

**INSTITUTIONAL
REGULATORY
FRAMEWORKS.
A COMPARATIVE
ASSESSMENT.**

Report completed by WAREG

2015

This report was produced by WAREG Institutional Working Group

Acknowledgements:

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The realization of this guide would not be possible without the interest and time invested by all WAREG Members in the survey.

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Abbreviations

Alb – Albania
Bel-Fla – Belgium, Flanders Region
Bul – Bulgaria
Den – Denmark
Est – Estonia
Gre – Greece
Hun – Hungary
Ire - Ireland
Ita – Italy
Lat – Latvia
Lit – Lithuania
Mal – Malta
N-Ire – Northern Ireland
Por – Portugal
Por-Azo – Portugal, Azores Islands
Rom – Romania
Sco – Scotland
Spa – Spain

Background

WAREG

WAREG is the Network of European Water Sector Regulators, whose primary aim is to promote closer cooperation among its Members. It was launched in Milan on 23 April 2014 and it is organized through the following internal bodies: Assembly, President, Vice-President, Secretariat and Working Groups. Currently WAREG consists of 18 members¹ in Europe, and it is open to receive new membership requests.

WAREG's objectives are:

- a. to exchange common practices, information, joint analysis and comparison of existing water sector regulatory models and performance of water utilities;
- b. to organize specialized 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 analyzing 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.

¹ Following a voluntary request to WAREG Secretariat, currently 18 Regulatory Bodies participate as Members in WAREG bodies and activities:

AEEGSI – Italy, Regulatory Authority for Electricity Gas and Water
ANRSC – Romania, Romanian Authority for Public Services
CER – Ireland, Commission for Energy Regulation
ECA – Estonia, Estonian Competition Authority
ERRU – Albania, Water Regulatory Authority
ERSAR – Portugal, Water and Waste Services Regulation Authority
ERSARA – Portugal, Water and Waste Services Regulation Authority of Azores
EWRC – Bulgaria, State Energy and Water Regulatory Commission
HEA – Hungary, Hungarian Energy and Public Utility Regulatory Authority
MAGRAMA – Spain, Ministry of Agriculture, Food and Environment
MRA – Malta, Malta Resources Authority
NCC – Lithuania, National Commission for Energy Control and Prices
NIAUR – Northern Ireland Utility Regulation Authority
KSST – Denmark, Danish Competition and Consumer Authority
PUC – Latvia, Public Utilities Commission
SSW – Greece, Special Secretariat for Water
VMM – Belgium,/Flemish Water Regulator
WICS – Scotland, Water Industry Commission for Scotland
OFWAT – England & Wales, Water Services Regulation Authority (**Observer**)

Purpose of the Report and methodology

Water sector regulation, referred to as regulation of water and wastewater services encompasses a wide range of institutional frameworks and market conditions that differ from country to country in Europe. In the European Union, 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 with the aim to protect water resources and promote sustainable water use. Today regulation can fall under the competences of three main categories of institutions, namely Ministry (Line ministries or Ministerial Agencies), Regulatory Entity (centralized or regional) or Competition Authority.

Despite substantial differences in the institutional governance of water systems in European countries, a common need to promote clear and stable regulatory frameworks is emerging. The role of Regulators is becoming increasingly relevant to the rationalization of water sector governance and a more clear definition of competences among different institutional levels. Regulators' action mainly concerns the promotion of effective, efficient and sustainable water and wastewater services, while in parallel the use of water resources remains a policy issue under the responsibility of national governments.

The aim of this document is to analyze and compare available information and outline key points on the institutional frameworks of water and wastewater services regulation within WAREG member jurisdictions. Therefore, the report describes institutional arrangements in use and enquires about the fundamental role of independent regulation to protect the interests of the stakeholders involved in the water sector. The document is designed to be simple and easy to understand. It has the intention to be descriptive but it remarks some key points on the role of independent regulation in the water sector.

A survey was organized by WAREG Institutional Working Group (INS WG) between January and March 2015, to investigate the following areas of analysis:

1. institutional setting of water sector in WAREG Members' countries:

- 1.1. description of coordination between the regulatory entity and national Ministries, public agencies, customers associations;
- 1.2. regulatory body legal status, powers and coordination;
- 1.3. regulatory body independence.

2. role and mandates of Regulatory Bodies:

- 2.1. modalities of governance within the regulatory entity;
- 2.2. objectives, functions and scope of the regulatory entity.

Eighteen Regulatory Bodies replied to the INS WG survey, from the following WAREG Members' countries: Albania, Belgium-Flanders, Bulgaria, Denmark, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Northern Ireland, Portugal, Portugal-Azores, Romania, Scotland and Spain.

SECTION I – INSTITUTIONAL SETTINGS

This section aims at providing a general overview of the regulatory frameworks in place in the water sectors in WAREG countries. From the replies received some regulatory best practices were noted, taking into consideration national and local contexts in each country. The survey's main results are summarized at the end of the section.

1.1. Coordination of regulators with ministries and other stakeholders

From the replies received, there is evidence of coordination between regulatory bodies and various Ministries and other stakeholders:

Health Ministry. Coordination covers drawing up and implementation of environmental policies and ensuring compliance to drinking water quality standards.

Environmental Ministry. Coordination aims at elaborating criteria to determine environmental costs and water resources costs, protection of the environment and water resources. This includes coordination to define and control environmental provisions and standards for drinking water, waste water and solid waste sectors, definition of quality of services and customer billing, definition and control of provisions and standards of infrastructure design, definition of requirements for municipal infrastructure development. In some cases, coordination is also linked to enforcement actions against defaulters.

Economics / Finance Ministry. Coordination aims at overseeing tariffs or regulating the price structure.

Customers' / Citizens' Associations / Ombudsman/Local Public Administration. Cooperation aims at settling disputes between operators and/or handling citizens' complaints about violation of their rights. Additionally coordination concerns proposals to the competent central and local Authorities to repeal or to amend fines issued by the Regulatory Bodies, which could lead to prevention, restriction or distortion of competition. Coordination also includes promoting participation in the development of legislation or technical legal instruments related to public water supply and sewerage, in order to ensure fair competition and protection of consumer rights and to promote better operational and management practices among operators, as well as a better sharing on knowledge.

The main features of water sector governance within WAREG jurisdictions are the following ones:

- Core services can be offered separately or in an integrated way by operators (abstraction, conveyance and distribution of water for civil usages, sewerage and wastewater treatment).
- Water services operators are mostly owned by public entities (municipalities, associations of municipalities or other local public authorities) or by a single national supplier, although fully private operators are emerging.
- Water infrastructures are owned by local municipalities or by the State, though in some cases of private infrastructures exist.

Key point: there is a variety of coordination arrangements between different levels of governance in WAREG Members' jurisdictions. Specific coordination between Ministries and Regulatory Bodies is usually ruled by general principles provided in the national founding laws of the Regulatory Bodies.

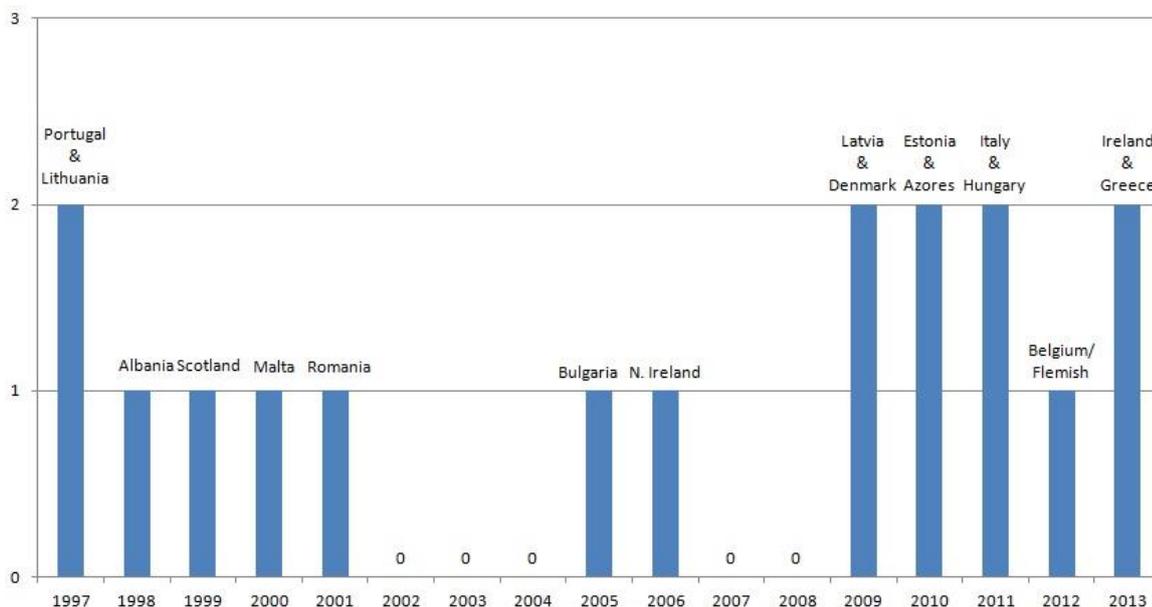
1.2. Regulatory Bodies: legal status, powers and coordination

In all WAREG countries a Regulatory Body exists at central or regional level, to oversee water services. Three groups of Regulatory bodies were identified, whose competences have been provided by a specific primary or secondary legislation (laws, by-laws, decrees, etc.) and these are usually published on the Regulators' websites:

- a. Utility Regulators (Alb, Bul, Hun, Ire, Ita, Lat, Lit, Mal, N-Ire, Por, Port-Azo, Rom, Sco);
- b. Ministerial administrative bodies (Gre, Spa, Bel-Fla);
- c. Competition Authorities (Den, Est).

The 18 survey respondents were assigned regulatory powers between 1996 and 2013. In some cases these powers were added to pre-existing regulatory competences for other sectors (multi-sector regulators), while others were created anew (ad hoc water sector regulators).

Chart 1: year of creation of WAREG Regulators



Within the Group of utility Regulators, a minority regulate the water (Bel-Fla), and also wastewater sectors (Alb, Por, Por-Azo, Sco,) while the majority (Bul, Hun, Ire, Ita, Lat, Lit, Mal, N-Ire, Rom) regulate also other sectors, such as electricity, gas, renewable energy, district-heating, solid waste management, public illumination, public transportation, post, railway. In both cases, water specific and multi-sector Regulators share a set of regulatory objectives, and specifically the following ones:

- setting tariff methodologies. All utility Regulators are responsible to define tariff methodologies, although by means of different criteria in calculating operators' costs (revenue cap, rate of return, others).
- promoting cost-efficiency, economic and financial sustainability and technical and commercial quality of individual or integrated water services;
- ensuring universal access to water resources and consumer protection;
- guaranteeing reliable and secure water services, at affordable prices to consumers;

- monitoring the regulated entities and enforcing regulatory decisions (although a wide range of instruments are applied among WAREG Members, and these range from simple warning letters to financial sanctions).

Additional objectives are provided by law for some specific Regulators (e.g.: protect vulnerable customers, promote competition, ensure quality of drinking water, issue licenses, settle disputes between operators, etc.). All respondents have established relations with Line Ministries, typically in order to provide technical opinions when requested.

Within the Group of Competition Authorities, objectives are mainly the following ones: market monitoring, control of dominant positions by individual operators, handling complaints.

Other objectives, mainly related to the conservation of natural water resources are carried out by Regulators in coordination with Line Ministries (only in 12 cases coordination is provided by law).

Key point – Regulatory status is based on well defined objectives on issues related to setting tariffs methodologies, on monitoring regulated entities to enforce regulatory decisions and also on having a strong coordination with relevant ministries.

1.3. Regulatory independence

For the purposes of this paper, independence is understood as the neutrality of a regulatory body from external pressures in the day-by-day management of regulatory actions. Independent regulation is perceived by all respondents, including the group of ministerial administrative bodies, as an essential driver for achieving the water sector's key objectives: governance rationalization, sector stability, market efficiency, universal access to water resources, standardized quality of services and consumer protection. From the replies to the survey, independence of regulatory decisions from politics (central or local Government at large) or regulated industry can be defined against at least three main criteria. These criteria were partially met by all respondents:

- Nomination process and duration of the decision-making organ** (Board, Commission, etc.). High technical reputation and separation from a Ministry or a governmental body are essential barriers against political interference in decision-making processes. In all WAREG Members the decision-making body is typically composed of between 4 – 7 persons (including the Chairman), whose term is not renewable in 50% of the cases. In 11 cases decisions are taken by a Board, in 3 cases there is no Board and the Regulator is coordinated by the President and 1 – 3 appointed Vice-Presidents, in 1 case a Council is charged with decision powers. The members of the Board or Commission are appointed for a period between 1 to 7 years depending on the regulatory body and, in half of the cases, one period renewal is permitted.

The Board and its President/Vice-Presidents are nominated by:

- the Head of State / Prime Minister (3 cases);
- the Council of Ministers (5 cases);
- Parliament (2 cases);
- relevant Ministry (7 cases) or a
- parental Regulator (1 case).

In all cases, appointment to the highest positions requires a strong technical reputation in the sector. In almost all cases Members the decision-making organ may be dismissed under two conditions:

- (i) the appointing authority should evaluate the case;
- (ii) its decision to maintain or remove a Board Member requires justification.

An additional measure against personal conflicts of interests, used by almost all WAREG Regulators, establishes internal codes of conduct for Board Members. Codes of conduct define any possible incompatibilities with other professional activities, and typically forbid assuming responsibilities in regulated companies during and after the mandate.

- b. **Legal provisions for independence.** Lack of a legal basis for independent regulation is a serious threat to sector stability, as there may be a higher risk that decisions are changed frequently or be discriminatory. Only 11 respondents stated that independence is provided by law. Independence is considered to be fully met where the Government has no power to approve or reject Regulator's decisions. Among WAREG Members, only a minority has the power to issue binding regulatory decisions without any intervention or even final approval by the Government. In all WAREG Members, an appeal mechanism is established against regulatory decisions. Such appeals are filed before juridical courts by the stakeholders that are directly (or indirectly) affected by a regulatory decision. Usually appeals suspend the regulatory decisions' effect but in some cases a second court instance is also required.
- c. **Autonomy of internal organization and budget.** Protection from external pressures can be seriously hampered if incomes, costs and internal organization are not directly managed by the Regulatory Body in a transparent way. Even where some WAREG Regulators budgets are included in the State budget, decisions on incomes and allocation of expenditures are generally adopted autonomously. Issuing licenses to water and waste water services operators and withdrawing them (7 Regulatory Bodies), are a key instrument used by some Regulators to collect economic resources and guarantee the interest of consumers. In some countries, the Regulator is authorized to levy fees directly from the regulated industry. Despite their autonomy, all Regulators try to match long-term national policy goals, where they exist. From 18 replies to the survey, 13 entities clarified that the national policy for long term is matched with the regulators objectives.

Key point - All respondents share the principle that a regulator should be endowed with all the necessary tools to carry out its functions. Ideally, independent regulation would serve this purpose, and independent regulatory functions should be clearly stated in national legislation. Independence is the neutrality of a Regulatory Body from the interest of national/local governments and of regulated companies, under an administrative, functional and financial point of view.

SECTION II – MANDATES AND ROLES

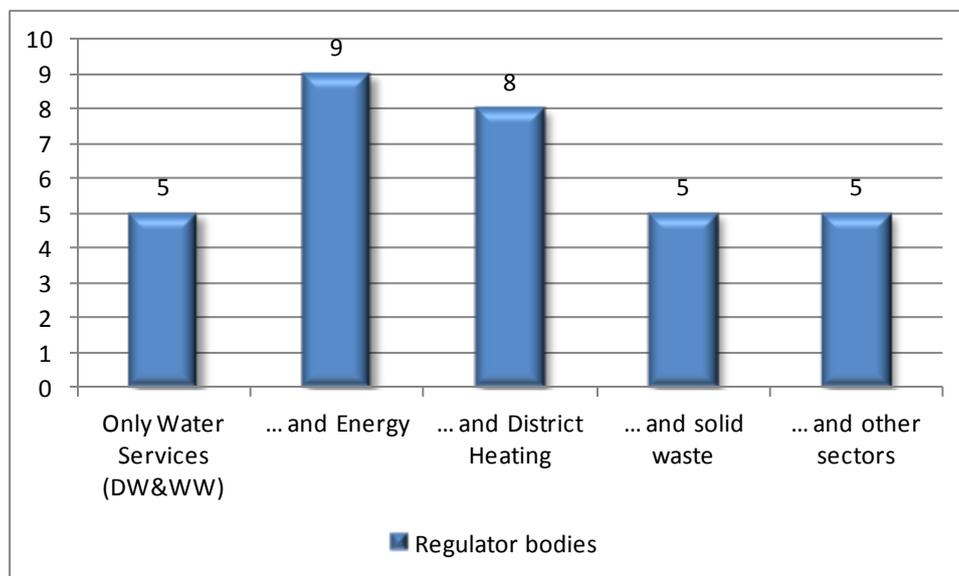
This section is focused on the competences of WAREG Regulatory Bodies (both *water sector specific and multi-sector Regulators*) and their objectives, functions and scope (*concerning economic functions, efficiency, data collection and performance monitoring, enforcement of regulation and other functions*).

2.1. Regulated sectors under the scope of the Regulatory Body

The decision to provide a Regulatory Body with water specific or multiple competences is a responsibility of political authorities, hence it is out of the scope of this Report. However in all WAREG Members it can be observed that years after their establishment, several Energy Regulators were also given powers and responsibility over water and wastewater services. Several combinations of water services with regulation and regulation of other sectors were observed, and specifically with the following ones:

- The energy sector (electricity, gas, etc.) is regulated by 9 of the surveyed regulators entities (Bul, Est, Hun, Ire, Ita, Lat, Lit, Mal, N-Ire).
- The district heating sector is regulated in 8 cases (Bul, Est, Hun, Ita, Lat, Lit, Mal, Rom).
- The solid waste sector is regulated in 5 cases (Hun, Lat², Por, Por-Azo, Rom).
- Additional sectors regulated by respondents: chimney sweeping, mineral resources, transport, public lighting, postal services).

Chart 2 – Sectors regulated by WAREG Members



Most WAREG regulators consider that their competences are appropriate for the following reasons:

- Water specific regulatory consider that multi-sector regulation would make decision-making more complicated and water regulation less effective.

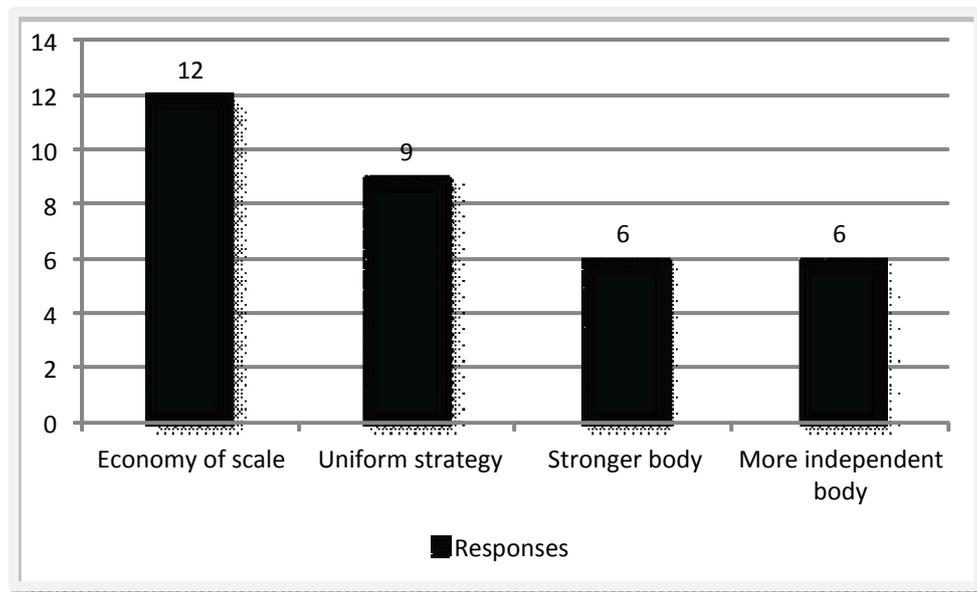
² In Latvia, PUC regulates only waste disposal.

- Multi-sector regulators consider that regulating more than one sector creates material advantages:
 - o uniform application of regulatory principles and exploitation of similar solutions for different sectors;
 - o enhanced efficiency of regulatory decisions;
 - o economies of scale; and
 - o extending independent regulation to other sectors.

Some replies point out that in multi-sector regulation there is a risk which involves that more resources are used to regulate larger sectors than minor ones (in terms of number of operators, number of customers and economic value of infrastructures).

Chart 3 shows the responses on the advantages of multi-sector regulation. It can be remarked that “economy of scale” is considered as the main advantage.

Chart 3 – Main reasons for moving to multi-sector regulation, according to WAREG Members



It should also be noted that specific advantages like knowledge transfer, expertise pooling, efficiency gains (in terms of human resources, information and technology, finance and administrative activities) and streamlined processes are included in the category “economies of scale”. Some WAREG members mentioned additional benefits of multi-sector regulation such as simplification, stability and consistency of the regulatory framework and the improvement in customer protection.

In the solid waste sector, regulation is generally applied at local municipality level, since it is included in the environmental and water control power that national legislation put under the responsibility of municipalities.

Key point. Among WAREG Members, some regulate only the water and/or wastewater utilities, while others regulate utilities from additional sectors (electricity, gas, district heating, chimney sweeping, mineral resources, transport, public lighting, postal services). The choice to establish sector-specific or multi-sector Regulatory Bodies belongs to politics and it is out of the scope of this Report, however the majority of respondents are multi-sector Regulatory Bodies.

2.2. Objectives, Functions of the Regulatory Bodies

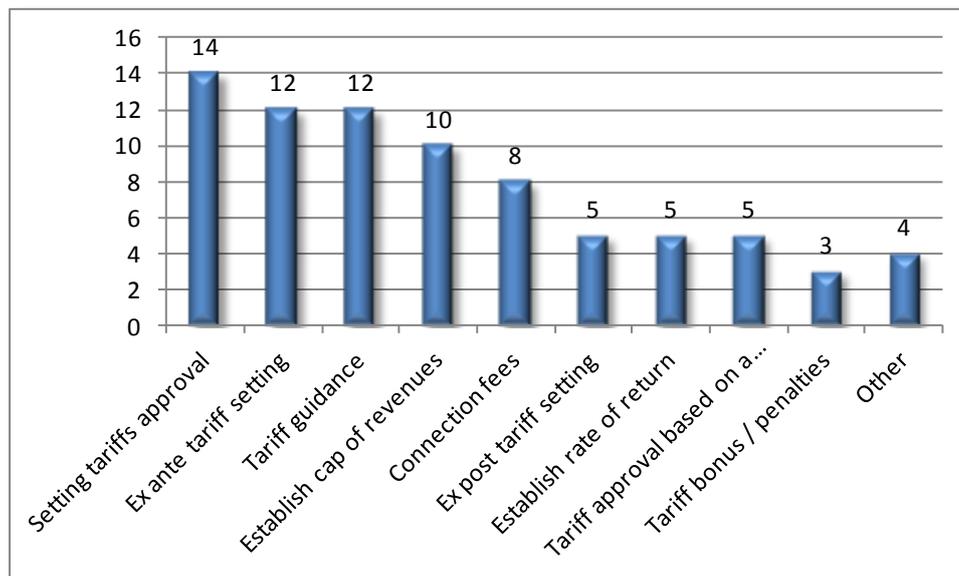
In this part of the Report it is analyzed whether the objectives of the Regulatory Authority are autonomously defined from Governments and if they are transparent. Additionally, the main Regulatory Bodies' functions are analyzed. From the replies received, it can be remarked that the level of independent regulation largely varies, and that it also depends on the Regulator's autonomy in defining and communicating its objectives, provided by national legislation.

Almost all respondents stated that their objectives are defined by primary Law or another legal Act. When objectives are not defined by Law, they are usually published in a Strategy Plan, a Forward Work Plan or a Corporate Plan. In almost all WAREG Members, the main objectives are publically communicated, except for one Regulatory Authority that has been recently created.

Regulatory powers should be in line with the functions assigned and they should enable to achieve long-term regulatory objectives. The following regulatory functions were identified among respondents:

1. Economic functions. These usually refer to tariff regulation and efficiency promotion. Both functions lie at the core of regulatory bodies, as they are focused on protecting customers' rights and urban water service quality. Chart 4 displays the main economic functions delivered by Regulators, according to the responses received, and shows that regulators' principle functions are "Setting tariffs approval", "Ex-ante tariff setting", "Tariff Guidance" and "Connection Fees".

Chart 4 – Main tariff regulation functions of Regulators



Tariff approval can be based on different methodologies, including cost analysis, cash flow analysis and/or profit and losses based analysis. Additionally, in some cases, ex-ante tariff setting is adjusted with ex-post tariff settings (Italy, Lithuania and North Ireland). It was remarked that the Portuguese Regulatory Entity ERSAR supports training and advice activities for less capable operators, to improve their accounting and operational practices. In Scotland, the Regulator (WICS) promotes an alignment between managerial incentives and organizational incentives, by recognizing operating costs like water operator staff bonuses when they are directly linked to performance in leakage or overall performance assessment (OPA). In some cases, also affordability of prices is regulated in order to avoid that low income households paying beyond a specific incomes threshold (e.g. 4-5%). Finally, in almost all the cases, full cost recovery is a very important function under the scope of the Regulatory bodies.

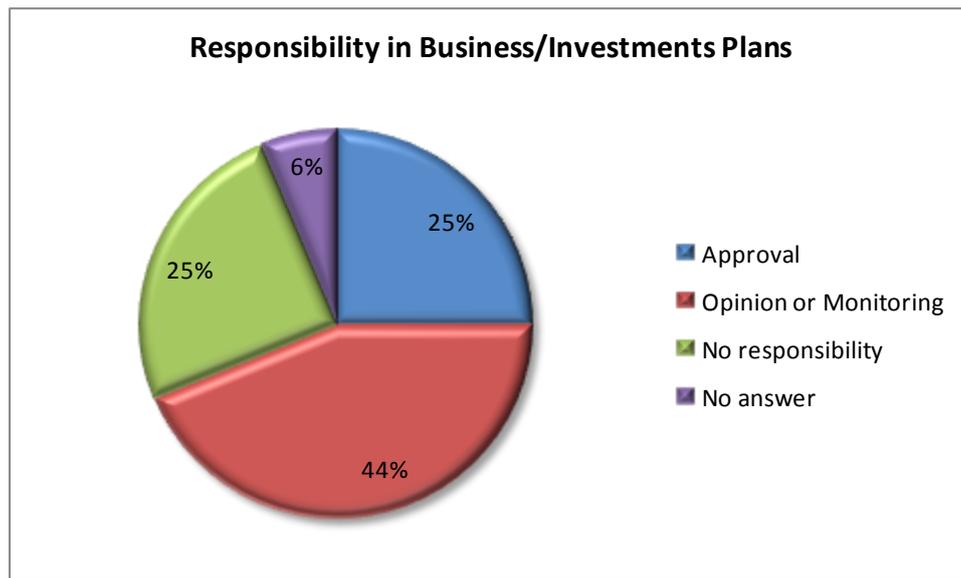
2. **Economic efficiency functions.** Usually benchmarking exercises are carried out according to the information provided by water operators. In this process some key performance indicators (KPI) or cost concepts are analyzed by a minority of Regulators (Alb, Bul, Den, Est, Lit, Por-Azo) in order to promote efficiency. In other case, an efficiency factor “X” is estimated by the Regulator and periodically updated (Ita). In some cases there are efficiency challenges in expenditure and capital investments in order to promote competition in reducing revenues in water operators (Sco). In other cases inefficiencies are not considered in tariff calculation (Por). Instead, a few Regulatory Bodies do not control that water service fees are effectively invested in water services.
3. **Capacity-building functions.** This function aims not only to identify the best providers of innovative technologies in the water sector but also to create a regulatory framework where transfer of knowledge and efficiencies as well as innovation practices is promoted among all stakeholders in the sector. In fact, almost all respondents agree that it is worthwhile to create a “supporting environment” among consumers and operators, rather than only promoting innovative technologies³. In the case of Portugal, the Regulator (ERSAR) promotes an “enabling environment” for operators to use the most suitable technologies and best practices. It is ERSAR’s responsibility to promote research and development in a large scale, by working with research centers to find best solutions for managing water and wastewater services. Within this capacity building responsibility, ERSAR has created an editorial service that publishes technical guides and manuals to be used by the technical staff of the sector. In the case of Ireland, the CER has approved funding to encourage Irish Water to invest in research and innovation projects in order to promote innovative technologies and best practices.
4. **Water demand management and promotion of efficient use.** These regulatory functions refer to tariff computation methodologies and monitoring of price structure. In the case of Scotland, efficient use of water resources is promoted through retail market competition in the non-household sector, which allows retailers to compete for non-household customers by offering more competitive prices, by means of cost-efficiency. In the case of Estonia, water demand is low and not problematic, with an average use between 60-100 liters per person and day. In Latvia, efficiency in water use is achieved by providing communication material or by promoting individual meters.
5. **Business (investment) planning responsibilities.** In order to develop their regulatory functions, almost all respondents are entitled with the power to provide opinions, monitor or receive data about business plans of water operators (Alb, Gre⁴, Ire, Ita, Lit, N-Ire, Por, Por-Azo). In other cases the Regulatory Body has no responsibility on business plans (Est, Lat, Mal, Rom). Only in two cases the regulatory body approves water operators business plans (Bul, Sco, Hun⁵).

³ We understand “supporting environment” as the promotion of research and development, creation of innovation and knowledge and development of human resources.

⁴ SSW has the power to monitor business plans only in the cases of the water companies for Athens and Thessaloniki where concession Agreements are in place and after new Agreement or amending the existing one. As regard the municipal water utilities, SSW is not explicitly nominated to monitor business plans.

⁵ According to the Hungarian regulation it is also the right of the Authority to approve the “rolling development plans” [long-term (15 years) development/investment plans]. There is no competence related to the business plans of the operators but it has an approving duty when it refers to investment plans.

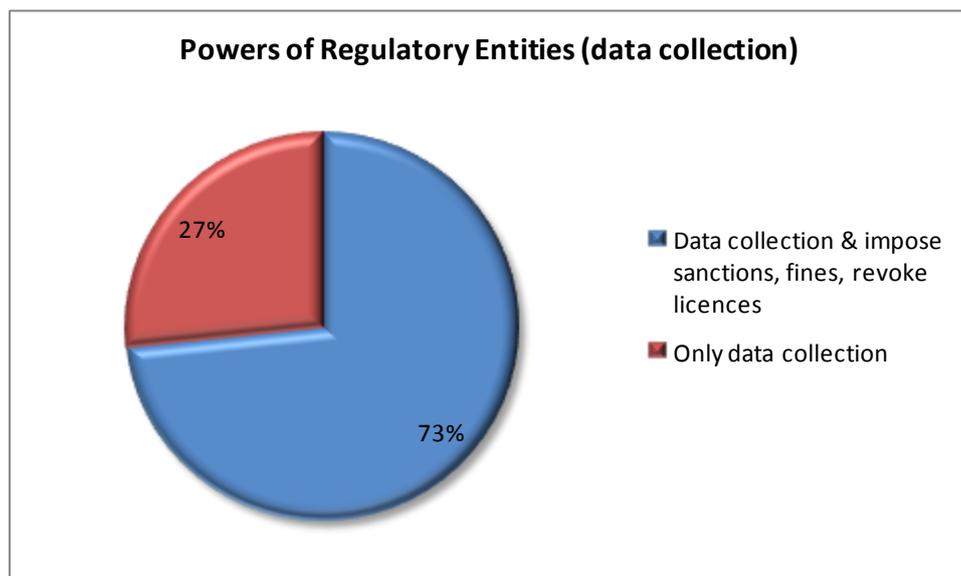
Chart 5 – Regulatory Body responsibility over Business (Investment) plans



6. Monitoring financial schemes of water operators. In 7 cases the Regulatory Body monitors water operators financial schemes (Bul, Hun, Ire, Ita, Lit, Rom, Sco) and in 8 cases there is no responsibility on this issue (Alb, Est, Gre, Lat⁶, Mal, N- Ire, Por-Azo).

7. Data collection and performance monitoring functions. In terms of data collection and performance monitoring functions, fifteen responses were analyzed regarding powers to enforce provision of data. Where data is not provided, eleven of the regulatory bodies have the power to impose sanctions or fines or revoke licenses or even stop price setting processes (Albania, Bel-Fla, Bulgaria, Estonia, Italy, Latvia, Lithuania, Malta, Portugal including Azores Islands and Scotland).

Chart 6 – Powers of Regulatory Entities



⁶ In Latvia, PUC only analyze whether service provider does not have losses or unacceptable big profit.

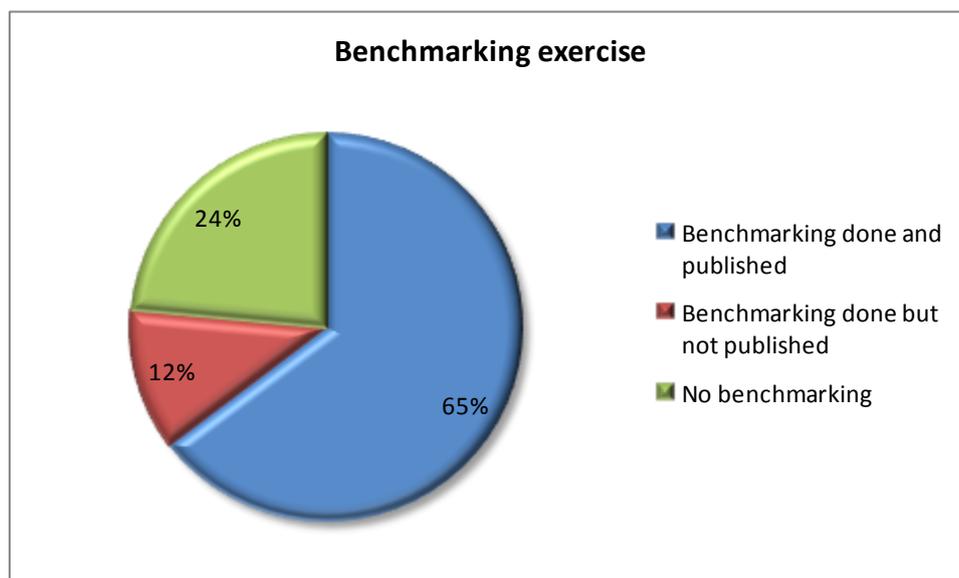
In the case of Italy, AEEGSI may impose both fines and penalties on tariff calculation (e.g.: if local authorities or operators do not provide the necessary data to calculate tariffs, AEEGSI can reduce existing tariffs by 10%). We also highlight the case of Portugal, where ERSAR has distributed several manuals stating the information that it is required.

8. Benchmarking. As part of the performance monitoring functions, benchmarking exercises or processes are carried out in thirteen of the regulatory bodies (Albania, Bel-Fla, Bulgaria, Denmark, Estonia, Hungary, Ireland, Italy, Lithuania, North Ireland, Portugal including Azores Islands and Scotland)⁷ but it is only published in twelve cases (Albania, Bel-Fla Bulgaria, Denmark, Estonia, Ireland, Italy, Lithuania, North Ireland, Portugal including Azores Islands and Scotland). There are other cases where a benchmarking between water operators is not carried out for a variety of reasons including:

- Where there is only one utility regulated (case of Malta).
- In Romania, benchmarking is not carried out but the Regulator is in the process of promoting its implementation.
- In Greece the regulatory body has recently been established.

Chart 7 shows the percentage of utilities applying benchmarking processes and publication of data.

Chart 7 – Benchmarking



Monitoring of service delivery is carried out according to Key Performance Indicators (KPI's) in 4 regulatory bodies (Albania, Malta, Portugal not including Azores Islands and Scotland). In the remaining cases, monitoring is accomplished by comparing or analyzing cost data while in other cases, this is not carried out.

We highlight the case of WICS (Scotland) that uses an **overall performance assessment** (OPA) to monitor the level of service that the water utility (Scottish Water) provides to its customers.

⁷ In Greece, the SSW has not an explicit legal provision for the submission of performance data by water providers but it is expected to be arranged with the development of a monitoring framework in water services. For the time being a general responsibility for the monitoring of management policy is in place.

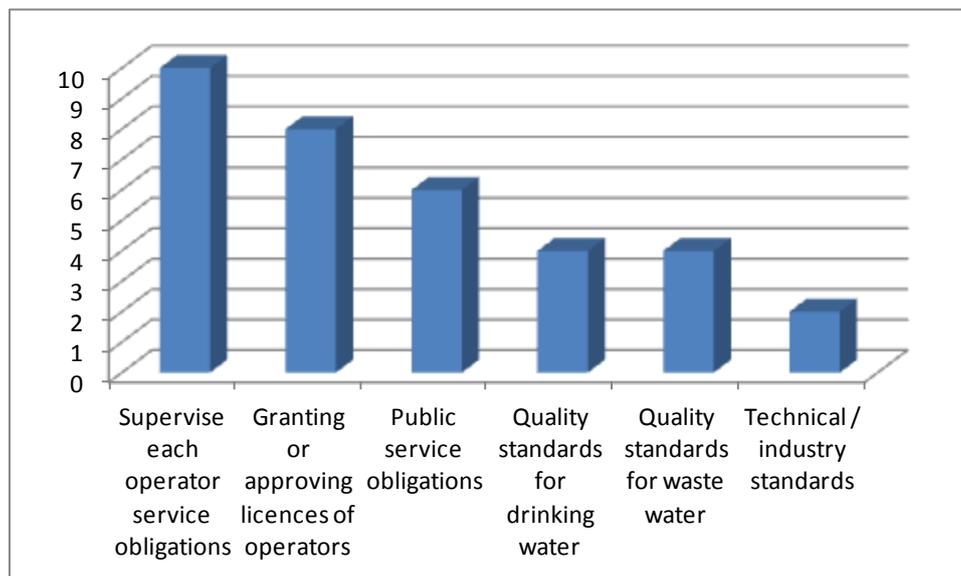
In Portugal, ERSAR applies a set of **16 indicators** that are used to compare operators.

In the case of Albania, **10 key indicators** are used to monitor the water and waste water service providers in order to ensure that the water operators are meeting their responsibilities and improving the service.

In Bulgaria, water supply and sewerage services report 72 KPI (key performance indicators). It is expected that the KPI will be reduced to **28-30 KPI**.

Regarding enforcement of regulation, Chart 8 shows the service standard or service obligation that are assigned as functions of the regulatory agencies / entities according to the responses received.

Chart 8 – Enforcement



The main functions regarding enforcement of regulation are: *“Supervising each operator service obligations”* and *“Granting or approving licenses”*.

We point out that all the Regulatory bodies except one, regulate companies which populations represents 100% of the customers (or almost 100%).

It is important to mention that sometimes the regulatory entity regulates only one company (WIC’s in Scotland and MRA in Malta) or in other cases, regulating some few utilities is enough to reach 100% of the population. Therefore, it is very important to know how fragmented the market is.

Key point. Among WAREG Members, regulatory objectives and functions, as well as general principles of independence from Government or coordination with Ministerial guidelines, are usually provided by primary and secondary law, or alternatively by Strategy/Forward Work/Corporate Plans, where legislation is lacking.

CONCLUSIONS

The purpose of this Report was to review some of the key institutional arrangements adopted in WAREG Members' jurisdictions in coordinating with Ministerial policy guidelines and delivering regulatory functions provided by national primary or secondary law or other legal acts. Most WAREG Members agree that an optimal institutional arrangement for the water sector would be achieved by creating independent Regulators.

We can summarize the following findings:

1. There is a variety of coordination arrangements between different levels of governance, from local/regional Authorities, to Line Ministries, to stakeholders' associations.
2. Regulatory status is based on well-defined objectives on issues related to setting tariffs methodologies, on monitoring regulated entities to enforce regulatory decisions and also on having a strong coordination with relevant Line Ministries
3. A general principle recognized by all WAREG Members is that a Regulatory Body should be endowed with all the necessary tools to carry out its statutory functions.
4. All Regulatory Bodies recognize that independent regulation has (or it would have, where it does not yet exist) a powerful impact over the water sector. Independent regulation is understood as the neutrality of a regulatory body from external pressures in the day-by-day management of regulatory actions.
5. Although there is no common definition of "regulatory independence", it can be self-evaluated against at least three broad criteria, namely the following ones:
 - nomination process and duration of the decision-making organ;
 - legal provisions on independence;
 - autonomy of internal organization and budget.
6. Among WAREG Members, there is a minority of water sector Regulators, while the majority also regulate other sectors, and received regulatory competences over the water sector only years after their creation.
7. Becoming a multi-sector regulatory body depends on the particularity of each country and it is justified by many reasons such as achieving uniform approach, efficiency, similarities between sectors and economy of scale. In many cases, water services are regulated by the same Body that regulates Energy and/or District Heating.
8. In almost all the cases in WAREG, regulatory objectives and functions are defined by primary/secondary Law or other legal Acts, that are published and communicated to the stakeholders.
9. The main regulatory functions carried out among WAREG Members are:
 - tariff setting (including setting tariffs approval, "ex-ante" tariff setting, tariff Guidance and connection fees) to promote efficiency and quality of services;
 - define efficiency costs of regulated utilities;
 - promoting innovative technologies in water services;
 - setting tariff computation methodologies and monitoring price structure;
 - requesting data from regulated utilities on investment/business plans;

- monitoring financial schemes of regulated water utilities;
- benchmarking performance of water sector utilities.

10. Not all WAREG Members are provided with autonomous powers to provide binding decisions and to enforce them by means of fines, sanctions, revocation of licenses or other enforcement instruments.

For all survey respondents, independent regulation is a critical institutional arrangement, that can directly affect the efficiency of water sector, the quality of services and the protection of customers. However, a balance between positive and negative effects of central economic and independent regulation should be further investigated and it could provide additional value to this descriptive WAREG Report, hence giving the opportunity to share common conclusions among all Members, that could be even communicated to external stakeholders in the future.

In the future, a possible continuation of this survey could include some further reflections on the opportunity to establish independent regulators, for instance by discussing the following questions and possible answers:

1. Why is centralized and independent regulation of public utilities considered as strategic?

- Neutrality/impartiality from national governments and regulated companies is a guarantee for all stakeholders under the same jurisdiction (customer, industry, system at large) that non-discriminatory decisions are taken in the water sector, to ensure effective competition, the monitoring and the efficient functioning of the regulated water services.
- Accountability *vis-à-vis* the legislative, executive and judiciary powers mainly by means of transparent regulatory decisions, consultation and open dialogue with all stakeholders, respect of internationally recognized best-practices of better regulation, possibility of judicial appeal against regulatory decisions, reporting to the Parliament.
- Interface between the public interest, the interests of consumers, the interests of those providing regulated services under monopolistic conditions.

2. What are the benefits of independent economic regulation in the water sector?

- Sector governance rationalization and stability.
- Good and uniform levels of services for customers.
- Consumer protection.
- Legal certainty for investment.
- Industry efficiency.
- Better compliance of regulatory frameworks with EU Water Framework Directive objectives and EU competition *acquis*.

3. What are the main indicators of independence among WAREG Members?

- Primary national legislation, providing for independence of the Regulatory Body.
- Secondary national legislation, specifying the powers of the Regulatory Body.
- Binding decisions and power to enforce them.
- Autonomy of the governing organ in the Regulatory Body, *vis-à-vis* the Executive power, with reference to internal organization, funding modalities and allocation of expense.
- Presence of check and balances between the Legislative, Executive and Judiciary powers over the regulation process.