

# Renewable energy permitting in Bosnia and Herzegovina: how to optimise the process while safeguarding the environment and public participation

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## Introduction

**B**osnia and Herzegovina (BiH) undoubtedly has significant potential to develop environmentally acceptable forms of renewable energy. Likewise, considering that its coal plants are rapidly ageing, there is a pressing need for investments in wind and solar projects in particular. However, although many such projects are under development, BiH has only three wind farms in operation, all of which are located within the Federation of Bosnia and Herzegovina (FBiH). As of the end of 2022, BiH had 102 megawatts (MW) of solar plant capacity.<sup>1</sup> And while this

<sup>1</sup> State Electricity Regulatory Commission, [Annual Report 2022](#), State Electricity Regulatory Commission, December 2022.

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represents a greater capacity than neighbouring countries like Montenegro and Serbia, it is still not sufficient.

On one hand, investors complain that around 60 various permits, consent documents and notifications are needed to build a wind farm.<sup>2</sup> On the other, local communities and environmental organisations have raised concerns that renewable installations – particularly hydropower plants – are being built in locations which ought to be, or in some cases already are, protected areas. Not every kind of renewable energy is sustainable, and not every location is acceptable for building. However, irrespective of these considerations, it is unacceptable that needless administrative barriers, which serve no social or environmental purpose, continue to impede people who want to invest in renewable energy.

A social consensus needs to be reached on the locations, types and construction methods of these installations. Ideally, these decisions should be made at an early stage during the development of sectoral strategies, spatial plans and river basin management plans to avoid problems and conflicts at a later stage.

This can only be achieved through robust implementation of the Aarhus Convention, which guarantees public access to environmental information and public participation in decision-making on environmental matters regarding individual projects, plans, programmes and legislation. The Aarhus Convention provisions are partly integrated in EU legislation on permitting processes for installations that may have significant environmental impacts. This legislation includes the Strategic Environmental Assessment (SEA) Directive,<sup>3</sup> the Environmental Impact Assessment (EIA) Directive,<sup>4</sup> the Habitats Directive,<sup>5</sup> the Birds Directive<sup>6</sup> and the Water Framework Directive.<sup>7</sup> For this reason, it is crucial to continue with the transposition and implementation of these Directives.

In the last year or so, there has been much discussion at the EU level about how to accelerate the deployment of renewable energy with the goal of finally breaking the EU's dependence on Russian fossil gas – and fossil gas in general – as well as meeting the EU's targets for preventing the worst impacts of climate change. The basic idea, which we very much support, is to place more emphasis on spatial planning, in order to clearly identify suitable locations for renewable energy development. Priority areas need to be in existing built-up areas, such as former industrial sites or open-cast mines. For example, France has

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<sup>2</sup> Vedrana Maglajlija, '[Za izgradnju vjetroparka u BiH potrebno 60 dozvola](#)', *Al Jazeera Balkans*, 29 November 2017.

<sup>3</sup> European Parliament, Council of the European Union, [Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment](#), *EUR-Lex*, 21 July 2001.

<sup>4</sup> European Parliament, Council of the European Union, [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment \(codification\)](#), amended by [Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014](#), *EUR-Lex*, 15 May 2014.

<sup>5</sup> Council of the European Union, [Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora](#), *EUR-Lex*, 1 July 2013.

<sup>6</sup> European Parliament, Council of the European Union, [Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds](#), *EUR-Lex*, 26 June 2019.

<sup>7</sup> European Parliament, Council of the European Union, [Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy](#), *EUR-Lex*, 20 November 2014.

introduced a rule that requires every car park with a capacity of more than 80 vehicles to be at least 50 per cent covered in solar photovoltaics within five years.<sup>8</sup>

However, some of the new rules included in the text of the Renewable Energy Directive, which was provisionally agreed upon in March and June 2023, are highly problematic in that they create conflicts between environmental legislation, the Aarhus Convention and renewable energy legislation. In short, EU institutions have placed too much focus on creating exceptions to environmental rules and not enough focus on removing other barriers to renewable energy development, such as administrative capacity and politically motivated restrictions on wind power development. The rushed development of such legislation, without an impact assessment, is likely to be counterproductive, resulting in more, not fewer, conflict between the public and investors.

BiH and other countries in the region have already experienced massive public opposition to hydropower and cannot afford to repeat the same mistakes of poor planning and failure to consult the public with wind and solar. For this reason, we have conducted this analysis to identify opportunities to reduce the needless time and money wasted during the permitting process for renewable energy facilities.

This analysis begins with an overview of the permits required for building renewable energy facilities in the two entities of the BiH state: the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS). For each entity, we summarise the permitting process for larger facilities, particularly hydropower plants and wind plants, as well as the steps involved in permitting small solar installations. Finally, we provide recommendations to improve the processes for all projects in each entity. These recommendations are intended not only to eliminate needless and time-consuming practices, but also to advance the transposition and implementation of EU legislation on environmental protection and public participation.

## Competence for issuing permits

State-level institutions in Bosnia and Herzegovina are authorised to issue two ‘permits’ only:

- a) concessions for inter-entity or international transboundary projects, in which case the relevant ministry and state-level Concession Commission are responsible;
- b) permits for larger projects to connect to the transmission grid (granted by Elektroprenos BiH, the state-level transmission operator).

All other permits are issued at entity level or by the self-governing District of Brčko. In FBiH, competence is divided between entity-level and canton-level organs, depending on the size of the facility.

## Federation of Bosnia and Herzegovina (FBiH)

### Basic permits

To build an electricity generation facility, three basic permits are needed:

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<sup>8</sup> Beyond Fossil Fuels, ‘[The sunny side to parking in France](#)’, *Beyond Fossil Fuels*, 22 March 2023; Eran Chvika, Charles Bressant, ‘[Solar power in France: regulatory changes and market opportunities](#)’, *Pinsent Masons*, 25 April 2023.

- 1) Spatial consent or location information
- 2) Building consent
- 3) Operating consent

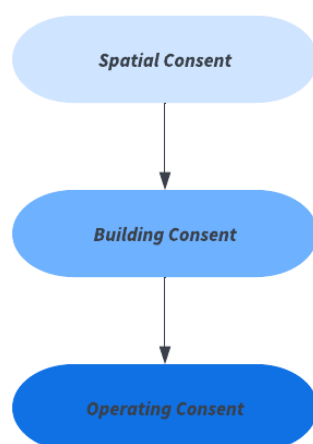


Figure 1: The three main permits in FBiH

All other permits and consents form part of the process of obtaining the above approvals and consents.

### Spatial planning

Electricity generation facilities must be included in spatial plans at the federal, cantonal and local levels. For larger facilities such as hydropower plants over 30 MW, an additional spatial plan for an area of special significance is required. Lower-level spatial plans are supposed to align with the federal spatial plan. However, because the Federation has not adopted a spatial plan since it was formed, an outdated plan from the former Yugoslavia is still in force. In effect, this means that some projects are advanced based on their inclusion in cantonal plans.

Spatial plans should also be subject to strategic environmental assessments, but in practice this has yet to happen.

### River Basin Management Plans

According to the Law on Waters of FBiH (Official Gazette of FBiH, 70/06), which partly transposes the Water Framework Directive, river basin management plans should serve as the foundation for achieving a healthy status of water bodies. These plans should be used not only to resolve potential conflicts arising from different needs for the use of water resources, but also to determine whether exceptions to the objectives of the law are justified. However, in reality, the plans do not meet these needs.

In addition, although it is useful to resolve conflicts at an early stage, in the EU, if there is a proposal to apply one of the exceptions under Article 4(7) of the Water Framework Directive, it is also obligatory to carry out a project-level decision-making process including a specific analysis, usually conducted as part of an environmental impact assessment (EIA) procedure. However, in FBiH, such a process is not yet provided for

in either the Law on Waters or the Law on Environmental Protection, even though BiH is obliged to do so as part of its obligations under the Danube Convention.

### Spatial consent / location information and building consent: preparation phase

Location information is issued based on the existing spatial planning documentation and is much quicker and easier to obtain than the spatial consent, which is required in cases where detailed spatial plans are not available. The following diagram shows the permits that precede the issuance of spatial consent or location information for larger renewable energy projects. The steps are explained in more detail in the full study.

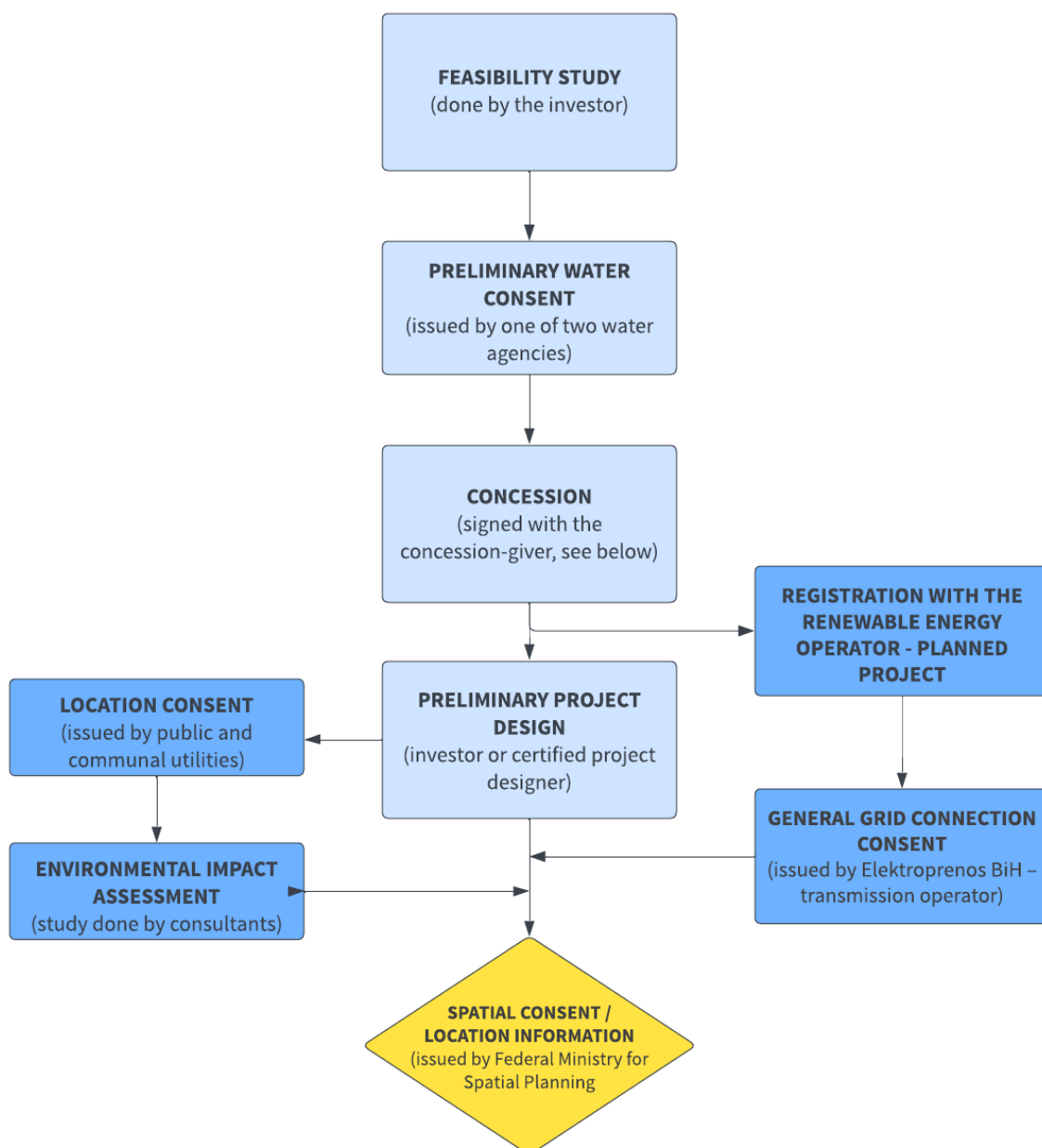


Figure 2: Steps towards obtaining spatial consent

## A note on concessions in FBiH

A specific issue in FBiH is that competence for issuing concessions for renewable energy is split between the federal and cantonal levels and is not uniformly regulated at the cantonal level. According to the FBiH Law on Concessions, for hydropower plants of 5 MW or more, the Federal Government is responsible for issuing concessions, while cantons can issue them for smaller plants. Concessions for wind and solar plants of all sizes can be issued by cantons, but several of them have not adopted clear legislation on this issue.

**Table 1: Concession legislation in the FBiH cantons**

CANTON	COMPETENT AUTHORITY	WIND	SOLAR up to 10 KW
<b>SARAJEVO</b>	Ministry of Economy	Concession needed	No concession needed
<b>HERZEGOVINA-NERETVA</b>	Ministry of Economy	Concession needed	No concession needed
<b>BOSNIAN-PODRINJE</b>		Not regulated	Not regulated
<b>UNA-SANA</b>		Not regulated	Not regulated
<b>POSAVINA</b>		Not regulated	Not regulated
<b>WEST HERZEGOVINA</b>	Government at the proposal of the relevant ministry	Not regulated	Concession needed for <5 MW, larger not regulated
<b>CANTON 10</b>	Government at the proposal of the relevant ministry	Concession needed	Not regulated
<b>ZENICA-DOBOJ</b>		Not regulated	Not regulated
<b>CENTRAL BOSNIA</b>	Government at the proposal of the relevant ministry	Concession needed	No concession needed
<b>TUZLA</b>		Not regulated	Not regulated

In some cantons, the use of land designated for building can also be subject to a concession. In this case, all kinds of electricity generation projects can be subject to such concessions.

## From spatial consent to building permit

The diagram below shows the steps that need to be taken after the spatial consent in order to obtain the second ‘basic’ permit, which is called the building consent.

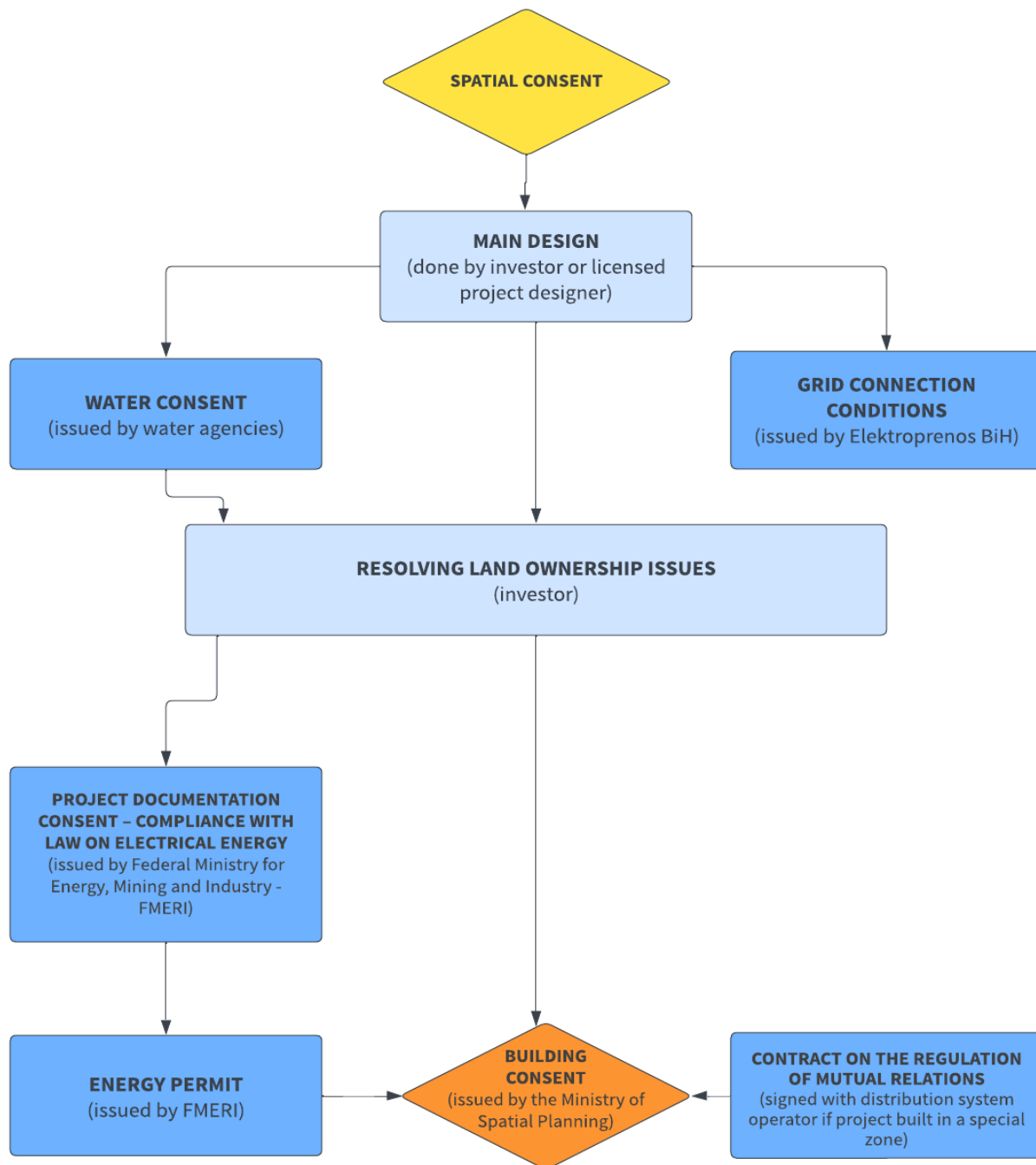


Figure 3: Steps from spatial consent to building consent

### From building consent to plant operation: the construction phase

The diagram below shows the steps between obtaining a building consent and being able to operate the plan. Even after obtaining the operating consent, certain steps must still be completed.



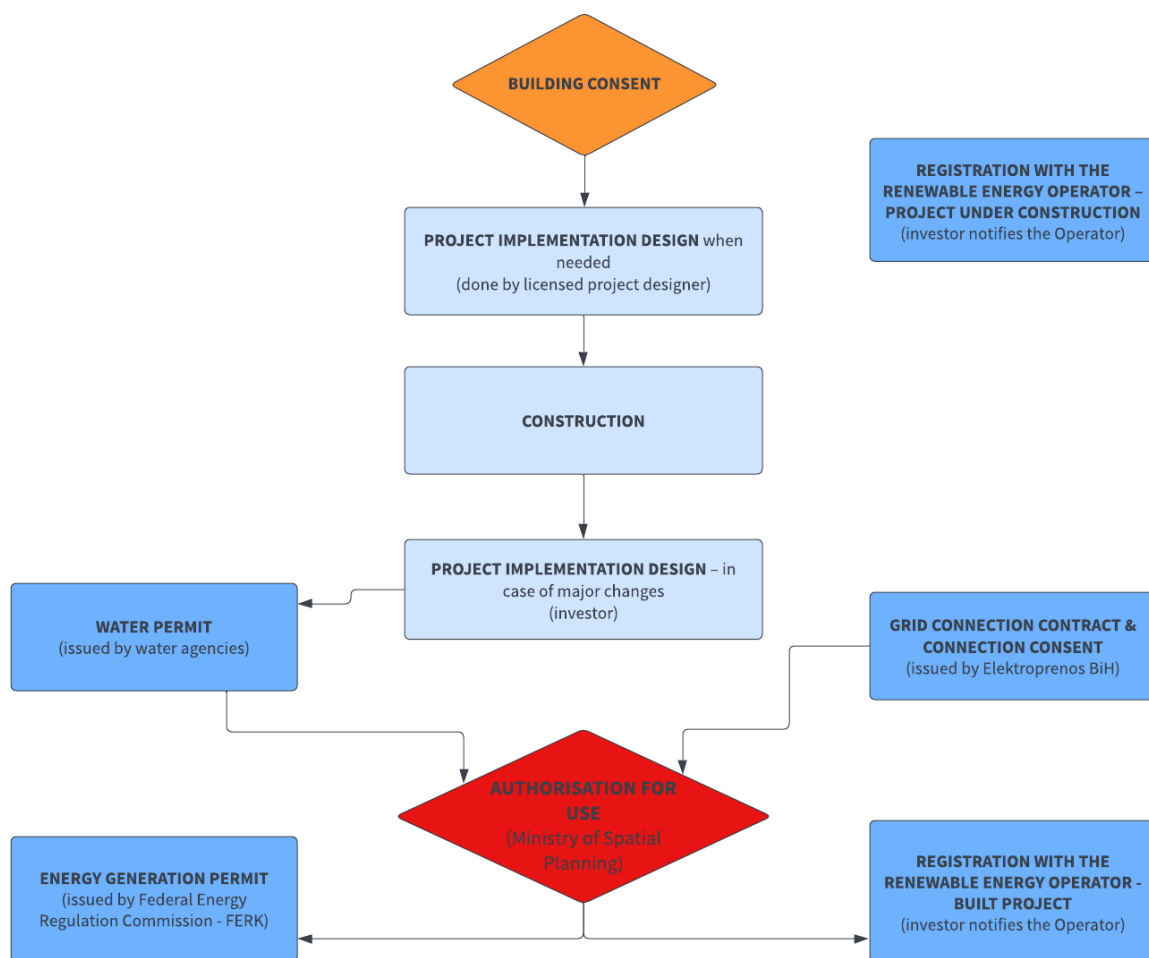


Figure 4: Steps from building consent to operating consent

## Small-scale solar installations

### Permits for micro-solar installations for self-consumption in FBiH

The FBiH regulation on micro-installations of renewable energy sources defines micro-sources as those between 2 kilowatts (kW) and 23 kW. Micro-solar installations require the following documentation:

- I. Obtaining copies of the following papers from the local district authorities:
  - a. Extract from the land registry;
  - b. Ownership papers and cadastral plan.
- II. Preliminary project design by an accredited company.
- III. Spatial consent
- IV. Main design and inspection of the main design by a registered company



- V. Building consent
- VI. Fire safety consent from the cantonal Ministry of Internal Affairs
- VII. Registration with the operator for renewable energy
- VIII. Inspection of the main project by the cantonal Ministry of Economy, for which a fee needs to be paid for the expert.
- IX. Operating consent

These steps can only be carried out in person or by post; none of them can be completed online.

### Steps being taken in FBiH to make the permitting process easier

The federal government recently approved a draft law on amendments and additions to the Law on Spatial Planning and Land Use, which would allow the use of online permitting for construction. This would make permitting significantly easier and quicker for small solar installations, eliminating the need for people to physically visit offices to submit and obtain papers. In mid-July 2023, the law was submitted to the FBiH parliament for adoption.

In addition, the new Law on Electrical Energy, which as of mid-July 2023 is awaiting adoption by the House of Peoples, would abolish spatial, construction and operating consents for small installations, which would significantly expedite the process of installing micro-solar systems.

### Recommendations

Some of the most significant problems for electricity generation projects in FBiH are the timelines as well as the complex and overly long procedures required during the permitting process. In addition, not one of the procedures outlined above can be completed by e-mail or online. We therefore propose the following:

1. Introduce online permitting as soon as possible so that investors can choose how to submit documents. This alone would significantly reduce the time needed for permitting.
2. Adopt an FBiH spatial plan and dedicated spatial plans for specific areas to clarify where projects can and cannot be built. Additionally, develop strategic documents with energy potential analyses along with precisely defined locations and technology types in strict accordance with the principles of sustainable development. Decades-old projects that have yet to be constructed need to be reviewed to determine whether they are still relevant; if not, they need to be cancelled. After adopting the FBiH spatial plan, cantonal, district and city spatial plans will need to be adopted or updated in line with the federal plan.
3. Adopt amendments to the Laws on Concessions in all cantons that have yet to do so. This will harmonise the rules on concessions for wind and solar farms. Likewise, individuals or legal entities wishing to set up micro-installations of up to 23 kW must be exempted from having to sign concession agreements. However, this exemption should not apply to small hydropower plants due to their high environmental risks. Concessions should not be issued for these plants at all, just as the issuance of energy permits for these plants has been banned at the FBiH level.

4. Apply the SEA Directive to relevant plans and projects, including spatial plans and all plans and programmes connected to the energy sector.
5. Transpose the Habitats and Birds Directives as soon as possible and give legal protection to Emerald sites and future Natura 2000 areas. This will make it clear to investors which locations are problematic for constructing large renewable installations and which are not. Introduce appropriate assessments of project impacts on the Emerald network as part of the EIA procedure. Similarly, improve the quality of EIA studies to reduce the number of court challenges against approval decisions.
6. Introduce a formal process under Article 4(7) of the Water Framework Directive to assess the potential need for derogations from the goals of the Law on Waters. Additionally, implement the existing provision stipulating that conflicts and derogations need to be analysed during development of the river basin management plan, while explicitly stating that this provision cannot replace a project-level assessment.
7. Shorten the process of obtaining consent from various communal service companies by issuing an integrated permit or by adopting clear spatial plans that incorporate the views of these companies.
8. Adopt the new FBiH Law on Electrical Energy currently awaiting final parliamentary approval, which includes an exemption for plants below 1 MW (except hydropower plants) from having to obtain an energy permit.
9. Simplify the process of grid connection for solar and wind power systems by, for example, establishing an exemption that eliminates the requirement for a permit to carry out electrical energy activities.
10. Establish a system of certified installers of solar and wind installations up to 23 kW, which would serve as a single point of contact for people and companies wishing to install these technologies. Having this system in place is a precondition for proposing legal changes to building regulations aimed at re-classifying small installations as 'equipment' rather than energy plants. This would make it easier for small installations to be exempted from the need to obtain spatial, construction and operating permits.
11. Introduce a one-stop shop for investors that centralises all the information on permitting and institutions. By offering direct assistance or acting as a coordinator between institutions, such a portal would make it easier for investors to obtain documents and permits.
12. Rationalise the documents needed for each permit and abolish the bureaucratic practice of requesting one document multiple times, including by ensuring that the documents are available online.
13. Merge the project documentation consent with the energy permit, given that the FMERI is responsible for both.

14. Relieve investors from the responsibility of having to include their projects in the renewable energy operator’s registers. The operator should be electronically notified when certain permits are obtained.
15. Require that an EIA be carried out in cases where a solar plant is planned for a particularly sensitive area, a provision that is not currently in place.
16. Strengthen the criteria for licensing companies to carry out project studies, hold these companies accountable for their proposals, and ensure that their work is more effectively monitored.

## Republika Srpska (RS)

### Basic permits

To build an electricity generation facility, three basic permits are needed:

- 1) Location conditions
- 2) Building permit
- 3) Operating permit

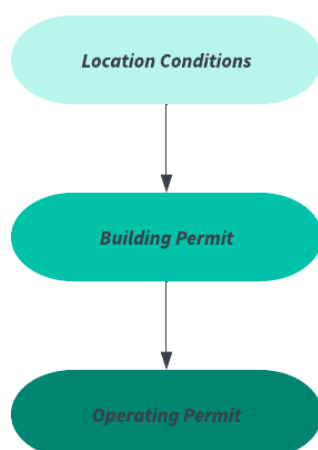


Figure 5: The three main permits in RS

All other permits and consents form part of the process of obtaining the ones listed above.

### Spatial planning

Republika Srpska’s current spatial plan was adopted in 2015 and remains in effect until 2025. It contains an assessment that the potential of renewable energy sources is underutilised, and that the development of renewable energy projects is largely entrusted to private investors without any clear strategy, criteria or assessment of the benefits for RS or local authorities.

The Law on Spatial Planning and Construction and its implementing legislation stipulate the active inclusion of the public in all phases of spatial planning, including the requirement that a decision on carrying out an SEA must be made at the beginning of the process. The Law on Environmental Protection

also supports this approach. However, the current spatial planning documents do not clearly state whether certain areas are reserved for renewable energy projects and where they can be developed.

### **River Basin Management Plans**

According to the Law on Waters of RS (Official Gazette of RS, 74/17), which partly transposes the Water Framework Directive, river basin management plans should serve as the foundation for achieving a healthy status of water bodies. These plans should be used not only to resolve potential conflicts arising from different needs for the use of water resources, but also to determine whether exceptions to the objectives of the law are justified. However, in reality, the plans do not meet these needs.

In addition, although it is useful to resolve conflicts at an early stage, in the EU, if there is a proposal to apply one of the exceptions under Article 4(7) of the Water Framework Directive, it is also obligatory to carry out a project-level decision-making process including a specific analysis, usually conducted as part of an environmental impact assessment (EIA) procedure. However, in RS, such a process is not yet provided for in either the Law on Waters or the Law on Environmental Protection, even though BiH is obliged to do so as part of its obligations under the Danube Convention.

### **Location conditions and building permits: preparation phase**

Location conditions are provided in a technical document that defines the parameters for the rest of the planning and construction process. Generally, for electricity generation capacity of more than 250 kW and for projects spanning the territory of more than one local authority, the Ministry of Spatial Planning, Construction and Ecology is responsible. The draft document is subject to public consultation. The process for obtaining location conditions is shown below.

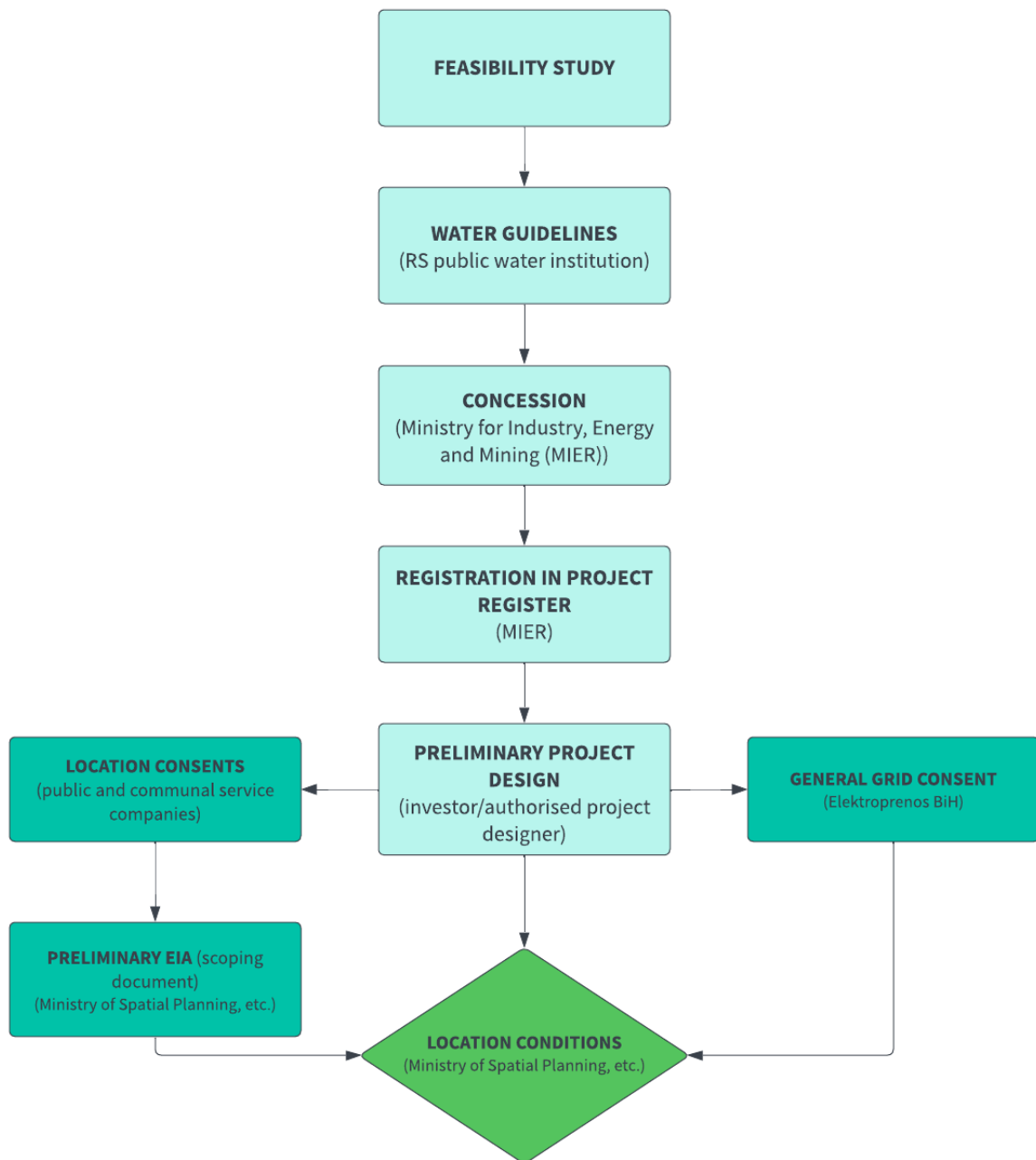


Figure 6: Steps towards obtaining location conditions

### Building permit

The next series of steps relates to obtaining a building permit:

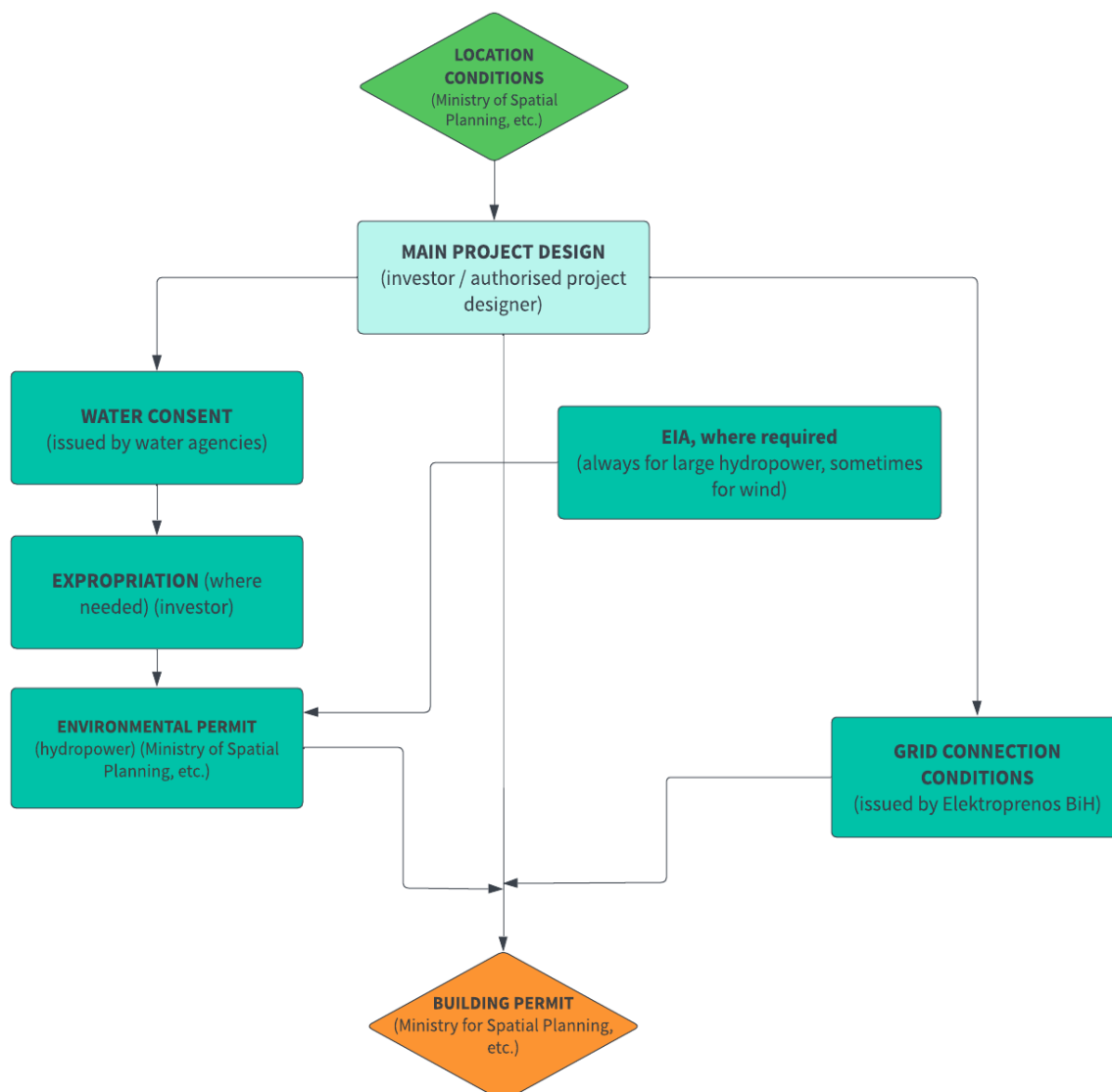


Figure 7: Steps towards obtaining a building permit

## Operating permit

The diagram below shows the steps needed to obtain an operating permit. However, even after these steps are completed, a permit to carry out energy activities must be obtained from the energy regulator, as does a certificate for generating facilities. Finally, the project must be added to a register of operational projects, which is managed by the Ministry of Industry, Energy and Mining.

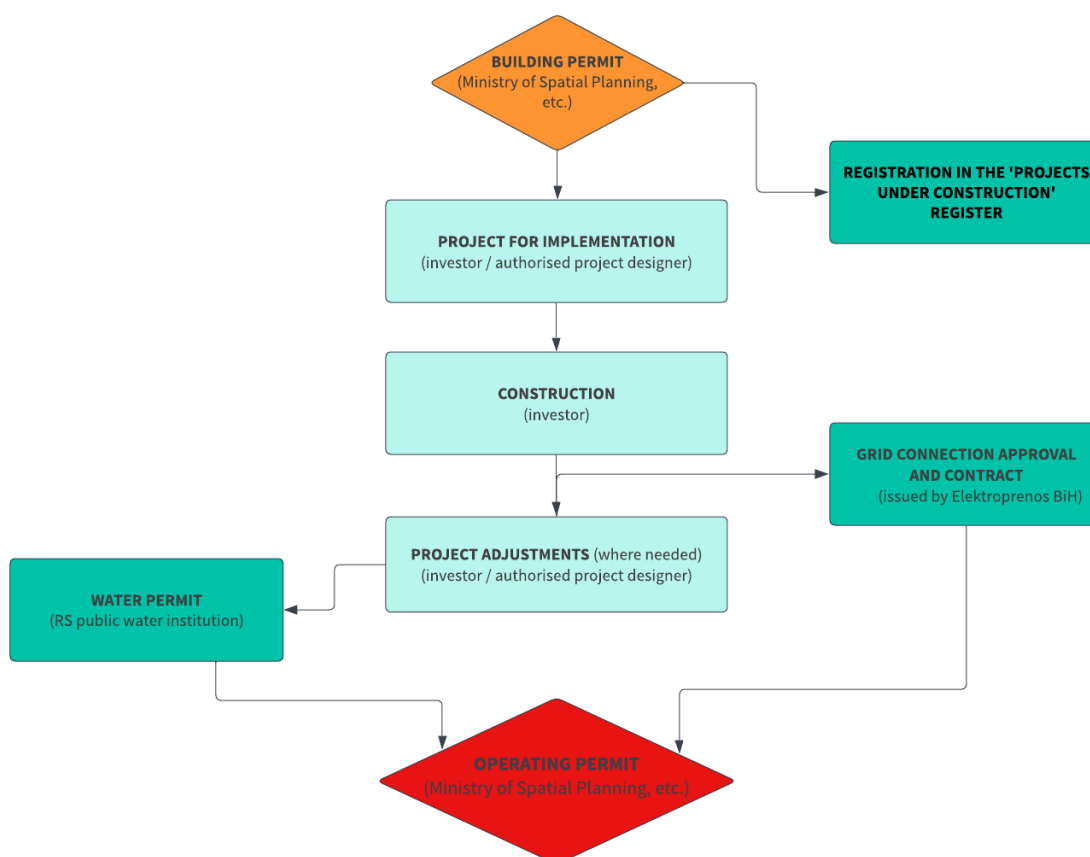


Figure 8: Steps towards obtaining an operating permit

## Small-scale solar installations

### Permits for micro-solar installations for self-consumption in RS

To build a small rooftop solar system for domestic consumption, the following steps must be taken:

- I. Obtaining copies of the following papers from the local district authorities, which takes about three days:
  - a. Extract from spatial planning documentation;
  - b. A copy of the cadastral plan.
- I. Preliminary project design
- II. Location conditions issued by the local authority for small installations), which can only be provided once the above documents have been obtained.
- III. Main project and review of the project, both carried out by project designers authorised by the Ministry of Spatial Planning, Construction and Ecology.



- IV. Fire safety consent issued by the Ministry of Internal Affairs.
- V. Building permit issued by local authorities. In addition to the abovementioned documents, proof of consent from communal and other public institutions is needed.
- VI. Registration in the renewable energy projects register, which is managed by the Ministry of Industry, Energy and Mining.
- VII. Operating permit issued by the local authorities is based on the building permit and project design adjustments (*projekt izvedenog stanja*). This consists of a technical inspection report and a decision on the operating permit. The report should be compiled within eight days of a technical inspection taking place, and if there are no issues, the issuance of the permit should only take eight more days.

## Recommendations

1. Ensure continuous monitoring of the implementation of spatial plans at all levels through existing mechanisms and consider whether adjustments to these mechanisms are needed. Spatial plans must prohibit large energy projects in protected areas or potential protected areas – for example, the Ulog hydropower plant is being built in an Emerald site. Decades-old projects that have yet to be built need to be reviewed to determine whether they are still relevant; if not, they need to be cancelled.
2. Apply the SEA Directive to relevant plans and programmes, including spatial plans and all plans and programmes connected to the energy sector.
3. Stipulate early public consultation in the scoping phase of EIA procedures to avoid potential issues later in the process.
4. Transpose the Habitats and Birds Directives as soon as possible and give legal protection to Emerald sites and future Natura 2000 areas. This will make it clear to investors which locations are problematic for constructing large renewable installations and which are not. Introduce appropriate assessments of project impacts on the Emerald network as part of the EIA procedure. Similarly, improve the quality of EIA studies to reduce the number of court challenges against approval decisions.
5. Introduce a formal process under Article 4(7) of the Water Framework Directive to assess the potential need for derogations from the goals of the Law on Water. The existing provision stipulating that conflicts and derogations need to be analysed during the development of the River Basin Management Plan also needs to be implemented, but cannot replace a project-level assessment.
6. Improve the quality of studies, including environmental and hydrological research, delivered by investors to the authorities.
7. Strengthen the criteria for licensing companies to carry out project studies, hold these companies accountable for their proposals, and ensure that their work is more effectively monitored.
8. Make further adjustments to clarify the legal framework on rooftop solar systems.

9. Establish a unified property system that brings together land registry and cadastral data and make it available to all users, including in an online format.
10. Introduce online permitting for permits that still cannot be issued electronically.
11. Update the register of projects and include information on documentation issued for the projects, such as water guidelines and environmental permits. Convert the register to a central database of all project permits.
12. Apply all other recommendations from the FBiH section which apply to RS by, for example, abolishing the location conditions, building permit and operating permit for small solar installations.



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