**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.**

The methods of ensuring water supply and sewage disposal are regulated by the *Act on collective water supply and collective sewage disposal*. According to this Act collective water supply and collective sewage disposal is the commune's own task – local government units.

Communes usually entrust its implementation to specialized entities operating in various legal forms - as commercial law companies, budgetary establishments or organizational units of the commune. In the current legal status there are both communes where water supply and sewage disposal is carried out by the commune itself, or companies with the participation of communes, or enterprises that are not privately connected with the commune - private. According to the data of the Economic Chamber “Polish Waterworks” (data from 2015), over 80% of commercial companies providing services in the water collection, treatment and distribution department are entities owned by local government.

The legal structure adopted in the Polish solution means that despite the actual performance of duties by another entity, the obligation to ensure access to water and sewage disposal is still a burden for the local government.

The law does not distinguish between water and sewage companies, and usually companies deal with both of these areas, but it is nevertheless possible for two separate entities to operate in the field of water supply and sewage disposal.

**2. If there is no provision of water and sanitation by private entities in your country, please clarify the rationale behind such policy.**

According to the data of the Economic Chamber “Polish Waterworks” (data from 2015), over 80% of commercial companies providing services in the water collection, treatment and distribution department are entities owned by local government.

It is connected with the fact that collective water supply and collective sewage disposal is the commune's own task.

**3. How has the level of involvement of private providers in water and sanitation evolved in the last**

**decades?**

Over the past thirty years, due to the change in the political and economic system in Poland, there has been a change in the rules for collective water supply and collective sewage disposal, from total state ownership to the market, where municipalities entrust the implementation of these tasks to specialized entities, of which private entities are part.

Due to the fact that collective water supply and collective sewage disposal is the commune's own task, the majority of water and sewage companies are municipal companies. Cases of companies where private water company is responsible for water supply and sewage disposal within the commune are rare.

**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.**

Currently, there are no plans to introduce changes in ownership relations in entities conducting these types of activities.

**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.**

According to the Act collective water supply and collective sewage disposal is the commune's own task – local government units. Communes usually entrust its implementation to specialized entities - Municipal Water and Sewerage Company. To perform this task companies need to obtain permission to operate in the field of collective water supply and collective sewage disposal. In order to obtain such a permit enterprises must meet a number of conditions included in the Act collective water supply and collective sewage disposal. The local government has control rights over the company and may withdraw a previously issued permit.

**Private provision**

**6. 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?**

There is no information regarding the reasons for the changes in the water and sewage system carried out after the political changes after 1989.

**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 general obligations of the water suppliers and recipient of sewage are regulated by law, while detailed arrangements are made between the municipality and the company, by approving a number of documents detailing statutory solutions and adapting them to specific local conditions.

According to these regulations municipal water and sewerage companies, irrespective of their legal form, are obliged to provide services without interruption and of the best quality. However, in the event of interruptions in water supply, they must ensure that the public has access to water, e.g. in tanks or bottles. Specific situations are regulated in detail in crisis management regulations.

**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**

**fulfillment of those rights be mitigated?**

Currently collective water supply and collective sewage disposal is the commune's own task. Currently no privatization for this sector is planned.

**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 aspect of**

**alleged violations of the human rights to water and sanitation when private sector are in place?**

No data.

**10. 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.**

Supervision at this respect over entrepreneurs have local governments.

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

In 2018, a regulatory authority was established in Poland, whose task is to approve water and sewage tariffs to limit unjustified price increases. Earlier this function was performed by municipalities.

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

**infrastructure renewal?**

Investment plans and financing for network expansion are agreed with municipalities.

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

The involvement of own funds, if it is a company established to conduct business activities in the field of collective water supply and collective wastewater disposal, depends on the type of company. The company engages its assets.

**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 disruption due to water scarcity?**

In the event of interruptions in water supply, they must ensure that the public has access to water, e.g. in tanks or bottles. Specific situations are regulated in detail in crisis management regulations.

**15. Has your country faced any documented case of corruption involving private sector provision of**

**water and sanitation services?**

No data.

**Remunicipalization**

**16. What are the legal means available to a local government when it is dissatisfied with the**

**performance of a private service provider?**

According to this Act collective water supply and collective sewage disposal is the commune's own task – local government units. According to this act local authority can withdraw the given permission for this activity.

**17. 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.**

According to the Act collective water supply and collective sewage disposal is the commune's own task – local government units. Communes usually entrust its implementation to specialized entities - Municipal Water and Sewerage Company.

New entity (not a commune unit) according to this Act, must obtain a permit for collective water supply and collective sewage disposal.