

## **OFFICE OF HUMAN AND MINORITY RIGHTS**

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### **Replies on Questionnaire of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation**

**1. What framework and bodies does your Government have in place for the regulation of water and sanitation services? Please provide detailed information on legislation, policies and mechanisms. Please also provide detailed information on the existing regulatory actors, their level of autonomy and independence, role and responsibilities.**

The Republic of Serbia has developed national framework (constitutional, policy and legislative) which supports the provision of water and sanitation services. In regard to sharing the responsibilities in WASH sector, the local self-government has an important role in ensuring an enabling environment for delivery of water, and sanitation services.

Provision of drinking water and sanitation services are under the jurisdiction/competency of many different authorities, at different levels. According to Law on public utilities, local authorities are entitled to found public waterworks and sewerage companies/utilities, while those companies are obliged to perform their activities in accordance with national legislation in this area. Therefore, the tariffs policy, funding, service delivery and service coverage are under the competency of local self-government. On the other hand, some other aspects and elements of this type of companies are under the jurisdiction of different authorities at national level. For instance, exploitation of water sources and disposition of wastewater are under the competency of Ministry of agriculture and environment protection. Monitoring of drinking water quality is under the jurisdiction of Ministry of health. Large investments in this area are the matter of interest of Ministry of infrastructure and Government public investment management office, so in this case funding cannot be independent from government's budget. All listed jurisdictions and competencies are being realized as well as monitoring and surveillance are being conducted through the activities of different kind of inspections at all levels and they are authorized to report their findings without gaining clearance or permission from any institution.

According to the Law on Ministries, the National Water Directorate, as an administrative body within the Ministry of Agriculture and Environmental Protection, performs, among other things, public administration tasks and professional activities relating to water supply, except for the water distribution, and water protection and implementation of measures to protect water, as well as the planned rationalization of water consumption, according to the Law on Water, while the Ministry of Construction, Transport and Infrastructure performs, among other things, public administration tasks related to utility infrastructure and utility services and inspection over the utility infrastructure facilities and performance of utility services, in accordance with the Law on Public Utilities.

In accordance with the requirements of EU directives related to the water sector, especially the Water Framework Directive, Directive on Waste Water Treatment and Directive on Drinking Water, the process of preparation of the new Law on Water and by-laws is in progress, namely, the process of transferring into national legislation is being implemented, and also the establishment of a system of implementation and management across all institutional levels. One of the discussed possibilities is to fully transfer the jurisdiction over water services to the Ministry of Agriculture and Environmental Protection, whereby the legal and implementation requirements for the proper regulation of water services would be established, as well as the application of the principle of cost recovery and affordability, that is, the principle of equality and non-discrimination, and the access to information through proper reporting.

The process of adopting two regulations is currently being implemented, in accordance with the Law on Water: Regulation on the criteria for determining the reference price of water and Regulation on methodology for calculating the price of drinking water supply through the public water supply system and the price of collection, disposal and purification of waste water through the public sewage system, which contain the above principles.

Also, in order to establish an appropriate management system for water services, a project was proposed through IPA 2017, whose beneficiary is the Ministry of Agriculture and Environmental Protection - National Water Directorate, which should include the proposal for reform of the water services sector, including the proposal for regionalization, proposal for regulation and jurisdiction model, application of the tariff system, possibility of involving the private sector, benchmarking and other.

#### *Roles and responsibilities of health sector:*

According to various articles from Law on Public Health, Law on Health Care, Law on Water and Law on Protection of Population from Communicable Diseases, Institute of Public Health of Serbia (IPHS) with the network of district institutes of public health (IPHSs) collect drinking water quality data from service providers.

According to same laws, IPHS with the network of district IPHSs also audits water quality data received from service providers.

Sanitary inspection under the Ministry of Health is authorized by Law on inspection surveillance and Law on sanitary surveillance to conduct independent testing of drinking water quality during regular work, as well as in occasions when it is indicated.

Sanitary inspection is authorized by same laws to monitor application and implementation of risk management approaches. In most cases it is HACCP approach that is implemented (applied) in waterworks companies.

IPHS publishes Annual report on drinking water quality in urban areas and it is publically accessible on IPHS's website.

Sanitary inspection is authorized by Law on inspection surveillance and Law on sanitary surveillance to take punitive actions against non-performers. Law on Government, article 64, stipulates that the state administration are obliged to cooperate in all common issues and to submit to each other data and information needed for the work.

*Relevant laws and other regulation:*

Law on Government, Law on food safety, Law on water, Law on the protection of the population against infectious diseases, Law on Communal Activities, Law on Health Safety Items of General Use, Law on public health, Regulation on the protection of the population against infectious diseases with implementation Programme, Rulebook on hygienic correctness of drinking water, Rulebook on sanitary-hygienic conditions for facilities for production and trade of food and items of general use, Rulebook on defining and maintaining the sanitary protection zones of water supply source, Rulebook on sampling methods and methods for drinking water analysis, Rulebook on drinking water disinfection and analysis, Regulation on implementation of Water management program.

**2. How do the framework and bodies contribute to the implementation of the normative contents of the human rights to safe drinking water and sanitation, namely, the standards of availability, quality, accessibility, affordability, acceptability, privacy and dignity? Please provide examples.**

Constitution of the Republic of Serbia guarantees the right to healthy environment.

**3. How do the framework and bodies support the implementation of the human rights principles of equality and non-discrimination, access to information, right to participation, accountability, sustainability and-progressive realization in the water and sanitation sector? Please provide examples.**

As stated in answer to question number 2, the Constitution of the Republic of Serbia recognises water and sanitation as a human right.

*Example of rights to access to information and public participation:*

In accordance with Article 77 of the Law on State Administration the ministry and the special organization are obliged in the process of preparation of a law that specifically changes the legal regime in one area or regulating issues of particular public interest to conduct a public hearing. Conducting public hearings in preparing legislation is closely regulated by the Rules of Procedures of the Government.

Article 41 of the Rules of Procedure of the Government reads as follows:

„The proponent is required to prepare a law that essentially changes regulation of an issue or regulates an issue of particular public interest to conduct a public hearing. A public hearing may be conducted in the preparation and development strategy, regulations and decisions.

It is considered that the criteria referred to in paragraph 1 of this Article relating to the obligation to conduct public hearings fulfilled in the following cases:

- 1) in the preparation of a new framework law;
- 2) in the preparation of the new law, unless the competent committee on a reasoned proposal of party decides otherwise;
- 3) in the preparation of the Law on Amendments to the Law if it significantly alters the decision referred to the existing law, which is the competent committee, on a reasoned proposal of party, decide in each individual case;
- 4) in the preparation of the law on ratification of international treaties - if the competent Committee decides to conduct a public hearing, and to the reasoned proposal of the Ministry of Foreign Affairs or the government authority from whose scope of matters governed by an international treaty.

The decision on the implementation of the public hearing, program of public debate and a deadline by which it is carried out is determined by the competent committee, on a proposal from the promoters.

The public discussion is being commenced by publishing a public call for participation in the public debate with posted program of public hearings on the website promoters and e-government portal. Public call also contains information on education and composition of the working group that prepared the draft act or proposal that is the subject of public debate. Program of public debate must include: a draft proposal or act that is the subject of a public debate with the reasoning and attachments laid down by these Rules, the deadline for the implementation of the public debate, important information about the activities that are planned as part of the public debate (round tables, forums, address and time their maintenance, etc.), a method for delivering proposals, suggestions, initiatives and comments, as well as other  
The deadline for submission of initiatives, proposals, suggestions and comments in written or electronic form at least 15 days from publication of the call.“

In accordance with the Law on Water (Articles 38 and 39), the notice about the commencement of preparation or updating of the water management plan shall include an outline of the contents of the plan and identify the required consultations, the dates for the preparation and adoption of the plan, and the address of the competent authority from which additional information may be obtained. Competent authority which prepared the water management plan shall publish a draft of the plan at least one year prior to the beginning of the time period to which the plan pertains. Comments on the documents presented to the public shall be submitted to the Ministry, or the public water management enterprise, within six months following the date of the public release.

**4. Please provide examples of regulatory measures in place to ensure affordable access to water and sanitation services for populations that are economically disadvantaged and in vulnerable situations. How does your Government ensure that these measures are properly applied? How does the regulation framework address the issue of disconnections from water and sanitation services due to financial inability of the users to pay?**

The financial schemes to make access to WASH more affordable for disadvantaged groups do not exist on governmental (central) level, however there are many different mechanisms of affordability schemes at local municipal level.

Example of financial scheme to make access to WASH more affordable for vulnerable groups:  
For the city of Belgrade

#### LOCAL AUTHORITY'S LEGISLATIVE:

Intervention measures to protect the most vulnerable citizens, Guidance for implementation measures to protect the most vulnerable citizens, Decision on amending of Intervention measures to protect the most vulnerable citizens, Decision on determining the categories of users who pay subsidized price of utility services , Decision on amending of Intervention measures to protect the most vulnerable citizens, Decision on amending of Intervention measures to protect the most vulnerable citizens, Decision on amending of Intervention measures to protect the most vulnerable citizens,

The decision stipulated subsidized price for the following utility services:

- Drinking water supply;
- Treatment and disposal of rain and waste water;
- Production and distribution of thermal energy;
- Removal of household waste.

The right to subsidies have citizens of Belgrade who belong to the following user categories:

#### CATEGORY 1

##### Retiree and low-income households

- The right to a 30% subsidy have retirees who receive the lowest pension in accordance with the regulations on pension and disability insurance, under condition that they have no other household income or immovable property, in addition to the housing where they live.
- The right to a 10 - 30% subsidy have households whose monthly income does not exceed the following amounts expressed in table in RSD currency:

HOUSEHOLD	discount 30%	discount 25%	discount 20%	discount 15%	discount 10%
Single	8.000	13.000	15.000	19.000	23.000
Two member	10.000	17.000	21.000	26.000	31.000
Three member	12.000	21.000	26.000	33.000	40.000
Four member	13.000	22.000	28.000	35.000	43.000
Five and more members	15.000	24.000	30.000	38.000	46.000

#### CATEGORY 2

##### War participants, war veterans, martyrs families

The right to a 30% subsidy have:

- Beneficiaries of the monthly cash receiving and beneficiaries of disability allowance under the Law on Rights of Veterans,
- Disabled Veterans and Members of their Families and the Law on Protection of Civil War Invalids;
- Users under the City regulations on extended protection of veterans, disabled veterans and civilian war invalids;
- War Fighters with recognized status of war fighter, war invalid and who have the right to family disability allowance on the basis of a martyr and deceased war veterans, according to previous federal and state regulations.

In accordance with the provisions of the Decision on amending and Decision on supplementing the Intervention measures to protect the most vulnerable citizens, 30% amount should be settled on accounts up to 8000 RSD net. If the invoice amount is greater than 8000 RSD, the discount is not realized on the amount over 8000 RSD, per account.

#### CATEGORY 3

##### Users of social security and compensation for assistance and care, households with disabled and seriously ill persons and host families

The right to a 30% subsidy have:

- Users of rights to welfare benefits and beneficiaries of assistance and care of another person under the Law on Social Protection;
- Users who have a handicapped person, a blind person, a person suffering from muscular dystrophy, a person with cerebral and infantile paralysis, plegia and paraplegia, a moderate, severe and profound mental disabilities,
- a person suffering from autism, a person suffering from multiple sclerosis, dialyzed kidney patients and the other very hardest handicapped person, regardless of income per household (term the hardest handicapped person stand for a person who receives compensation for care and assistance);

- Foster families which host children without parental care.

In accordance with the provisions of the Decision on amending and Decision on supplementing the Intervention measures to protect the most vulnerable citizens, 30% amount should be settled on accounts up to 8,000.00 RSD net. If the invoice amount is greater than 8,000.00 RSD, the discount is not realized on the amount over 8,000.00 RSD, per account.

**5. Please provide examples of how your Government monitors and enforces regulations in the water and sanitation sector.**

According to the Law on Ministries, several ministries share responsibilities over drinking water (from source to tap). According to Law on Water, water is considered as a natural resource, owned by the Republic of Serbia. It regulates aspects of water protection and water use, and floods protection, for which the Ministry of Agriculture and Environmental Protection is responsible. Water supply includes all activities from catchment to tap. For the purpose of planning, investment and maintenance of regional water supply systems, the Government of the Republic of Serbia establishes public companies. Municipal authorities are responsible to plan, develop and maintain systems for drinking water supply on its territory. For this purpose they shall establish a public utility companies. The Ministry of Construction, Transport and Infrastructure is responsible for utility infrastructure and services, as well as for the inspection of facilities and municipal infrastructure. According to the Law on Food Safety, drinking water is considered as a food and Ministry of Health has exclusive jurisdiction over the sanitary inspection of drinking water safety at the point of use.

**6. What is your Government's approach/strategy with regard to situations of?**

In the Republic of Serbia, there are no any informal providers of water and sanitation services.

**7. When non-State actors are in charge of service provision, the State must ensure that this involvement does not result in violations of the human rights to water and sanitation. How is this safeguarded by your Government when regulating non-State actors? What standards, principles and concerns are taken into consideration?**

Please, refer to answer under 6.