

MONITORING REPORT

2021 - 2023

PERMITS
FROM THE
MINISTRY OF
ENVIRONMENT,
SPATIAL PLANNING
AND
INFRASTRUCTURE

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INTRODUCTION

The consortium of civil society organizations consisting of the Group for Political and Legal Studies (GLPS), the GAP Institute (GAP) and the Institute for Development Policy (INDEP) are implementing the CorrWatch project: "Supporting Civil Society to Increase Oversight and Accountability of Public Institutions of Kosovo". This project, funded by the Foreign Cooperation and Development Office (FCDO) through the British Embassy in Pristina, stands out as a critical initiative within Kosovo, with the main purpose of advocating for good governance by promoting increased transparency, strengthening supervision, and accountability within public institutions.

Using a proactive and retroactive approach, the three implementing organizations are monitoring a number of government institutions and independent agencies across five key components:

1. Recruitment in public administration
2. Public procurement practices and contract management
3. Distribution of grants and subsidies
- 4. Issuance of permits, licenses and tariffs**
5. Performance and management of Public Owned Enterprises (POE's)

The Institute for Development Policy (INDEP) is monitoring the process of granting permits from the Ministry of Environment, Spatial Planning and Infrastructure (MESPI), the granting of licenses from the Independent Commission for Mining and Minerals (ICMM), as well as tariffs from the Energy Regulatory Office (ERO). Although CorrWatch found implementation in June 2022, INDEP has continued its research and data collection including issued environmental and water permits from previous years, such as 2020/2021 and 2022. The data collected by our monitoring officers has been transformed into visual representations, offering clear insights and highlighting any findings or legal violations uncovered during our supervision. Throughout our monitoring efforts, we've encountered challenges such as inconsistent permit criteria and delays in processing applications. These challenges emphasize the importance of robust monitoring mechanisms in protecting environmental integrity and fostering sustainable development.

In the concluding chapter, recommendations have been presented in order to address these challenges and offer insights on improving transparency and combating corruption within the permit issuance process. This report serves as a valuable resource for policymakers, regulators, and stakeholders involved in environmental decision-making. CorrWatch aims to provide evidence-based analysis to support efforts in enhancing environmental governance and responsible resource management, ultimately promoting transparency and accountability.

METHODOLOGY

In order for the report to be more comprehensive and insightful, our monitoring officers have employed a multifaceted approach within the CorrWatch project. This approach encompasses a variety of methodologies, including both qualitative and quantitative methods. By leveraging these diverse techniques, our officers have gathered data from various sources, such as the official website of the Ministry of Environment and Spatial Planning, alongside relevant documents and discussions related to environmental and water permits. This thorough methodology ensures that our report provides a detailed and well-rounded analysis of the permit issuance process, enabling us to identify and address any potential issues effectively.

Gathering and comparing data such as:

- Name of the applicant,
If the Full Report is published on the official website;
- Author of the EIA Report, If a Public Debate is planned to discuss the EIA Report;
- The municipality for which the permit is requested,
- Type of the issued permit,
If the Commission members, commission chairperson are somehow related to the applicant
- The date when the request was submitted, approved and published,
- Persons responsible for the issue of the permit in question,
- Additional comments on the approval or rejection of the permit application

have provided a clear and more detailed overview of the current situation. Consequently, these statistics have enabled us to reach conclusions in order to review and improve current policies in the field of permits and licenses.

In addition to overseeing permits, our monitoring efforts extend to researching companies that have applied for permits from the MESPI. Diving into the relationships between these companies and public officials within the Ministry is essential for uncovering any potential conflicts of interest, undue influence, fraud or corruption, that may undermine the transparency and fairness of the process itself. Moreover, by identifying these connections, we aim to proactively prevent the infiltration of organized crime into environmental decision-making, safeguarding against the misuse of environmental permits for illicit gains. Regarding these companies, the monitors have conducted a background check, examining the:

- Company owner/s,
- Declared assets,
- Capital in euros,
- Date of establishment,
- Registered activities in the Business Registration Agency,
- Their previous projects,
- Possible connections with public officials,

Moreover, our investigation into these companies goes beyond merely identifying potential risks. It also serves as a proactive measure to deter any misuse or exploitation of environmental permits for unlawful gains. By promoting transparency and accountability in permit issuance, we strive to foster an environment where regulatory compliance is upheld, and environmental resources are managed responsibly for the benefit of present and future generations.

Apart from this methodology, INDEP has pursued a comprehensive approach to gather insights, including conducting interviews with central and municipal-level stakeholders, representatives from various sectors, potential investors, consultants, and ecologists. Moreover, CorrWatch organized a two-day training workshop in collaboration with officers from both local and central levels, along with representatives from NGOs, journalists, and activists. This inclusive strategy allowed a dynamic sharing of insights and capacity-building exercise, while significantly enhancing our comprehension of permit issuance procedures viewed from different angles. By engaging with diverse stakeholders, we were able to gain valuable insights and perspectives, contributing to a more comprehensive analysis in our report. Additionally, our monitoring officers actively engaged in the permit and licensing processes, ensuring firsthand experience to enhance the accuracy and reliability of our report's findings and recommendations.

**CHALLENGES
AND FINDINGS
IDENTIFIED
DURING
MONITORING**



1

DENIAL OF THE REQUEST FOR PARTICIPATION IN THE MEETING OF THE COMMISSION FOR THE EVALUATION OF PERMITS AND EIA REPORTS

Despite the efforts made by the CorrWatch consortium to directly participate in the meetings of the committee for the review of permits and consents, they have encountered administrative silence, hindering their commitment to ensuring a more comprehensive and consistent monitoring of permits issued by MESPI. Despite this challenge, the consortium remains dedicated to advocating for increased transparency and accountability in the permitting process.

Requests addressed to the Secretary on Duty of MESPI, Assistants to the Secretary General, and Chairmen of the Commission for direct monitoring during the process of granting permits by this institution have encountered significant resistance and administrative silence. This lack of cooperation and transparency has rendered requests for direct participation seemingly impossible. Consequently, the absence of monitoring opportunities has resulted in noticeable deficiencies in the transparency and accountability of the permit-granting process by this institution. It is crucial that these obstacles are promptly addressed and resolved to establish a more open and transparent monitoring process for MESPI's activities in this domain.



LAW NO. 08/L-181 ON ENVIRONMENTAL IMPACT ASSESSMENT

Article 5 The Commission for examining requests for EIA, in Point 7, states that:

"REPRESENTATIVES FROM CIVIL SOCIETY CAN ALSO PARTICIPATE IN THE MEETINGS OF THE COMMISSION IN THE CAPACITY OF OBSERVERS."

2

DISCREPANCY BETWEEN PUBLISHED PERMISSIONS, PERMISSIONS WHICH APPEAR IN THE REGISTER, AND PUBLIC DEBATES HELD

Every permit issued by MESPI is preceded by an Environmental Consent, which in turn is preceded by an Environmental Impact Assessment Report. This report is compiled solely by individuals licensed by MESPI and is subject to public discussion. The disparity between the number of permits issued and those registered for permits, as well as the discrepancies in Environmental Impact Assessment Reports and public debates, constitutes a violation of the law. The evident discrepancy in the numbers presented above highlights that an adequate number of documents are not being made available to the public. The absence of transparency and the failure of civil society to monitor create opportunities for the misappropriation of public funds and potential corruption.

LAW NO. 03/L-025 ON ENVIRONMENTAL PROTECTION

Article 31 Environmental Permit, Point 3:

"THE MINISTRY, WITH A BY-LAW, DETERMINES THE NECESSARY ACTIVITIES FOR THE ISSUANCE OF THE ENVIRONMENTAL PERMIT, THE FORM OF APPLICATION, THE CONTENT OF THE ENVIRONMENTAL PERMIT, THE REVOCATION OF THE PERMIT, THE EXTENSION OF VALIDITY, AS WELL AS THE REGISTER OF ISSUED PERMITS."

THE ADMINISTRATIVE GUIDANCE NO. 04/2022 FOR ENVIRONMENTAL PERMIT, ARTICLE 5 CONDITIONS FOR OBTAINING AN ENVIRONMENTAL PERMIT, POINT 1.4 STATES THAT:
"ENVIRONMENTAL CONSENT DECISION ISSUED BY THE MINISTRY"



	YEAR 2021	YEAR 2022	YEAR 2023
THE NUMBER OF REQUESTS FOR ENVIRONMENTAL PERMITS ACCORDING TO THE REGISTER	146	244	244
NUMBER OF DECISIONS FOR ENVIRONMENTAL PERMITS AT THE TIME OF REQUEST SUBMISSION	63	105	105
NUMBER OF EIA REPORTS PUBLISHED	0	62	62
THE NUMBER OF PUBLIC DEBATES ANNOUNCED ON THE OFFICIAL WEBSITE OF MESPI	5	43	43

Table 1. Number of permit requests, permit decisions, EIA reports and public debates published over the years from MESPI

3

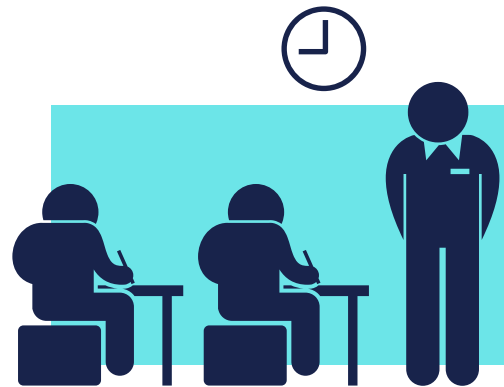
NON-OPENING THE CALL FOR THE LICENSING OF LEGAL ENTITIES FOR THE COMPILING OF ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

Since August 10, 2020, the Ministry of Environment, Spatial Planning and Infrastructure has not announced the call the Licensing of Legal Entities for the Drafting of EIA Reports. According to:

LAW NO. 08/L-181 ON ENVIRONMENTAL IMPACT ASSESSMENT

Article 12, in Paragraph 2:

"THE MINISTRY WITH A BY-LAW DETERMINES THE PROCEDURES AND CRITERIA FOR THE LICENSING OF LEGAL INDIVIDUALS FOR THE DRAFTING OF EIA REPORTS".



The Administrative Guidance No. 10/2017 for the Licensing of Drafters of Environmental Impact Assessment Reports, based on the law above defines the time period during which the Ministry is obliged to open the competition for the licensing of natural and legal persons for the drafting of EIA reports , Article 6, Paragraph 4:

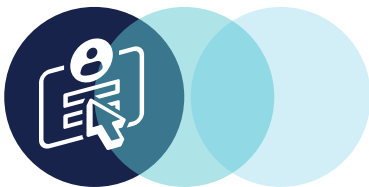
"THE INDIVIDUAL APPLIES TO THE MINISTRY ON THE BASIS OF THE ANNOUNCED COMPETITION, ONE (1) TIME PER YEAR."

The absence of competition opening for almost three years, along with the Ministry of Environment and Spatial Planning and Infrastructure's failure to provide justification for this issue, raises doubts about the consistent progress of the permit process by this institution. The Environmental Impact Assessment (EIA) Report plays a vital role in identifying and evaluating the harmful impacts of implementation projects on the environment. Therefore, the non-opening of the competition is concerning as it reflects a lack of transparency and accountability. This situation could potentially foster a monopoly by a select group of individuals who may exploit it for personal benefits.

4

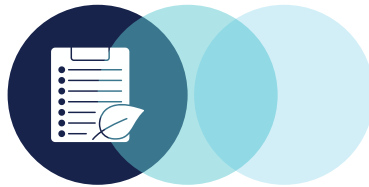
DENIAL OF THE RIGHT TO ACCESS PUBLIC DOCUMENTS

Given the challenge mentioned above, CorrWatch monitoring officers have taken proactive steps to address the issue. Utilizing resources such as the official website of MESPI and official email channels, they have formally requested access to:



Complete Registry of Permits

Requests for Environmental and Water Permit



Full record of the EIA Reports

Unpublished Environmental Impact Assessment Reports



The full list of the licensed individuals

The complete list of the licensed individuals for the compilation of EIA Reports

As a result of the silence from the responsible Ministry on September, 2023, CorrWatch complained to the Information and Privacy Agency, emphasizing the lack of transparency from the responsible Ministry. Immediately after the Decision by the Agency for Information and Privacy (AIP), in which the MESPI is obliged to share the unpublished documents, the institution in question responds by affirming that they are all on their official website. Consequently, one day later, on November, 2023, the AIP declared closed the administrative procedure - the review of the complaint filed by CorrWatch, asserting that "the closure of the procedure is only formal and that the decision issued the day before is still valid". In this regard, CorrWatch contacted MESPI a day later clarifying and expressing dissatisfaction with the Decision taken by AIP and the response from MESPI. It is worth noting that: **The decision taken by AIP has not been published on their official website** compared to other decisions. Based on:

LAW NO. 06/L – 181 ON ACCESS TO PUBLIC DOCUMENTS

Article 17, Paragraph 3:

"ACCESS TO PUBLIC DOCUMENTS IS ALWAYS ALLOWED, IF:

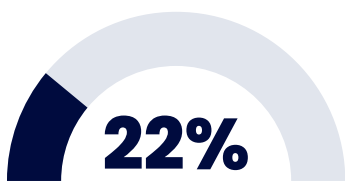
3.3. THE REQUESTED PUBLIC DOCUMENT HAS TO DO WITH THE ENVIRONMENT, WASTE, HAZARDOUS SUBSTANCES OR INFORMATION ON SAFETY REPORTS IN THE ENVIRONMENT, AS PROVIDED BY THE RELEVANT LAW ON ENVIRONMENTAL PROTECTION."



5

COMPILATION OF EIA REPORTS BY NON-LICENSED INDIVIDUALS FROM MESPI

Continuing the discussion from the previous page, among the total of 61 Environmental Impact Assessment (EIA) Reports published on MESPI's official site, the CorrWatch monitoring officers noted that:



Reports are prepared by individuals who are not listed among those licensed by MESPI. This raises concerns regarding the qualifications and credibility of the individuals involved in the preparation of these reports.



Reports are prepared by individuals whose licenses have been revoked, yet they still appear on the list published by MMPHI. This discrepancy raises serious questions about the reliability and integrity of the licensing process and the accuracy of the published list.



EIAs conducted by individuals under investigation not only raise red flags regarding the integrity of the assessment process but also heighten the risk of misuse of public funds.



Considering the findings mentioned above, CorrWatch has opted to publicly advocate for enhanced transparency from MESPI. Fortunately, this public advocacy has been acknowledged, leading to an increase in reports published on MESPI's official website. Consequently, during the year 2023, both before and after this public advocacy, the number of:

	BEFORE	PUBLIC REACTION FOR INCREASED TRANSPARENCY AND UPDATING OF THE FULL LIST OF INDIVIDUALS FOR DRAFTING THE EIA REPORTS.	AFTER
PERMITS PUBLISHED	115		145
PUBLIC DEBATES HELD	4		51
PUBLISHED EIA REPORTS	17		58

6

LACK OF UPDATING THE CENTRAL REGISTRY OF PERMITS AND LICENSES

Three years ago, the website lejelicence.rks-gov.net/ was launched. This platform is integrated into the official website of the Office of the Prime Minister of the Republic of Kosovo. Even though, its role is to provide information on the types of permits and licenses (including certifications, authorizations, approvals, consents, etc.) that central level institutions grant or issue in order to regulate economic, commercial and public and private professional activities, this register has not been updated for more than two years. According to:

LAW NO. 04/L-202 FOR THE SYSTEM OF PERMITS AND LICENSES

Article 29:

"THE LEGAL OFFICE OF THE OFFICE OF THE PRIME MINISTER OR OTHER AUTHORITY DESIGNATED BY THE GOVERNMENT KEEP AND UPDATE THE REGISTER OF PERMITS AND LICENSES ISSUED BY CENTRAL INSTITUTIONS IN THE REPUBLIC OF KOSOVO."

In addition to Article 29, the actions of the relevant institutions also conflict with Article 32 - Legal effect of the Central Registry of types of permits and licenses. where Point 1 and Point 2 of the article cite the following:

- 1. All types of permits and licenses that do not appear in the Central Register of permits and licenses have no legal effect;**
- 2. Leaders of relevant institutions that issue permits and licenses are responsible for sending and updating data for the Central Registry of types of permits and licenses;**

When a permit or license loses its legal validity, it not only discourages investment but also contributes to distrust of public institutions. The fact that the Central Register of Permits and Licenses may not be regularly updated is troubling for everyone involved. This lack of updates not only renders documents invalid but also raises concerns about the transparency of the process. It's crucial to take immediate action to update the website <https://lejelicence.rks-gov.net>. Doing so, it will not only protect permit owners but also streamline the entire process, making it easier for everyone to monitor and navigate.





THEMATIC REPORT

1

ADVOCACY FORUMS

2

MEDIA APPEARANCES

20+

MONITORED PUBLIC DEBATES

23

WORKSHOP HELD

1

MEETINGS

31

ANALYSED EIA REPORTS

62



CONCLUSIONS AND RECOMMENDATIONS

The permits and licenses sector faces numerous challenges including complicated procedures, regulatory discrepancies, limited institutional capabilities, financial constraints, insufficient data. Despite bureaucratic efficiency within the institutions, the process of obtaining Environmental Permits in the Republic of Kosovo experiences significant delays. Efforts to create strategic documents and guidelines for land use in urban and municipal development plans have proven ineffective due to stringent criteria imposed during form submission by the involved institutions, often resulting in application suspensions and procedure blockages. These issues discourage foreign investors and potentially lead to withdrawals, Consequently, in loss of capital investments.

Furthermore, the sector is hindered by several issues, including the absence of a digitization system, limited staffing and expertise, and ongoing criticism regarding vulnerable resources, bureaucratic inefficiencies, and inadequate enforcement of environmental regulations. Additionally, concerns persist about the sector's ability to address pressing environmental issues such as air and water pollution, waste management, and natural resource conservation. These challenges cast doubt on a future where infrastructure is no longer a topic of concern, underscoring the need for increased transparency and accountability in environmental permitting processes. Addressing these challenges requires an integrated approach prioritizing sustainable urban development, effective environmental management, and natural resource conservation through increased transparency and accountability.

By developing an E-Archive Platform within the framework of digitalizing the application system would simplify application review procedures and securely store data and documentation. This digital platform, could also be used to address the potential for confusion, loss, or misuse of submitted documentation by storing them electronically, thereby enhancing transparency, accountability, and productivity within the institution. Additionally, a One-Stop-Shop - Information Office to provide equal access to all applicants and guide them through the application process.

This way, transparency would be ensured by informing investors of timelines, required documentation, and application progress. Thus, would also reduce administrative burden on officials, enhancing overall efficiency and effectiveness at the central level. On the topic of digitization, the website lejedhelicensa.rks-org.net should be updated and also integrated into the official website of the Ministry of Environment, Spatial Planning and Infrastructure.

Connecting the eLeja website to the official MESPI website or any affiliated electronic platform would not only expedite document review but also enhance accountability among all stakeholders involved. Regular meetings between central-level officials responsible for granting permits and licenses and representatives from municipal departments for environmental protection and urbanization should be established. The lack of coordination and information sharing often leads to delays in application reviews and misunderstandings about regulatory updates. By fostering collaboration, these meetings would ensure smoother processes and reduce the chances of inadvertently misleading applicants.

Determining a fixed meeting date for the commission is important. This information is valuable for applicants seeking permission and licenses, helping them anticipate when their documentation will be reviewed without needing external inquiries. Establishing clear timelines improves transparency and communication between applicants and regulatory authorities. Also, reviewing the legislative framework to harmonize bylaws at both government levels is necessary. The examination process for permits, licenses, and consents often experiences delays due to resource constraints. Therefore, increasing human capacity for these processes and involving civil society members or third-party contractors in decision-making would improve transparency, accountability, and overall efficiency.

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