

The Hague, Netherlands
21 April 2020

To the attention of :

Léo Heller, Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation

Copy to:

- Michelle Bachelet, UN High Commissioner for Human Rights
- Aziza Akhmouch, Head of Division Cities, Urban Policies and Sustainable Development, OECD
- Oriana Romano, Head of the Water Governance Programme, OECD

Dear Mr Heller,

In my capacity as Chair of the [OECD Water Governance Initiative](#) (WGI), a global multi-stakeholder network and Policy Forum to share good practices in support of better governance in the water sector, I would like to convey some key messages from a decade of work within our Coalition, as a contribution to your recent consultation on the “[Privatisation and Human Rights to Water and Sanitation](#)”.

Our main aim is to ensure the best possible outcome of a human rights based approach to access safe drinking water and sanitation (reaching SDG targets 6.1 and 6.2) for all. This is why, in complement to the background report and questionnaires to state parties and non-state parties accessible on the [OHCHR webpage](#), this letter seeks to encourage a balanced, evidence-based, and careful analysis and understanding of the enablers to the Human right to water and sanitation for a constructive and forward-looking Report at the 75th session of the UN General Assembly in 2020.

It is our view that **the critical question underlying the achievement of the human right to water and sanitation is not whether service delivery should be publicly or privately managed, but what is most effective in the context: “what to do to ensure universal coverage for all ?”, “who does what?”, “why?”, “at which level of government?” and “how?”.**

As you may know, the [OECD Principles on Water Governance](#) provide solid guidance for governments to design and implement better water policies for better lives, in a shared responsibility across levels of government, civil society, business and the broader range of stakeholders who have an important role to play alongside policy-makers. Since their adoption by all OECD countries’ Ministers in 2015, these Principles have been endorsed by 170+ stakeholders worldwide gathered within the [Global Coalition for Good Water Governance](#) as well as seven non-OECD countries such as Brazil, China, Colombia, Morocco, Peru, Romania and South Africa. Their bottom-up production and their wide adoption both testify of their relevance to a large community, and their uptake at local, national and global scales. Amongst others, the Principles (and the WGI) were acknowledged as valuable tools by the UN High Level Panel on Water’s outcome document [Making Every Drop Count](#) in 2018, and within the G20 Action Plan on Water under the German Presidency in 2017.

The *OECD Principles on Water Governance* are rooted in broader principles of good governance: legitimacy, transparency, accountability, human rights, rule of law and inclusiveness. They stress that “a number of legal frameworks have triggered major evolutions in water policy; however their implementation has faced governance bottlenecks, as is the case of the EU Water Framework Directive and the United Nations General Assembly Resolution of 28 July 2010 entitled “The Human Right to Water and Sanitation and the following “updated” / more elaborate resolutions (latest 18 December 2019)”[page 4].

The Principles were developed on the premise that there is no one-size-fits-all solution to water challenges worldwide, but a menu of options building on the diversity of legal, administrative and organisational systems within and across countries. They recognise that governance is highly contextual, that water policies need to be tailored to different water resources and places, and that governance responses have to adapt to changing circumstances. This is why the Principles acknowledge the diversity of situations within and across countries regarding the public, mixed or private nature of drinking water and sanitation services delivery and varying models of economic regulation aimed at aligning individual interests and collective goals.

The OECD principles have been delivered by the WGI, adopted by all OECD country's Ministers and endorsed by multiple stakeholders worldwide including several non-OECD countries. The Principles aim to enhance water governance systems that help manage "too much", "too little" and "too polluted" water in a sustainable, integrated and inclusive way, at an acceptable cost, and in a reasonable timeframe. They consider that governance is good if it can help to solve key water challenges, using a combination of bottom-up and top-down processes while fostering constructive state-society relations. It is bad if it generates undue transaction costs and does not respond to place-based needs. As such, the principles consider water governance as a means to an end rather than an end in itself.

Finally, the Principles consider that water governance systems (regardless how formal, complex, and costly) should be designed according to the challenges they are required to address. This problem-solving approach means that "forms" of water governance – including policy choices around the public or private nature of service delivery - should follow "functions" of water governance. Structuring, institutionalising, and/or formalising institutions should not detract from the ultimate objective of delivering sufficient affordable water of good quality in a continuous and sustained way, while maintaining or improving the ecological integrity of water bodies. A decade of work on water governance shows that policy responses will only be viable if they are coherent across sectors, if all stakeholders are properly engaged, if well-designed public regulatory frameworks are in place, if there is adequate and accessible information, and if there is sufficient capacity, integrity, transparency and accountability in place.

In addition to drawing your attention to the Principles, I would like to emphasise key messages from analytical reports produced, discussed or peer-reviewed within the WGI, which references are provided in Annex B for your convenience:

- There is a variety of management models for drinking water and sanitation services across and within countries, which are often the reflection of political choice and/or institutional features, with no evidence of a model performing universally better than others.
- Public or private management is not, and should not be, an issue per se, provided there is strong local or national regulation in place (in the absence of which every mode, either through direct management or public tendering, is likely to fail in the achievement of human rights).
- Regardless of modalities for service provision, the OECD and the WGI have long argued that the role of public authorities is essential to set and govern the rules of the game, monitor compliance, prevent opportunistic let alone corrupt behaviours, and guarantee the pursuit of the public interest. Capacity building for all policy makers and implementers is equally essential.
- In many countries, water-related investment needs for the coming years has incentivised new approaches to catalyse the needed finance and build capacities in a shared responsibility across public or private sectors. Some countries conceive the investment challenge to be a shared responsibility across public or private sectors, a diversity that needs to be acknowledged.

- The investment backlog that many countries face raises the question of how to catalyse the needed finance to renew and upgrade obsolete infrastructure when many places can no longer rely on public spending alone. It also raises the questions of how to minimise investment needs while making sure that quality and affordable water services are provided to the population, through low cost options such as green and multipurpose infrastructure; and lastly how to ensure sustainable cost recovery from a combination of sources, rather than from tariffs alone.

I hope these insights will be useful to set the scene and frame the key questions underlying the essential debate around the achievement of the human rights to drinking water and sanitation. An earlier draft of this letter was shared by email for written comments with WGI member organisations listed in Annex A. Aqua Publica Europea have stated not to endorse the content of this letter. As WGI, we look forward to these inputs being included in the forthcoming report.

Yours faithfully,

Peter Glas

A handwritten signature in black ink, appearing to read 'Peter Glas', written over a horizontal line.

Annex A.

List of consulted organisations within the OECD Water Governance Initiative

- Action Against Hunger
- AgroParisTech
- AquaFed
- Association of public services and enterprises - Austria
- Association of Water Supply and Sanitation – Spain
- Austrian Association of Cities and Towns
- Butterfly Effect
- Cap-Net
- Centre National de la Recherche Scientifique, France
- Conagua - Mexico
- Deltares – Netherlands
- Dommel River Basin Authority –Netherlands
- Dutch Water Authorities
- ENGIE
- EurEau
- Expert -GAMMELTOFT Peter
- Expert -BARKER Ian (Water Policy International)
- Flanders Knowledge CenterWater
- FP2E –France
- French Development Agency
- Fundación Aquae
- Global Water Partnership
- Hungarian Energy and Public Utility Regulatory Authority
- Icatelist
- IHE Delft Institute for Water Education International
- Association for Water Law
- International Network of Basin Organisations
- International Office for Water
- International Water Association
- International Water Resources Association
- Japan Water Agency
- Lincoln Institute of Land Policy
- Madrid Institute of Advanced Studies
- Ministry of Agriculture, Forestry and Fisheries – Japan
- Ministry of Infrastructure and Water Management – Netherlands
- Ministry for Sustainability and Tourism – Austria
- Ministry of the Environment – Korea
- National Association of Water and Sanitation Utilities - Mexico
- National Water Agency – Brazil
- National Water Authority – Peru
- Network of Asian River Basin Organizations
- Norwegian Environment Agency
- Open University, UK
- Portuguese Association of Water and Wastewater Services
- Portuguese Water Partnership
- Regulatory Authority of Water and Waste Services – Portugal
- River Basin Authority of the Júcar – Spain
- River Basin Authority of the Segura – Spain
- Royal HaskoningDHV – Netherlands
- Scientific and Technical Association for Water and the Environment – France
- Stockholm International Water Institute
- Slovenian Water Agency
- Sorbonne Business School
- Suez, France
- Transparency International
- Turkish Water Institute (SUEN)
- University of Arizona Water Research Center
- University of Dundee, Centre for Water Law, Policy and Science
- University of Lisbon
- University of New South Wales
- University of Utrecht
- Véolia
- Water Authority – Israel
- Water Industry Commission for Scotland
- Water Industry Team, Scottish Government
- Water Integrity Network
- Water Solidarity Programme
- Waterpreneurs
- Women for Water Partnership
- World Commission on Environmental Law
- World Water Council

Annex B.

Relevant OECD references and sources

- OECD Principles on Water Governance: <https://www.oecd.org/governance/oecd-principles-on-water-governance.htm>
- Brochure of the OECD Water Governance Initiative (WGI) (with list of members) <http://www.oecd.org/cfe/OECD-WGI-Brochure-2019.pdf>
- Brochure of the Global Coalition for Good Water Governance (with list of members): <https://www.oecd.org/cfe/regional-policy/Global-Coalition-Good-Water-Governance-Flyer.pdf>
- OECD (2016), Water Governance in Cities, Studies on Water, OECD Publishing, Paris. https://www.oecd-ilibrary.org/governance/water-governance-in-cities_9789264251090-en
- OECD (2015), The Governance of Water Regulators, Studies on Water, OECD Publishing <https://www.oecd.org/fr/gov/the-governance-of-water-regulators-9789264231092-en.htm>
- OECD (2009), Private Sector Participation in Water Infrastructure: OECD Checklist for Public Action, also accessible at: <https://www.oecd.org/env/resources/42350657.pdf>