

Creation of WAREG, the Water Regulators Network

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Background

Water sector regulation in Europe encompasses a range of institutional frameworks and market conditions that differ from country to country. In the European Union (EU), there has been a significant evolution towards the rationalization of the sector and the harmonization of practices and principles, by establishing a general framework for Community action in the field of water policy, and addressing the sustainability of water services and the principle of cost recovery of their provision. This framework is mainly based on the establishment of the Water Framework Directive (Directive 2000/60/EC), which sets the necessary standards to protect water resources and to promote their efficient employment. Despite this trend for harmonization, there is still substantial diversity in national frameworks and national water sector regulators have identified the need for a joint effort to address common challenges for the sustainability of these services in Europe. The purpose of this paper is to identify some of these challenges, and to launch a discussion about how these could possibly be addressed through the establishment of a cooperation platform among water sector regulators in Europe.

Considering the needs to replace obsolete infrastructures and to promote efficient management of existing infrastructures, including the efficient behavior of operators, the role of water regulators is becoming more and more important for the development of water systems in Europe. Among the common challenges for regulators, a main issue is linked to the financial strategies that national authorities adopt in order to cover past and new investment needs in water infrastructures. Several strategies exist to overcome this challenge, including the identification of adequate regulatory models that would allow for more efficient use of resources, and at the same time ensure minimum service quality standards and consumer protection. Similar challenges are already well recognized and are being addressed in other sectors (e.g. the energy sector), and therefore some analogies exist between these sectors.

Both the energy sector and the water sector are based on network infrastructures. Additionally, both sectors are highly capital intensive and they require a pro-investment regulation. Consequently, most of the theoretical models applied to energy regulation can also be applied to water infrastructure regulation. Finally, both sectors are perceived by consumers as essential public services and they are subject to public service obligations, which can be met by common regulatory principles including, for example, stability and predictability of rules for operators, sustainability of returns on investment for stakeholders and cost efficiency of the services provided for customers.

Water regulators cooperation: a success story from the energy sector

These analogies create the momentum for adopting some of the international cooperation methodologies already in place in other sectors. For example, the experience of cooperation among energy regulators provides a good precedent. Regulatory regional associations have successfully been working in Europe and the Mediterranean basin since the year 2000, allowing for a fruitful exchange of best regulatory practices and offering relevant inputs to improve and harmonize national regulatory frameworks in the electricity and gas markets. This includes the Council of European Energy Regulators (CEER) and the Association of Mediterranean Regulators for Electricity and Gas (MEDREG). The CEER was created on a voluntary basis in the year 2000, to promote the opening up and closer integration of the European gas and electricity markets, taking into account the legal basis of the first EU energy package. Today, it is the voice of Europe's national energy regulators, and is a platform for cooperation, information exchange and assistance as well as their interface at EU and international level. MEDREG was established as a permanent “working group” in May 2006, among the Energy Regulators and Ministries responsible for the electricity and gas sectors in 21 countries, with the purpose of promoting clear, stable and harmonized legal and regulatory frameworks.

The necessity of WAREG in the European Union

It is recognized that there are specific issues, challenges and conditions within the water sector which create the need for a dedicated instrument for cooperation between authorities of the different European countries. Water services are challenged by social concerns of equal accessibility for end-users, especially with respect to the sensitive issue of pricing policies, and these are one of the main drivers for regulators' intervention, especially in the context where water and sanitation are recognized as human rights. Additionally, these services are characterized by relevant financial issues, including the gap between financial needs to cover operating and capital costs and the self-financing capacity of operators, as well as by the presence of fixed and sunk costs, which increase the water sector risk. Considering the potential clash of opposing interests in the water sector, a strong commitment of national regulators is required in order to create a balance between operators and consumers, in accordance with EU rules. In doing so, national regulators can take advantage from networking and sharing common objectives, including the following ones:

- a. to exchange common practices, information, joint analysis and comparison of existing water sector regulatory models and performance of water utilities;
- b. to organize specialised training, technical assistance, exchange of know-how and experience;
- c. to promote best-practice and stable regulation of the water sector at European level for water and waste water services;

- d. to promote cooperation activities aimed at analysing the sustainability of the services, adequate infrastructure investment, proper service quality standards and consumer protection;
- e. to prepare common positions about regulatory issues and speak with a stronger voice at EU level;
- f. to conduct an open dialogue with other relevant regional and international organizations and national institutions, with particular focus on European issues in the field of water services.

Following a series of informal contacts, it has been recognized that there is potential for cooperating on the above-mentioned objectives, through the establishment of WAREG – The Water Regulators Network. The network will be composed of national water regulators in the EU member states.

In order to start the process of creating a structured cooperation, it is important to:

1. identify possible forms of coordination, through the setting up of an “Informal Secretariat”, to be made up by ad hoc focal points (or communication officers) of each regulator in this start-up phase.
2. start WAREG activities through agreement on “clusters” of issues, which could be developed within informal working groups (WG), for example a Technical WG and a Legal/Institutional WG in this start-up phase.
3. explore possible strategies for external relations with institutions and stakeholders (i.e. EU Institutions, international organizations, academic community, financial community, other stakeholders);
4. explore the opportunity to develop WAREG legal basis, from an informal network into a non-for-profit association, for example following the models of CEER or MEDREG in the energy sector;
5. identify a communication strategy (i.e. press releases of WAREG meetings, WAREG website, etc.);
6. charge the “Informal Secretariat” with the following activities in view of the second WAREG meeting:
 - elaborate a draft Action Plan document including, among other issues, internal organizational aspects;
 - set up a Technical Working Group and an Institutional on regulatory issues of common interests;
 - draft an agenda for the second WAREG meeting

The way forward

It is agreed among the participants attending the first WAREG meeting (Milan, 23rd April 2014) to:

1. approve the draft discussion paper: “Creation of WAREG, the Water Regulators Network”;
2. establish the “Informal Secretariat”, initially made up by ad hoc focal points nominated by each participating Regulator;

3. agree on a message to be delivered by a WAREG representative to the Danube Water Conference, organized by the Danube Water Program of the World Bank on 7 May 2014, in Vienna
4. give mandate to the “Informal Secretariat” to elaborate an Action Plan of organization and activities for 2014/15;
5. organize the 2nd WAREG meeting on 23rd September in Lisbon, kindly hosted by the Water and Waste Services Regulation Authority of Portugal (ERSAR).