- 4) Copy of the plan for the plot, proof of ownership, i.e. use right for the concerned real estate property.

Terms and Conditions for Exploitation of River Sediments and Records of Exploitation

Article 69

Water no-objection for exploitation of river sediments may be issued to a legal entity or physical persons registered for performance of such activity, in compliance with the terms and conditions for performance of such activity.

Legal entities and physical persons involved in the exploitation of river sediments shall:

Maintain regular records of extracted river sediments by type and quantity;

Submit the data on the types and quantities of the extracted material to the competent authority of the State, i.e. the local government.

The Ministry shall specify in more detail the conditions for exploitation of river sediments to be met by the legal entities and physical persons, the contents of the record and the record keeping procedures from the paragraph 2 of this

Article, as well as the procedures for the submission of data.

Compensation for Damage

Article 70

In case the competent inspection body assesses that the legal entities and physical persons exploiting river sediments caused damage, they shall compensate it in compliance with the law.

The indemnity shall be used for the remediation of the conditions caused by damage.

Ban on Exploitation of River Sediments

Article 71

The exploitation of river sediments may be banned in case when the exploitation of sediments causes considerable disruptions of the water regime and when the exploitation of sediments may cause a disruption of the water regime or may have negative impact at water ecosystem.

The competent authority for water permitting shall adopt the decision on the ban from the paragraph 1 of this Article.

5.2. Water Protection

Rationale for Water Protection

Article 72

For the purposes of this Law, water protection means a set of measures and actions for preservation of the water quality, i.e. improvement of the water quality to an appropriate level so that it can be used for various purposes.

Protection against water pollution shall be implemented to ensure harmless an unobstructed water use, promotion of the public health, protection of flora and fauna and environmental protection.

Protection against water pollution shall be implemented through bans, limitations and prevention of input of dangerous and harmful substances into the water, prescription and implementation of other measures for water quality preservation and improvement.

Protection against water pollution shall be implemented through control and bans on river dam operation in case of adverse modification of watercourses in specific periods of the year.

Water Protection Goals in Fields of Environmental Protection

Article 73

For the purposes of this Law, water protection goals in fields of environmental protection shall:

- 1) for surface waters:
 - necessary measures to prevent deterioration of the status of all bodies of

- surface water;
- protect, enhance and restore all bodies of surface water;
 - achieving good surface water status for artificial and heavily modified bodies of water;
 - protect and enhance all artificial and heavily modified bodies of water, with the aim of achieving good ecological potential and good surface water chemical status;
 - acceleration of reducing pollution from priority substances and ceasing or phasing out emission, discharges and losses of priority hazardous substances;
- 2) for groundwater:
- the measures necessary to prevent or limit the input of pollutants into groundwater and prevent the deterioration of the status of all bodies of groundwater;
 - protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge of groundwater (protect of excessive exploitation), with the aim of achieving good groundwater status;
 - reduction of any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity in order progressively to reduce pollution of groundwater;
- 3) for protected areas:
- achieve compliance with any standards and objectives for the individual protected areas.

In cause the general act defends more goals from paragraph 1 of this Article will be apply measure for implementation strategic goals.

Measures for Protection against Water Pollution

Article 74

Protection against water pollution shall be implemented through:

- Organizational measures, including the monitoring of water quality and pollution sources, ban and limitation on intake of hazardous and dangerous substances in waters, ban on trading with substances dangerous for water if they can be substituted with more environmentally friendly products, etc.;
- Economic measures, implying water pollution fines exceeding the cost of water treatment;
- Technical and technological measures, implying wastewater treatment at the point of origin, as well as the introduction of cleaner production technologies;
- Water measures, implying the improvement of the regime and quality of small waters with special purpose discharge of clean water for the reservoirs, which is vital for the remediation of the damage caused by pollution accidents.

Classification and Categorization of Surface Waters

Article 75

Surface water is classified and surface water bodies are categorized for the purposes of the protection and improvement of the quality of surface waters.

The classification of waters includes general classification of waters and establishment of basic indicators and value limits for specific uses.

The classification of waters from the paragraph 2 of this Article shall be in accordance with their ecological and chemical status, and their ecological potential.

The categorization of surface water bodies implies their characterization in accordance with the quality that needs to be preserved, i.e. reached to achieve good water status.

The categories of surface water bodies, specified in compliance with the paragraph 4 of this Article, shall be indicated in the Water Management Plans.

A more detailed regulation on surface water classification and surface water bodies' categorization shall be adopted by the Government, at the proposal of the Ministry and with previous opinion of Ministry related for health and Ministry related for environmental protection.

Classification and Categorization of Ground Waters

Article 76

Ground waters are classified in accordance with their quantitative and chemical status for the purposes of the protection and improvement of the ground water quality.

A more detailed regulation on ground water classification shall be adopted by the Government, at the proposal of the Ministry and with previous opinion of the Ministry related for health and Ministry related for environmental protection.

The classification of ground waters from paragraph 2 of this Article shall be indicated in the Water Management Plan.

Plan for Protection against Water Pollution.

Article 77

Protection against water pollution shall be implemented in accordance with the plan for protection against water pollution.

The plan for protection against water pollution shall be prepared in compliance with the completed water categorization and classification from the Articles 75 and 76 of this Law and the strategy against water pollution from the Water Master Plan.

The plan for protection against water pollution shall include, in particular: measures for the prevention or limitation of intake of hazardous and dangerous substances into water, measures for the prevention and disposal of waste and other substances on the areas where it could have adverse effect on the water quality, measures for treatment of wastewater, measures for the prevention of the diffused pollution impacts, measures for the protection of aquatic ecosystems

and other ecosystems depending directly from aquatic ecosystems, procedures for the implementation of intervention measures in certain pollution cases, authorities and organizations responsible for the implementation of specific measure and works, the timelines for the reduction of water pollution, as well as the responsibilities and obligations for the implementation of water protection, the plan for the construction of wastewater treatment plants, including the supporting equipment, for at least 2.000 persons equivalent, as well as other necessary measures for water quality protection and improvement the combined approach for point and diffuse sources and other necessary measures for protection and enhancing of water quality.

The plan for protection against water pollution shall be adopted by the Government, at the proposal of the Ministry, for a period of six years.

The Operative Plan for Protection of Waters against Pollution Accidents

Article 78

Protection of waters in case of pollution accidents shall be conducted in accordance with the operative plan for protection of waters against pollution accidents.

The operative plan for protection of waters against pollution accidents shall include, in particular:

- Basic data of responsible persons, authorities, companies, institutions and other private persons responsible for the implementation of the protection;
- Actions for mitigation or elimination of possible adverse impacts on the water regime, water ecosystem, biota (?) and ambient.

The operative plan for protection of waters against pollution accidents for waters of state significance shall be prepared and implemented by the competent authority of the State and shall be adopted by the Ministry, and with previous opinion of the ministry related for environmental protection for a period of two years.

The operative plan for protection of waters against pollution accidents for local waters shall be prepared and implemented by the local governments, for a period of two years.

The operative plan from the paragraph 4 of this Article shall comply with the plan from the paragraph 3 of this Article.

Bans with the Aim of Water Quality Protection

Article 79

For the purposes of the protection of water quality, the bans are imposed on:

- 1) Intake of hazardous and dangerous substances in surface and ground waters that might aggravate the existing status, i.e. exceeding the prescribed water quality standards;
- 2) Intake of substances that might contaminate water or may cause siltation and salivation of water and settlement of sediments;

- 3) Use of fertilizers or herbicides on the riparian land, which may exceed a limit of prescribed standards surface water quality;
- 4) Discharge into the public sewerage system containing hazardous and dangerous substances that:
 - Exceed the prescribed standards,
 - Might have an adverse effect on the wastewater treatment possibility,
 - Might damage the sewer works and water treatment plants,
 - Might have an adverse effect on the health of the sewerage system maintenance workers;
- 5) Disposal of communal and other waste on water land, high river banks, slopes of river canyons, natural pits, valleys and other locations from where they may enter either surface or ground waters and cause water quality degradation;
- 6) Disposal of the substances the might contaminate water in the high water beds of natural and artificial streams and lakes, as well as on other lands;
- 7) Washing of motor vehicles, machines, equipment and appliances in surface waters and on water land.

The Ministry shall adopt a more detailed regulation on the sanitary technical conditions for the discharge of wastewater into recipients and into public sewerage system, with previous opinion of the Ministry related for environmental protection and Ministry related for health.

Obligation to Treat Wastewaters

Article 80

Legal entities and physical persons discharging or disposing substances that might contaminate water shall, before the discharge into the public sewerage system or other recipient, remove partially or completely such substances in compliance with the provision of this Law.

Legal entities discharging wastewater directly into recipients shall ensure the treatment of wastewater to comply with the standards specified in the regulations on effluents (emission).

For the purposes of ensuring wastewater treatment to comply with the standards specified in the regulation from the Article 79, paragraph 2 of this Law, companies and other legal entities discharging wastewater into the public sewerage system shall provide resources and specify timelines for the construction and putting in operation of equipment for such purposes.

For the purposes of ensuring wastewater treatment to comply with the standards specified in the regulation from the Article 79, paragraph 2 of this Law, the local governments, i.e. their water supply and wastewater utilities on the behalf of local governments, or another legal entity that operates the public sewer works in the community, shall make annual capital investments into the wastewater treatment facilities and equipment to the level designed under the facility construction plan, i.e. designed for wastewater treatment for at least 2, 000 equivalent inhabitants.

Obligation of Polluters

Article 81

In case of immediate threat of pollution or in case of pollution of surface and ground waters, the legal entities and physical persons shall undertake the necessary measures for the mitigation and remediation of the water pollution and shall plan the resources and timelines for their implementation and suffer damage.

The Ministry shall specify the elements for assessment of direct or indirect damages and necessary measures for their remediation.

In case the legal entities and physical persons fail to comply with the paragraph 1 from this Article, shall be provided by the competent authority of the State at the expense of the company or other persons responsible for the pollution, in compliance with the Law.

Operation of Facilities for Protection of Waters against Pollution

Article 82

Water facilities from the Article 35, paragraph 3 of this Law, constituting the facilities for collection, treatment, diverting and discharge of waste water and public facilities which are owned by the State, shall be of responsibility for the local governments.

The local governments shall delegate the authority for operation of such facilities from the paragraph 1 of this Article, to the enterprise that complies with the conditions of technical, technological, organizational and staffing capacity and is registered in the Court Registry for performance of the activities related to protection of waters against pollution.

The Ministry shall adopt a more detailed regulation about condition from the paragraph 2 of this Article.

The competent authority of the State shall define the fulfillment of the conditions from the paragraph 2 of this Article with the decision.

The complaints can be filed against the decision from the paragraph 4 of this Article to the Ministry.

Water facilities for protection of waters against pollution constructed for individual needs of legal entities and physical persons, pursuant to this Law, shall be of their interest and owned by them. Such facilities shall be operated and maintained in functional condition by the owners.

Systematic Water Quality Testing

Article 83

For the purposes of water quality status monitoring in accordance with the designed classification and categorization from the Articles 75 and 76 of this Law, systematic testing shall be conducted on the surface and ground water profiles in accordance with the annual schedule.

The systematic testing from the paragraph 1 of this Article shall be conducted by the Hydro-meteorological Authority of the State.

The Hydro-meteorological Authority of the State shall provide the results from the paragraph 1 of this Article for use to all interested legal entities and physical persons, free of charge.

The Hydro-meteorological Authority of the State shall prepare annual reports on the status and modification of water quality and shall submit it to the Ministry, the competent authority of the State, the Ministry in charge of public health, the Ministry in charge of environmental protection, and the Ministry in charge of geology, no later than by March 1 of the current year for the previous year.

The systematic water quality testing shall be conducted in accordance with the annual schedule adopted by the Ministry.

The program for the paragraph 5 of this Article including in particular:

- 1) Number and location of monitoring profiles;
- 2) Methodology and procedures for water quality testing;
- 3) Number, scope of work and conditions under which the testing is conducted;
- 4) Contents of the report on the results of water quality testing.

Measuring of Wastewater Volumes and Wastewater Quality Testing

Article 84

The companies, other legal entities and physical persons discharging wastewater into recipients and public sewerage systems, shall install the measuring equipment, measure the volumes and test the quality of wastewater and the impacts on the recipient, and shall submit the relevant data to the competent authority of the State.

The companies, other legal entities and physical persons possessing the wastewater treatment equipment and measuring equipment shall keep such equipment in order, ensure its regular functioning and shall keep the journal on the operation of the wastewater treatment equipment.

Upon obtaining the opinion of the ministry in charge of environmental protection and the Ministry in charge of public health, the Ministry shall adopt a more detailed regulation on methodology and procedures for wastewater quality testing, minimum number of tests, and the contents of the reports on the results of wastewater quality testing.

The Ministry shall adopt a more detailed regulation on the terms and procedures for measuring the volume of effluent discharged into the recipient.

Legal Entities Authorized for Water Quality Testing

Article 85

Legal entities may conduct specific types of surface and ground water quality testing (physical and chemical, microbiological, hydro-biological and radiological), as well as the wastewater quality testing, provided they fulfill the staffing, equipment, space, and other prescribed conditions, and are registered in the relevant registry.

Upon obtaining the opinion of the Ministry in charge of environmental

protection and the Ministry in charge of health, the Ministry shall adopt a more detailed regulation on eligibility conditions for the legal entities from the paragraph 1 of this Article.

The legal entities from the paragraph 1 of this Article shall submit to the Ministry, the competent authority of the State, the Ministry in charge of environmental protection, the Hydro-meteorological Authority of the Republic, monthly results of the testing, and shall submit notifications on water pollution accidents during the same day.

Obligations of the Hydro-Meteorological Authority of the State

Article 86

The Hydro-Meteorological Authority of the State shall, immediately after it becomes aware of any pollution accident, notify the Ministry, the competent authority of the State, the Ministry in charge of environmental protection and the local government competent for the area in which the pollution occurred.

The Hydro-Meteorological Authority of the State shall continuously monitor the movement of the accidental pollution wave along the stream, lake or the sea until the end of the pollution accident, and shall inform accordingly the parties specified in the paragraph 1 of this Article.

Protection of Streams from Contamination with Mineral Oils

Article 87

For the purposes of protecting streams from the impacts of pollution, it is prohibited to discharge from vessels or from banks or inside of water source zones: mineral oils that can directly or indirectly reach waters, mineral oils originating from any equipment for loading or unloading of freight on and from ships, as well as other substances directly originating from or linked to explorations, use and processing of mineral resources extracted from the river bed on the banks.

In extraordinary circumstances (force majeure, etc.), in case of sudden contamination of a stream with mineral oils, the relevant inspection authority shall inspect each case separately to identify whether all necessary measures for the prevention of pollution have been implemented.

For the purposes of this Law, mineral oil means: crude oil, petroleum, petrol, petroleum, diesel fuel, heating oil, lubricating oils and grease.

Equipment for collection oils waste, wastewaters and other waste materials

Article 88

The specified piers and ports shall install the necessary equipment to collect larger volumes of mineral oil waste, oil mixtures, wastewater and other waste from vessels, in accordance with this Law.

Condition for building facilities for collection, treatment and storing mineral oils

Article 89

Oil pipelines, connections from ships to the equipment on the banks, as well as the equipment for the collection, treatment and storage of mineral oils must be constructed and maintained so as to prevent discharge and spills of oil into the water.

Keeping a registry of oils for the vessel

Article 90

Owners, i.e. users of vessels shall keep a registry of oils for the vessel, as specified in the international and domestic regulation.

Obligation to Report Water Pollution

Article 91

Any citizen, owner, i.e. user of a stretch of a bank, captain of a vessel, and other responsible person on a vessel shall report immediately to the Ministry in charge of navigation, relevant inspection or policy any identified water pollution in a stream, lake or in the coastal waters.

5.3. Regulation of Steams and Protection against Adverse Impacts of Waters

5.3.1 Regulation of streams and other waters

Concept of Regulation of Streams and Other Waters

Article 92

For the purposes of this Law, regulation of streams and other waters shall include all construction and maintenance works in the riverbed and water good, river bank and riverbed stability preservation and other works that ensure controlled and harmless watercourse maintenance, i.e. maintenance of their water, ice and sediment capacities and their use, as well as construction and maintenance of water facilities and systems for various purposes.

Maintenance of Watercourses, Water Good and Water Facilities and Systems

Article 93

Maintenance of watercourses, water good and water facilities and systems shall include in particular:

- 1) Maintenance works in natural and artificial streams including cleaning, removal of sediments, partly deepening of the riverbed and modification of flow curves without any major impact on the riverbed course, etc.;

- 2) Earth and similar works on bank maintenance, earthworks in the inundation plain, vegetation cutting and mowing, reconstruction and maintenance of gates and transition parts;
- 3) Maintenance of water regulation and protective facilities: repairing, reinforcement and reconstruction of embankments, clearing, mowing and maintenance of the vegetation that protects the facilities, replacement of damaged parts of the facilities;
- 4) Maintenance of water facilities for melioration activities: cleaning, technical maintenance and vegetation maintenance of the facilities and a stretch of land next to the facilities, minor earthworks on modification of the network of canals, mitigation of curves and slopes, water drainage works, construction of gates and other facilities that constitute integral parts of the network of canals, their reconstruction and replacement.

5.3.2. Protection against Adverse Impacts of Waters

Works and Measures for the Protection against Adverse Impacts of Waters

Article 94

Protection against adverse impacts of waters shall include the works and measures for the protection against flood, protection against river erosion, protection against erosion caused by water, wind and torrents, drainage and the remediation of such impacts of water.

Endangered Areas

Article 95

For the purposes of protection against adverse impacts of waters, areas endangered by the following risks are identified:

- 1) Floods (hereinafter: flood areas);
- 2) Water and wind erosion (hereinafter: erosion areas).

Flood and erosion areas shall be registered in the public real estate registry.

Registration from the paragraph 2 of this Article shall be at the proposal of the competent authority of the State, i.e. the local government.

Flood areas

Article 96

For the purposes of this Law, flood areas mean water lands and other land areas periodically overflowed with water beyond water land, due to special circumstances.

Flood areas on state waters shall be identified by the Ministry and those on local waters by the relevant authority of the local government.

The flood areas from the paragraph 1 of this Article shall be specified taking into account natural potentials, potentially endangered population and assets, and possible damage caused by flood.

The boundaries of flood areas shall be drawn on the relevant topographic maps and physical development plans, and the cadastral plots in those zones shall be registered in the information system and in the public real estate registry.

Water areas classification

Article 97

The land on flood areas shall be classified in accordance with the level of risk (risk zones).

The classification shall be based on the maps of flood areas, indicating high water flood lines for different retreat periods.

The Ministry, in cooperation with the Ministry in charge of physical planning, shall specify the methodology and criteria for identification of endangered areas and the methodology for classification according to the level of risk (risk zones).

Land Exposed to Erosion and Torrent Stream

Article 98

Land exposed to erosion means the land whose surface is shaped by the action of water and wind resulting in washouts, ravines, furrows, land erosions and slides, as well as land prone to such impacts.

In addition to the land specified in the paragraph 1 of this Article, land under mining and industrial-tailing ponds is also considered as land exposed to erosion.

For the purposes of this Law, torrent streams mean temporary and permanent streams with sudden fluctuations in the water regime caused by precipitation, endangering the lives and health of the persons and their assets, as well as the ambiance properties.

Declaration of Erosion Areas

Article 99

Erosion areas shall be declared for the erosion-threatened land.

The local governments shall establish the erosion areas, terms and conditions for their use and the measures against erosion.

The methodology for declaring erosion areas shall be specified by the Ministry.

Plans for Protection against Adverse Impacts of Water

Article 100

Protection against adverse impacts of waters shall be organized and conducted in accordance with general and operating flood protection plans for state and local waters.

The general flood protection plan for a period of five years for state waters

shall be adopted by the Government at the proposal of Ministry and for local waters by the local governments, after consultation with the Ministry.

General flood protection plans shall include in particular: the works and measures undertaken for prevention and for flood protection in the period of imminent high waters; protection from erosion and torrents and remediation of damages caused by such water activity; the procedures for institutional organization of flood protection; duties, responsibilities and competencies of the flood protection managers, institutions and organizations, and other persons in charge of flood protection; the procedures for monitoring and data recording; flood warnings and information.

Operative flood protection plans for state waters shall be adopted by the Ministry, at the proposal of the competent authority of the State, and for local waters by the local governments, after consultation with the Ministry, for a period of one year.

Operative flood protection plans shall include in particular the information and measures necessary for the efficient implementation of flood protection, including the relevant water meters, the criteria for the announcement of regular and special flood protection, the names of the flood protection managers, flood protection headquarters, the name of the authority or company implementing flood protection and the resources for the operative implementation of flood protection.

The operative flood protection plan for state waters shall be adopted no later than by November 30, and for local waters no later than by December 15 of the current year for the following year.

Obligations of Legal Entities Using Accumulation and Retention Areas

Article 101

The companies or legal entities operating accumulation and retention basins shall maintain and use them so as to ensure flood wave retention.

The legal entities from the paragraph 1 of this Article shall prepare Operative Guidelines for management of the reservoirs for flood protection, and particularly for the multipurpose reservoirs.

The Ministry shall specify the contents of the Operative Guidelines.

The legal entities under from the paragraph 1 of this Article shall provide information about the status and utilization of the reservoir basin capacities to the competent authority of the State, the Hydro-Meteorological Authority of the State and the chief flood protection manager weekly outside of the active flood protection period, and daily during the period of regular and special flood protection.

Protection against Erosion and Torrents

Article 102

In order to prevent and eliminate the adverse impacts of erosion and torrents the following is implemented: special preventive measures, protective constructions are constructed and maintained, and protective works are

implemented.

Protective works include: construction and maintenance of protective water facilities (partitions, gates, bio-technical facilities, etc.) and the implementation of the protective works (forestation, perennial grass cultivation, terracing, riverbed dredging, and other similar works).

Construction of protective water facilities and implementation of protective works shall comply with the Water Management Plan.

Protection against Erosion and Torrents Responsibility

Article 103

Protection against erosion and torrents shall be the interest and responsibility of the local government.

Protection against erosion and torrents shall also be the responsibility of the owners and users of land in erosion areas.

The relevant authority of the local government shall specify in greater detail preventive measures and which of the activities specified in the Article 102, paragraph 1, and shall be the responsibility of the owners and users of land in erosion areas.

Construction and maintenance of protective facilities and implement protective works

Article 104

The companies, the legal or other entities that are the owners and users of land and facilities in erosion areas shall construct and maintain protective facilities and implement protective works in accordance with Law.

The physical persons who are the owners and users of land and facilities in erosion areas shall take care of the protective facilities; implement minor protective works, in accordance with Law.

The Ministry shall adopt more detailed regulation on the construction and maintenance of water facilities and the implementation of works for the protection against erosion and torrents.

Obligation to Implement Anti-Erosion Works and Measures

Article 105

The implementation of anti-erosion works and measures specified in the technical specifications shall be done before or simultaneously with the construction of reservoirs, melioration systems, communication lines, industrial and other important facilities, as well as the regulation of streams, in case the erosion processes are developed in the gravitating basins.

5.3.3. State Obligations for Protection against Adverse Impacts of Waters

Protection Measures and Scope

Article 106

For the purposes of the protection against adverse impacts of waters, the State and the local governments shall provide planning, construction, maintenance and operation of water facilities in the endangered areas.

The measures and works from the paragraph 1 of this Article may be also implemented outside of the endangered areas if that will result in mitigation of the adverse impacts of waters.

The measures and works from the paragraphs 1 and 2 of this Article must not exasperate the downstream conditions for the protection against negative water.

The scope and level of protection and the necessary measures and works from the paragraphs 1 and 2 of this Article shall be regulated under Water Management Plans.

The local government may organize the protection against adverse impacts of waters not covered under the paragraph 4 of this Article, independently or in cooperation with other legal entities or physical persons, under the terms specified by this Law.

Protection against Adverse impacts of Waters Facilities Ownership

Article 107

The State is the owner of the protective water facilities of importance for the State.

The protective water facilities exceptionally from the paragraph 1 of this Article constructed for individual needs of legal entities and physical persons shall be of their interest and owned by them.

Operation of Protective Water Facilities

Article 108

The obligation of the Republic to operate the protective water facilities of importance for the Republic shall be implemented by the competent authority of the State.

The operation of the protective water facilities of importance for the local government shall be the responsibility of the local government.

The operation of facilities from the Article 107, paragraph 2 of this Law shall be the responsibility of their owner or beneficiary.

Water facilities from paragraph 1, 2, and 3 of this Article shall be operated and maintained in functional condition by the owners.

Monitoring

Article 109

The competent administrative authority of State shall ensure monitoring (surveillance and measuring) of natural and other phenomena (waters, such as floods, torrents, erosion, etc.) relating to the protection of adverse impacts of waters.

The data from the paragraph 1 of this Article shall be public.

Remediation of Damages Caused by Adverse impacts of waters

Article 110

The remediation programme shall specify the necessary works for the remediation of the damages on water land, water bodies and water facilities, caused by adverse impacts of waters.

In case of damage on the water facilities in the state ownership caused by the activities of a legal entity or a physical person, the cost of remediation shall be borne by the legal entity or physical person.

In case the legal entity or physical person from the paragraph 2 of this Article fails to remedy the damage, the remediation shall be done by the competent authority of the State at the cost of such legal entity, i.e. physical person.

The remediation programme shall be prepared by the competent authority of the State or the local government, in compliance with the Water Management Plans, unless otherwise regulated by the Law.

Storm Water Protection

Article 111

The local governments shall be responsible for protection against the adverse impacts of storm water in urban settlements.

6. WATER ACTS AND OTHER WATER DOCUMENTATION

Water Acts

Article 112

To ensure integrated water regime and integral water management, aiming at equal access to waters by all persons, water acts shall regulate implementation of water condition and water rights.

The water acts include:

- 1) Water conditions;
- 2) Water no-objection;
- 3) Water license, and;
- 4) Water order.

Water acts must be issued in compliance with the Water Master Plan, Water Management Plan, and the relevant technical specifications.

The provisions of the law on general administrative procedure shall govern the procedure for the issuance of water acts.

The competent authority of the State shall decide on the complaints related to the water acts issued by the local governments.

The Ministry shall adopt more detailed regulation on: the form and contents of applications for water acts issuing, additional documentation, contents of the public announcement and procedures for issuing and keeping of water acts, except for concession.

General Contents of Water Acts

Article 113

Water act shall include in particular:

- 1) Personal details of the water right owner;
- 2) Description of location, type, scope and purpose of water use, wastewater discharge or other activity;
- 3) Beginning and end of the activity indicated in the water act;
- 4) Terms and conditions of the water right owner (for prevention or mitigation of negative impacts);
- 5) Costs of the procedure;
- 6) Condition which the water right owner need to carry out upon the water rights expiry;
- 7) Other the water right owner obligation, in accordance with this Law.

The Ministry shall regulate more detailed contents of the water acts.

6.1. Water Conditions

Obtaining Water Conditions

Article 114

In the course of preparation of the technical specifications for construction of new and reconstruction of the existing facilities, implementation of geological explorations, and other works that might permanently, periodically, or temporarily alter the water regime, the investor shall be obligated to obtain water conditions.

Water conditions are not required in case of:

- Use of water that does not exceed the scope of general use of waters;
- When new or reconstructed housing, or smaller business and other buildings (constructed in compliance with the relevant urban development or physical development plan) are connected to the public water and sewer works, and the water is used strictly for drinking and sanitary purposes;
- Construction of wells in aquifers for the supply of drinking water to one household, on its land, whereby the right of higher priority of another user is not threatened, in compliance with the law;

- Use of water for fire fighting;
- Use of water for the protection of land;
- Use of flood and inundation areas as pastures, meadows or cultivated land.

The validity of water conditions shall expire after one year from their issuance, if no application for water no-objection is submitted within that period. A concession agreement may specify shorter validity of water conditions.

Facilities and Activities Subject to Water Conditions

Article 115

Water conditions shall be obtained for development of technical specifications for the following works and facilities:

- 1) Dams and reservoirs;
- 2) Regional and public water supply systems, bottling water facilities, facilities for filling foreign tank with water, water diverting or taking for the selling, whereby the facilities is not part the point 26 of this paragraph;
- 3) Treatment facilities for human use, including facilities for reversible osmosis;
- 4) Regional multipurpose hydro systems;
- 5) Hydroelectric power stations, steam power plants, and mines;
- 6) Abstraction and bringing up water to the facilities specified in the Article 116, paragraph 1 of this Law from surface and ground waters;
- 7) Facilities specified in the Article 116, paragraph 1of this Law whose wastewater is discharged into surface waters or public sewer works;
- 8) Regional and public sewerage system;
- 9) Main and regional roads and railways and bridges over 15m, airports, canal locks, navigable watercourses, ports, marinas, and piers;
- 10) Hazard waste landfill and landfill for one or more municipalities;
- 11) Regulation of streams and construction of protective water facilities for state waters;
- 12) Long-distance power line, telephone and cable lines and optical cables;
- 13) Drainage systems for atmospheric waters;
- 14) Main oil pipeline and gas line and sub-surface and surface storage facilities for oil and oil products and other hazardous substances, including petrol stations and storage facilities;
- 15) Mining, geological and hydro-geological exploration and exploitation works and facilities;
- 16) Storage of substances that might contaminate water on the banks;
- 17) Flushing of reservoir lakes or cleaning of sediments from the reservoir lakes, ports and marines ;
- 18) Development of physical development (Republic-wide and municipal) and urban development (general and regulation) plans;
- 19) Forest management master plans;
- 20) Exploitation and depositing of river sediments on water land such as sand, gravel, stones and other materials from streams, sandbars, river alluviums, and from the banks of natural streams, natural and artificial reservoirs, seas

and the areas exposed to erosion, as well as for exploitation of clay for industrial production of bricks and tiles, peat for horticulture, and opening of quarries for construction industry purposes, including re-cultivation of exploitation fields and the immediate surroundings after the exploitation is terminated;

- 21) Artificial recharge of aquifers;
- 22) Construction and filling of drilled pits, as well as other boreholes for mining, geological and other works;
- 23) Fish ponds, cages for fish, conchs and other sea-foods;
- 24) Drainage and irrigation systems;
- 25) Watercourse regulation and construction of water facilities for protection against adverse impacts of water for local waters;
- 26) Rural and local water works;
- 27) Abstraction and bringing up water to the facilities specified in the Article 116, paragraph 2, of this Law from surface and ground waters;
- 28) Facilities specified in the Article 116, paragraph 1 of this Law whose wastewater is discharged into surface waters or ground waters;
- 29) Septic tanks and other facilities for collection, treatment and discharge of waste water;
- 30) Landfill for non hazardous waste;
- 31) Local, an category or forest roads and bridges over 15m;
- 32) Underground communal or electric distance power line or telephone network;
- 33) Development of physical and urban development plans at the municipal level;
- 34) plantation of trees and shrubbery and their extraction in high water beds and on the banks;
- 35) Alteration of the cadastral crops on the land in the areas exposed to erosion;
- 36) Water mills and floating structures;
- 37) Other facilities and works that might temporarily, periodically or permanently alter the water regime or that might be affected by the water regime.

Facilities which can have significant impact at the water pollution

Article 116

The facilities from the Article 115, paragraph 1, points 6 and 7 shall include:

- 1) Facilities for the generation and use of nuclear energy;
- 2) Base and chemical industry, and ferrous and non-ferrous metallurgy facilities;
- 3) Facilities for the production and processing of oil and gas;
- 4) Facilities for the generation of heath and energy;
- 5) Facilities for the production, processing, and enrichment of mineral ores;
- 6) Facilities for wood processing and the production of cellulose and paper;
- 7) Facilities for the production and processing of construction materials, glass

- and stone;
- 8) Facilities for the processing of textile, leather and fur;
 - 9) Facilities for the production of mineral and synthetic oils;
 - 10) Shipyards;
 - 11) Facilities for the processing of foodstuffs; including salt works;
 - 12) Dairy factories, farms and slaughterhouses;
 - 13) Printing offices and workshops;
 - 14) Motor vehicle club and transport companies repair shops;
 - 15) Plants for galvanization and formulation of chemical substances;
 - 16) Laboratories;
 - 17) Health centres;
 - 18) Workshops for the processing of plastic;
 - 19) Bus and railway stations;
 - 20) Concrete and asphalt bases;
 - 21) Local boiler rooms with steam distribution installations.

The facilities from the Article 115, paragraph 1, points 27 and 28 shall include:

- 1) Craft shops, exclude plants for galvanization and formulation of chemical substances;
- 2) Motor vehicle repair shops and washing services, exclude repairing services for motor vehicle club and transport companies;
- 3) Trade facilities and hotels or restaurants, including hotels or restaurants at ships;
- 4) Centres for recreation;
- 5) Other facilities with impact on the water regime.

Responsibility for Water Condition obtaining

Article 117

The water conditions from the Article 115, paragraph 1, points 1) to 22) and for fish ponds, cages for fish, conchs and other sea-foods areas bigger then 1 hectare and drainage and irrigation systems bigger then 20 hectare, shall be issued by the competent authority of the State.

The water conditions for facilities and works from the Article 115, paragraph 1, point 25) to 36) of this Law and for fish ponds, cages for fish, conchs and other sea-foods areas lower than 1 hectare and drainage and irrigation systems smaller then 20 hectare, shall be issued by the competent authority of the local government.

The water conditions from the Article 115, paragraph 1, point 37), shall be issued by the local government authority, i.e. the competent authority of the State, for the facilities whose impact exceeds the boundaries of the territory of the local government

Prior to the issuance of water conditions the competent authority of the State, i.e. local government shall obtain the opinions of:

- Hydro-Meteorological Authority of the Republic for the facilities and works specified in the paragraphs 1 and 3 of this Article for the facilities whose

- impact exceeds the boundaries of the territory of the local government;
- Ministry in charge of health for the facilities and works specified in the Article 115, paragraphs 1, points 1 (for water accumulation), 2, 3, 6, 7, 8, 10, 14, 16, 21, 22, 23, 24, 26 and 29 of this Law;
 - Ministry in charge of geology for the ground waters facilities and works specified in the Article 115, paragraphs 1, points 6, 15 and 21 of this Law;
 - Ministry in charge of environment for the facilities and works specified in the Article 115, paragraphs 1, points 1, 2, 3, 5, 7, 8, 9, 10, 12, 14, 16, 20 and 23 of this Law;
 - Sea good management public company for the facilities and works specified in the Article 115, paragraphs 1 at the area of sea good,

Prior to the issuance of water conditions for the facilities and works the competent authority of the State may exempt the investor from the obligation to submit the opinion of the relevant authority of the local government, professional organization or institution, other relevant authorities.

Prior to the issuance of water conditions the competence local authority may order the investor to obtain an opinion of the competent authority of the State, the Hydro-Meteorological Authority of the State, specialized professional organization or institution, or other relevant authority or local community, unless otherwise regulated by the Law.

The expense for the obtaining opinions from the paragraph 4 of this Article shall be paid by the investor.

6.2. Water No-objection

Obtaining of Water No-Objection

Article 118

The investor shall be obligated to obtain water no-objection prior to the start of the construction of new and reconstruction of the existing facilities and plants, and implementation of other works for which is necessary provide water condition.

Water no-objection shall verify compliance of the technical specifications for the facilities and works specified in the Article 115 of this Law with the issued water conditions.

The authority that originally issued the water conditions shall issue the water no-objection from the paragraph1 of this Article.

Transfer Water No-Objection and Validity

Article 119

The right acquired in accordance with the water no-objection cannot be transferred to other parties without the consent of the authority that originally issued the water no-objection.

Water no-objection shall fix a validity, depending of the nature, complexity and scope of the construction or reconstruction works and facilities, i.e. other works without obtaining water conditions and if an application for construction

permit is not submitted within that period (if the construction permit is necessary) and depend of the contract conditions.

The water no-objection may specify longer validity then two years from its issuance, i.e. from the validity of construction permit.

Exceptionally from the provision from the paragraph 3 of this Article, the water no-objection validity may be prolonged for the construction or reconstruction works and facilities, i.e. other works without obtaining construction permit (if construction permit is not necessary), but within two years. In this case the investor has to provide evidence that he will finish at least on third of works before expiration of water no-objection.

6.3. Water License

Obtaining of Water License

Article 120

To use the facilities and plants for which the water no-objection was issued, the investor shall obtain a water license verifying that the facilities and plants were constructed in accordance with the water no-objection.

The water license shall specify the terms and conditions, and the scope for water use and discharge of wastewater, the terms and conditions for storage and discharge of hazardous and other substances that might contaminate water, as well as the terms and conditions for other actions with impact on the water regime.

Water license shall be issued by the authority that has originally issued the water no-objection, on the basis of expert report, the report of commission or scientific institution, appointed by the authority depending on the complexity of the case.

Water license shall be issued for a limited period of time that shall not exceed 10 years.

Exceptionally from the provision of the paragraph 4 of this Article, for the water license for the use of reservoirs for generation of electric power, the period shall not exceed 30 years.

Transfer The Right Acquired in Accordance With the Water License and Extension of the Water License Validity

Article 121

The right acquired in accordance with the water license cannot be transferred to other parties without the consent of the authority that originally issued the water license.

Applications for an extension of the water license shall be submitted no later than two months prior to the expiry of the water license.

Water license may be issued, i.e. it shall be extended only to the companies, other legal entities and physical persons that have equipment for measuring and regular use it.

Activities Not Requiring Water License

Article 122

Water license is not required for:

- Use of water from the public water supply system;
- Maintenance of natural and artificial streams (without material alterations of the riverbed route) and inundation areas for the protection of the capacity, regulations and protective facilities;
- Discharge of wastewaters from households and industry that discharge water used for drinking and sanitary purposes into the public sewer system.

The owners, i.e. users of land may, without obtaining a water permit, if that endanger priority over others, for their household purposes uses:

- Storm waters collected on their land;
- Spring water originating from the springs on their land, provided it does not flow outside the boundaries of their land;
- Ground waters on their land, from aquifers.

Water License Validity for the Water Use in Accordance With Concession Agreement

Article 123

For the water use in accordance with concession agreements, signed for a period of 10 years, the water license specified in Article 120 of this Law shall be valid for the duration of the concession.

In the case the concession is granted for a period of more than 10 years, after the expiry of a period from the paragraph 1 of this Article, a decision needs to be obtained for the extension of the water license.

Water License Termination

Article 124

The right acquired in accordance with the water license shall be terminated:

- 1) Upon expiry of the water license;
- 2) If the water license holder waves the right ensuing from the water license;
- 3) If the right ensuing from the water license is not used without a justified reason for a period of more than one year, i.e. for shortest period in accordance with concession agreements, the water license or with regulation;
- 4) End of activity that obtain water license;
- 5) If the user not obey water license conditions;
- 6) Delete the water license holder from the commercial court central registry.

The decision on the termination of the right from the paragraph 1, point 3, 4, 5 and 6 of this Article shall be adopted by the authority that originally issued the water license.

Complaints against the decision from the paragraph 2 of this Article may be filed to the competent authority from the Article 112, paragraph 5 of this Law.

Usage permit

Article 125

Usage permit for facilities and plants cannot be issued without the previously obtained water license.

Exceptionally from the provision of the paragraph 1 of this Article, for: the regulation of streams, the construction of embankments, long-distance power lines, main and regional roads, railways, main oil pipelines and gas lines, telephone and cable lines and optical cables, bridges, the plantation of trees and shrubbery in the high waters beds and on the banks, usage permit may be issued based on the previously obtained certificate of the compliance with the conditions from the water no-objection.

The authority originally issued the water no-objection shall issue the certificate from the paragraph 2 of this Article.

6.4. Water Order

Obtaining of Water Order

Article 126

For the purposes of eliminating the danger of the imminent or existent disruptions, as well as to achieve the status complying with the condition of the water license, water order shall specify the obligations of the water license holders to carry out the specified activity within the specified timeline, i.e. to refrain from the activity.

The water order shall be under the competence of the authority that originally issued the water license.

Complaints against the water order shall not defer the execution of the water order.

6.5. Water Documentation

Contents and Keeping of Water Documentation

Article 127

Water documentation shall include: water book, register, technical manuals on the water system operation and exploitation regime, water cadastres and the registry of concession agreements on the water good and water facilities and systems.

The republic-level water documentation shall be kept by the competent authority of the State, as an integrated data registry.

The authority of the local government shall submit to the competent authority of the State the data for the registry from the paragraph 2 of this Article.

Water Book

Article 128

The water book is a registry of all issued water acts.

The relevant authority shall register all issued water acts specified in Article 112 of this Law in the water book, as described in the law.

A more detailed regulation on the form, contents and record keeping procedures for the water book shall be specified by the Ministry.

Technical Manual on Water Systems Operation and Exploitation Regime

Article 129

The technical manual on water systems operation and exploitation regime is prepared for water systems.

The technical manual from the paragraph 1 of this Article shall be kept in a special registry in the competent authority of the State.

The technical manual may be revised in the course of the operation and exploitation of the system, if:

- 1) It is concluded that the original manual cannot provide the rational operation and exploitation regime;
- 2) The revisions would improve the conditions for the operation and exploitation.

The revisions of the technical manual shall be registered in the registry from the paragraph 2 of this Article.

The approval for revisions of the technical manual shall be obtained by the authority originally issued the water license.

Water Cadastres

Article 130

Water cadastres are maintained to provide the data vital for water management, i.e. water use, protection of waters and protection against adverse impacts of waters.

Water cadastres are:

- 1) Water good cadastre;
- 2) Endangered areas cadastre;
- 3) Water facilities and systems cadastre;
- 4) Water use cadastre;
- 5) Polluters cadastre;
- 6) Technical documentation cadastre.

The water cadastres from the paragraph 2 of this Article shall be kept by specific areas within the water activities.

The data for the cadastres shall be provided to the competent authority of the State also by the companies, other legal entities and physical persons that have constructed with their own resources the water facilities specified in Article 35 of this Law.

The cadastres from the paragraph 2 of this Article constitute the integral parts of the information system specified in the Article 159 of this Law.

Contents and Keeping of Water Cadastres

Article 131

The water good cadastre shall include the information about the surface and ground waters, water land, and the exploitation of river sediments from streams and riparian lands.

The endangered areas cadastre shall include the information on flood zones, risk zones in the erosive areas, and damages caused in the endangered areas.

The water facilities and systems cadastre shall include the information about specific types of facilities and systems, specified by their use.

The water use cadastre shall include the information about the water sources and water users, volumes and quality of water abstracted for specific uses.

The polluters' cadastre shall include the information about the water pollution sources by type, quantity and recipient.

The technical documentation cadastre shall include the information about the documentation, such as: documentation level, designer, year of preparation, investor, value of the facility, place where the documentation is kept and other information.

A more detail regulation on the contents and the procedures for management of the cadastres from this Article shall be adopted by the Ministry.

The data from the cadastres shall be public.

Registry of Concession Agreements

Article 132

The registry of concession agreements related to the water good, water facilities and systems shall include the information from the concession agreements of importance for water management.

The records from the paragraph 1 of this Article shall be kept in the information system from the Article 159 of this Law.

The data from the registry of concession agreements shall be public.

IV WATER AND WATER GOOD CONCESSIONS

Purposes of the concession

Article 133

For the purposes of the improvement of the water systems, i.e. ensuring more efficient use of the water based on the long-term protection of available water resource and regular, economic and effective use of water good and provision of financing for development of water sector, shall be given a concession.

The public water good shall be acquired in accordance with the procedures and as described in the regulations on concessions, unless otherwise regulated by this Law.

Object of the Concession in the Public Water Good

Article 134

In the public water sector, the object of concession may be:

- 1) Use of water for the public water supply serving the settlements with more than 200 inhabitants;
- 2) Use of water for the production of beverages;
- 3) Use of water for drinking water bottling, for filling foreign tank with water, water diverting or taking for the selling;
- 4) Use of water power for generation of electricity and operation of plants;
- 5) Use of water by legal entities for technological and similar purposes of legal persons in the quantity of more than 86 m³ per day;
- 6) Pumping of ground waters in the quantity of more than 86 m³ per day;
- 7) Abstraction of water for irrigation of agricultural land in the quantity of more than 175 m³ per day;
- 8) Water for fisheries for commercial and other purposes;
- 9) Exploitation of river sediments, in the quantity of more than 100 m³ of sediment.

Facilities and Works for which Concession is not required

Article 135

Exceptionally from the provisions of the Articles 133 and 134 of this Law, concession is not required for implementation of works and the construction of facilities in accordance with the plans of the relevant institutions managing the public water good in a certain area, if the investors for such investments and contractors are the public enterprises.

Decision on Granting and Termination the Concessions

Article 136

The Government shall decide, at the proposal of the competent authority of the State and based on the opinion of the Ministry, on granting and termination the concessions for the construction, maintenance, and use of water facilities of importance for the State and the use of the public water good.

The proposal on granting the concession for use of water power for electric power generation shall be submitted by the competent authority for energetic, in cooperation with competent authority of the State and the Ministry.

For the construction, maintenance and use of water facilities of local importance, the decision on granting and termination the concessions shall be given by the relevant authority of the local government, subject to the prior consent of the competent authority of the State.

Concessionaire Rights and Obligation

Article 137

In addition to the contents stipulated by the law on concessions, the concession agreement for the use of the public water good shall stipulate the obligation of the concessionaire pertaining to:

- 1) Relations with other water and land users;
- 2) Maintenance of the water regime in the stream and on riparian land;
- 3) Preservation of aquatic and riparian ecosystems;
- 4) Addressing the social issues related to the implementation of the works or the construction of water constructions that are the object of concession;
- 5) Minimize the environmental impact of the works and water constructions that are the object of concession.

Concession Termination

Article 138

The concessions for the use of the public water good shall be terminated:

- 1) Upon ending of activity that obtain concessions;
- 2) If the competent authority of the State prohibits in effect decision the concessions activity;
- 3) Upon Deleting from the commercial court central registry;
- 4) If the concessions activity in continuity endangers life and health of people and environment, that have impact at big disturbance and measures under special regulation is not sufficiently;
- 5) Upon expiry of the concessions;
- 6) Depriving of a concession and breaking of a contract;
- 7) If the reason fixing in concession agreement is come;
- 8) By agreement.

Depriving of Concession

Article 139

The concessions shall be deprived in the following cases:

- 1) Continually for two or periodically for three month non-payment of concession taxis;
- 2) If concessionaire more then twice violate the regulation related to use of water in concession, except for violation regulated by mandatory penalty;
- 3) Not removed defect in period defined in the decision of competence inspection;
- 4) If concessionaire doesn't adopt the scope and method used of waters to the water regime change, in accordance with the decision.

If the concessionaire is convicted for felony contra environment, the concession shall be deprived.

Breaking of Concessions Contract

Article 140

The concession agreement may be broken before the expiration in case fixed in concession agreement.

V LIMITATION OF RIGHTS AND OBLIGATIONS OF OWNERS AND USERS OF LAND AND WATER FACILITIES

Prohibited Activities on Water Constructions and the Water Good

Article 141

For the purposes of the preservation and maintenance of the natural and artificial water bodies and other water constructions, prevention of the degradation of the water regime, ensuring the passage for high waters, and the implementation of flood protection, and environmental protection, it is prohibited:

- 1) On embankments and other water constructions to extract and dispose material, graze large live-stock, pull timber, cross by foot and drive motor vehicles except on the stretches where that is allowed, and perform other activities that might endanger the stability of such constructions;
- 2) On water land:
 - a) To construct permanent and temporary facilities that reduce the capacities of the riverbed,
 - b) To dispose solid waste and hazardous and dangerous substances,
 - c) To store wood and other solid materials disrupting the conditions for the passage of high waters,
 - d) To perform uncontrolled exploitation of river sediments,
 - e) To perform other activities except in case of:
 - Construction of public infrastructure activities or the public good in compliance with this law or a separate law;
 - Implementation of the measures for the protection of the natural wealth;
 - Construction of facilities, in compliance with this Law, for water use, regulation of streams, provision of safe navigation, and the protective measures on natural bathing sites;
 - Construction of facilities for the protection against water pollution and the construction of facilities for national defense;
 - Formation of modern land-fills for sand and gravel which do not disrupt the passage of high waters, and at the distance of minimum 30 m from the unprotected foot of the embankment;
 - Implantation of actions for the protection of persons, animals and property;
- 3) In flood areas to construct facilities disrupting the flow of water or violating the regulations on construction in flood areas;

- 4) To plant trees on protective embankments, in the inundation strip 10m from the unprotected foot of the embankment towards the stream, and in the protected area at the distance of up to 50 m from the inner foot of the embankment;
- 5) To dig wells, ditches and canals along the embankment in the area of at least 10 m from the unprotected foot of the embankment towards the stream, i.e. 50 m in the protected area, unless they are on the function of the protection against adverse impacts of waters, i.e. the stability of the embankment is not endangered;
- 6) To alter or intersect the courses of ground waters, i.e. use the groundwater in the scope endangering the supply of drinking or industrial water, endangering mineral and thermal water sources, the stability of the ground and facilities;
- 7) To alter the direction and the flow of the surface waters course naturally flowing over or draining from the water land in private ownership without water permit;
- 8) To construct facilities, plant flowers, till and dig the ground, and perform other actions that disrupt the function or endanger the stability of the melioration canals for drainage, and in the distance of 5 m from the both sides of the canals for its regular maintenance;
- 9) To dispose solid waste and other materials in streams, reservoirs, retentions, melioration and the canals, to inlet polluted water or other materials and perform actions, including the extraction of materials, that might damage the riverbed and the banks of natural and artificial streams, alter its direction, water level, volume and quality of water, endanger the stability of the protective and other constructions or prevent the maintenance of the water system;
- 10) To perform, without adequate water acts, interventions in the low waters riverbed (protection of banks, damming of the riverbed, broadening and deepening of the riverbed, etc.);
- 11) To implement works that might endanger the stability of a dam or its function, as well as to alter the natural conditions in the vicinity of reservoir and retention basins causing land slides, erosion or creating of ravines and torrents;
- 12) To implement other works that might endanger the stability and prevent the maintenance of the regulation, protective and other constructions.

The prohibition of the actions from the paragraph 1 of this Article may be expanded even beyond the boundaries of water land, if such actions endanger the water regime or water Facilities.

Prohibited Activities on Erosion Areas

Article 142

The following is prohibited on erosion areas:

- 1) Devastation, clearing and cutting down of forests;
- 2) Removal of the vegetation cover and baring the soil;

- 3) Uncontrolled digging and ploughing of meadows, pastures, and uncultivated land and cultivation of annual crops;
- 4) Filling in water sources and uncontrolled collection and pumping of such water;
- 5) Storage of wood and other materials;
- 6) Construction of facilities without adequate planning and project documentation;
- 7) Exploitation of river sediments from the bottom or from the slopes, except for the purposes of ensuring flow capacities of torrent riverbeds;
- 8) Construction of the investment and other facilities that might endanger the stability of the ground (water mills, dams, canals, fisheries, etc.);
- 9) Other actions contributing to erosion and creation of torrents.

Limitation of Rights

Article 143

The owners, i.e. users of the water land, coastal or other land, shall:

- 1) Allow the common use of the water land;
- 2) Allow access over the land for the persons authorized to survey, scan, design and mark the land or waters for the purposes of the construction or reconstruction of water facilities, the persons conducting inspection, as well as to the persons implementing the works on the construction, reconstruction, and maintenance of such facilities, i.e. their use;
- 3) Allow the use of the high water bed and the riverbanks in the width of 5 m for the persons authorized to inspect the status and maintain the riverbeds and riverbanks;
- 4) Allow access for persons and machines engaged in the implementation of flood protection and, with that aim, to allow the use of the adequate material from his land;
- 5) Allow free outflow of the water flowing in from the upstream lands without any alterations of the direction and the speed of water;
- 6) Manage forests or allow the management of forest by others in inundation areas so as not to create barriers for the natural flow of water;
- 7) Allow temporary storage of the materials extracted from the streams or lakes for the purposes of the completion of works and the transportation of the materials over the land;
- 8) Allow the installation and operation of the measuring equipment necessary for the explorations, excavations and drillings, exploration pumping, sampling and other activities related to the exploration of waters for the water supply purposes and other exploration activities, under the terms and conditions specified by this Law or other laws, as well as for the purposes of national water monitoring.

Owners, i.e. users of land are entitled to compensation of the actual damage in cases under from the paragraph 1, points 1), 2), 3), 4) and 7) of this Article, as well as for the use of the materials from his land.

The mutual rights and obligations relating to the implementation of the

works from the paragraph 1, points 1), 2), 3), 4) and 6) shall be regulated by the mutual agreement between the owner, i.e. user of the land and the investor.

If parties don't make agreement from the paragraph 3 of this Article court shall make a decision.

Obligations

Article 144

Owners, i.e. users of water land or a water facility on the banks shall:

- 1) Participate, in accordance with the technical instructions of the relevant water authority and in accordance with the Law, the implementation of minor works (cutting shrubbery, bushes, low vegetation, removing stones and earth from the banks, stabilizing the banks, planting trees and bushes, and similar works);
- 2) Participate in the maintenance of the high waters beds and banks, excluding low water beds, to prevent erosion, rockslides on the banks, or the reduction of the capacities of the water beds caused by harmful vegetation or other barriers;
- 3) Remove or participate, in accordance with the technical instructions of the relevant water authority and in accordance with Law, in the removal of the objects that might disrupt the water regime from the streams;
- 4) Removal of trees from the torrent beds if it comes from their land.

The obligation of the owners, i.e. users of land to implement the activities from the paragraph 1, point 1, 2 and 3 of this Article shall be specified by the competent authority of the State, in accordance with Law.

Owners, i.e. users of water land shall be entitled to compensation in the equivalent value of the material used for the works from the paragraph 2 of this Article and that shall be fixed with agreement between user and competence authority.

If the owner, i.e. user fails to implement or participate in the implementation of the works from the paragraph 1 of this Article, the works shall be implemented by the relevant authority from the paragraph 2 of this Article, at the expense of the owner, i.e. user of land.

If the owner, i.e. user is unknown, or if the works were necessary due to a force majeure, the works shall be implemented by the relevant authority from the paragraph 2 of this Article at its expense.

Construction which Permanently Raises the Water Level

Article 145

Owners, i.e. users of a construction on water land whose construction permanently raises the water level in the natural stream and increases the cost of the protection against adverse impacts of waters shall:

- 1) Construct the additional protection system or reimburse the incremental costs to the competent authority implementing the additional measures for protection against adverse impacts of waters;

- 2) Participate in the maintenance of protective constructions;
- 3) Participate in the implementation flood protection.

Drainage, i.e. Water Supply

Article 146

Owners, i.e. user of land shall allow to the other owners i.e. users of land to implement drainage, i.e. water supply works across their land, if there is no other technically and economically justified solution.

If the stakeholders from the paragraph 1 of this Article fail to reach the agreement on the use rights and the level of charges, the decision shall be reached by the court.

Depriving, i.e. Owner Right Limitation

Article 147

For providing the national use of water good and for achieving rights defined in water agreement, depriving, i.e. owner right limitation on water land, costal or other land, shall be put into condition and in accordance with the Law which regulated the exploitations.

Using of land in erosion areas

Article 148

Owners, i.e. users of arable agricultural land in erosion areas shall:

- 1) In mountainous and hilly areas, adjust the tillage and land use practices to the anti-erosion land management requirements;
- 2) On the plots on which the erosion process is still in its initial stage, implement the adequate anti-erosion measures (anti-erosion, agro-technical and basic melioration technical works, such as: conservation strip tillage, contour tillage, tillage without turning the top soil, soil fertilization, terracing, cultivation of perennial grasses, anti-erosion crop rotation patterns, and similar works);
- 3) Replace annual agricultural crops with perennial grasses or forest crops, implementing the adequate technical melioration works on the plots on which the erosion processes are highly intensified.

Connection to the Constructed Water Supply Facilities

Article 149

Legal entities and physical persons that did not participate in the construction of an existing water supply system may be connected to the water supply system under the following conditions:

- 1) In the case their needs can be satisfied by the water supply system in terms of the capacities;
- 2) If there is no better technically and economically rational solutions for their water supply.

The approval for the connection shall be issued by the authority in charge of issuing of the water acts for the constructed water supply facility from the Article 117, paragraph 1, 2 and 3 and Article 118, paragraph 3 and Article 120, paragraph 3 of this Law, i.e. the legal entities delegated with the authority to manage the facility.

Legal entities and physical persons connected to the constructed water supply system shall:

- 1) Reimburse the proportional share of the cost of its construction;
- 2) From the date of the connection, bear the proportional share of the cost of the maintenance and operation of the water supply system;
- 3) Bear the full cost of the connection.

Remediation of Damage

Article 150

Legal entities and physical persons that have caused damage on a water construction, water land, and water regime or have exacerbated the erosion status on an erosion area shall undertake the actions necessary for the reinstatement of the original status before the damage caused, within the timeline specified by the water inspector.

In the case the entity or person from the paragraph 1 of this Article fails to undertake the actions within the specified timeline, the actions shall be undertaken by the competent authority of the State, i.e. the relevant authority of the local government for erosion areas, at the party that has caused the damage.

Owners, i.e. users of communication lines or crossings over the water good shall maintain their facilities in a condition that would not endanger the water good and water constructions.

VI ORGANIZATION OF WATER MANAGEMENT

The Ministry and the Competent Authority of the State

Article 151

The Ministry and the competent authority of the State shall perform the public administration activities and professional activities in the water sector, in compliance with this Law and other laws.

The competent authority of the State for the purposes of Law implementation, shall prepare basic study for the definition of State importance water, for definition category and categorization of the water facilities, for preparation of plans and programs which are adapted by Government and Ministry.

The competent authority of the State may contract out the performance of skilled and technical activities within its competence to authorized legal entities.

The Ministry shall adopt the conditions to be complied by the authorized legal entities from the paragraph 3 of this Law and the procedure to obtain the authorization.

Water Council

Article 152

The Water Council (hereinafter: the Council) shall be established by the Government as an advisory and professional committee to coordinate various interests in the water sector in the territory of the Republic.

The activities of the Council shall be to:

- 1) Consider and give their opinion on the draft laws and other regulations regulative on water management;
- 2) Consider and give their opinion on the strategic solutions in the National Water Management Plan and Water Management Plans;
- 3) Participate in public discussion in Water Management Plan preparation phase;
- 4) Follow realization of the national program and Water Management Plans;
- 5) Give proposals for public participation improvement in planning process, recession making and control of implementation;
- 6) Give proposals for public education about water importance as natural public good, about needs rationality water consumption and protection and about role of water constructions in service providing;
- 7) Give proposals pertaining to the improvement of the status in the water sector.

In realization of tasks from paragraph 2 of this Article the Council shall cooperate with the Ministry and competent authority of the State.

Establishment and Activities of the Water Council

Article 153

The Council shall be established by Government.

The Council shall comprise a chairperson and 6 members appointed by the Government, at the proposal of the Ministry.

The Council shall be nominated for a period of 4 years.

The members of the Council shall be appointed from amongst the prominent scholars and professionals in the water sector, economy and finance; local governments; owners, i.e. users of water land; users of service; non government organizations in area of water and environment and scientific and expert institutions of significance for sustainable water management, in accordance with the act of appointment.

The Council work shall be public.

The Council shall define its organization in the Operating Procedures.

The Council shall adopt the Operating Procedures of its work.

The Ministry shall provide the administrative and technical activities for the Council.

The Council shall submit its performance reports to the Government at least annually.

The Council shall be financed from the budget of the Republic.

Performance of Water Activities

Article 154

The activities of general interest pertaining to the water policy shall be implemented by public and other enterprises, as the entrusted activities, in accordance with the Law.

If the founder of the public enterprise or corporation (public company) from the paragraph 1 of this Article is the Republic or local government, the foundation act shall be adopted by the Government, i.e. relevant authority of the local government.

Implementation of public interest in the enterprises from the paragraph 1 of this Article shall be regulated under the National Programme and Water Management Plans.

Public Water Supply and Sewerage System

Article 155

The local governments shall be responsible for the performance of public water supply and sewerage activities.

The local governments shall adopt long-term, medium-term and short-term plans for the performance and development of the activities from the paragraph 1 of this Article.

The long-term and medium-term plans from the paragraph 2 of this Article shall comply with the Water Management Plan from the Article 24 of this Law.

Two or more local governments may establish the public enterprise or corporation for the purpose of regional development of water supply.

The Government may establish or participate in establishment of the public enterprise or corporation for the purpose of regional water supply

Water User Association

Article 156

The stakeholders may establish water associations for the purposes of ensuring the conditions for various water uses (irrigation, water supply, fisheries, etc.) or for protection against adverse impacts of waters, in accordance with the Law.

International Cooperation

Article 157

International cooperation in the field of the transboundary water resources management in the basins specified in this Law constitutes the need and interest of the Republic.

International cooperation shall be implemented in accordance with long-term, i.e. short-term strategic directives adopted by the Government, at the proposal of the Ministry.

Public Relations

Article 158

The competent authority of the State or local government shall ensure the transparency of their work through providing information to the public, in accordance with the Law

Water Information Systems

Article 159

For the purposes of the classification of waters, monitoring and improvement of the water regime, water infrastructure development planning and water management in the Republic, a Water Information System shall be established.

The Water Information System from the paragraph 1 of this Article shall provide the establishment, maintenance, presentation and dissemination of the data about: water quality status, categories and classes of surface and ground water bodies, water documentation, legislative, organizational, strategic and planning measures in the field of water management, scientific-technical and other information of importance for water management, and the exchange of information with other information systems at the national and international levels.

The Water Information System from the paragraph 1 above shall be established and managed by the competent authority of the State.

The Government shall specify in greater detail the contents and the procedures for maintenance of the information system from the paragraph 1 of this Article, as well as the methodology, structure, categories, and data collection levels, and the scope of the public information activities.

The data from Water Information System shall be public.

Obligations of Legal Entities of Public Importance

Article 160

The relevant authorities and other legal entities that perform the activities of public importance shall, via the information system, make accessible all information resulting from their regular activities, and pertaining to the water sector.

VII ADMINISTRATIVE SUPERVISION

Article 161

The supervision of the implementation of the provision of this Law and the regulations adopted on the basis of this Law shall be conducted by the Ministry, the Ministry in charge of health, and the Ministry in charge of environmental protection, the Ministry in charge for geology and competent authority of the local government.

The inspection supervision from the paragraph 1 of this Article shall be

conducted by the Ministry, through water inspectors (hereinafter: the inspector).

Article 162

The inspector has a right and responsibility to supervise:

- 1) Construction of facilities and the implementation of other works that might cause qualitative or quantitative changes in the natural or artificially established water regime;
- 2) Water acts, flood protection documentation, cadastres of waters, water polluters, torrent streams and water constructions, acts for more rational water use (documents pertaining to communal activities), financial statements and other documents;
- 3) Compliance with the conditions from the water acts and the compliance of the use of water constructions with the issued water no-objections, i.e. water licenses and certificates;
- 4) Operation of the equipment on the water constructions of public interest, as well as in other facilities and plants whose inadequate operation might endanger the water regime;
- 5) The regime and quality of water in streams, lakes and ground waters, in accordance with the data of the Hydro-Meteorological Authority of the Republic and other authorized legal entities specified in the Article 83 of this Law;
- 6) Operation, condition, and efficiency of wastewater treatment facilities;
- 7) Oil pipeline, connection of ships with coastal equipment and storage equipment for mineral oils;
- 8) Compliance with the prescribed water regime in term of the minimal guaranteed flow downstream from the point of withdrawal of water.

Article 163

When the water inspector establishes a fax on violation of the law, other regulation, the standards and norms, he shall undertake following measures and activities:

- 1) Ban, i.e. suspend the works implemented in violation of the issued water no-objection, i.e. water license, or without holding a water no-objection, i.e. water license;
- 2) Ban or limit water use, discharge of water, exploitation of materials, i.e. use of facilities and plants in the cases specified by this Law;
- 3) Order the removal of trees and shrubbery constructions, i.e. planted without a water no-objection;
- 4) Order the removal of the pollution source from a water facility, water land or the water regime and its restitution to the original condition;
- 5) Order temporary suspension of operations of legal entities, if determined that the contents of hazardous and dangerous substances in their effluents exceed the standards, until the levels of such substances are reduced below the standards;
- 6) Order the planting of trees and shrubbery in the cases specified by this Law;

- 7) Order demolition of structures and plants, and removal of certain objects, materials and other items that may disrupt the established water regime;

VIII. PENALTY PROVISIONS

Article 164

The fine in the amount of 50 to 250 minimum wages in the Republic shall be imposed on the legal person, entrepreneur or competent authority, in case:

- 1) it fails to provide attestation of authorized institutions when putting into operation and during the operation, within the prescribed periods of time, of the water facilities referred to in Article 35 of this Law, or some parts thereof, that security of people and property depends on their proper functioning (Article 37);
- 2) it fails to test the quality of water for water supply in compliance with the annual program of the Ministry (Article 51 paragraph 1 item 1 in connection with Article 52 paragraph 1);
- 3) it fails to secure the guaranteed minimum downstream the surface water intake site as laid down by the Article 54 paragraph 2 of this Law (Article 54 paragraph 1);
- 4) where, during the discharge or disposal of substances that may pollute surface or ground waters, it fails to undertake the measures necessary for prevention, reduction and rehabilitation of water pollution or fails to provide the means for such measures (Article 80 paragraphs 1 to 4);
- 5) where it performs some (physical-chemical, hydrological, microbiological, hydro-biological, and radiological) tests of surface and ground water quality, without fulfilling the requirements prescribed (Article 85 paragraphs 1 and 2);
- 6) it fails to submit, once a month, the results of testing to the Ministry, the competent administration body, the Ministry competent for environmental protection and the state administration body in charge of hydro-meteorological activities, or the notification on accidental water pollution on the same day (Article 85 paragraph 4);
- 7) immediately after receiving the information on accidental water pollution fails to notify the Ministry, the competent administration body, the Ministry competent for environmental protection and the local government unit of the territory where the pollution occurred, or fails to constantly monitor the flow of waves or occurrence of accidental pollution along the water courses, lake or coastal sea for as long as the accidental pollution lasts (Article 86 paragraphs 1 and 2);
- 8) in the coastal zone or the water intake zone discharges: mineral oils that flow into waters directly or indirectly; mineral oils that come from any device for vessel loading or unloading, or from the vessel itself, or other substances that directly originate or are related to exploration, exploitation and processing at the coastal zone, which can flow into waters, either directly or indirectly (Article 87 paragraph 1);
- 9) it fails to provide at landing places and ports the devices for collecting

waste mineral oils, oil mixtures, waste waters and other waste from vessels, in line with the Law (Article 88 paragraph 1);

- 10) it fails to construct, secure or maintain the oil pipelines, joints for vessels and devices on the coast, as well as devices for collecting, processing and storage of mineral oils in the way that prevents leakage and dripping of oil into waters (Article 89);
- 11) it fails to maintain and use the accumulation and retention pools in the manner that secures acceptance of flood waves, and particularly for multifunctional accumulations; it fails to develop operation instructions or during the period of emergency defense against floods fails to present to the competent state organ in charge of hydro-meteorological activities and the head for protection against harmful effects of water, the data on the situation and level of water in accumulation pools on daily basis (Article 101 paragraphs 1, 2 and 4);
- 12) it constructs new or reconstructs the existing facilities and plants and carries out other works that require water requirements for water approval or contrary to the water approval issued (Article 118 paragraph 1);
- 13) it transfers to another person the right acquired on the basis of water approval, without previous approval of the competent organ that issued the water approval in question (Article 119 paragraph 1);
- 14) it uses the facilities and plants that require water approval without the water approval or contrary to the water approval issued (Article 120 paragraph 1);
- 15) it transfers to another user the right acquired on the basis of water permit, without previous approval of the competent organ that issued the water permit in question (Article 121 paragraph 1);
- 16) it issues or acquires, as appropriate, the approval for use of facilities, plants or works referred to in Article 125 paragraph 2 of this Law without previously acquiring the attestation on compliance with the requirements set by the water approval (Article 125 paragraphs 2 and 3);
- 17) it fails to act in line with the water ordinance in order to eliminate the risk from probable or actual disturbance in the water regime and in order to establish the conditions in line with the requirements of the water permit (Article 126);
- 18) it uses public water estate for commercial or other activities on waters and water land for some of purposes from Article 134 of this Law, without being issued with a decision on granting of concessions (Article 136).

A fine ranging from five to 20 minimum wages in the Republic shall be imposed on the person responsible in the legal person or the competent organ for the offences referred to in paragraph 1 items 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of this Article, and on the natural persons for the offences referred to in paragraph 1 items 1, 3, 8, 10, 12, 13, 14, 15 and 17 of this Article.

In addition to the fine, the relief measure of seizure of items used or intended for use in the offence shall be imposed on the offender, for the offence referred to in paragraph 1 items 12 and 18 of this Article.

Article 165

The fine in the amount of 20 to 200 minimum wages in the Republic shall be imposed on the legal person, entrepreneur or competent authority, in case:

- 1) it sells the water land without offering it first to the competent administration body, or the competent local administration body, as appropriate (Article 17 paragraph 2);
- 2) it fails to provide active participation of public and persons interested in the procedure of preparation and adoption of water management plans, or amendments thereof, following the review procedure and fails to make available all the documents of relevance to development of the plan concerned in line with the Article 30 of this Law;
- 3) it fails to enable the persons interested to present comments, proposals and suggestions in writing, to all published documents, or fails to present a report on stances given to the comments, proposals and suggestions received in line with the Article 31 paragraphs 1 and 2 of this Law;
- 4) it fails to provide participation of persons designated by the competent authority that issues water acts in the committee for technical inspection of water facilities for which the technical inspection is requested (Article 38 paragraph 2);
- 5) it engages into water supply activities without being issued with a decision on compliance with technical and technological requirements and compliance with requirements as regards organization and human resources (Article 50 paragraphs 2 and 4);
- 6) it fails to install the devices and fails to provide constant and systematic registering of water quantities; it fails to undertake the measures for ensuring proper technical functioning of devices for constant and systematic registering and testing of the water quantity and quality and fails to present the relevant data to the competent authority for the purpose of record keeping in the information system (Article 51 paragraphs 1 and 2);
- 7) it performs systematic testing of quality of waters for water supply and bathing without being registered in the Central Register of the Business Court or without appropriate authorization or accreditation required for such activities (Article 52 paragraph 3);
- 8) it fails to monitor the quantitative and qualitative parameters of surface and ground waters or fails to monitor the parameters in line with the annual program adopted by the Government (Article 58 paragraphs 2 and 3);
- 9) it fails to present to the public the qualitative and quantitative water parameters related to use and protection of surface and ground waters (Article 58 paragraph 4);
- 10) it uses the water of unsuitable quality for irrigation of agricultural crops (Article 61 paragraph 1);
- 11) it excavates river deposits without being registered for that activity in the Central Register of the Business Court, without employing at least one person of appropriate qualifications or without appropriate mechanization (Article 69 paragraph 1);
- 12) it excavates river deposits without keeping appropriate and updated

registers on the type and quantities of river deposits excavated or it fails to present to the competent authority, or the competent local government organ, the data on types and quantity of material excavated (Article 69 paragraph 2);

- 13) at the moment of discharging or disposal of material it puts the surface or ground waters to risk of direct pollution without undertaking the measures necessary for prevention, reduction or rehabilitation of water pollution, without planning the means and schedule for implementation thereof or fails to compensate the damage done (Article 81 paragraph 1);
- 14) it fails to keep functional the water facilities for protection of waters that it constructed for its own needs, in line with this Law (Article 82 paragraph 6);
- 15) it does not enable use of results of systematic monitoring of quality and quantity of waters to all interested legal and natural persons, free of charge (Article 83 paragraph 3);
- 16) it fails to prepare the annual report on condition and change in quality of waters or fails to submit it, by March 1 of the current year for the pervious year, to the Ministry, the competent authority, the Ministry in charge of health sector, the Ministry in charge of environmental protection sector and the Ministry in charge of geological sector (Article 83 paragraph 4);
- 17) it fails to keep the oil records at the vessel, in compliance with the international and national regulations (Article 90);
- 18) it fails to immediately notify the Ministry in charge of maritime affairs, the competent inspectorates or the authority in charge of police, in case it noted the pollution of waters in watercourses, lake or coastal sea (Article 91);
- 19) it fails to communicate to the authority in charge of hydro-meteorological activities and the head for protection against harmful effects of waters the data on the situation and level of water in the accumulation pool on weekly basis and in case of regular defense from floods on daily basis (Article 101 paragraph 4);
- 20) it fails to construct protection water facilities and to carry out the protection work in line with the water management plan (Article 102 paragraph 3);
- 21) in an erosion area it fails to implement measures and works related to protection from erosions and floods that have been ordered by the competent local government body (Article 103 paragraphs 2 and 3);
- 22) in an erosion area it fails to construct and maintain protection facilities or protection works, in compliance with the Law (Article 104 paragraph 1);
- 23) it develops technical documents for construction of new or reconstruction of existing facilities, geological exploration and other works that may have a lasting, periodical or temporary effect on the water regime, without previously obtaining the water requirements (Article 114 paragraph 1);
- 24) it fails to present to the competent authority the cadastre data on water facilities referred to in Article 35 of this Law, that it constructed by its own means (Article 130 paragraph 4);
- 25) it fails to keep the data from the contract on concessions of relevance to

- water management into the register of contract on concessions granted at a water estate (Article 132 paragraph 1);
- 26) it performs any of acts prohibited on water facilities or water estate referred to in Article 141 of this Law;
 - 27) it performs any of acts prohibited on erosion area referred to in Article 142 of this Law;
 - 28) it fails to act in line with some of limited rights referred to in Article 143 of this Law;
 - 29) it fails to fulfill any of obligations referred to in Article 144 of this Law;
 - 30) it fails to construct an additional protection system or fails to compensate the higher costs incurred on a legal person undertaking the additional measures of protection from harmful effects of water; it fails to participate in maintenance of protection facilities or fails to take part in implementation of measures of defense against floods (Article 145);
 - 31) it does not allow the another owner or user, as appropriate, to perform works of draining or supplying of water to his own land in case there is no other more appropriate technical or commercial solution (Article 146);
 - 32) in an erosion area, on its own arable agricultural land, it fails to act in line with any of obligations referred to in Article 148 of this Law;
 - 33) it connects to the constructed water supply facility without approval (Article 149 paragraph 2);

A fine ranging from 3 to 15 minimum wages in the Republic shall be imposed on the person responsible in the legal person or the competent organ for the offences referred to in paragraph 1 items 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 33 of this Article, and on the natural persons for the offences referred to in paragraph 1 items 1, 10, 14, 17, 18, 20, 21, 23, 26, 27, 28, 29, 30, 31, 32 and 33 of this Article.

For the offences referred to in paragraph 1 items 7, 17, 24, 25, 31 and 32 of this Article, the authorized person may collect on the spot a fine of two minimum wages in the Republic.

Article 166

A fine ranging from 3 to 15 minimum wages in the Republic shall be imposed on the natural person in case it failed to carry out minor protection works on protection facilities in an erosion area in compliance with the law (Article 104 paragraph 2).

For the offences referred to in paragraph 1 of this Article, the authorized person may impose on the natural person an on-the-spot fine of two minimum wages in the Republic.

Article 167

The temporary seizure of items referred to in Article 164 of this Law is carried out by the competent inspectorate and police officers, in line with the Law, within their respective competences.

The persons referred to in the paragraph 1 of this Article shall issue a receipt with precise information on the items and the warrant for keeping them.

The persons referred to in the paragraph 1 of this Article shall immediately

notify the authority competent for instituting the proceedings for the offence done on temporary seizure of the items.

IX. TRANSITIONAL AND FINAL PROVISIONS

Registration of Public Water Estate

Article 168

The water estate referred to in the Article 9 of this Law which, by the date of entering into force of this Law, was registered in land register as the state property shall become the public water estate.

The water estate referred to in the Article 9 of this Law, which by the date of entering into force of this Law, was not registered in land register, or were registered without any reference to the owner, shall be considered the public water estate, unless the person concerned proves that before the Law entered into force it had had the proprietary right or the right to permanent use.

The competent authority shall, within 90 days from the day of entering of this Law into force, submit to the administration body in charge of the land register the request for registration of the state property title over the water estate referred to in the paragraph 2 of this Article.

Time Schedule for Adoption of Water Management Plans and Programs of Measures

Article 169

The water management plan for the managing the waters in the water area shall be adopted not later than nine years from the date of entry into force of this Law.

The program of measures referred to in the Article 32 of this Law shall be adopted not later than six months from the day of adoption of the water management plan for managing the waters in the water area.

Pending the adoption of the plan and the program referred to in the paragraphs 1 and 2 of this Article, the water acts shall be issued in line with the Water Management Platform of the Republic of Montenegro, adopted on the basis of the Law on Waters (Official Journal of the RCG, No 16/95) and technical and other water management documentation, unless contrary to the provisions of this Law.

Harmonization of Validity of Water Management Permits

Article 170

A water management permit issued by the day of entry into force of this Law for an indefinite period of time or with validity period longer than the period referred to in the Article 120 of this Law, for use of facilities and plants that may have an effect on water regime, as regards validity period, shall be harmonized with the validity period of a water permit from this Law, no later than one year from the day of entry into force of this Law.

The water management permits referred to in paragraph 1 of this Article, which, as regards validity period, are not harmonized with the validity period of water permits of this Law within the period of one year from the day this Law enters into force, shall no longer be valid.

Obtaining Water Permits for Existing Facilities and Plants

Article 171

The owners or users, as appropriate, of existing facilities and plants that can have an effect on water regime, for which validity period has expired or water permit has not been issued, shall obtain the water permit no later than six months from the day of entry into force of this Law.

In case the owner, or user, as appropriate, fails to obtain the water permit referred to in the paragraph 1 of this Article, the competent inspectorate shall undertake the measures in compliance with the Article 163 of this Law.

Open Procedures and Rights Acquired

Article 172

The procedures open by the day of entry into force of this Law shall be closed in line with provisions of the Law on Waters (Official Journal of RCG, No. 16/95).

The rights of use acquired by contracts on use of water and contracts on concessions concluded by the day of entry into force of this Law shall be valid for the period of time set by such contracts.

Time Schedule for Adoption of Regulations

Article 173

More detailed regulations based on authority from this Law shall be adopted no later than one year since the entry into force of this Law.

Pending the adoption of the regulations referred to in the paragraph 1 of this Article, the regulations adopted on the basis of the Law on Waters (Official Journal of RCG, No. 16/95), unless contrary to this Law.

Repealing

Article 174

The day of entry on force of this Law, the following shall be repealed:

- 1) The Law on Water Regime (Official Journal of FRY, No. 59/98);
- 2) The Decree on Classification of Waters of Inter-Republic Watercourses, the Inter-State Watercourses and the Coastal Waters of Yugoslavia (Official Journal of SFRY, No. 6/78);
- 3) The Decision on Maximum Permitted Concentration of Radionuclides and Dangerous Substances in Inter-Republic Watercourses, the Inter-State Watercourses and the Coastal Waters of Yugoslavia (Official Journal of SFRY, No. 8/78).

The day of entry into force of this Law, the Law on Waters (Official Journal of RCG", No. 16/95), as well as regulations and bylaws adopted on the basis of Article 64 paragraph 2 items 2 and 3 of that Law, with the exception of the provision of the Article 40 paragraph 2 and Chapter V.

Entry into Force

Article 175

This Law shall enter into force the eighth day from the day of its publishing in the Official Journal of the Republic of Montenegro

RESPONSIBILITIES IN COMPLIANCE WITH THE WATER LAW

From the Republic of Montenegro Water Law, ministry responsible for the water issues – Ministry Of Agriculture, Forestry And Water Management, a competent State authority responsible for water management - Directorate for Water, other ministries, and a competent State authority responsible for hydrometeorological issues - Hydro meteorological Service and local government, numerous obligations arise, and they will need to be accomplished in their implementation. Out of them, the most significant are especially the following ones:

I – FOR THE MONTENEGRIN GOVERNMENT

- Establishes the proposal of the Law on financing of water management;
- issues 11 bylaws (decrees or decisions);
- issues seven programmes or plans;
- founds the competent State authorities responsible for water issues (Ministry responsible for water issues, competent State authority for water management issues) and Council on Water, as its advisory-expert body;
- considers the report on the work of Directorate for Water at least once a year;
- provides public and other companies with water facilities for management and - - maintenance, unless otherwise prescribed by the law;
- brings decisions on awarding concessions under its jurisdiction.

II – FOR MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT

1. Suggesting and leading the foreign policy and development policy:
 - suggests the issuance of seven programmes and plans to the Government;
 - issues four programmes, that is plans from its competency;
 - gives opinions on the general plan of protection from the hazardous influence - of water of local importance;
 - suggests platforms for international cooperation from the water area to the Government (four with the surrounding countries, and related to certain questions and broader);
 - gives opinions on the suggestions for awarding concessions etc.
2. Normative activity:
 - suggests to the Government establishment of the proposal of the Law on financing water management;
 - suggests to the Government issuing eleven bylaws (decrees or decisions);
 - issues 22 bylaws – rulebooks from its competency;
 - cooperates in issuing the regulations from the competency of the other ministries (two);
 - prepares (if possible) of samples of general act – decision from the competence of local government;
 - prepares contracts or accords for international cooperation or participates in their preparation.

3. Analytical following of conditions in the area of waters and the suggestion and issuing of the following measures:
 - Analytically and permanently follows the conditions in all segments related to the area of waters (planning, norms and stimulation of developments etc) and in relation to this suggest or issues measures.
4. Implementation of law and other duties:
 - implements the Law in the area of its competence directly;
 - establishes flood prone areas on the waters important for the Republic;
 - performs expert and administrative-technical activities for the Directorate for Water;
 - performs the activities of international cooperation, and in this frame performs expert and administratively-technical activities for interstate commissions founded for managing waters of common interest;
 - acts (leads and decides) in infringement procedure, in the area of its competency;
 - provides explanations, publishes expert manuals and instructions and provides expert help;
 - organizes and holds conferences, seminars etc. aimed to educate the necessary expert human resources within state and local governments.
5. Supervision:
 - supervises the legality of administrative acts (secondary administrative procedure) of Directorate for Water and of waters inspector;
 - supervises the legality and wholeness of activities of Directorate for Water and the competent State authority;
 - performs the inspectional supervision, over the waters inspectors, for objects and activities for which water acts are issued by the Water Council.

III – FOR THE DIRECTORATE FOR WATER

1. From the planning area:
 - prepares technical basis for programmes and plans issued by the government (seven) and ministry in charge of water activities (four);
 - performs the expert preparation of water management plans (for territory of the Republic at least two, for two water areas of the river basins, and can be issued either for certain river basins or for parts of water basins) and implements the whole procedure in all phases of plan creation in a transparent way, with the cooperation of the public;
 - gives approval of the operational plan of Remedy of Damages Caused by Adverse impacts of waters of local importance.
2. From the area of normative activities:
 - Prepares expert basis for regulations (decrees or decisions) made by the Government (11), ministry responsible for water activities (22) and other ministries (two).
3. In law implementation:
 - implements administrative procedures according to the request for issuing water conditions, water no-objection, and water permit and confirmation of

- the fulfillment of the conditions determined by the water agreement and water order, from its jurisdiction (for objects and activities important for the Republic);
- in case of the Law determined cases, temporarily limits or suspends the water right;
 - determines the borders of water good of the importance for the Republic and gives proposal for recording in the public real estate registry;
 - determines the status or suspension of the public good status and gives proposal for their recording or erasing from the public real estate registry;
 - determines areas in which general use of public water good is prohibited or limited, as well as the conditions and ways in which these are used in that area;
 - determines the melioration areas and their boundaries;
 - determines the accomplishment of the conditions for performing the water supply activities;
 - gives a proposal for recording of springs intended for regional and public water supply in the public real estate registry;
 - determines the scope and the kind of research activities for springs of underground and surface water, within its competency;
 - issues decrees on the protection of springs of surface and underground waters, with its competency.
4. Direct activities from the area of water management:
- '- manages facilities for Remedy of damages caused by adverse impacts of waters important for the republic;
 - provides supervision of natural and other occurrences (floods, torrents, erosions etc.) in order to create the data for remedy of damages caused by adverse impacts of waters important for the republic;
 - prepares, within the scope of its competency, programme of remedy of damages caused by adverse impacts of waters and implements it, unless implemented by the person obliged to;
 - performs, if need be, investment activities which are within its competency.
5. Within the scope of water information systems:
- manages the registry of waters important for the Republic;
 - manages water documentation (water book, register and the technical manual on water systems operation and exploitation regime of water good, water cadastres and the registry of contract concessions on water good, water facilities and water systems), as an integrated data register;
 - as competent authority for issuing water acts, manages water book, in which it registers all issued water acts, as prescribed;
 - manages water cadastres: water good cadastre, endangered areas cadastre, water facilities and systems cadastre, water use cadastre, polluters' cadastre, technical documentation cadastre;
 - Manages the registry of the concessions contract.
6. Other activities:
- performs other activities as well, such as control of count of compensations paid in the area of waters, etc.

IV – FOR OTHER MINISTRIES

1. Ministry of Health:
 - issues regulation on the type, method and scope of water quality research and gives its approval or opinion on seven bylaws determining the quality of waters, sanitary protection and other issues related to health;
 - gives opinion on the decision on water protection, made by authority competent for issuing water acts;
 - gives prior opinion in the procedure of issuing of water acts for certain facilities and activities;
 - performs inspectional supervision, within its competency.
2. Ministry in charge for environmental protection:
 - gives approval or opinion on the seven bylaws which are used to determine the quality of waters, sanitary protection and other issues of importance for environmental protection;
 - gives prior opinion in the procedure of issuing water acts for certain facilities and activities;
 - performs inspectional supervision, within its competency.
3. Ministry in charge for communal service:
 - in cooperation with Ministry competent for water issues, creates regulation on the conditions which need to be satisfied by the public company or community which performs water supply activities;
 - supervises the performing of water supply and public sewer activities, which are within the competence of the local government;
 - for the needs of regional water supply it can suggest to the Government to establish or be one of the co-founders of the public company. These authorizations, in fact, rise from the Decree on organization of state management and are the same in the function of law implementation.
4. Ministry in charge for Spatial Planning:
 - cooperates with the ministry competent for the water area in bringing about the regulations of methodology and criteria of determining the endangered areas and in classifying in categories according to the level of danger (risk zones);
5. Ministry in charge for geology investigation:
 - gives opinion on the scope and the type of research on underground water springs, which is determined by the authority competent for issuing water acts;
 - gives approval on the regulation on determining and maintaining zones and belts of sanitary protection of springs and limits in zones of protection and prior opinion on the regulation on classification of waters and categorization on underground waters;
 - gives prior opinion in the procedure of issuing of water acts for certain facilities and activities;
 - performs inspectional supervision, within its competency.
6. Ministry in charge for Energetic:
 - submits the suggestion to the Government, in cooperation with the Directorate for Water and with prior opinion of the ministry competent for

water issues, in the area of concessions for using water power for producing electric power.

7. Ministry in charge for Maritime Affairs:
 - gives prior opinion on the Decision on determining the borderline separating ground and coastal waters.

V – FOR THE HYDROMETEROLOGICAL SERVICE

- follows qualitative and quantitative parameters of surface and underground waters, in accordance with the programme of the Government;
- performs systematic quality and quantity of waters testing on the profiles of surface and underground waters and protected areas determined by the annual programme of systematic testing of waters quality;
- gives prior opinion in the procedure of issuing of water acts from the competence of Directorate for Water.

VI – FOR THE LOCAL GOVERNMENT (COMPETENT AUTHORITY OF LOCAL SELF-MANAGEMENT, OR LOCAL GOVERNMENT)

1. From the planning area:
 - creates the general and operational plan on protection from the adverse impacts of waters of local importance; creates and implements operational plan on protection of waters of local importance from the damage caused by pollution accidents; creates long-term, median and short-term plans for carrying out the activities in the area of water supply and public sewerage.
2. From the area of normative activities:
 - makes decision on the general usage of waters;
 - makes decision on the conditions for building, using, maintaining and running the facilities and systems for water supply.
3. In law implementation:
 - implements administrative procedures according to the request for issuing water conditions, water no-objection, water permit and confirmation of the fulfillment of the conditions determined by the water agreement and water order, from its jurisdiction (for facilities and activities of local importance);
 - in case of the Law determined cases, temporarily limits or discontinues the water right;
 - determines the borders of water good of local importance and gives proposal for recording in the public real estate registry;
 - determines the status or discontinuation of the public good status and gives proposal for their recording or erasing from the public real estate registry;
 - determines areas in which general use of public water good of local importance is prohibited or limited, as well as the conditions and ways in which these are used in that area;
 - decides on temporary limiting or inhibiting the rights on special use of waters in cases prescribed by the Law;
 - determines the scope and the type of research activities for springs of

- surface and underground waters, from its competency;
 - passes resolution on the protection of springs of surface and underground waters, from its competency;
 - determines the flood areas on waters of local importance;
 - declares erosion area and determines conditions for its use and anti-erosion measures;
 - determines preventive measures which need to be taken by the users or owners of the land in the erosion areas.
4. Direct activities in the area of water management:
 - manages facilities for remedy of damages caused by adverse impacts of waters of local importance;
 - prepares programme of remedy of damages caused by adverse impacts of waters and implements it, unless implemented by the person obliged to;
 - gives concession for using waters and water good, within its competency;
 - performs, if need be, investment activities which are within competency.
 5. Supervision:
 - supervises the legality of administrative acts (second-degree administrative procedure) of competent local authority and its inspector;
 - performs inspectional supervision, within jurisdiction of local government.
 6. Registry and water documentation:
 - manages registry in which waters of local importance are recorded;
 - manages water documentation, within its competency.

SUMMARY OF ACTS (REGULATIONS, PROGRAMMES AND PLANS) FORESEEN BY WATER LAW

I SUMMARY OF ACTS

FROM THE RESPONSIBILITY OF GOVERNMENT OF REPUBLIC OF MONTENEGRO

No	TITLE	LEGAL BASIS	STAKEHOLDERS
			a. propose the act b. prepare expert basis c. give opinion or consent
1.	The proposal of the Law on water management funding	Article 1 paragraph 2	a. Ministry Of Agriculture, Forestry And Water Management (hereinafter: MAFWM) b. Directorate for Water
2.	The Decision on determining the borderline separating ground and coastal waters	Article 2 paragraph 3	a. MAFWM b. Directorate for Water c. Ministry of Maritime Affairs
3	The Decision on determining of water of the importance for the Republic	Article 8 paragraph 2	a. MAFWM b. Directorate for Water
4	The Decree on the procedure for determining of borders of water lands	Article 11 paragraph 3	a. MAFWM b. Directorate for Water
5	The Decree on the content and the procedure for preparation of the plan on managing waters in the water area of river basin or one of its parts	Article 24 paragraph 5	a. MAFWM b. Directorate for Water
6	The Decree on the content and the procedure for preparation of the special plan on managing waters (Special plan is created in case when the plan on managing waters on the water area cannot guarantee the implementation of Water Master Plan on the Republic of Montenegro).	Article 28 paragraph 4	a. MAFWM b. Directorate for Water

7	The Decree on the procedure of categorization and category of the water facilities and their rental and maintenance	Article 35 paragraph 10	a. MAFWM b. Directorate for Water
8	The Decision on determining the springs intended for regional and public water supply system and determining their borders	Article 53 paragraph 2	a. MAFWM b. Directorate for Water
9	The Decree on classification and categorization of bodies of water of surface waters	Article 75 paragraph 6	a. MAFWM b. Directorate for Water c. Ministry competent for issues of: health and environmental protection
10	The Decree on classification and categorization of underground waters	Article 76 paragraph 2	a. MAFWM b. Directorate for Water c. Ministry competent for issues of: health, environmental protection and geological issues
11	The Decision on establishing the Directorate for Water	Article 153 paragraph 1	a. MAFWM
12	The Decree on the content and procedure for running water information system	Article 159 paragraph 4	a. MAFWM b. Directorate for Water

FROM THE RESPONSIBILITY OF MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT

No	TITLE	LEGAL BASIS	STAKEHOLDERS
			a. propose the act b. prepare expert basis c. give opinion or consent
1	The Rulebook and the content of water infrastructure	Article 34 paragraph 3	a. MAFWM b. Directorate for Water

2	The Rulebook on certification of water facilities	Article 37 paragraph 1	a. MAFWM b. Directorate for Water
3	The Rulebook on procedure of measuring of water quantity on the intake point	Article 51 paragraph 3	a. MAFWM b. Directorate for Water
4	The Rulebook on the procedure of determining the guaranteed minimum	Article 54 paragraph 2	a. MAFWM b. Directorate for Water
5	The Rulebook on determining and maintaining zones and belts of sanitary protection of springs and limits in those zones	Article 57 paragraph 5	a. MAFWM b. Directorate for Water c. Ministry competent for issues of: health, environmental protection and geological issues
6	The Rulebook on determining the parameters of the quality of water used for irrigation of agricultural land	Article 61 paragraph 2	a. Ministry of agriculture
7	The Rulebook on the condition that need to be satisfied by the public company in order to exploit the river sediments	Article 69 paragraph 3	a. MAFWM b. Directorate for Water
8	The Rulebook on quality and sanitary-technical conditions for releasing of waste waters into the recipient (receiver) and into the public sewerage.	Article 79 paragraph 2	a. MAFWM b. Directorate for Water c. Ministry competent for issues of: health and environmental protection
9	The Rulebook on the conditions that need to be satisfied by the public company which is in charge of running the facilities for protection of waters from the pollution	Article 82 paragraph 3	a. MAFWM b. Directorate for Water
10	The Rulebook on the procedure of testing the waste water quality	Article 84 paragraph 3	a. MAFWM b. Directorate for Water c. Ministry competent for issues of: health and environmental protection

11	The Rulebook on the procedure and conditions of measuring the quantity of waste waters released into the receiver	Article 84 paragraph 4	a. MAFWM b. Directorate for Water
12	The Rulebook on the condition that need to be fulfilled by the legal persons that perform certain kind of water quality testing	Article 85 paragraph 2	a. MAFWM b. Directorate for Water c. Ministries in charge for environmental and health protection
13	The Rulebook on determining the flood areas important for the Republic	Article 96 paragraph 2	a. MAFWM b. Directorate for Water
14	The Rulebook on the methodology and the criteria for determining the endangered areas and methodology for the procedure of classification of flood areas according to the level of danger	Article 97 paragraph 3	a. MAFWM in cooperation with the Ministry of spatial planning b. Directorate for Water
15	The Rulebook on the methodology for declaring the erosion areas	Article 99 paragraph 3	a. MAFWM b. Directorate for Water
16	The Rulebook on the content of guidelines for managing accumulations aimed to protect from floods and multipurpose accumulations	Article 101 paragraph 3	a. MAFWM b. Directorate for Water
17	The Rulebook on building and maintaining water facilities and performing activities on the protection from erosions and torrents	Article 104 paragraph 3	a. MAFWM b. Directorate for Water
18	The Rulebook on the content of request and documentation needed for issuing the water acts and manner and conditions for mandatory advertisements in the procedure of determining water conditions	Article 112 paragraph 6	a. MAFWM b. Directorate for Water
19	The Rulebook on the closer content of water acts according to classes	Article 113 paragraph 2	a. MAFWM b. Directorate for Water

20	The Rulebook on the form, content and procedure of keeping the water book	Article 128 paragraph 3	a. MAFWM b. Directorate for Water
21	The Rulebook on the content and procedure of keeping the water cadastres	Article 131 paragraph 7	a. MAFWM b. Directorate for Water
22	The Rulebook on the conditions that need to be met by authorized and specialized organizations for performing expert activities in the area of planning and managing waters and which are testing the quality of waters.	Article 151 paragraph 4	a. MAFWM b. Directorate for Water

FROM THE RESPONSIBILITY OF OTHER MINISTRIES

No	TITLE	LEGAL BASIS	STAKEHOLDERS
			a. propose the act b. give consent
1	The Rulebook on the conditions that need to be met by the public companies which are in the business of water supply	Article 50 paragraph 3	a. Ministry responsible for the issues of communal activities in the cooperation with MAFWM
2	The Rulebook on the kind, procedure and scope of water quality testing at the intake point	Article 51 paragraph 4	a. Ministry of health b. Ministry of environmental protection

FROM THE RESPONSIBILITY OF LOCAL GOVERNMENT

No	TITLE	LEGAL BASIS	STAKEHOLDERS
			a. propose and pass the act b. give opinion
1	The Decision on the procedure and conditions of general water use	Article 42 paragraph 2	a. Competent authority of local government

2	The Decision on building, using, maintaining, and running water facilities and water supply systems	Article 48 paragraph 4	a. Competent authority of local government
3	The Decision on determining the flood areas of waters of the local importance	Article 96 paragraph 2	a. Competent authority of local government b. Directorate for Water
4	The Decision on determining the erosion areas and conditions for their use	Article 99 paragraph 2	a. Competent authority of local government

II OVERVIEW OF PLANS AND PROGRAMMES

FROM THE RESPONSIBILITY OF THE GOVERNMENT

No	TITLE	LEGAL BASIS	STAKEHOLDERS a. propose the act b. prepare expert basis
1	The Water Master Plan	Article 23 paragraph 3	a. MAFWM b. Directorate for Water
2	Plans on managing waters in the water area of the river basin or one of its parts	Article 25 paragraph 1	a. MAFWM b. Directorate for Water
3	Special plan on managing waters for certain water courses or for certain question from the area of water management (As already stated, special plan is passed in case when the plan on managing waters in water area cannot ensure the implementation of the Water Master Plan)	Article 28 paragraph 1	a. MAFWM b. Directorate for Water

4	Programme of measures for each water area	Article 32 paragraph 1	a. MAFWM b. Directorate for Water
5	Annual programme for systematic testing of quality and quantity parameters of surface and underground waters	Article 58 paragraph 3	a. MAFWM b. Directorate for Water
6	Plan of water pollution protection	Article 77 paragraph 4	a. MAFWM b. Directorate for Water
7	General plan of the protection from adverse impact of waters important for the Republic	Article 100 paragraph 2	a. MAFWM b. Directorate for Water

FROM THE RESPONSIBILITY OF MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT

No	TITLE	LEGAL BASIS	STAKEHOLDERS d. propose the act e. prepare expert basis f. give opinion or consent
1	Annual programme for systematic testing of water quality on the intake points and bathing sites	Article 52 paragraph 1	a. MAFWM b. Directorate for Water c. Ministry responsible for the issues of: health and environmental protection
2	The operative plan for protection of waters of importance for the republic against pollution accidents	Article 78 paragraph 3	a. MAFWM b. Directorate for Water c. Ministry of environmental protection
3	Annual programme of systematic water quality testing	Article 83 paragraph 5	a. MAFWM b. Directorate for Water

4	Operative plan for protection from adverse impacts of waters important for the Republic	Article 100 paragraph 4	a. MAFWM b. Directorate for Water
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FROM THE RESPONSIBILITY OF LOCAL GOVERNMENT

No	TITLE	LEGAL BASIS	STAKEHOLDERS a. propose and pass the act b. give opinion or consent
1	The operative plan for protection of waters of local importance against pollution accidents	Article 78 paragraph 4	a. Competent authority of the local government b. Directorate for Water
2	General plan for protection against adverse impacts of waters of local importance	Article 100 paragraph 2	a. Competent authority of the local government b. MAFWM
3	Operative plan for protection against adverse impacts of waters of local importance	Article 100 paragraph 4	a. Competent authority of the local government b. Directorate for Water

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NOTES ON THE AUTHOR

MIODRAG LJ. RADUNOVIĆ, lawyer and publicist was born in 1954 in Bačka Topola, Serbia.

He started with law career in 1977. From 1980 works mostly on legislative issues in water area, and in the last decade also in the area of forestry and hunting. He is now advisor to the Minister of Republic of Montenegro's Ministry of Agriculture, Forestry, and Water Management, in Podgorica.

He is the author of:

- documentary – publicist work: „Obnova Radunove kule“(Restoration of Radun's Tower), Podgorica 2003.
- legislative – publicist work „Vodno pravo u Crnoj Gori“(Water law in Montenegro), Podgorica 2007.

Until today he wrote the following works – publications:

- „Kritički osvrt na organizaciju vodoprivredne djelatnosti u Republici Crnoj Gori“(Critical outlook to the organization of water management activities in Montenegro), „Regionalna konferencija o vodnom pravu – Pravni aspekt održivog upravljanja vodnim resursima“(Zbornik radova), (Regional conference on water law – legislative aspect of sustainable management of water resources) (collection of works), Teslić 2001;
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*With average flowing off, which is 40 liters/s/km²,
and in cubic capacity it is about 19,5 km³/year,
Montenegro is a part of 4% of the world territory
with biggest average flowing off.*



*Bearing in mind the fact that 95,3% of watercourses in Montenegro
are formed in the Republic,
which means with the source and drainage basin in the own territory,
we could claim that water is our biggest natural resource.*