**Mandate of the Special Rapporteur on the human rights to safe drinking water and sanitation**

**Questionnaire**

The Special Rapporteur’s thematic report to the General Assembly to be presented in October 2020 will focus on privatization and the human rights to safe drinking water and sanitation. For general guidance, the following table summarizes the limits of the report scope, clarifying what situations will or will not be included on it:

|  |  |
| --- | --- |
| **The scope of this report includes:** | **The scope does NOT include :** |
| * Private sector actors (for-profit organizations)
 | * Non-profit organization that undertake service provision
* Informal service providers
* Community-led service provision
* State-owned enterprises
 |
| * Enterprises that government owns capital and shares in, but where a large proportion of shares are owned by private investors.
 | * State owned-enterprises, i.e., any corporate entity in which the government owns almost all the capital or the voting shares
 |
| * Private sector participation with specific focus on service provision
 | * Private sector participation in subsidiary activities across the whole water and sanitation cycle by, inter alia, supplying materials and equipment, developing engineering designs and building infrastructure
 |
| * Impact of remunicipalization and risk of private sector participation
 | * Comparative analysis on risks and advantages of water and sanitation provision by public and private entities
 |
| * Both water and sanitation services
 |  |
| * Assess the level of risks and reasons behind those risks that private sector participation brings when for-profit organizations are heavily involved in service provision
 | * Whether human rights dictates a specific type of model or service provision
 |

**Questionnaire - State**

The Special Rapporteur would welcome answers to the following questions:

**Current situation and trends**

1. How does the private sector participate in water and sanitation provision in your country? Please clarify the modalities of relationship with the different tiers of government and types of contracts. Please provide information separately for water service provision and sanitation service provision.
2. If there is no provision of water and sanitation by private entities in your country, please clarify the rationale behind such policy.
3. How has the level of involvement of private providers in water and sanitation evolved in the last decades?
4. What are the expectations of your Government about the level of involvement of private providers in the short, medium and long terms? If there is a trend of increasing or decreasing private provision, please clarify the underlying reasons.
5. Please provide detailed information on legislation concerning participation of the private sector in water and sanitation (please highlight whether the legislation of your country encourages, allows for or prohibits this to occur) and concrete examples of related instruments and mechanisms.

**Private provision**

1. In the event the private sector is involved in provision of water and sanitation services, what process has your Government (also if the decision was taken by a former executive) taken prior to the decision to adopt this model of provision? What types of concerns have been considered in such decisions?
2. How has the private sector contributed to the realization of the human rights to water and sanitation in your country? What kind of drawbacks and risks does your Government identify and what instruments are available to overcome them?
3. What would be the necessary conditions for an enabling environment for the realization of the human rights to water and sanitation by private service providers? How could eventual risks to the fulfillment of those rights be mitigated?
4. How have courts ruled regarding alleged human rights infringements by private water and sanitation service providers? What are legal remedies for users’ complaints regarding any aspect of alleged violations of the human rights to water and sanitation when private sector are in place?
5. Who defines performance for private operators? Who oversees the prioritization of those unserved or underserved? Please clarify how regulation takes place when there is private provision.
6. What types of specific policies are in place to ensure affordability and sustainability when there is a private provision?
7. In the case of private provision, who finances service expansion to the poor? Who finances infrastructure renewal?
8. To what extent does the private actor bring its own financial resources to the service?
9. With climate change, many countries are facing problems related to water availability. What are the responsibilities of private providers on addressing risks of supply disruption due to water scarcity?
10. Has your country faced any documented case of corruption involving private sector provision of water and sanitation services?

**Remunicipalization**

1. What are the legal means available to a local government when it is dissatisfied with the performance of a private service provider?
2. Has your country experienced cases of remunicipalization? Why and how has it occurred? What types of difficulties has the public authority faced to establish the new municipal provider? Please, provide details of those processes.