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Overview and analysis of construction permits for power plants in FBiH - Urban Permit/Location Information, Construction Permit and Use Permit

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1. INTRODUCTION
The construction sector has significant influence on the overall economy and investment climate of a country. According to World Bank data, the construction sector accounts for 6.5% of the gross domestic product (GDP) in the Organization for Economic Cooperation and Development (OECD) member states and is the largest industrial employer in Europe with a 7% share in the overall employment rate.\(^1\)

Due to the importance of the construction sector for the stability of the economy and a favorable investment environment, the World Bank measures the “ease of dealing with construction permits” as one of the main indicators for assessing the ease of doing business in the world.

According to World Bank findings, “Economies that score well on the ease of Dealing with Construction Permits tend to have rigorous yet expeditious and transparent permitting processes.”\(^2\) Furthermore, studies have shown that the “number of steps and time required to obtain permits in the area of construction represent the biggest ‘regulatory impediment’ to doing business in a given country.”\(^3\)

Bosnia and Herzegovina is ranked 166\(^{th}\) in the World Bank’s most recent report, Doing Business 2018, in terms of ease of dealing with construction permits,\(^4\) which makes it the lowest ranking country in the region. For example, Serbia is ranked 10\(^{th}\), Macedonia 26\(^{th}\), Montenegro 78\(^{th}\) and Croatia 126\(^{th}\) in terms of ease of dealing with construction permits (see Table 1 below for more details).

The “Dealing with Construction Permits” Indicator in the Doing Business report is measured based on four criteria:

1. Number of steps (procedures) necessary for obtaining permits in the area of construction
2. Number of days necessary for obtaining permits in the area of construction (including final registration of the completed facility in the land registry)
3. Cost of obtaining permits in the area of construction, including all related fees and charges (expressed as percentage of total value of the facility being built)
4. Construction legislation quality index, including construction work, material and legislation quality control (on the scale of 0 to 15, 15 being the highest score)

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\(^2\) Ibid.

\(^3\) Ibid.

\(^4\) The World Bank Doing Business report measures ease of doing business in 190 countries. For more information, see: [http://www.doingbusiness.org/about-us](http://www.doingbusiness.org/about-us).
According to these criteria, Bosnia and Herzegovina is the lowest ranking country in the region. See Table 1 below:

<table>
<thead>
<tr>
<th>Country</th>
<th>Ranking</th>
<th>Number of steps</th>
<th>Number of days</th>
<th>Cost</th>
<th>Quality index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serbia</td>
<td>10</td>
<td>11</td>
<td>110</td>
<td>1.8%</td>
<td>13.0</td>
</tr>
<tr>
<td>Macedonia</td>
<td>26</td>
<td>11</td>
<td>96</td>
<td>6.1%</td>
<td>13.0</td>
</tr>
<tr>
<td>Montenegro</td>
<td>78</td>
<td>8</td>
<td>152</td>
<td>10.9%</td>
<td>12.0</td>
</tr>
<tr>
<td>Slovenia</td>
<td>100</td>
<td>14</td>
<td>239.5</td>
<td>29%</td>
<td>12.0</td>
</tr>
<tr>
<td>Albania</td>
<td>106</td>
<td>17</td>
<td>220</td>
<td>3.5%</td>
<td>13.0</td>
</tr>
<tr>
<td>Croatia</td>
<td>126</td>
<td>18</td>
<td>126</td>
<td>9.4%</td>
<td>12.0</td>
</tr>
<tr>
<td>BiH</td>
<td>166</td>
<td>16</td>
<td>193</td>
<td>17.5%</td>
<td>13.0</td>
</tr>
</tbody>
</table>

Table 1: Ranking of countries from the region in terms of ease of dealing with construction permits according to Doing Business 2018

Bosnia and Herzegovina is by far the lowest ranking country in the region, with the highest cost of construction licensing. According to the Doing Business 2018 – Economy Profile of Bosnia and Herzegovina, the highest individual costs in construction permitting procedure in Bosnia and Herzegovina are presented in Table 2 below:

<table>
<thead>
<tr>
<th>Step</th>
<th>Amount in KM</th>
<th>% of overall value of investment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Validation of main project design</td>
<td>28,180 KM</td>
<td>6.7%</td>
</tr>
<tr>
<td>Payment of construction land fees and the shelter construction fee</td>
<td>32,536 KM</td>
<td>7.7%</td>
</tr>
<tr>
<td>Obtaining use permit</td>
<td>7,804 KM</td>
<td>1.8%</td>
</tr>
</tbody>
</table>

*Note: total value of investment: 418,327.60 KM*

Table 2: Highest individual costs in the construction permitting procedure

The methodology in the Doing Business report is based on a hypothetical case study of constructing a warehouse with a total area of approximately 1,300 m2 on a land plot 100% owned by a private company located on the outskirts of the capital city (but within the city zone). This is a relatively simple building, built in a capital city.

The procedure of building an average power plant is more complex and includes a number of special permits, licenses, consents, opinions, fees and charges the investor needs to obtain and pay

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6 Different fees for construction land will be analyzed more closely in the segment detailing the construction permitting procedure *infra*, p. 13. The fee concerns a payment for rents for the natural resources.
in order to successfully complete the procedure of building such a facility. As a result, the amounts attached to these criteria concerning the construction of a power plant will most certainly be higher.\textsuperscript{7}

Using this information as a starting point and having in mind the above considerations, the text to follow provides an overview of laws and regulations in the area of construction at the FBiH level, and in four selected pilot cantons, highlighting special regulations affecting the FBiH power plant permitting procedure, contrasted with best practice from neighboring countries.

Chapter 2 provides a general overview of the FBiH legal framework comprising the law and key regulations.

Chapter 3 presents the three basic permits in the area of construction (Urban Permit/Location Information, Construction Permit and Use Permit), and describes the most common obstacles investors are faced with while obtaining each one of these permits.

Chapter 4 provides an overview of the legal framework for issuing construction permits in the four pilot cantons. Given that the basic construction process at the cantonal level consists of the same set of permits (Urban Permit/Location Information, Construction Permit and Use Permit), Chapter 4 will outline only problems or obstacles specific to each canton.

2. LEGAL FRAMEWORK AT THE FBiH LEVEL
2.1 FBiH Law on Spatial Planning and Land Use
The FBiH Law on Spatial Planning and Land Use\textsuperscript{8} is a framework law that regulates, \textit{inter alia}, the use of land for construction\textsuperscript{9} at the FBiH level. The Law was originally adopted in 2006 and was amended six times. The last amendments to the Law were adopted in 2010 when a number of innovations were introduced in the area of spatial planning and construction in FBiH, including the Location Permit as a special document for construction permitting, as well as zoning plans as a special type of planning documents allowing for more flexible planning of construction at a certain location.

The FBiH Law on Spatial Planning and Land Use is divided into two parts. The first part concerns spatial planning at the level of FBiH while the second part covers provisions concerning the use

\textsuperscript{7} For example, an investor also needs to obtain, among other things, a concession, i.e., pay a concession fee when the law prescribes that a concession must be obtained for the construction of the power infrastructure facility; obtain different water acts and pay general and special water charges when they are required for the activity concerned; and obtain an Energy Permit, connect the facility to the distribution or transmission network and obtain the Operational License for Electricity Generation.

\textsuperscript{8} Law on Spatial Planning and Land Use of FBiH (“Official Gazette of FBiH” Nos. 02/06, 72/07, 32/08, 4/10, 13/10 and 45/10).

\textsuperscript{9} According to the Law, construction refers to the: “construction of a new structure, reconstruction, expansion, upgrade, restoration, rehabilitation, performance of other interventions in space, removal of a structure, preparation works, repurposing of a structure or land and construction of temporary structures, except routine maintenance, restoration work that may be considered routine maintenance or conservation of the structure.”
of land for construction, i.e., provisions on construction permitting through the issuance of the three basic permits: the Urban Permit/Location Information, Construction Permit and Use Permit.

Article 40 of the FBiH Law on Spatial Planning and Land Use prescribes the competence of the FBiH Ministry of Spatial Planning for authorizing:

1) facilities and works covering the territories of two or more cantons;
2) facilities and works in areas and locations of importance for the Federation;
3) construction on an interstate border;
4) construction in free zones;
5) facilities and the performance of activities and works that may significantly impact the environment, life and health of people in the Federation and beyond;
6) facilities of importance for the Federation; and
7) facilities and works in areas within the boundaries of national monuments determined by the Commission Decision, and facilities and works in areas registered in the Provisional List of National Monuments within the boundaries determined as temporary by the Commission.

Article 40 of the FBiH Law on Spatial Planning and Land Use served as the basis for the adoption of the Decree on Determining Works and Facilities for which the FBiH Ministry of Spatial Planning Issues the Urban Permit and/or Location Information.

2.2 Decree on Determining Works and Facilities for which the FBiH Ministry of Spatial Planning Issues an Urban Permit and/or Location Information (Decree on Facilities and Works of Importance for FBiH)

The Decree on Facilities and Works of Importance for FBiH\(^7\) includes a list of facilities and activities in different sectors (e.g., traffic and communication, energy, sports facilities, production facilities) for which the FBiH Ministry of Spatial Planning issues the Urban Permit and/or Location Information.

The Decree lists, article by article, the facilities and works of importance for FBiH.

The Decree on Facilities and Works of Importance for FBiH lists in point 2 of Article 2 energy facilities under the competence of the FBiH Ministry of Spatial Planning:

2) ENERGY FACILITIES

- power plants with an installed capacity of 30 MW and more with accompanying facilities,
- overhead power lines of 220 kV and more with a substation and switchyard on that power line,
- Wind farms (a minimum of 4 wind turbines and more)

\(^7\) Decree on Facilities and Works of Importance for FBiH ("Official Gazette of FBiH" No. 32/14).
Point 3 of Article 2 of the Decree on Facilities and Works of Importance for FBiH lists water facilities. Since hydropower plants are both water and energy facilities, the FBiH Ministry of Spatial Planning also has the competence for authorizing the construction of “dams with reservoirs or retention spaces with supporting structures meeting the criteria of large dams.” Consequently, hydropower plants with an installed capacity under 30 MW, if they meet the criteria of large dams, are also under the competence of the FBiH Ministry of Spatial Planning. The Decree does not provide a definition of “large dams” nor does it lay down criteria for determining them.\textsuperscript{11}

Further, Article 3 of the Decree on Facilities and Works of Importance for FBiH states that the FBiH Ministry of Spatial Planning is also competent for issuing the Urban Permit and/or Location Information to facilities subject to obtaining an Environmental Permit, which is issued based on the Environmental Impact Assessment Study.

Article 3 of the Decree on Facilities and Works of Importance for FBiH:

In addition to works and facilities referred to in Article 2 of this Decree, the Ministry shall also issue the Urban Permit and/or Location Information for works and facilities which are in accordance with a special regulation subject to possessing an Environmental Permit (large polluters), issued based on the Environmental Impact Assessment Study and the Environmental Protection Conditions.

In summary, the FBiH Ministry of Spatial Planning is competent for authorizing the construction of the following types of energy facilities:

1. power plants with installed capacity over 30 MW, wind farms with four or more turbines and 220 kV power lines,
2. water facilities considered large dams, and
3. facilities that can significantly impact the environment (large polluters).

### 2.3 Decree on the Type, Content, Labelling and Retention, Control and Recognition of Investment-Technical Documentation (Decree on Investment-Technical Documentation)

The Decree on Investment-Technical Documentation\textsuperscript{12} defines the type, content, labelling and retention, control and recognition of investment-technical documentation for the construction of different types of facilities, including energy facilities. It also provides a definition of technical documentation, types of technical documentation (preliminary, main and detailed project design)

\textsuperscript{11} Investors state that they most frequently use the criteria of the International Commission on Large Dams (ICOLD), of which Bosnia and Herzegovina is a member. According to these criteria dams with a height of 15 meters or greater from lowest foundation to crest or dams between 5 meters and 15 meters impounding more than 3 million cubic meters are considered large dams. For more information, see: http://www.icold-cigb.net/GB/dams/definition_of_a_large_dam.asp

\textsuperscript{12} Decree on the Type, Content, Labelling and Keeping, Control and Recognition of Investment-Technical Documentation ("Official Gazette of FBiH" Nos. 33/10, 99/14).
and classifies technical documentation into two groups: 1) documentation for the construction and reconstruction of buildings and, 2) documentation for the construction, reconstruction and rehabilitation of civil engineering projects.

Although the Decree provides a classification of documentation necessary for construction of buildings and civil engineering projects, it does not explicitly state which category power plants fall under, despite the fact that the opening provisions of the Decree on Investment—Technical Documentation state that it also pertains to energy facilities under the competence of FBiH.

In practice, energy facilities are often regarded as “facilities without category” due to the complexity of their design and construction, and existing regulations do not regulate these facilities in a sufficient manner.

Best international practice shows that by classifying facilities and the necessary technical documentation by type and purpose of the facility, the overall procedure of building facilities is simplified significantly, both for the competent authorities and the investors.  

3. PERMITS IN THE AREA OF CONSTRUCTION AND KEY PROBLEMS

The basic construction process is the same at the Federation and cantonal levels, revolving around the three basic permits in the area of construction: Urban Permit/Location Information, Construction Permit and Use Permit. A detailed description of each of these permits and key problems investors face in different phases of obtaining these permits follows below. The problems that have been presented are the same at both the FBiH and cantonal levels.

3.1 Urban Permit / Location Information

3.1.1. Urban Permit

The Urban Permit represents the first step in building any facility, including power plants. This is an administrative act establishing whether it is possible to build at a given location and under which conditions.

Articles 37 through 46e of the FBiH Law on Spatial Planning and Land Use regulate the procedure of issuing the Urban Permit in FBiH.

Article 39 of the FBiH Law on Spatial Planning and Land Use prescribes the content of the application for an Urban Permit:

Article 39

The application for an Urban Permit shall contain:

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13 For example, Serbia adopted an entirely new Rulebook on Classification of Constructions in 2015 (available at: [http://www.paragraf.rs/propisi/pravilnik_o_klasifikaciji_objekata.html](http://www.paragraf.rs/propisi/pravilnik_o_klasifikaciji_objekata.html)). This Rulebook abandoned the earlier classification dividing construction into buildings and traffic and water infrastructure and adopted a classification based on different categories, depending on the complexity and purpose of the structure. The Rulebook includes a special chapter titled “Complex Industrial Structures”, which also lists energy structures.
1) data about the parcel;
2) a Preliminary Design containing:
   a. technical description,
   b. general layout,
   c. all foundations of the structure,
   d. cross section,
   e. façade;
3) an Environmental Permit or Preliminary Construction Waste Management Plan (for structures where special legislation stipulates such an act must be obtained);
4) grounds of the application with the data necessary for establishing urban-technical and other conditions.

The Ministry may request other attachments depending on the complexity of the structure.

A total of four supporting documents need to be submitted with an application for an Urban Permit. However, investors point out that the most difficult problems they face in the process of obtaining an Urban Permit are the nonexistent or poor spatial planning documents, and the process of obtaining special consents and permits, all of which extend the time required for obtaining the Urban Permit.

3.1.2. Problems with Spatial Planning Documents

The absence of appropriate spatial planning documents represents a major problem in issuing the Urban Permit.

Planning documents for the location on which construction is planned represent the basis for issuing the Urban Permit. Article 40 of the FBiH Law on Spatial Planning and Land Use states:

Article 40

(1) Based on an already obtained opinion from the cantonal ministry of spatial planning, the Ministry shall issue an Urban Permit...

... . . .

(3) The opinion referred to in paragraph 1 of this Article shall be provided by the cantonal ministry of spatial planning based on the planning document for the area concerned identified as the basis for approving construction.

However, planning documentation in FBiH is very often nonexistent, outdated, of poor quality or is not harmonized between different jurisdictions. The FBiH Spatial Plan has still not been adopted, despite the fact that the legal deadline for its adoption expired nine years ago\(^\text{14}\) and the situation at lower levels of government is equally bad.

\(^{14}\) Article 111 of the FBiH Law on Spatial Planning and Land Use set a deadline of two years for the adoption of the FBiH Spatial Plan following the adoption of this Law.
The Audit Office of the Institutions of FBiH noted in its Audit Report that: “. . . municipality/city spatial plans have not been adopted in 40% of municipalities/cities. In municipalities/cities where spatial plans have been adopted, 33% of municipality/city spatial plans have not been harmonized with the spatial plan of the canton, while 40% of the municipality/city spatial plans were adopted more than 10 years ago.”

Where appropriate spatial planning documents do not exist, the investor’s application is submitted to the competent institution for spatial planning in the canton for an opinion, or a specially appointed commission for providing an expert assessment.

Article 40 of the FBiH Law on Spatial Planning and Land Use states:

(4) By way of derogation from paragraph 3 of this Article, the cantonal authority shall provide an opinion based on the expert assessment by the commission appointed by the legislative authority of the canton or the expert assessment by an organization authorized by that authority to provide an expert assessment in areas where a planning document has not been adopted.

The requirement of obtaining this expert assessment adds to the complexity of the process of obtaining an Urban Permit, as it increases the number of process steps that need to be completed in order to obtain the Urban Permit. The way this provision has been worded gives rise to concerns of a lack of transparency in the Urban Permit issuance procedure and gives broad discretion to the competent authorities without clearly defined criteria and accountability. In order to avoid situations such as these in practice and to prevent abuse, it is necessary to adopt adequate spatial planning documents in accordance with spatial planning rules which will allow for a more efficient Urban Permit or Location Information issuance procedure.

3.1.3 Problems with special consents and permits

During the construction process, provisions of other laws (e.g., Law on Agricultural Land, Law on Water, Law on Electricity in FBiH) and regulations are also applicable. These laws and regulations define procedures for issuing special consents and permits needed to legally build a facility. Investors claim that the number of documents they often have to submit with the application for an Urban Permit or Energy Permit is ten times higher than prescribed in Article 39 of the FBiH Law on Spatial Planning and Land Use. This is due to the fact that special consents, permits and opinions need to be obtained from different public companies (e.g., companies in charge of managing utility infrastructure, roads, railways, the Directorate of Civil Aviation) or other competent authorities.

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16 As part of activities on identifying obstacles to the construction of electric power facilities in BiH, USAID EIA has conducted case studies on the construction of different electric power facilities. One such case study covered the construction of the WPP Mesihovina. Data collected during the work on that case study has been also used in this analysis.
All of these special consents and other permits are issued in separate procedures. Each of these administrative procedures involves a series of steps and procedures with regard to submitting an application supported by other documents. The majority of these supporting documents must be submitted in their original form or in the form of a certified copy, which increases the cost for investors in the earliest phase of planning the construction of an electric power facility.

Perhaps the Agricultural Consent best illustrates the problems created by these special consents. Construction of any facility is allowed only on construction land, which needs to be identified as such in planning documents. The Agricultural Consent must be obtained when the investor wishes to use agricultural land (e.g., meadow, field, pasture) for non-agricultural purposes, i.e., when repurposing agricultural land into construction land. The FBiH Law on Agricultural Land\(^{17}\) defines when agricultural land can be repurposed, the procedure of issuing the Agricultural Consent and the competence for issuing the Agricultural Consent.

The Law on Agricultural Land stipulates that the Agricultural Consent is obtained ex officio by the “authority competent for spatial planning affairs” before the issuance of the Urban Permit. However, the same Law states that the investor must submit a series of documents to the competent authority, including proof of ownership of land for which repurposing is requested.\(^ {18}\) This means that the investor needs to resolve property rights issues for the location concerned in the earliest phase possible, even before obtaining the Urban Permit, despite not yet being certain that construction will be allowed at the selected location. The investor pays a special fee for land repurposing.

The issue of the “position” of the Environmental Permit in relation to the Urban Permit has also been questioned in practice. Article 39(3) of the Law on Spatial Planning and Land Use at the Level of FBiH stipulates that an Environmental Permit must be submitted with the application for an Urban Permit for facilities to which this requirement applies in accordance with the special law. This means that investors first need to complete the procedure of obtaining the Environmental Permit; and, in order to obtain this permit, they first need to obtain other special permits, e.g., water acts, and only then initiate the procedure for obtaining the Urban Permit. There have been cases where investors were able to obtain the Preliminary Water Consent and the Environmental Permit, at substantial cost and effort, only to see their application for an Urban Permit rejected in the end.

3.1.4 Location Information

Amendments to the FBiH Law on Spatial Planning and Land Use introduced a new document – the Location Information – in the construction permitting procedure in FBiH. This amendment was aimed at making it easier for investors to find an answer to the question as to whether it is possible to build a facility on the planned location and under what conditions.

Unlike the Urban Permit which is issued based on planning documentation, the Location Information is exclusively based on “detailed planning documents” (including: zoning plan,

\(^{17}\) Law on Agricultural Land (“Official Gazette of FBiH” No. 52/09).
\(^{18}\) FBiH Law on Agricultural Land, Article 50.
regulation plan and urban design). The detailed planning documents are adopted at a local self-government unit level (city or municipality) and concern smaller geographic areas.

The FBiH Law on Spatial Planning and Land Use defines the content of the Location Information. Article 46a of the Law states: “The Location Information lays down conditions for the design, construction and performance of other works, determined based on the detailed planning documents.”

The introduction of the Location Information should facilitate the procedure for investors by reducing the number of supporting documents, submitted with the application for the Location Information.

Article 46b defines the content of the application, i.e. documents that need to be submitted with the application for the Location Information:

The following documents shall be submitted with the application for the Location Information:

1) excerpt from the cadastral plan,
2) Preliminary Project Design,
3) planned technology for generation facilities,
4) Environmental Permit for facilities, activities and works that may have a significant impact on the environment, life and health of people in the Federation and beyond, and
5) grounds of the application with data necessary for issuing the Location Information.

The discretion of the competent authority to seek additional documentation for issuing the Location Information is clearly not as broad as in the case of the Urban Permit, as the Law did not leave the option that would allow the competent Ministry to seek additional documents depending on the complexity of the construction. The Location Information is issued based on detailed planning documents, which by reason of their nature contain sufficient information for determining conditions for the construction of the planned facility. However, the issuance of the Location Information has not taken root in FBiH, as many local self-government units have still not adopted detailed planning documents.

3.2 Construction Permit

The Construction Permit is an administrative act authorizing the construction of the planned facility. Only after obtaining this document can the investor begin with the actual construction. Articles 53 through 65 of the FBiH Law on Spatial Planning and Land Use govern the Construction Permit issuance procedure in FBiH.

Article 55 of the FBiH Law on Spatial Planning and Land Use defines the content of the application for the Construction Permit:

Article 55

The following documents shall be submitted with the application for the Construction Permit:

1) Urban Permit, i.e., Location Information;
2) excerpt from the cadaster – cadastral parcel;
3) excerpt from the land registry, contract or decision of the competent authority based on which the investor obtained the right to use for the purpose of construction, partnership contract with the owner of the land and/or property, concession contract granting the right to build;
4) Main Project Design in three copies;
5) written report on a performed review of the Main Project Design in accordance with Article 81(3) of this Law;
6) written report on recognition of documents in cases referred to in Article 81(3) of this Law;
7) study on research activities and technological study, if necessary;
8) consents and permits obtained in the Urban Permit issuance procedure for the facility concerned;
9) detailed construction waste management plan;
a. other documents as prescribed by special law.

While this Article contains a total of 10 points defining documents an investor needs to submit to obtain the Permit, the list prescribes that multiple copies of documents/permits, which have already been acquired from the FBiH Ministry of Spatial Planning, are required to be repeatedly submitted to the same Ministry throughout the construction permitting process – the same authority that issued them in the first place. For example, despite the fact that the FBiH Ministry of Spatial Planning issues the Urban Permit and the Construction Permit, investors are required to again submit the Urban Permit and all other consents obtained as part of the earlier procedure of obtaining the Urban Permit from the same Ministry (e.g., Environmental Permit, Preliminary Water Consent, Electric Power Permit) in order to obtain the Construction Permit. Not only is the Ministry deluged with copies of documents they have approved or issued, but the investor is inconvenienced in assembling the same documents over and over.

An actual example is the investor in WPP “Mesihovina” having to resubmit almost 40% of the documentation to the same competent authority (the FBiH Ministry of Spatial Planning) in order to obtain the Construction Permit. This issue has been resolved differently in certain other cantons (e.g., Zenica-Doboj Canton and Tuzla Canton) by their revising the rules to not require duplicative submissions; and, as a result, in those cantons investors no longer need to resubmit the same documentation.

Problems investors most frequently face during the Construction Permit issuance procedure include the (i) cost of Main Project Design control (review), (ii) payment of different construction land and shelter construction fees, as well as (iii) problems in that including neighbors in the procedure of obtaining the Construction Permit comes late in the procedure. Moreover, representatives of the competent authorities also emphasize that (iv) illegally built structures

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19 Article 54 of the FBiH Law on Spatial Planning and Land Use states: “The Ministry shall issue the Construction Permit referred to in Article 40(1) of this Law at the request of the person whose name is on the Urban Permit.”
20 The percentage was calculated based on data from documents submitted with the application for the Construction Permit for WPP “Mesihovina,” analyzed by USAID EIA during the process of preparing case studies.
(without necessary permits) significantly complicate the procedure of building new structures, including power plants. A detailed description of these problems is available below.

3.2.1 Problems with costs of Main Project Design control (review)

In order to obtain a Construction Permit, investors must also submit a Main Project Design Control (Review) Report. When prepared in accordance with regulations of another country, the Main Project Design needs to go through a recognition procedure, i.e., its compliance with domestic laws needs to be verified. According to World Bank data, the cost of Main Project Design control in FBiH can account for more than 6% of the total value of the investment. Furthermore, representatives of the competent authorities stress that the quality of project documentation and its review is often not at a satisfactory level.

The development and control of project documentation for structures under the competence of FBiH can only be performed by registered legal entities that possess a special license from the FBiH Ministry of Spatial Planning. However, project documentation design and control for structures under the competence of cantons is performed by registered legal entities not required to have a special license by the competent authority.

As a result, the quality of provided services and the prices of these services vary significantly (forcing competent authorities to frequently request corrections to the project documentation).²¹

3.2.2 Problems with different fees for construction land

Pursuant to the FBiH Law on the Protection and Rescue of People and Property in the Event of Natural or Other Disasters (FBiH Law on Protection and Rescue), shelter construction is one of the conditions for issuing the Construction Permit. This Law requires investors to build shelters in “significant energy and industrial facilities.” Investors have the obligation to build and maintain shelters using their own funds.

The Law also prescribes cases in which investors may be exempt from the obligation of building a shelter; however, they need to pay a fee for this exemption.

Article 54 of the FBiH Law on Protection and Rescue:

Article 54

(1) The investor who is exempt from the obligation of building a shelter, i.e., cover, or who has not built a shelter, i.e., cover in accordance with the decision allowing construction, shall pay a shelter construction fee in the amount of 1% of the total value of construction works and interior installations.

²¹ The Chamber of Architects and Civil Engineers in Croatia adopted a special Rulebook on prices of designing and controlling project documentation, which has been recognized as an example of good practice.
The practice of building shelters or paying a shelter construction fee has been abandoned in practically all countries in the region, which has not only helped to significantly reduce the number of steps investors need to take, but also has also reduced the financial burden on them.\(^{22}\) In contrast, investors in FBiH stress that they were under the obligation to build shelters for energy facilities (wind power plants) as well, this despite the fact that they are unmanned power plants.

Apart from the shelter construction fee, there also different fees the investor must pay for the actual, usable construction land.

The FBiH Law on Spatial Planning and Land Use specifies that the construction land must be “site-developed” before actual construction commences. Construction land development entails preparing and equipping construction land.

Preparing construction land includes resolving any property and legal relationship issues, as well as other rights on the land with the owners of the property, adopting spatial planning documents, adopting an allotment plan, removing existing structures and relocating underground installations.

Equipping construction land includes building roads, streets, pedestrian crossings, squares, parking lots, public lighting and traffic lights, improvement of green spaces, parks, construction of water supply, electricity supply and gas supply facilities, telecommunications. Minimum equipping of construction land includes:

- electricity and water supply,
- wastewater disposal, and
- access road to the construction site.

Construction land development is generally the obligation of the local self-government units; however, in accordance with the FBiH Law on Construction Land\(^ {23}\) it is the investor that is required to pay the fee for such development.

However, if the investor develops the construction land (which had not been developed until the day of construction), it is eligible for a reduction of this fee. The construction land development fee is determined by a special decision, and it must be paid before obtaining the Construction Permit.

The other fee investors must pay is the fee for the natural advantages of the construction land – the natural resources rents.

The FBiH Law on Construction Land divides urban construction land into six zones based on natural advantages. Local self-government units approve the special Decision on the level of the fee for the advantages of urban construction land, but the FBiH Law on Construction Land prescribes the methodology for calculating this fee.

The level of the rent is calculated by multiplying the average final construction price (determined by each municipality for its own territory based on data provided by construction companies) with the percentage of the zone to which the urban construction land belongs and the useful surface of

\(^{22}\) For example, this obligation was abandoned in Croatia in 2015, in Serbia in 2012 and in Montenegro in 2007.

\(^{23}\) Law on Construction Land of FBiH (“Official Gazette of FBiH” No. 67/05).
the facility as per design. The FBiH Law on Construction Law prescribes fixed rent percentages by zone, as shown in Table 3 below:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Rent percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone I</td>
<td>6%</td>
</tr>
<tr>
<td>Zone II</td>
<td>5%</td>
</tr>
<tr>
<td>Zone III</td>
<td>4%</td>
</tr>
<tr>
<td>Zone IV</td>
<td>3%</td>
</tr>
<tr>
<td>Zone V</td>
<td>2%</td>
</tr>
<tr>
<td>Zone VI</td>
<td>1%</td>
</tr>
</tbody>
</table>

Table 3: Fixed rent percentages for urban construction land

Given that the levels of the fee are determined by special municipal decisions, this means that they can significantly vary between different local self-government units. Furthermore, fixed rent percentages are quite high, which results in high financial investments by the investors. Article 83 of the FBiH Law on Construction Land specifies that rents for the advantages of construction land shall not be determined for “other construction land” (i.e., land outside the city zone); however, certain municipal decisions regulate this issue in an imprecise way, resulting in investors still being unclear whether rent is paid only for urban construction land, or for other construction land as well.

By comparison, in Serbia, which is currently ranked 10th in terms of the ease of dealing with construction permits, the cost of obtaining permits represents only 1.8% of the total value of the investments. However, before the new Law on Planning and Construction entered into force in 2015, this figure stood at 25.8%.

Serbia reformed construction legislation in 2015, changing, among other things, provisions on fees for construction land.

It abandoned the concept of separate fees for construction land development and advantages of constriction land. Instead, investors now pay a single **contribution for construction land development**.

For example, in Serbia the level of the contribution is determined by a decision on issuing the Construction Permit. The amount is determined by multiplying the average price per square meter of new dwellings in the municipality, according to the latest data from the statistics bureau, by the net surface of the facility in the process of construction, expressed in square meters, and the zone coefficient and purpose coefficient of the facility determined by the local self-government unit. The zone coefficient cannot be higher than 0.1 and the purpose coefficient cannot be higher than 1.5. This prevents the possibility of significant differences in these fees between municipalities, and it has also helped reduce the financial burden on investors.

### 3.2.3 Problems with including neighbors in the Construction Permit issuance procedure

Including owners of neighboring properties in the Construction Permit issuance procedure may adversely affect the length of the procedure. However, it is also understandable that the owners of properties neighboring the planned facility want to have a right to be heard and their comments...
taken into consideration. It is therefore necessary to have an efficient mechanism for including neighbors in the construction permitting procedure. The best time to include neighbors is at a stage when the project is still in the form of an idea, i.e., when the project is in the Preliminary Design stage and when all potential remarks and suggestions of neighbors can be taken into account.

According to Article 56 of the FBiH Law on Spatial Planning and Land Use, interested parties have the right to examine the project documentation only in the Main Project Design phase, i.e., before the issuance of the Construction Permit.

Article 56

. . . .

(2) Before issuing the Construction Permit, the Ministry shall allow parties in the procedure to examine the Main Design.

. . . .

(5) The Ministry shall invite parties in the procedure to examine the Main Design by putting out a public call indicating the place and time of the examination, the title of the investor, type and location of the facility”

Including interested parties in the Main Project Design stage is not optimal for the investors since the main parameters for the construction of the planned facility have already been determined by this stage. The Audit Office of the Institutions of FBiH reached the same conclusion and stated the following in its Audit Report on the efficiency of construction permitting: “The analysis has shown that including neighbors at a stage when construction has already commenced or the facility has been completed increases the possibility of neighbors’ complaints ending up in court, which can ultimately significantly impact the duration of the construction permitting procedure. (Emphasis added.)”

3.2.4 Problems with illegal construction

Illegal structures are structures built without the necessary consents and permits. Such structures are often in contradiction with spatial planning documents, they create special problems for other users of space and their exact number is unknown.

The Audit Office of the Institutions of FBiH concluded that: “a significant number of auditees lack data on the real number of illegally built structures although such data represents the basic precondition for planning any activities on reducing and preventing illegal construction. Municipalities/cities have estimates that are based on a combination of data concerning submitted applications for legalization and conducted inspection supervisions. An inventory and identification of the actual number of illegally built structures have not been performed by the auditees.”

25 Ibid.
The problem of illegal construction in FBiH is especially pronounced in smaller local communities that lack adequate human and financial resources to properly and efficiently address this issue. However, despite all the problems these structures create, local communities often extend deadlines for their legalization and provide different benefits to owners of illegally built structures should they decide to go ahead with legalization. Although such activities encourage owners of illegally built structures to enter the legalization procedure, they also encourage further illegal construction.26

Illegally built structures are an obstacle to proper planning. For example, investors building transmission power lines are forced to either change the route or engage in lengthy and expensive court processes. All of this ultimately has a discouraging effect on potential investors.

### 3.3 Use Permit

Following construction of the planned facility, it is necessary to obtain a permit for its use. Articles 66 through 77 of the FBiH Law on Spatial Planning and Land Use regulate the procedure of issuing the Use Permit in FBiH.

The least number of problems has been identified with regard to the Use Permit issuance procedure. Practice has shown that as the process of building a certain facility progresses, the lower the chances are for problems and complications to occur.

Article 67 of the FBiH Law on Spatial Planning and Land Use specifies the content of the application for a Use Permit:

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The investor shall submit an application for a Use Permit to the Ministry. It is necessary to submit the following documents with the application referred to in paragraph 1 of this Article:

1) copy of the Construction Permit,
2) copy of the cadastral plan with the position of the facility marked,
3) written statement from the contractor on completed works and conditions for building maintenance,
4) written report on performed construction supervision.

The technical inspection of the completed facility represents the most important step in the Use Permit issuance procedure, as this permit can only be issued after the technical inspection has been completed.

The technical inspection of facilities under the competence of the FBiH Ministry of Spatial Planning is carried out in accordance with the Rulebook on the Technical Inspection of Structures in FBiH. In accordance with the Rulebook, the Ministry determines the cost of the technical inspection, which is borne by the investor.

Article 14 of the Rulebook on Technical Inspection states:

Article 14

The amount of the fee per one day shall be determined based on the complexity of the structure, i.e., the complexity of the technical inspection (the complexity of the structure is determined by the case officer):

- structures of low complexity 70.00 KM
- structures of medium complexity 100.00 KM
- structures of highest complexity 150.00 KM

The costs of technical inspection at the cantonal and municipal level are determined by special regulations at the respective administrative level.

4. LEGAL FRAMEWORK IN THE CANTONS

This chapter of the analysis of permits in the area of construction compares and analyzes construction regulations in four selected pilot cantons: Tuzla Canton (TC), Zenica-Doboj Canton (ZDC), Central Bosnia Canton (CBC) and Herzegovina Neretva Canton (HNC). The analysis will focus on issues of special relevance for the construction of electric power facilities.

The basic characteristic of the construction sector at the cantonal level is that all cantons have adopted their own laws on construction in accordance with their constitutional competence. The other common feature is that the primary competence for authorizing construction (i.e., issuing permits in the area of construction) has been conferred on the local self-government units –

municipalities and cities. The local self-government units are therefore responsible for implementing their own decisions (e.g., decisions on fees for the use or development of construction land), cantonal construction regulations and FBiH regulations with regard to spatial planning and construction.

Cantonal ministries have the competence for issuing permits in the area of construction in exceptional cases, i.e., for larger facilities, facilities and structures on the territory of two or more municipalities and facilities of importance for the canton. Facilities of importance for the canton are identified by special decrees approved by the cantonal government, which define the types of facilities under the competence of the cantonal authorities.

As previously mentioned, the basic process of issuing permits in the area of construction is the same in all of the analyzed cantons and at the FBiH level. Consequently, the basic problems investors face at the cantonal level are also the same. Only the most typical problems for a given canton will therefore be presented in the text below.

### 4.1. Herzegovina Neretva Canton

Two basic laws regulate the area of construction in HNC: the Law on Spatial Planning of HNC and the Law on Construction of HNC.

The Law on Spatial Planning of HNC\(^\text{28}\) was adopted in 2004, amended only once in 2014. This Law lays down the basic principles of spatial planning, spatial planning documents and their content, development of spatial planning documents and the procedure of issuing the Urban Permit as the initial document for authorizing changes in space.

The Law on Spatial Planning of HNC, unlike the Law at the FBiH level and other cantonal laws, does not include provisions on issuing the Location Information.

The Law on Construction of HNC\(^\text{29}\) last amended in 2013, regulates the issuance of the Construction Permit and the Use Permit.

The HNC Government adopted the Decree on Structures, i.e., works of importance for the canton\(^\text{30}\) in 2005 based on the Law on Spatial Planning of HNC.

This Decree determines the structures and works for which the Ministry of Construction, Spatial Planning and Environmental Protection of HNC issues a Construction Permit and Use Permit.

An overlap with the Decree at the FBiH level with regard to electric power facilities has been identified here.

Article 3 of the Decree at the HNC level specifies:

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\(^{28}\) Law on Spatial Planning ("Official Gazette of HNC" Nos. 4/04 and 4/14).

\(^{29}\) Law on Construction ("Official Gazette of HNC" No. 4/13).

\(^{30}\) Decree on Structures, i.e., works of importance for the canton ("Official Gazette of HNC" No. 4/05).
ENERGY FACILITIES

(…)

6. Power plants with an installed capacity over 5 MW,
7. Power line of 35 KV and more with substations and switchyards on that power line,
8. Main gas pipelines and oil pipelines

It is clear from this Article that the HNC Decree defines the canton as having competence for power plants with an installed capacity over 5 MW, but there is no mention of the maximum limit. According to the FBiH Decree, it is the FBiH Ministry of Spatial Planning that has the competence for authorizing the construction of power plants with an installed capacity over 30 MW. Given that the HNC Decree does not set a maximum threshold, there is a possibility that the cantonal authorities could authorize the construction of power plants that according to their capacity fall under the competence of the FBiH Ministry of Spatial Planning.

4.2. Central Bosnia Canton

The Central Bosnia Canton also has separate laws for spatial planning and construction. The Urban Permit and the Location Information are issued in accordance with the provisions of the Law on Spatial Planning of CBC.31

This Law served as the basis for the adoption of the Decree on Structures and Works of Importance for the Central Bosnia Canton.32 The Decree lays down the competences of the Ministry of Spatial Planning, Construction, Environmental Protection, Return and Housing Affairs of CBC for issuing permits in the area of construction for power plants with an installed capacity under 30 MW, wind farms with less than 4 turbines and dams meeting the criteria of small dams, all in compliance with the FBiH Law.

The CBC Law on Construction33 regulates the issuance of the Construction Permit and the Use Permit.

4.3. Zenica-Doboj Canton

The Law on Spatial Planning and Construction of ZDC34 regulates issues concerning spatial planning, the adoption of spatial documents and authorization of changes in space, i.e., the issuance of permits in the area of construction. The Law specifies that the Government of ZDC will adopt an implementing act35 to determine structures and works of importance for the Canton. However, the Cantonal Government has still not adopted the Decree on Structures of Importance for ZDC;

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31 Law on Spatial Planning (“Official Gazette of CBC” No. 11/14).
32 Decree on Structures and Works of Importance for the Central Bosnia Canton (“Official Gazette of CBC” No. 12/15).
34 Law on Spatial Planning and Construction (“Official Gazette of ZDC” Nos. 1/14 and 4/16).
35 Law on Spatial Planning and Construction of ZDC, Article 63(3).
as a result, the competence of the Ministry of Spatial Planning of ZDC in this canton is determined on a case-by-case basis.

As for the authorization of construction of power plants, the Law on Spatial Planning and Construction of ZDC is the only one of the four analyzed cantonal laws that prescribes that solar panels installed on rooftops of existing buildings are exempt from the obligation of obtaining an Urban Permit, i.e., Location Information, and a Construction Permit.

Article 111(4) of the Law on Spatial Planning and Construction of ZDC provides:

Article 111

(4) The Construction Permit and the Urban Permit, i.e. Location Information, shall not be required for the following works:

. . . .

e) installation of solar panels when their surface does not exceed the surface of the roof.

The authority responsible for issuing Urban Permits in ZDC collects ex officio on behalf of the investor all special opinions and consents from public companies and other competent authorities. Public companies and other competent authorities must provide the requested consents to the authority in charge of the procedure within 10 days from receiving the official request.

If public companies and other competent institutions fail to comply with this deadline, they will be responsible to the investor and/or third parties for the damage caused by such failure under the general rules on responsibility in accordance with the FBiH Law of Obligations and will be considered to have provided “tacit consent”.

By doing so, the legislator has tried to remove one of the key bottlenecks in the procedure of issuing permits in the area of construction, namely the issuance of special opinions, consents and permits by other competent authorities. This legislative amendment by ZDC is an excellent example of a Government working to encourage investment by simplifying the permitting procedure.

4.4. Tuzla Canton

Tuzla Canton has its own Law on Spatial Planning and Construction,\(^{36}\) which lays down the principles of spatial planning, the use and management of space, methods of preparing and approving planning documents, as well as conditions concerning the design, construction, use and maintenance of structures.

This Law also prescribes the issuance of permits in the area of construction.

Tuzla Canton is comprised of 13 municipalities, 7 of which have adopted spatial plans\textsuperscript{37}.

Unlike other cantons included in this analysis, Tuzla Canton does not have a special implementing act (Decree) approved by the TC Government regulating the division of competences for the issuance of permits in the area of construction between the local self-government units and the cantonal ministry. Instead, this issue is addressed by the Law. Article 62 of the Law specifies cases of construction under the competence of the Tuzla Canton Ministry of Spatial Planning and Environmental Protection, including “electricity generation facilities in hydropower plants with a capacity of up to 1 MW.” Other energy facilities have not been listed or defined.

Given how the division of competences has been designed, the competence of the cantonal authorities for issuing permits in the area of construction for other electric power infrastructure facilities (solar power plants, wind power plants, biogas power plants, electric power transmission facilities) remains unclear – a problem investors face in practice.

5. CONCLUSIONS

- The construction sector has a huge impact on attracting investors and on the overall economy of a state. Investors undoubtedly see procedures of issuing permits in the area of construction as the greatest “administrative obstacles” to doing business in a given country or. The ease of obtaining permits in the area of construction is determined by the time required for obtaining permits, the cost of obtaining permits and the number of steps it takes for an investor to move through the procedure. The World Bank therefore considers the ease of dealing with construction permits as one of the key indicators for ranking countries in terms of the ease of doing business in its Doing Business report. In their most recent report for 2018, Bosnia and Herzegovina holds the unenviable 166\textsuperscript{th} position (out of 190 countries) with regard to the ease of obtaining construction permits.

- Bosnia and Herzegovina is ranked so poorly because investors need to complete 16 steps in order to obtain permits in the area of construction, the procedure lasts on average 193 days, and the overall cost of obtaining all construction permits and paying other fees related to these permits amounts to 17.5% of the total value of the investment. This makes BiH the worst-ranked country in the region. Following reforms in Serbia’s construction sector implemented in 2015, Serbia is now the best ranked country from the region holding the impressive 10\textsuperscript{th} spot.

- In the Federation, the regulatory framework for issuing permits in the area of construction is divided between the Federation and the cantons. The FBiH Law on Spatial Planning and Land Use has been amended on a number of occasions since its adoption in 2006, most recently in 2010 when the Location Information and zoning plans were introduced as

\textsuperscript{37} Data from the Audit Report on the efficiency of the construction permitting procedure in local administration, Audit Office of the Institutions of FBiH, 2017.
special forms of detailed planning documents. The large number of amendments to this Law make navigating it very complicated for investors.

- The competence for authorizing construction, i.e., for issuing permits in the area of construction, primarily rests with the local self-government units. The Decree on Determining Works and Facilities, for which the FBiH Ministry of Spatial Planning issues the Urban Permit and/or Location Information, defines the types of facilities under the competence of FBiH. The competence for energy facilities is divided according to the installed capacity, type of facility (large dams) and the environmental impact (large polluters).

- The Decree on the Type, Content, Labelling and Retaining, Control and Recognition of Technical-Investment Documentation defines the types of technical documentation and classifies all construction into only two categories: building construction and civil engineering. Although the opening paragraphs of the Decree state that it also pertains to “energy facilities,” these facilities are not covered by the above classification. In practice, energy facilities are therefore classified as “facilities without category.” Practice in neighboring countries shows that it is useful to carry out a detailed classification of facilities into categories according to their purpose, as this significantly simplifies the development of project documentation and the issuance of permits in the area of construction.

- Nonexistent or poor spatial planning documents are cited as the key problem investors face from the beginning of the permitting procedure for energy facilities. The FBiH Spatial Plan has still not been adopted despite the fact that the legal deadline for its adoption expired nine years ago, and planning documents have yet to be adopted at lower administrative levels. The Audit Office of the Institutions of FBiH noted in its Audit Report in relation to the efficiency of construction permitting that: “. . . municipality/city spatial plans have not been adopted in 40% of municipalities/cities. In municipalities/cities where spatial plans have been adopted, 33% of municipality/city spatial plans have not been harmonized with the spatial plan of the canton, while 40% of the municipality/city spatial plans were adopted more than 10 years ago.”

- Given the already-mentioned complexities of building energy facilities, the process of obtaining permits necessary for construction is where the majority of laws from other sectors regulating different aspects of construction of these facilities come into play (e.g., Law on Water, Law on Environmental Protection, Law on Electricity, Law on Fire Protection). These different pieces of legislation impact the permitting procedure by

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requiring investors to first obtain special permits, consents and other administrative acts and then submit them to the competent authority for authorizing construction in order to obtain one of the three basic permits in the area of construction (Urban Permit, Construction Permit and Use Permit). The Agricultural Consent and the Environmental Permit perhaps best illustrate how these special permits and consents increase the amount of time and money, as well as the number of steps that need to be taken in order to obtain the Urban Permit.39

- According to the Doing Business report, of all countries in the region, Bosnia and Herzegovina has the highest cost of obtaining permits in the area of construction, expressed as percentage of the total value of the investment. Especially problematic are the fees for construction land and shelter construction. All countries in the region have abandoned the practice of charging the shelter construction fee and have thoroughly revised the method of calculation and the amount of the fee for construction land. These fees represent an additional financial burden on investors in electric power facilities in FBiH as these facilities are also subject to a host of other fees and charges, for example, concession fee, water charges, and environmental protection fees.

- The prices of preparing and controlling investment-technical documentation are determined entirely in the free market without any state regulation. This results in significant differences in prices and quality of the prepared technical documentation. Best international practice shows that the adoption of a common rulebook helps significantly in the establishment of minimum standards for costs and the quality of technical documentation. Moreover, for facilities under cantonal competence, the project designer is not required to have special certification or authorization that attests that it is qualified for designing projects. According to the representatives of the competent cantonal authorities, this leads to very low quality of project documentation, which requires multiple revisions in order to bring it up to code, thus delaying the issuance of permits.

- The basic construction permitting process is the same at the cantonal level. All of the analyzed pilot cantons have their own Laws on Construction. The Herzegovina Neretva Canton Law does not include provisions on issuing the Location Information, while the Decree on Determining Structures and Works of Importance for HNC has not been harmonized with the Decree at the FBiH level with regard to the division of competences. The Decree on Determining Structures of Importance for Tuzla Canton has never been adopted in this canton.

- The amount of the fees for construction land and technical inspection of the facility is determined by decisions at the municipal level; however, these decisions are often not

39 Explained supra, p. 9.
available online. Consequently investors are unable to calculate all the costs in advance, which is why they describe the system as lacking in transparency and reliability.

- Illegally constructed buildings present a serious obstacle to the construction of new facilities and power plants. Illegal buildings take up space and directly affect the realization of new construction projects. These buildings complicate procedures of issuing construction permits, since investors and permitting authorities have to take into account these buildings that are not contained in spatial planning documents but are physically present on the ground.

6. RECOMMENDATIONS

- Planning Documents. Preparing missing planning documents at all levels in FBiH, including the FBiH Spatial Plan, and ensuring that spatial plans at the cantonal level are harmonized, represent the most important steps towards that objective. It is especially important to adopt detailed planning documents (regulation plans and zoning plans) at the local level, as they represent the basis for issuing the Location Information. It is therefore necessary to begin adopting spatial planning documents at all levels of government in FBiH in order to create the necessary conditions for a more efficient permitting procedure for the construction of electric power infrastructure facilities.

- Missing Subordinate Legislation. In parallel with the development of spatial planning documents, it is also necessary to work on the adoption of missing subordinate legislation, i.e., implementing acts that would define structures of importance for cantons (where needed), and the harmonization of existing regulations with those at the FBiH level.

- Categorization of Facilities. Differentiating facilities based on their purpose or risk represents best international practice in the area of construction; this means it would be necessary to introduce the classification of facilities according to their purpose. Based on such classification, construction regulations could then be organized so as to precisely define all the special permits and consents, as well as technical documentation necessary for different types of facilities. It would also be useful to prepare a Guide for Investors and print leaflets that would inform investors in a simple way about everything that it necessary for the construction of an electric power facility.

- Document duplication needs to be reduced to a minimum. The WPP “Mesihovina” Case Study showed that the investor had to resubmit almost 40% of the documentation to the same competent authority. The same documents must often be submitted for different permits (e.g., cadastral data are submitted both for the Urban Permit and the Agricultural Consent).
USAID Energy Investment Activity Project (EIA)       Overview and analysis of construction permits for power plants in FBiH - Urban Permit/Location Information, Construction Permit and Use Permit

• **Central Database.** It is necessary to set up a central database of all permits and documents in relation to a specific project. All competent authorities and public companies managing special resources (e.g., railway, road, water supply system, sewage system and gas operators) would have access to such a database. As a result, investors would no longer have to repeatedly copy, certify and submit documents to individual participants in the construction permitting procedure. This database could initially be available only for internal use by public authorities and public companies, while in the second phase the option of transitioning entirely to e-permits, as has been done in other countries of the region, should be considered. The introduction of e-permits helps create a “one-stop-shop” system, which significantly reduces the amount of time, money and steps for obtaining necessary permits.

• **Fees.** The level and the method of calculating fees in the construction permitting procedure need to be reexamined. The fees for shelter construction and construction land are especially problematic. Fees for construction land, which investors have to pay before receiving a Construction Permit, can represent a significant obstacle to investment.

• **Authority Cooperation.** It is necessary to strengthen cooperation and coordination between the competent cantonal ministries and the FBiH Ministry of Spatial Planning, with a view to having a permanent exchange of information by organizing regular meetings.

• **Penalties for Illegal Construction.** It is necessary to continue and further intensify activities on fighting illegal construction by introducing harsher penalties for illegal construction and abolishing incentives for the subsequent legalization of illegally constructed structures. It is also necessary to work on raising awareness on how harmful illegal construction is.