

**Information of the Government of Georgia on the topic of privatization and the human rights
to water and sanitation**

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.
 - *At present, 9 licensing utilities operate in Georgia, out of which 4 of them are under private ownership, 4 of them are municipal property and 1 is under state ownership. However, two companies provide only water supply service and seven provide both water supply and sanitation services (WSS).*

2. If there is no provision of water and sanitation by private entities in your country, please clarify the rationale behind such policy.
 - *Four private utilities operate in the country (1. Georgian Water and Power, LLC 2. RustaviTskali, LLC Mtskheta Tskali, 3. Soguri, LLC) Out of four, only three provides both WSS services, and one of them provides only water supply service.*

3. How has the level of involvement of private providers in water and sanitation evolved in the last decades?
 - *In 2011, four licenses were issued for private companies. Since then no additional licenses have been issued so far.*

4. What are the expectation 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.
 - *According to the ORGANIC LAW OF GEORGIA, on Local Self – Government, the water supply (including technical water supply) and provision of a sewerage system is exclusive right of a local self-government, unless there is an interested private company, who is willing to provide such services and obtains a license. Given the fact that water supply and sanitation infrastructure is in poor conditions in many municipalities, there might be less interest for private operators to be involved in WSS projects. Although the Government of Georgia is massively investing in WSS across the country. In addition, the Ministry of Regional Development and Infrastructure (MRDI) in close cooperation with International Financial Institutions, is testing different scenarios and modalities for the reason to create the WSS sector development vision/strategy, in which we will have clear idea of private and/or public participation in WSS sector.*

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.

- In accordance with Georgian legislation, namely the Georgian Law on Energy and Water Supply (Dec 20, 2019) and Law on Licenses and Permits (June 24, 2005), an applicant of the license shall submit an application to the license issuer (Georgian National Energy and Water Supply Regulatory Commission, www.gnerc.org), which within 150 days accepts or denies to provide a license. In case of refusal, detailed justification is provided to the applicant. Thus, the legislative framework does not limit the participation of the utilities under private Ownership in the Water Supply sector and each interested company is welcomed to apply.

Private Provision

6. In the event the private sector is involved in provision of water sector 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?

- Georgian National Energy and Water Supply Regulatory Commission, which is the LEPL (Legal Entity of Public Law) under its competence and the regulatory framework (pl. refer to the q.5) defines the all necessary procedures and issues a license. These procedures are equal both for state and private companies, without exception.

7. 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?

- The number of water supply and sanitation service customers in Georgia from private companies, exceeds the number of customers, from public companies. Georgian Government is working towards improvement of rural water supply and sanitation services, which remains a challenge in high mountain regions.

8. 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 fulfilment of those rights be mitigated?

- The ultimate goal of the Georgian Government is to increase water supply and sanitation coverage to Georgian citizens. There has been many projects implemented in order to improve/rehabilitate/build water supply and sanitation infrastructure particularly since 2012. In addition for the benefits of consumers, since 2003 in Georgia has been established the office of the Public Defender of Consumer Interests, at Georgian National Energy and Water Supply Regulatory Commission (GNERC), which is independent of its apparatus. The

main function of the office is to protect the consumers' interests in the electricity, natural gas and water supply sectors.

9. 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 aspects of alleged violations of the humans rights to water and sanitation when private sector are in place?

- *The function of the Commission is to discuss the disputable issues arisen between licensees and consumers. For the purpose of protection of Consumers' rights and resolution of disputes, the Commission along with other competent bodies ensure the efficiency and performance of measures related to protection of Consumers' rights to guarantee fair and non-discriminatory treatment, high quality service, etc. however if the dispute resolution is not achieved at the Commission level, party can continue dispute at court.*

10. Who defines performance for private sector operators? Who oversees the prioritization of those unserved or underserved? Please clarify how regulation takes place when there is private provision.

- *The Commission sets the rules for providing and consuming potable water that regulate the relations between water supply licensees and consumers.*

11. What types of specific policies are in place to ensure affordability and sustainability when there is a private provision?

- *Regardless of the form of the ownership, regulatory framework applies in the same way to the licensed utilities under private and public (municipal, state) ownership. The license holders are obliged to submit the short and long-term investment projects to the Commission for agreement. The investment projects shall envisage improvement of current state of water supply systems.*

12. In the case of private provision, who finances service expansion to the poor? Who finances infrastructure renewal?

- *The major part of the investment projects (apart from grants and social projects supported by the international donor organizations to the state) are financed by the license holders (private companies), including service expansion and rehabilitation, if not defined otherwise in the license agreement.*

13. To what extent does the private actor bring its own financial resources to the service?

- *Regardless of ownership form, if necessary, a water supply licensee is obliged to seek for appropriate financial resources independently for investing in water supply systems and agree its investment plans with the Commission.*

14. With climate change, many countries are facing problems related to water availability. What are the responsibilities of private providers on addressing risks of supply distribution due to water scarcity?

- *Maintaining the standard of existing service is a license provision, the violation of which leads to imposing the liability on the licensee (incurring a penalty). Sustainable use of water resources is ensured by environmental regulatory framework, meaning that no license can be issued if there is scarcity or potential threat to the water resources.*

15. Has your country faced any documented case of corruption involving private sector provision of water and sanitation services?

- *N/A*

Remunicipalization

16. What are the legal means available to a local government when it is dissatisfied with the performance of a private service provider?

- *A local municipality may apply to the Regulatory Commission with justified claim. The Commission will review the disputable issue and make a relevant decision that will help the municipality to solve the existing problem.*

17. Has your county 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.

- *There is no such case in Georgia*