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State Capture in the Energy Sector in Montenegro

Small Hydropower Plants bring Large Profits



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I Introduction

This document describes who is involved in capturing the sector, the specific practices of capture, how captors benefit from these practices, and the consequences for the public and the state in general.

The World Bank defines state capture as a phenomenon whereby laws are formed in such a way that state assets can be transferred to a certain group of decision-makers under conditions that are disadvantageous to the stateⁱ. This definition continues by stating that, as a rule, state capture cannot be viewed as a single case, but rather as a well-functioning and systematic network with a connection between both the political and economic eliteⁱⁱ.

Perhaps one of the best definitions, and one that we will refer to throughout this document, is the following: "the actions of individuals or groups both in the public and private sectors, influencing the formation of laws, regulations, decrees and other government policies to their own personal advantage"ⁱⁱⁱ.

In this research we focus on state capture in the energy sector – in particular, in relation to small and medium-sized hydropower plants. This document covers the period from the adoption of the first strategic documents in this area to the present day.

This research aims to provide answers to several questions, such as who is involved in capturing the sector, what are the specific practices of capture, and how do captors benefit from these practices? We will also describe the consequences of state capture for the public and the state in general, and what might be the possible remedies.

To answer all these questions, MANS conducted desk research, reviewing all relevant documents, and conducted interviews with stakeholders, to identify the main actors, and to explain how power networks work and what the harmful consequences are for the state and the public. As a result of our research we have developed recommendations for bringing about improvement in this area and preventing further malpractice.

II Relevance of sector and key problems

The main topic of this research is the energy sector in Montenegro, which has been officially declared as a main priority for further economic development of the country. While large projects in this area have yet to begin^{iv}, many small hydropower plants have been, or will soon be, constructed on smaller rivers throughout the country.

At the end of 2015, the Government of Montenegro proposed, and Parliament adopted, changes to the Law on Energy that defined the production of energy from renewable sources as being in the public interest^v. The changes to the Law provide all companies producing renewable energy with price subsidies and guarantees that all their production will be bought by the state-owned electricity company for a period of 12 years^{vi}.

Citizens are required to pay a special tax to support renewable energy sources, as part of their electricity bills^{vii}, while the losses of the electricity company in buying renewable production are compensated through electricity prices. At the beginning of 2017 these taxes were subject to a fourfold increase.

In simple terms, this means that all the electricity these companies produce they sell at a high price, at the expense of citizens.

The Government has claimed that this practice is in line with the European Union (EU) Directive on the promotion of the use of energy from renewable sources (2009/28/EZ). However, the Directive states that member states should reach at least a 20% share of energy from renewable sources in their overall consumption by 2020, while Montenegro has raised the target to 33%.

Also, the Directive does not oblige countries to buy up all renewable energy production.

Companies engaged in the renewable energy sector also enjoy other favourable conditions. Following a Government proposal, in February 2017 the Parliament amended the Law on Value Added Tax to institute a provision allowing for a 0 per cent tax rate on the delivery of products and services for the construction of

energy facilities for the production of electricity with installed power higher than 10MW, where the value of the investment exceeds €500,000^{viii}.

The construction of most small hydropower plants is not planned by the local spatial plans that are adopted by municipalities. Instead, the Government issues permissions on the basis of the National Spatial Plan for Montenegro. In several locations, the Government has declared a public interest and expropriated land from private owners, later granting concessions on this land to private companies.

In several cases excessive construction on small rivers has significantly harmed local communities' access to water and these projects have provoked public protests. However, the Government has ignored requests by citizens that construction be stopped, insisting that no harm has been done even in the most obvious cases of negative impacts.

From the end of 2014 till September 2017 companies owning small hydropower plants were paid close to €4.7 million in subsidies to produce renewable energy.

At the end of 2017, 10 small hydropower plants were operating in Montenegro. The Government has granted concessions for an additional 47 plants to different companies. An analysis of the ownership structure of these companies shows that at least half of them are connected to the governing political party, the Democratic Party of Socialists (DPS).

III Case study

In less than three years, citizens of Montenegro have paid nearly €4.7 million through electricity bills to the owners of the 10 small hydropower plants currently in operation, while the money has flowed into the pockets of privileged individuals close to the former Prime Minister Milo Đukanović or his party.

However, this is just the beginning, since with its National Action Plan for Renewable Energy, the Government has assessed that, in 2020, the fees citizens will pay for subsidies for electricity produced in small hydropower plants will reach the amount of nearly €27 million.

These fees for households were introduced in accordance with the Energy Law, in order to pay for subsidies and encourage the production of electricity from renewable energy sources. On the basis of alleged compliance with the EU Directive referred to earlier, the Law stipulates that, in addition to receiving this fee, the owners of small hydropower plants are also guaranteed that all of the electricity they produce will be purchased.

However, the EU Directive on the promotion of the use of energy from renewable sources, to which the Government refers, does not oblige states to provide such subsidies, as the Government of Montenegro has done.

Who benefits?

Our research shows that most of the owners of small hydropower plant-operating companies that are already producing electricity, or that intend to do so, are directly related to the former Prime Minister Đukanović or his party. So far, the Government of Montenegro has approved the construction of over 50 small hydropower plants.

The Đukanović family entered the electricity business when two concessions were granted to a company owned by his son, Blažo Đukanović. Two further hydropower plants will also be built by Milovan Maksimović, Đukanović's cousin, while Vuk Rajković, Đukanović's best man, who is linked to a company which has been granted concessions for four hydropower plants, is also in the business. One of these hydropower plants are already working and, so far, citizens of Montenegro have paid the companies operating them €400,000.

Aside from his family member, business partners of the former Prime Minister are also involved in the electricity business: concessions for several hydropower plants have been granted to companies related to Tomislav Čelebić, and also to Oleg Obradović, one of the key actors in the Telecom affair and former Board President of Prva banka, owned by the brother of the former Prime Minister.

A consortium involving Obradović, along with Ranko Ubović and Aleksandar Mijajlović, will build the largest number of hydropower plants: apart from the six that are currently operating, Obradović has been granted concessions for an additional 13 plants. To date, Obradović's existing small hydropower plants have received €3.5 million.

In the middle of 2017 a hydropower plant owned by the Kronor company also started operating, for which a €435,000 fee was paid. Two businessmen operating in the construction sector, Žarko Burić and Željko Mišković, are at the helm of Kronor, as well as Predrag Bajović, who is married to a sister of the former Prime Minister, and a member of the Main Board of the DPS, Igor Lukšić.

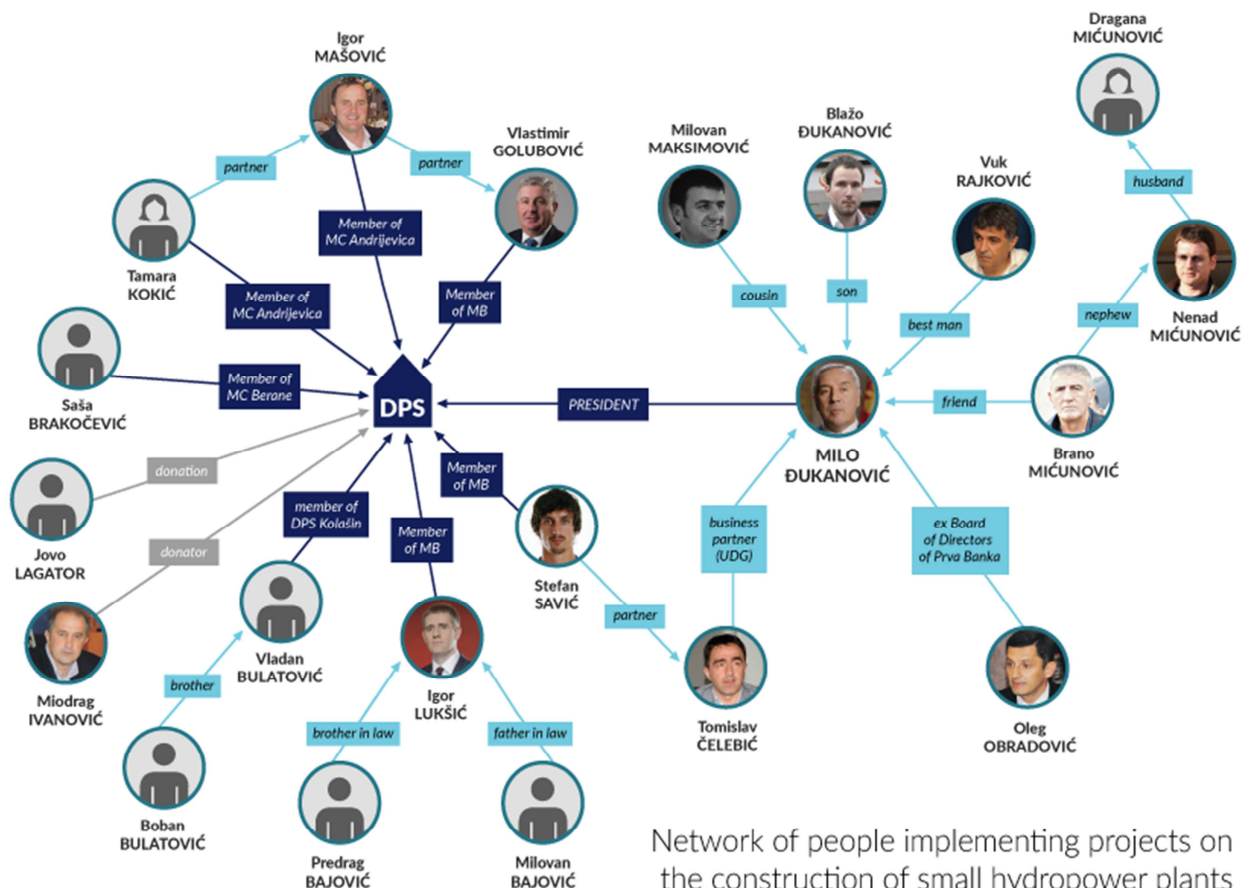
Lukšić's father in law is also involved in the electricity business, as well as several other members of the Main Board of the DPS: for example, Stefan Savić, a member of Montenegro's national football team, is one DPS Main Board member who has received a concession for small hydropower plant.

This network of people and companies linked with political leaders of the state has also spread locally; thus, it also involves members of the DPS's municipal boards from Berane, Andrijevica and Kolašin.

At this moment, citizens are paying fees for the operation of two hydropower plants owned by Igor Mašović, a member of the DPS's Municipal Board in Andrijevica: these plants have received €370,000. Igor Mašović is the brother of the Mayor of Andrijevica, Srđan Mašović.

The Government has granted permission for the construction of two small hydropower plants to the company "MN Power", which is owned by the wife of Nenad Mićunović, a nephew of the controversial businessman Branislav Mićunović, from Nikšić, who has been indicted in Italy for international smuggling of cigarettes.

Of the concessions that have currently been granted, almost half have been granted to individuals and companies directly related to Đukanović and the DPS, as shown in the diagram below.



Network of people implementing projects on the construction of small hydropower plants

Effects on citizens

Citizens of Andrijevica, Plav, Berane, Bijelo Polje, Murino and Gusinje, as well as residents of the village of Bukovica i Štitarica, have protested this year against small hydropower plants, demanding a ban on the construction of new plants. The Ministry of Economy has responded with an announcement that the planned plants will be built but that no new concessions will be granted.

At the moment, there are 12 small hydropower plants in operation, while the construction of another 41 is planned. These 53 plants will allow the planned share of renewable sources in the total energy consumption to be reached by 2020, as the Ministry of Economy has confirmed to *Vijesti*. However, village residents in the north of the country do not share the Ministry's enthusiasm: their existence depends on the rivers where the construction is planned, and experience shows that after the construction of plants, the water flow decreases.

Ismail Gučić, from the village Komorača near Plav, told us: "We gave them two plants, we did not complain or ask for anything... The third one they are planning to build: that one they will not get..." .

"We will not give them water, we will not, we will not, end of story," says Salih Kandić, also from Komorača.

Radojica Čobeljić, from the village of Štitarica, near Mojkovac, told us: "A power plant in the middle of the village has no economic feasibility. It can probably bring some economic benefit to the concessionaire, to the detriment of all of us here in Štitarica. For what is village without a river?"

As has been said, in response to protests by the citizens of Andrijevica, Plav, Berane, Bijelo Polje, Murino, Gusinje, and Bukovica i Štitarica, the Ministry of Economy has announced that although the planned power plants will be built, no new concessions will be granted. The Ministry of Economy has stated: "When it comes to denial of rights already allocated, let us remind ourselves that the Ministry organised public hearings within the framework of the tender procedures for granting concessions, where experts and the public had an opportunity to present opinions and remarks. In all cases where proposals were substantiated and justified, the Ministry adopted them."

Regarding remarks by locals that the tributaries of the Tara and Lim, where new hydropower plants will be built, will see a decline in their water flow, the Ministry responded by claiming that they will improve the quality of life of the local population by investing in hydropower plants.

The Ministry has stated: "The fact is that these projects are worth millions, which, apart from the construction of the energy facilities themselves, also implies the construction of access roads, the reconstruction or introduction of public lighting and other projects that improve the quality of life in those areas.

According to residents of villages near Plav, Bijelo Polje and Andrijevica, in previous cases the investors threatened the rights of citizens living in the locations where power plants were built.

"A few years ago they made these two power plants: one on the Babinopoljska river and the other on the Hridska i Treskavička river. Now when you go there, you can see it's a wasteland: the riverbeds are dry, there are no fish, there is absolutely nothing", remarks Iber Hoti, from Hoti village, near Plav.

Rašid Marković, from the village Korita, near Bijelo Polje, states: "We use water from two troughs for irrigation. We received guarantees from the hydropower plants for one trough, the upper one. We once went a month without water. We realised what a disaster it was, we don't even want to think about the lower trough, whether it is going to happen or not, we will no longer bargain on that."

"The village has no use of it, although we asked the institutions to give us a certain amount of the electricity. However, they flatly refused and disregarded that," states Blagoje Šarić, from the village of Šekular, near Andrijevica.

These citizens can see that the institutions involved either do not understand or do not want to see the issues that are raised by locals. When the TV programme *Bez granica* showed that the river in the village of Šekular near Berane had dried up this fact was denied by the current Minister of Economy Dragica Sekulić, during her appearance on the TV programme *Reflektor*.

"What makes you think that a village is losing a river? Have you ever seen how the small hydropower plant works? The river cannot be lost. The water passes through the turbine and flows onwards", the Minister said.

What benefits does the state receive?

In four years, the state has earned from concessionaires of small hydropower plants barely half a million euros. By contrast, through the fees paid by citizens as part of their electricity bills, investors have earned nearly €5 million in less than three years.

The fact that the owners of small hydropower plants receive far more than they give confirms that certain individuals are receiving extensive sums of money, while the state gains very little.

The Ministry of Economy believes the energy policy it is pursuing is a good one and that Montenegro is following an established incentive practice that is applied throughout the EU.

Data provided by the Ministry of Finance, however, makes clear who is losing and who is benefitting from the policy: while the citizens have paid €4.7 million to the owners of small hydropower plants in two and a half years, in return, based on concession fees, the state has earned €430,000.

Many experts believe that if it is necessary to build small hydropower plants this should be done by the state since in such an arrangement all of the income from the plants would be poured into the state budget.

However, the Ministry of Economy believes that the data, which they do not dispute, only confirms the energy policy is a good one:

“It is necessary to note that it is about millions of euros worth of investments, the total amount of which, after construction of small hydro plants, reaches €40 million, out of which, through employing domestic workers, €24 million enters into the domestic economy. Apart from that, investors regularly settle their tax obligations, which is extremely important bearing in mind the fact that we are talking about investments worth millions. In the end, all of the infrastructure built will stay in the country and will stimulate the growth of the gross domestic product, and after the expiry of the concession period and necessary revision of the facilities, they will become state property.”

Recently, in the *Bez granica* programme on TV Vijesti on 4 December 2017, Ljubiša Bošković, the President of the Association of Concessionaires of Small Hydropower Plants, also set out what he believes are the benefits of the investments citizens are funding:

“Had the state not subsidised this production, we would have been able to sell maybe half of it. Which means, let us say that it is €600,000 per year, and the subsidy is for 12 years – €7.2 million. See, that is only a subsidy, and what about 20 million different benefits? We forgot about that. The state becomes the owner of this facility, after the great service, in 27 years. This small hydropower plant will pay an average concession fee of €65,000 every year. This will enable people to work on their doorsteps.”

However, the number of new jobs created, compared to the millions Montenegrin citizens are allocating to encourage green energy, is negligible.

At the moment, there are 12 working small hydropower plants in Montenegro. In the Government’s National Plan for the Use of Energy from Renewable Sources by 2020, it is assessed that in 2020, the fees citizens pay will reach nearly €27 million.

IV Conclusions and recommendations

The energy sector in Montenegro is dominated by the private interests of individuals connected to the largest political party, the DPS. The interests of these persons and their companies are advanced by laws and official policies, while the public interest is ignored.

Citizens pay for the enrichment of these well connected individuals, through their electricity bills. Some citizens are even more directly affected by these vested interest as they lose access to water in their villages.

Government officials are turning a blind eye to the problems of citizens and are advocating for the interests of private companies.

In order to reduce state capture in the energy sector, the Government's policy for the use of renewable energy sources should be re-evaluated in terms of the balance between energy needs and the impact on environment. This should take place through open public discussions involving local and international experts.

Subsidies provided to companies involved in renewable energy should be reduced in line with best practices from other countries, and average salaries of Montenegrin citizens. Information about the subsidies provided to each company, and their ownership structure, should be published regularly by the authorities.

More transparency in granting concessions and better access to information on planned development of new energy sources is needed.

Finally, the participation of communities in the management of local resources should be improved, as well as the effective oversight of the construction and operation of renewable energy infrastructure.

ⁱ For further information, see: www.korrupsioon.ee/en/forms-corruption/state-capture

ⁱⁱ Ibid.

ⁱⁱⁱ Elsbeth Martin, Michaela; Solomon, Husein, "Understanding the Phenomenon of "State Capture" in South Africa", *Southern African Peace and Security Studies*. Available at: www.saccps.org/pdf/5-1/5-1_DRMartin_DrSolomon_2.pdf.

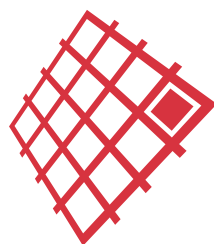
^{iv} The main planned projects related to energy are the construction of a second thermal plant in Pljevlja and a cascade of large hydro plants on the River Moraca. The construction of a cable for the distribution of energy to Italy is ongoing.

^v Law on Energy, Official Gazette of Montenegro no. 5/16, article 4, par. 2, item 3

^{vi} Law on Energy, Official Gazette of Montenegro, no. 5/16, article 23, item 5 and 6

^{vii} Law on Energy, Official Gazette of Montenegro, no. 5/16, article 24, item 1

^{viii} Law on Value Added Tax, Official Gazette of the Republic of Montenegro no. 65/01, 12/02, 38/02, 72/02, 21/03, 76/05, 04/06 and Official Gazette of Montenegro no. 16/07, 73/10, 40/11, 29/13, 09/15, 53/16, 01/17 and 50/17, article 25, par. 1, item 10a.



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