**Answers to the questionnaire on the human rights to safe drinking water and sanitation**

In accordance with Article 12 of the Law on Ministries, the Ministry of Human Rights and Refugees is in charge of monitoring the implementation of human rights instruments BiH has signed, ratified or accepted by succession, including the International Covenant on Economic, Social and Cultural Rights under which BiH submitted an initial and two periodic reports to the relevant UN committee. The human rights to safe drinking water are enshrined in Article 2 of ICESCR.

**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.**

According to the entity laws on local self-government (the Law on Principles of Local Self-Government in the Federation of Bosnia and Herzegovina, Official Gazette of FBiH, No. 49/06 and the Law on Local Self-Government of Republika Srpska, Official Gazette of Republika Srpska, No. 42/05), utility activities, including the activities of drinking water supply, sewerage and wastewater treatment, fall under exclusive competencies of local self-government units.

Water supply and public utility activities are organized differently in local government units, both in the Republika Srpska and in the Federation of Bosnia and Herzegovina. In most of the local self-government units, these jobs are organized in two or more administrative bodies and are most often attached to activities of physical planning, environmental protection, housing affairs etc.

Pursuant to the Laws on Communal Services of Republika Srpska and the cantons in the Federation of Bosnia and Herzegovina, drinking water supply and sewerage and wastewater treatment are performed by public utility companies, whose founders are local self-government units, which are also majority owners of capital in these companies. The public utility companies are established with the aim of performing activities of public interest.

In the area of ​​Brčko District, drinking water supply and sewerage and wastewater treatment are performed by a public utility company founded by Brcko District.

The entity water laws (FBiH Water Law - Official Gazette of FBiH, No. 70/06 and RS Water Law - RS Official Gazette, Nos. 50/06, 92/09) and water management strategies have been taken over the underlying principles of EU legislation respecting water supply ("polluter pays" and "user pays"), whose consistent implementation should ensure adequate financial compensation for the use and protection of water and ensure reimbursement of costs incurred in furnishing water supply services, including environmental and resources protection cost.

Most of the laws on communal services have a provision that determines that the price of utility services should ensure self-sustainability in furnishing utility services and operating companies at the level of simple reproduction of the conditions of production. However, the Laws on Communal Services in BiH do not elaborate the above principles adequately and do not establish an adequate regulatory framework for determining the prices of utility services, giving greater competence to the units of local self-government in the process of determining the prices of utility services. In implementing provisions of the laws on communal activities and the laws on local self-government principles, the units of local self-government have not ensured a consistent application of the principles in the performance of these activities, which has resulted in a disorderly state of affairs in these activities.

None of the local self-government units in Bosnia and Herzegovina has a clearly defined price policy for utility services, which should ensure self-sustainability in furnishing these communal services. The price of utility services is viewed more as a social rather than an economic category. Therefore, in almost all local self-government units in BiH, we have non-market prices of these services, which cannot ensure optimal conditions for the performance and development of these activities. The existing laws on communal services do not adequately regulate the relations in the performance of communal activities between the units of local self-government and the utility service providers, i.e. mutual rights, obligations and responsibilities in the performance of the activity. In the Republika Srpska, this particularly prevails given the change of the status of public utility companies into joint stock companies and the change of holders of capital ownership in these companies from the units of local self-government into the Entities.

Considering the current situation in BiH and a lack of a clearly defined regulatory mechanism, it is necessary to introduce a new regulatory framework for determining the prices of services in the legislation and clearly define the obligations and responsibilities of all stakeholders in the performance of utility activities: the legislator, the local self-government units as the most responsible factor in creating conditions for the high-quality and efficient performance of utilities, public utility companies and other companies - providers of utility services and users of utility services - households and legal persons.

**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?**

In addition to integral water management, the purpose of the water laws in both Entities is to achieve a good water status and prevent its degradation, achieve sustainable water use and ensure fair access to water (Article 2).

According to Article 47, paragraph 2 of the Water Law of the Federation of Bosnia and Herzegovina and Article 52 of the Water Law of Republika Srpska: "The use of water for supplying the population with drinking water, sanitation and fire protection has a priority over the use of water for other purposes ... "

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

The water laws of both Entities regulate obligations and responsibilities in relation to public participation and free access to information. Chapter 'General Principles' of the laws states that water resources will be used in a way that ensures public participation in drafting of water management plans. This is fully in line with the requirements of the Water Framework Directive where active participation of all stakeholders in the preparation of the review and updating of river basin management plans is an important step in the planning process.

Furthermore, certain articles of the Law provide for public participation:

• Article 38 of FBiH Water Law / Article 29 of RS Law on Waters, " Public consultation", determine how water agencies inform the Water Advisory Council and the local communities about the start of the preparation of the water management plan, and provides information on the process of public consultation.

• Article 124 of FBiH Water Law / Article 130 of RS Water Law, "Notification of parties concerned and the public", defines procedures of issuing a prior water consent ".

• Article 126 of FBiH Water Law / Article 133 of RS Water Law, "Delivery of decisions and notifications", determines the manner in which the competent body informs parties concerned and the public in the river basin before the issuance of water requirements/a water permit or consent.

Another relevant legal framework for public participation and access to information in BiH is found in the entity environmental laws (FBiH Environmental Protection Law, FBiH Official Gazette, No. 33/03 and the RS Environmental Protection Law, RS Official Gazette, No. 53/02), other special laws regulating certain areas of environmental protection, as well as in the laws on freedom of access to information.

Concerning public participation at lower levels and the formation of communal services prices, access to information is ensured in case of large public utility companies, such as price lists and annual financial reports available on official company websites. The conclusion of service contracts between PUCs and consumers is defined in the BiH legislation, but these contracts are often not concluded. Citizens in BiH do not participate in determining tariffs and standards of utility services and water supply.

**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 those 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?**

2.4 million people in BiH are supplied with drinking water and waste water is collected from 1.3 million inhabitants, while wastewater treatment is available to 72.000 people. The local self-government authorities are obliged to provide water supply and waste water collection services. For this purpose, public utility companies are established. There are more than 130 public water supply companies in BiH. Customers/users of public utility services are divided into household and non-household categories. The category of non-household users includes industry, public institutions and various small enterprises or sometimes agricultural consumers. Industry pays a significantly higher tariff (in some cases, 2-4 times higher) than households, which is a clear proof of cross-subsidization of household water supply.

Numerous studies confirm that tariffs for water and wastewater services throughout BiH are usually set at a low level, which mostly ensures only reimbursement of direct operating costs. These current tariffs are not sufficient to cover the costs of maintaining existing water and sanitation infrastructure.

According to the Assessment Study for the Water Supply Sector in BiH, the following rates of collection of revenues are obtained from a survey of 10 selected PUCs: in BiH, the average rate of revenue collection is 79.63%, while in the FBiH and in RS they are 86% and 73.25%, respectively.

There is no strict, formal procedure for collecting revenue, but generally the company sends a notice to customers who do not pay their bills on time. There is a legal possibility to initiate a lawsuit against customers. Debts of households are written off after one year and debts of non-household customers are written off after three years.

In BiH, there is no mechanism for subsidizing low-income households and socially vulnerable categories.

Strategic documents for water management in the FBiH and RS give priority to the objectives of the price policy set out in Article 9 of the WFD. The reform of the water pricing system is one of the strategic goals of both documents. They state that water pricing policies should ensure self-financing of the water sector through full cost recovery and adequate tariff collection, and when the micro-affordability ratio for certain social groups exceeds the 4% limit, additional social measures should be developed to mitigate the negative effects of the increase in water prices.

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

In accordance with Article 32, paragraph (1) of the RS Law on Communal Services, a local self-government unit responsible for utility affairs monitors the performance of public utility activities and the implementation of this Law, other regulations and delegated legislation concerning public utilities and Article 32, paragraph (2) provides that administrative supervision over the application of this Law and the regulations adopted on the basis thereof is performed by the Ministry of Physical Planning, Construction and Ecology.

In accordance with Article 33 the inspectional supervision (control) over the implementation of this law and regulations adopted pursuant to this law is performed by utilities inspectors of the local self-government unit.

Articles 37- 41 provide for punishment for violating this law.

In the Federation of BiH, water supply and sewerage are regulated by cantonal laws on the performance of communal activities. These laws provide that supervision over the implementation of the laws is carried out by the competent ministry for communal affairs at the level of the canton and the inspection supervision is carried out by utilities inspector of the Canton.

**6. What is your Government's approach/strategy with regard to situations of informal providers of water and sanitation services?**

- The 2010-2022 Water Management Strategy of FBiH is a key document for water management in FBiH. Strategic goals: (i) legal and institutional reform of the water sector, arising from the need to adapt to social conditions while aligning with the EU legislation in the water management sector, as part of the EU approximation and accession process, (ii) adequate integration of the water management sector into the economic system as a whole, with greater representation of economic instruments in the process of water resources management, (iii) improving efficiency, transparency and accountability in water management; (iv) ensuring financial viability of water management and reforming the price system of water supply, progressively introducing the market price of water.

According to the Water Management Strategy of the Federation of Bosnia and Herzegovina one of the goals is: "Increasing the coverage and improvement of public water supply".

The first priority in the use of water is the supply of water to the population, which is the public interest of the society and one of the basic tasks of the water sector. In the interest of raising general standards, preserving and improving the health of the population in the context of water management, we primarily start from the indicators of the population connected to public water supply systems.

The general development of society determines further development of public water supply systems. This also implies the needs of the industries that do not use their own water abstractions. An increase in the coverage by public water supply systems can be achieved not only through the upgrading of new systems, but also through "legalization" and connection of existing local water supply systems to public water supply systems.

Further, according to the Water Management Strategy of the Federation of Bosnia and Herzegovina, one of the strategic goals is: "ensuring financial sustainability in water management and reforming the system of water services prices with the gradual introduction of the market price of water".

The water price should allow for cost recovery and rationalization, i.e. reduction, of the consumption of this resource should be achieved using various market incentives. If the water price is adequately determined, all users of this resource will use water more reasonably and reduce the amount of water they consume.

Within the stated strategic goal, the Water Management Strategy has defined the operational objective "Gradual transition to a system that would ensure long-term sustainable water management funding and full cost coverage from service users or from other sources."

- One of the main goals of the 2015-2024 Integrated Water Management Strategy of the Republika Srpska is to ensure sufficient quantities of high quality water for the supply of water to the population.

One of the principles of water management is also the "principle of cost recovery, which implies ensuring reimbursement of costs from payments for water services, including environmental and water resource costs in general, according to the prescribed economic analysis, according to the „polluter pays“ principle and also that an adequate market compensation is paid for the used quantity of water by the entity using the water resource, according to the "the user pays" principle.

According to the Strategy, in the area of ​​water management, „the price of water should allow for full coverage of all the costs of simple reproduction, complete investment and on-going maintenance of the system, full protection of the water source, as well as a part of the expanded reproduction, which includes research and planning of new systems and conditions for their protection".

The economic policy should be such as to enable self-financing of the water sector through

adequate collection of water and all water services bills.

In addition, in accordance with EU legislation, tariff systems must encourage water conservation and sustainable development at all levels. One of the tariff policy measures to encourage water savings can be an introduction of higher water prices for consumers who "waste" drinking water.

**7. When non-state actors are in charge of service provision, the State must ensure that the 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?**

The main principles that are the basis of the regulations in the area of ​​environmental protection are defined in the entity environmental protection laws and laws of the BD BiH, as follows:

a) Principle of sustainable development

b) Precautionary principle and prevention

c) Replacement principle

d) Principle of integration

e) Principle of cooperation and division of responsibilities

f) Public participation and access to information

g) Principle of "polluter pays"

The exercise of water rights, as well as special authorizations for exploitation of water from underground and surface waters are regulated in laws and delegated legislation at the entity and BD levels.

In order to ensure water management and for the purpose of fair access to water for all persons, the RS Water Law (Articles 12 to 164) regulates the manner of exercising water rights by issuing the following water rights documents: guidelines, consents and permits. For all water abstractions in all economic sectors and activities, it is necessary to obtain water guidelines, consent and permission. Water is intended for water supply is under special protection. Articles 73 to 76 define the protection of water sources for drinking and human consumption in general.

According to Article 109, paragraph 1, subparagraph 1 of FBiH Water Law, a water document (prior water consent, water consent or water permit) is required for any abstraction of underground and/or surface waters (for industry and energy production, agriculture, water supply, service activities using water in the technological process, tourism activities), regardless of the impact of these abstractions.

The RS Water Law (Articles 209-215) and the FBiH Water Law (Articles 204-207) provide for criminal liability for and punishment of criminal offenses in relation to violation of the aforementioned Laws.

The competent authority for filing a complaint and initiating misdemeanour proceedings is the competent water agency and the competent state administration authorities, i.e. water inspections, that, in accordance with these laws, monitor the implementation of the law regarding its application and in particular the respect for the manner of exercising the right to water and compliance with water documents.

Criminal offenses against the environment are prescribed by the Criminal Codes of FBiH, RS and the Brčko District of BiH:

- Criminal Code of Republika Srpska (RS Official Gazette, No. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12)

- Criminal Code of the Federation of Bosnia and Herzegovina (FBiH Official Gazette of FBiH, No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, 42/11)

- Criminal Code of the Brčko District of BiH of Bosnia and Herzegovina (BiHBD Official Gazette, No. 47/11)

All the three Criminal Codes provides for criminal offences in the following cases: environmental pollution, the introduction of waste materials into the natural environment, endangering the environment by devices, endangering the environment by noise, destruction of plantations/crops, unconscientious conduct in pesticides circulation in the market, forest devastation and causing a forest fire.