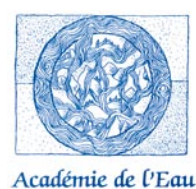


European Solidarity Week for Water

The Implementation of the Right to Water and Sanitation in Central and Eastern Europe

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This paper on the Implementation of the Right to Water and Sanitation in Central and Eastern Europe is developed from the presentations and discussions at a Workshop on the Right to Water, which took place on 15th and 16th October 2005 in Strasbourg, France. The Workshop was organised by Solidarité Eau Europe in coordination with the World Water Council and the Water Academy within the scope of the European Solidarity Week for Water held from 15th to 21st October 2005 in Strasbourg. The list of participants and the programme of the Workshop are contained in Appendix 1.

This paper also presents the results of several case studies conducted by *Anna Tsvietkova, Bardha Korca, Constantin Cojocariu, Daniela Gorbounova Elena Manvelyan, Emma Anakhasyan, Eszter Somogy, Genoveva Tisheva, Irina Lucavetchi, Knarik Grigoryan and Lilik Simonyan* on the right to water and sanitation in different European Countries, including *Armenia, Bulgaria, Hungary, Kosovo, Romania, Ukraine*, and with respect to the *European Roma*. The various case studies have been developed out of the Workshop and are contained in their full length in Appendix 2.

Solidarité Eau Europe is grateful to the participants for their presentations and discussions at the Workshop. It also thanks the participants for their commitment to continue the process and to prepare the abovementioned case studies. It is especially grateful to all case study authors for having accepted the challenge to develop these case studies according to a 'standard format' that has not been tested before; in this sense, it thanks all authors for their perseverance in overcoming the difficulties encountered during the process.

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I. Background ...

4

Lack of access to safe water and adequate sanitation still threatens the health of millions of people in the European Region.¹ Water-related problems in other parts of the world often overshadow this critical situation.² Even though most of the roughly 877 million people in Europe take access to safe water and adequate sanitation for granted, too many people are still without improved water supply and sanitation services and facilities. Accordingly, in 2002, almost 41 million (5 %) had no access to a safe drinking-water supply and over 85 million (10%) had no access to improved sanitation.³

Children are the most vulnerable to ill-health due to unsafe and unsustainable water and sanitation. A recent WHO estimate of mortality from diarrhoeal disease attributable to poor water, sanitation and hygiene, show, in the European Region, 13 500 deaths a year among children under 14 years.⁴ The largest contribution to this burden, with over 11 000 deaths, comes from countries of Central and Eastern Europe and Central Asia,⁵ where access to improved water supply and sanitation services and facilities is the most problematic.⁶

This critical situation in the European Region is often perceived to be the result of inadequate technological or financial resources.⁷ However, the Committee on Economic, Social and Cultural Rights (CESCR) highlighted that the main challenge is one of appropriate resource allocation. According to the CESCR, many states have invested resources in expensive water supply and sanitation services and facilities that are often accessible only to a small, privileged fraction of the population, rather than investing in services and facilities that benefit a larger section of the population.⁸ This is accompanied by a lack of accountability of governments, local authorities and all other stakeholders involved in decision-making over water supply and sanitation, as well as a lack participation of individuals and groups affected by those decisions.

a. What does the right to water and sanitation mean in such a scenario? Particularly, what is the value-added of the right to water and sanitation to current efforts to improve access to water and sanitation in the European Region?

According to the Centre on Housing Rights and Evictions (COHRE) and the German Federal Foreign Office, the right to water and sanitation has five primary features, which make a significant contribution to current efforts to improve access to water and sanitation in Central and Eastern Europe:⁹

- Its *focus and priority on those without access to water and sanitation*, since it emphasizes that everyone has the right to water and sanitation without discrimination; the latter requires that governments prioritise ensuring access to adequate water and sanitation services and facilities to all, using available resources in a targeted manner.
- Its attention to those who are excluded from full participation in society,¹⁰ since the right to water and sanitation requires that governments, or local authorities, *prevent discrimination and neglect of vulnerable and marginalised individuals and groups*.
- Its *legal nature*, since it highlights that access to water and sanitation is a *legal entitlement*, rather than a mere charity or a commodity. Accordingly, the right to water and sanitation provides a strong basis for individuals and groups to hold states and other actors to account.
- Its *empowerment of individuals and groups to fully take part in decision-making processes*, since the right to water and sanitation requires genuine consultation with and participation of those individuals and groups affected by decisions on water and sanitation. The latter presupposes their full and equal access to information and education.¹¹

1 WHO European Region, including Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan.

2 WORLD HEALTH ORGANISATION (WHO), *The Protocol on Water and Health : making a difference*, Rome, 2005, <www.euro.who.int>

3 Ibid.

4 WORLD HEALTH ORGANISATION (WHO), "Access to cleaner water and better sanitation would prevent millions of cases of water-related diseases every year in European Countries", Press Release, Rome, 21 March 2005, <www.euro.who.int>

5 WHO Region of Central and Eastern Europe and Central Asia, including Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Kyrgyzstan, Poland, Romania, Serbia and Montenegro, Slovakia, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, and Uzbekistan.

6 WHO, "Access to cleaner water ...", op. cit.

7 KAHLFAN Ashfaq: "The human right to water: Recent progress and continuing challenges", *Human Rights Tribune des droits humains*, Vol. 11, No. 3, 2005, p. 1., <www.cohre.org>

8 UNITED NATIONS COMMISSION ON HUMAN RIGHTS (UN CHR), Sub-Commission on the Promotion and Protection of Human Rights, Economic, social and cultural rights, *Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation. Final report of the Special Rapporteur*, El Hadji Guissé, E/CN.4/Sub.2/2004/20, 2004, para. 22.

9 CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE) and GERMAN FEDERAL FOREIGN OFFICE, "Clean Water for the Poor: Making the Human Right to Water a Reality", 2005, <www.cohre.org>

10 LANGFORD Malcom, « The Right to Water : A Latent Promise », Centre on Housing Rights and Evictions (COHRE), without date, <www.cohre.org>

11 HOFFMANN Sabine, *Right to Water Workshop: Synthesis*, 15th and 16th October 2005, Solidarité Eau Europe, Strasbourg, 2005, „ See also: Appendix 1.

- Its *focus on accountability*, since the right to water and sanitation requires that governments, local authorities, and all other stakeholders involved in decision-making processes are accountable for their decisions on water and sanitation.¹²



b. What is the legal basis of the right to water and sanitation?

The United Nations Sub-Commission on the Promotion and Protection of the Human Rights set out the foundations for the right to water and sanitation in international and regional treaties and declarations.¹³ As stated in the Final Report of the Special Rapporteur of the UN Sub-Commission, the right to water and sanitation is a part of internationally recognised human rights and may be considered as a basic requirement for the implementation of several other human rights.¹⁴

Drawing on the aforementioned Final Report, the right to water and sanitation is specifically mentioned in two human rights treaties, namely the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*¹⁵ and the *Convention on the Rights of the Child (CRC)*.¹⁶ Also the *Mar del Plata Declaration* of the United Nations Water Conference 1977 clearly recognises the right to water, according to which “all peoples, whatever their stage of development and social and economic conditions, have the *right to have access to drinking water in quantities and of a quality equal to their basic needs*”. Likewise, the *Programme of Action of the International Conference on Population and Development and Agenda 21* (1994) mentions the right to water and sanitation, underlining that all individuals “have the *right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation*”.

In 2002, the United Nations Committee on Economic, Social and Cultural Rights released General Comment No. 15 on the Right to Water, which provides an authoritative interpretation of the right to water under the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, ratified by 151 States.¹⁷ The Committee confirmed that the right to water is implicitly included within the right to an adequate standard of living and that it has an autonomous existence as a fundamental human right. Moreover, it set out that the right to water is inextricably related to the right to the highest attainable standard of health as well as the rights to adequate housing and adequate food contained in the ICESCR. Furthermore, in General Comments Nos. 4 and 14 the Committee affirmed that there is an entitlement to sanitation under the right to adequate housing and the right to the highest attainable standard of health. Accordingly, the Special Rapporteur of the UN Sub-Commission noted that the Right to Sanitation could be derived from the two latter rights asserted in the ICESCR.¹⁸

At the European level, the right to water and sanitation is clearly recognised in the *Protocol on Water and Health* to the 1992 Convention on the Use of Transboundary Water courses and International Lakes. The Protocol, ratified by 16 States,¹⁹ entered into force in August 2005. It stipulates that “Parties shall take all appropriate measures for the purpose of ensuring: (a) *adequate supplies of wholesome drinking water...*; and (b) *adequate sanitation...*”²⁰ Moreover, it asserts that “*equitable access to water, adequate in terms of both quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion*”.²¹ Finally, it highlights that in order to achieve the objective of the Protocol, “Parties shall pursue the aims of: (a) *access to drinking water for everyone*; (b) *provision of sanitation for everyone*”.²²

c. What are the rights and obligations regarding the right to water?

The recognition of the right to water by states implies, at the domestic level, the existence of rights and obligations regarding the supply of water and sanitation.²³ General Comment No. 15 asserts that states are required to ensure that everyone has access to *sufficient, safe, acceptable, physically accessible and affordable water* for personal and domestic uses.²⁴ It also notes that states have the obligation to ensure that everyone has access to *adequate sanitation*, which is fundamental for human dignity and privacy, but also for protecting water quality.²⁵

General Comment No. 15 defines in detail several key elements of the right to water. Drawing on the latter, the right to water requires the following elements:²⁶

12 LANGFORD Malcom, op. cit.; KAHLFAN Ashfaq, op. cit.

13 UN CHR, *Relationship between...*, op. cit.

14 Ibid., para. 23.

15 Article 14, para. 2 (h).

16 Article 24, para. 1 and 2 (c) (e).

17 UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (UN CESCR), General Comment No. 15. The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), Geneva, November 2002, E/C.12/2002/11, para. 2, <www.citizen.org>

18 UN CHR, *Relationship between...*, op. cit., para. 40.

19 Albania, Azerbaijan, Belgium, the Czech Republic, Estonia, Finland, France, Hungary, Latvia, Lithuania, Luxembourg, Norway, Romania, the Russian Federation, Slovakia and Ukraine.

20 Article 4 (2).

21 Article 5.

22 Article 6 (1).

23 UN CHR, *Relationship between...*, op. cit., para. 45.

24 UN CESCR, *General Comment No. 15...*, op. cit., para. 2.

25 Ibid., para. 29.

26 Ibid., para. 12.

- **Availability:** water supply for each person must be sufficient and continuous for personal and domestic uses; the quantity of water available for each person should correspond to WHO guidelines, which normally means 50-100 litres, and an absolute minimum of 20 litres;²⁷
- **Quality:** water must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a health threat;
- **Accessibility**, which comprises: (i) *Physical accessibility* – water and water facilities and services, must be within physical reach of all sections of the population; (ii) *Economic accessibility* – water must be affordable for all; this means that water must sometimes be provided free;²⁸ (iii) *Non-discrimination* – water must be accessible to all without discrimination; (iv) *Information accessibility* – each person must be able to seek, receive and impart information regarding water issues.

As stated in General Comment No. 15, states that have ratified the ICESCR, are required to take deliberate, concrete and targeted steps towards the full realisation of the right to water.²⁹ More specifically, in order to realise the right to water, states have the obligation to *respect*, to *protect* and to *fulfil*.³⁰

- **Respect:** The obligation to respect means that states must refrain from interfering directly or indirectly with the enjoyment of the right to water;
- **Protect:** The obligation to protect means that states must prevent third parties, including individuals, groups, corporations and other entities as well as agents acting under their authority, from interfering in any way with the enjoyment of the right to water;
- **Fulfil:** The obligations to fulfil, including the obligations to *facilitate*, to *promote* and to *fulfil*, means that States must take positive measures directed towards the full realisation of the right to water.

As set out in General Comment No. 15, states are required to adopt and to implement a national plan of action addressing the whole population without any discrimination, in law and in fact,³¹ while providing special attention to the needs of the most vulnerable and marginalised individuals and groups.³² The Committee highlighted that states are obliged to protect the aforementioned individuals and groups by adopting, even in times of severe resources constraints, relatively low-cost targeted water programmes.³³ Likewise, it underlined the right of individuals and groups to participate in decision-making processes that may affect their exercise of their right to water.³⁴ Moreover, the Committee stressed the obligation of states to monitor effectively the realisation, or the non-realisation, of the right to water, with corresponding ability for individuals and groups to hold states and others parties to account.³⁵

d. What are the rights and obligations regarding the right to sanitation?

As stated in General Comment No. 15, states have the obligation to ensure that everyone has access to *adequate sanitation*. The United Nations Sub-Commission on the Promotion and Protection of the Human Rights provided further guidance on the right to sanitation. As stated in the Final Report of the Special Rapporteur of the UN Sub-Commission, the right to sanitation implies that states are required to ensure that everyone has access to *safe, accessible, acceptable and affordable sanitation facilities* in or near to their homes and public institutions.³⁶ As for the right to water, the right to sanitation includes the following features:³⁷

- **Availability:** sufficient sanitation facilities;
- **Quality:** sanitation facilities should be designed in a manner such that they minimise health hazards, are conducive to good hygiene practices, and are consistent with the privacy and dignity of individuals, taking into account the cultural preferences of users and the special requirements of certain individuals and groups;
- **Accessibility**, which comprises: (i) *Physical accessibility* - sanitation facilities should be within safe physical reach for all sections of the population; (ii) *Affordability* (or *economic accessibility*) – each person should have access to free or affordable sanitation facilities; (iii) *Non-discrimination* - sanitation facilities and services should be accessible to all without discrimination; (iv) *Information accessibility* – each person should be able to seek, receive and impart information regarding sanitation issues.

27 COHRE and GERMAN FEDERAL FOREIGN OFFICE, *Clean water ...*, op. cit.

28 Ibid.

29 UN CESCR, *General Comment No. 15 ...*, op. cit., para. 17.

30 Ibid., para. 20-29.

31 CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE), Right to Water Programme, *Legal Resources for the Right to Water. International and National Standards*, Geneva, January 2004, p. 9, <www.cohre.org>

32 UN CESCR, *General Comment No. 15 ...*, op. cit., para. 16.

33 Ibid., para. 13.

34 Ibid., para. 48.

35 Ibid., para. 37.

36 UN CHR, *Relationship between...*, op. cit., para. 49.

37 Ibid.

Drawing on the Final Report, in order for the right to sanitation to be fulfilled, particularly in those countries with limited resources, it may be necessary to rely on low-cost sanitation systems rather than expensive sewage networks. The right to sanitation relies on the state to create opportunities for active community participation, including in the design and maintenance of such systems. Moreover, it implicitly includes the right to hygiene education, since the transmission of disease may occur even where sufficient water and sanitation facilities exist owing to unsafe behaviours. According to the Special Rapporteur, in some cases, hygiene education is necessary in order to stimulate greater demand for sanitation facilities. Gender and age concerns are critical in the design of sanitation facilities, since one of the primary sources of insecurity for women and girls is the lack of sanitation facilities within safe physical reach.

Finally, the Final Report highlights the interdependence between the right to water and the right to sanitation. The right to water, particularly the right for everyone to safe water, cannot be realised without adequate sanitation for all. Conversely, the right for everyone to hygiene and adequate sanitation cannot be realised without access to a minimal amount of water on a regular basis.

e. How can the implementation of the right to water and sanitation be monitored?

As stated in General Comment No. 15, states that ratified the ICESCR, are required to monitor effectively the extent of the realisation, or the non-realisation, of the right to water.³⁸ In order to assess and report on the State's progress towards the full realisation of the right to water, Roaf et al. initiated a process of identifying potential indicators to monitor the extent to which the right to water is being fulfilled.³⁹

Initial Development of Indicators for the Right to Water and Sanitation⁴⁰

By Virginia Roaf, Water and Sanitation Specialist

The acceptance of the General Comment on the Right to Water by the Committee for Economic, Social and Cultural Rights (CESCR) in November 2002 has been a spring-board for a variety of activities, aimed at promoting and furthering the right to water and the related rights-based approach. One of these developments has been the consideration of how the realisation of the right to water can be monitored and measured, to ensure that States parties are complying with their obligations regarding the right to water. To this end, a group of experts met together in October 2004 to discuss the development of right to water indicators.

The need for right to water indicators was included in the General Comment No. 15 itself (GC 15, para 53), which outlines that indicators should be identified for national strategies or action plans, and designed to monitor, at national and international levels, the State obligations under the ICESCR. Moreover, it sets out that indicators should address the different components of adequate water (such as sufficiency, safety, affordability and physical accessibility) and be disaggregated by prohibited grounds of discrimination.⁴¹

The workshop's approach for the development of human rights indicators was to examine existing water and sanitation indicators, assessing these for their appropriateness for a rights-based approach, suggesting new or amended indicators where necessary and to analyse some of the approaches followed for the development of indicators regarding the human rights of housing and health.

One of these approaches is that of identifying three types of indicator: 'structural' indicators, relating to issues of existence of laws, bodies and strategies that a state might have; 'process' indicators, relating to what is being done in a country, for example, how much funding is available, and how resources are being allocated; and 'outcome' indicators, relating to what has been achieved and how many people actually exercise their right. The workshop concurred that most existing indicators monitored are quantitative in nature and are 'process' or 'outcome' oriented, measuring inputs and outputs. It also agreed that in the main, the gaps in the existing indicators in terms of relevance to a rights-based approach were the structural indicators. Likewise, it stressed the gaps in existing indicators relating to the disaggregation of data according to age, gender, religion, nationality etc..

³⁸ UN CESCR, *General Comment No. 15*, op. cit., para. 37.

³⁹ ROAF Virginia, KHALFAN Ashfaq and LANGFORD Malcolm, "Monitoring Implementation of the Right to Water: A Framework for Developing Indicators", *Global Issue Papers* No. 14, Brot für die Welt, Centre on Housing Rights and Evictions (COHRE), Heinrich Böll Stiftung, March 2005, www.boell.de, p. 17.

⁴⁰ See also: ROAF Virginia: "The Initial Development of Indicators for the Right to Water and Sanitation", 2006. See also: Appendix 1.

⁴¹ UN CESCR, *General Comment No. 15*, op. cit., para. 53.

The workshop also discussed who would use human rights indicators. It was hoped that it would not only be international treaty bodies, such as the CESCR who would use the indicators, but also other international bodies such as WHO, national and local governments, international and national NGOs and communities themselves who would find these indicators useful, particularly as they will provide, in the disaggregation of data, a considerable wealth of information which is not currently available.

A considerable concern for the development of the indicators is the feasibility and cost of collecting information. For this reason, the workshop saw it as important to try to limit the number of indicators developed and to focus on areas where data is already collected, adding to this the qualitative, structural indicators mentioned above. The workshop developed a preliminary matrix of indicators, to be discussed further. This matrix has been divided into seven categories:

- **General:** examining the structural, qualitative issues of the policy environment
- **Availability:** looking at issues of quantity of water available and reliability of supply
- **Physical accessibility:** considering whether water is safely accessible by all
- **Quality:** monitoring the safety of the water from chemical and biological contaminants
- **Affordability:** assessing whether water is affordable to all
- **Sanitation:** examining whether sanitation is accessible by all
- **Vulnerable and marginalised groups:** assessing which groups are excluded and why

At present the list of indicators is far too long, and is in need of being reduced to a manageable number. Further work will be required to assess the feasibility and importance of each indicator, after which a reduced set of indicators could be tested in a small number of states. Following this, a core set of indicators will be developed, to be promoted and integrated into the reporting guidelines of UN bodies and states and for the use of other interested groups, such as national and international NGOs and community groups.

For further information on indicators for the right to water, including the matrix of the full list of indicators developed so far, please refer to the referenced « Monitoring Implementation of the Right to Water: A Framework for Developing Indicators », Global Issue Paper 14, available from the Heinrich Böll Foundation website <www.boell.de>. (See also: Appendix 3)

II. Objectives and Processes ...

Solidarité Eau Europe (SEE) aimed to continue this process initiated by Roaf et. al., opening a debate on the implementation of the right to water and sanitation in Europe, by grounding this debate on local realities. More specifically, by drawing on a choice of the right to water indicators identified by the aforementioned authors, Solidarité Eau Europe aimed to:

- 1) *shed light* on the implementation of the right to water and sanitation in different Central and Eastern European Countries,
- 2) *disclose local measures* adopted by various stakeholders to ensure *sufficient, safe, acceptable, physically accessible and affordable* water and sanitation, and
- 3) *identify key factors* critical for achieving effective implementation of the right to water and sanitation in Central and Eastern Europe.

To initiate the debate on the implementation of the right to water and sanitation, the SEE organised a Right to Water Workshop, within the scope of the European Solidarity Week for Water, held from 15th to 21st October 2005 in Strasbourg, France. This was conducted in coordination with the World Water Council and the Water Academy and brought together 23 experts and practitioners in the right to water and sanitation, as well as in water supply and sanitation, coming from a range of different countries (*Armenia, Belgium, Bulgaria, France, Germany, Great Britain, Hungary, Italy, Kosovo, Netherlands, Romania, Switzerland, Ukraine*) and different organisations (*NGO's, private organisations, state organisations, academia, international platforms, etc.*). (See also Appendix 1: List of participants, Programme of the Workshop).

The workshop was divided into four parts: The first part encompassed an overall introduction into the issue of the right to water and sanitation. The second part comprised the presentation of several case studies on the right to water and sanitation in different European Countries, including *Bulgaria, Hungary, Kosovo, Romania* and *Ukraine*, as well as two general reports on *Europe* and the *European Roma*. The third part involved group works on the implementation of the right to water and the final part, a view towards the 4th World Water Forum (4th WWF) taking place from 16th to 22th March 2006 in Mexico. (See also Appendix 1: Programme of the Workshop)

Drawing on the results of the presentations and discussions, the participants decided to prepare the current paper on the implementation of the right to water and sanitation in Central and Eastern Europe, as well as a number of case studies, deepening the testimonies presented at the workshop. The participants also agreed on further developing the right to water indicators identified by Roaf et al. in a 'standard format', with the purpose of providing a guideline to collect and analyse data on individual case studies and to ensure the comparability and compatibility of data across the various case studies. (See also Appendix 2: Standard Format). Drawing on this standard format, several case studies on the right to water and sanitation, including *Armenia, Bulgaria, Hungary, Kosovo, Romania, Ukraine*, as well as on the *European Roma* were prepared and afterwards discussed with the various authors during regional meetings in Sofia, Kiev and Budapest. The main results of the case studies will be briefly presented in the following section.

III. Results ...

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The presentation of the results will be structured along the above objectives. Accordingly, the first part addresses the current situation regarding the right to water and sanitation in different Central and Eastern European Countries; the second part discloses national or local measures adopted by various stakeholders to ensure access to sufficient, safe, physically accessible and affordable water and sanitation, while the third and last part identifies several key factors critical for achieving effective implementation of the right to water and sanitation in Central and Eastern Europe.

a. The right to water and sanitation in Central and Eastern Europe

All case studies on the right to water and sanitation presented here follow the main elements of the right to water as set out in General Comment No. 15 and include commentary on general issues, availability, quality, physical accessibility and affordability of water and sanitation. One case study focuses particularly on the minority population of the European Roma, analysing the discrimination the Roma are facing with regard to the right to water and sanitation throughout Europe. The case studies on Bulgaria, Hungary, and Ukraine provide further information on the realisation, or the non-realisation, of the right to water and sanitation by vulnerable and marginalised individuals and groups, including women, the Roma and residents living in ecological disaster zones, respectively. Moreover, all case studies concentrate on the national level, while some case studies, among those from Armenia, Bulgaria and Hungary give some further information on the enjoyment, or non-enjoyment, of the right to water and sanitation at the local level, including the village of Fantan and the cities of Sofia and Nyíregyháza, respectively.

● Hungary

In Hungary, the constitution contains several basic rights, including the *right to life and human dignity*,⁴² the *right to the highest level of health*⁴³ and the *right to social safety*.⁴⁴ However, no subjective rights to specific social services (such as the right to housing) can be concluded, as has been declared in several decisions of the Constitutional Court.⁴⁵ Moreover, the right to water is not expressly contained in the national legislation. However, the Law on Water Management stipulates that the management of the water and sewage sector has to be implemented in such a way that satisfies the needs of society.⁴⁶ The same law specifies that the government has to elaborate a National Environmental Plan, including separate programmes to improve the quality of drinking water and to expand both the sewerage network and the sewage treatment. The various programmes are specified in government decrees and contain specific targets and timelines. Their implementation is supervised by the Ministry of Environment and Water through a system of indicators. (See also: *Chapter on Best Practices*)

The implementation of these programmes is accompanied by the establishment of contractual relations between households and service providers. The specific content of those contracts, including the rights and responsibilities of both sides, are legally regulated.⁴⁷ Based on consumer's complaints, the Inspectorate of Consumer Protection monitors the observance of those rights and responsibilities. Additionally, the State Auditory Authority examines the operation of the service companies and the owner municipalities from a financial point of view: how they set the fees, the cost-elements of the fees, the financial structure of the investments etc.. This suggests that the state complies with its obligation to protect the right to water. (See also: *Chapter on Best Practices*)

However, even though Hungary has made substantial steps towards the full realisation of the right to water and sanitation, the most vulnerable and marginalised individuals and groups, including the Roma communities, are facing severe affordability problems. These problems can be traced back to the abolishment of general central subsidies for water and sewage charges, resulting in an increase in these charges and in an accumulation of arrears in the domestic sector. To ease affordability problems, targeted centrally and locally funded housing allowance and arrears management schemes have been developed to provide social assistance to low-income and disadvantaged people. However, the funds provided have been far from sufficient.

Analysing local affordability problems, several inventive solutions were found in addition to the operation of the regular central and local subsidy schemes. These solutions include the development of a foundation with the participation of the

⁴² Para. 54 (1).

⁴³ Para. 70/D. (1).

⁴⁴ Para. 70/E. (1).

⁴⁵ Constitution Court Decision 42/2000.

⁴⁶ Law LVIII, 1999.

⁴⁷ Government Decree 38/1995.

local water and sewage company to support low-income households in arrears, the introduction of a municipal programme to sustain those households in the installation of sub-meters, as well as the implementation of a subsidy programme to cover part of the water and sewage charges of low-income households.

In the case of non-payment of water and sewage charges, service companies can apply sanctions against non-payers, which are regulated by several legal provisions. It is also regulated that in the case of disconnection a basic minimum amount of 50 litres per person per day has to be provided to allow the right to water to be fully exercised. This suggests that the state complies with its obligation to fulfil the right to water.



Source:

SOMOGYI Eszter, *Metropolitan Research Institute*,

« *Case Study on the Right to Water and Sanitation in Hungary* », 2006.

See also: Appendix 2

● Ukraine

In Ukraine, the *right to safe drinking water for health and life, as well as the right to a safe environment* is expressly contained in the Law on Assuring the Sanitary and Epidemiological Well-Being of the Population.⁴⁸ Additionally, the Law on Drinking Water and Drinking Water Supply stipulates that “the State guarantees the protection of the *consumer’s right to drinking water by providing everybody with drinking water of normative quality and scientifically-based water supply norms dependant on place and conditions of living*”.⁴⁹ The right to water is also explicitly mentioned in the *Protocol on Water and Health*, the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the *Convention on the Rights of the Child (CRC)*, which Ukraine ratified in 2003, 1981 and 1991, respectively. However, although the right to sanitation is mentioned in the *Protocol*, as well as the *CEDAW* and *CRC*, the right for everyone to sufficient, safe and accessible sanitation facilities is not expressly contained in national laws.

In 1999, Ukraine ratified the *Aarhus Convention*,⁵⁰ which stipulates the state’s obligation to develop and implement mechanisms of access to information, public participation in decision-making at the national and the local level, as well as access to justice in environmental matters. The latter obligations are also asserted in the *Protocol on Water and Health*, as well as in *Law on Drinking Water and Drinking Water Supply*. (See also: Chapter on Best Practices)

To guarantee universal delivery of water and sanitation, the Ukrainian Government adopted in 2005 the State Programme, “Drinking Water of Ukraine”, which specifies a timeline for improving water supply and sanitation by 2020. The adoption of the programme was accompanied by the elaboration of a plan allocating the national budget for the years 2006-2020. Nevertheless, past experience has shown that state programmes addressing water and sanitation had a low level of implementation due to a lack of necessary financial means, a lack of political will and a lack of coordination between the different sectors and levels of decision-making.

Moreover, although the national legislation and the state programme sustain the implementation of the right to water and sanitation, its full realisation is often jeopardised by lack of safe water resources due to the lack of/ or unsustainable sanitation facilities and the lack of/ or insufficient wastewater treatment, resulting in the contamination of water resources by domestic and industrial wastewaters. This is accompanied by water shortages, owing to a lack of efficient industrial and agricultural water uses, inadequate technologies for water treatment, as well as insufficient financial means to implement such technologies.⁵¹ Additionally, even though the right to information and participation is stipulated in national laws, implementation of the right to water and sanitation is often jeopardised by low levels of public information and public participation in decision-making on water and sanitation issues. This suggests the failure of the state to comply with its obligation to fulfil the right to water.

Source:

TSVIETKOVA Anna, *NGO Mama-86*,

« *Case Study on the Right to Water and Sanitation in Ukraine* », 2006.

See also Appendix 2

● Armenia

In Armenia, the right to water and sanitation is not recognised yet as a fundamental human right and is not contained in law as a justiciable right. However, the general idea of a right for everyone to sufficient, safe, physically accessible and affordable water and sanitation is reflected in national policies and contained in the national legislation. It is also expressly contained

48 Art. 4.

49 Art. 7.

50 *Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters*

51 UN CHR, *Relationship between...*, op. cit., para. 21.

in international human rights instruments, such as the “*Convention on the Rights of the Child*” and the “*Convention on the Elimination of Discrimination Against Women*” ratified by Armenia in 1993.

Even though the right to water and sanitation is not contained in law as a justiciable right, Armenia uses a monitoring system to assess and report on the implementation of the legislation related to the right to water and sanitation. Individuals and groups are formally included in the monitoring process. However, although there is no restriction, marginalised and vulnerable individuals and groups do not participate in the latter process. The right to information and participation of individuals and groups in decision-making on water and sanitation is expressly recognised in the *Aarhus Convention*, ratified by Armenia in 2001, the *Armenian Law on Access to Information*, as well as the *Water Code*. The latter stipulates the right of NGOs and citizens to participate in discussions relevant to water systems, including those related to the approval of water supply and sanitation tariffs by the regulator. (See also: *Chapter on Best Practices*)

The draft of the *National Water Programme* prioritises the provision of essential amounts of water for personal and domestic uses. Additionally, permanent water supply is one of the main priorities of the strategy towards poverty reduction in Armenia. It was followed by significant increase in financing of water and sanitation services from the state budget, on account of the involved international loans (World Bank and KfW).

The abovementioned *Water Code* also stipulates standards for drinking water, which are monitored by an authorised state body. Despite this, the Ministry of Health recently confirmed that “the quality of municipal water has deteriorated in the last decade, often failing to meet hygienic standards. This stems from: (a) an insufficient amount of chlorine used to increased cost of operating the chlorination systems, and (b) the poor condition of the networks, resulting in intrusion of raw wastewater into the pipelines. Particularly poor is the quality of water supplied by systems managed by local communities: 60% of the 883 rural systems do not have any facility for disinfection.”

These few indications demonstrate that, even though Armenia aims at ensuring access to water and sanitation to everyone, water providers are still not able to guarantee the implementation of the right to water and sanitation. Taking into account growing water prices and the fact that about 50% of the population, mainly in rural areas, lives on or below the poverty line, urgent legislative measures are required to provide its implementation with special focus on marginalised and vulnerable individuals and groups. Special attention is also required to ensure full realisation of the right to sanitation, since the implementation of sufficient, safe and accessible sanitation facilities for everyone has been absolutely neglected over the past, also in terms of investments. The latter suggests the failure of the state to comply with its obligation to fulfil the right to water.

Source:

MANVELYAN Elena, SIMONYAN Lilik, ANAKHASYAN Emma and GRIGORYAN Knarik, *Armenian Women for Health and Environment, “Case Study on the Right to Water and Sanitation in Armenia”, 2006.*

See also Appendix 2

● Bulgaria

In Bulgaria, the right to water is not expressly recognised as a human right in the Bulgarian constitution. It is not explicitly stipulated and guaranteed in the Bulgarian legislation nor is it provided in the legislation, which was recently adopted, including the *Law on Water Resources* and the *Law on Regulation of the Water Supply and Sanitation Services*, in force since 20 January 2005. Nevertheless, the right to water and the right to an adequate standard of living are part of domestic law, since the *International Covenant on Economic, Social and Cultural Rights* is an integral part of the Bulgarian legislation.⁵² However, in order to be enforceable, the right to water has to be explicitly developed in the domestic legislation.

Following the prevailing trends on the adoption of the neo-liberal model for the management of the water sector, on 6 October 2000, Sofiyska Voda-EAD (Sofia Water) started to operate a 25-year concession of Sofia’s water and sanitation services. Sofia Water is a special purpose company established between International Water Limited (IWL) and the existing municipally owned utility company, Vodosnabdyavane i Kanalizatsia (ViK) EAD. The contract has been established prior to the adoption of a regulatory mechanism for monitoring and supervising the observance of the contractual obligations of the concession-holder.

The contract does not provide for raising water prices during the first three years, except in extraordinary cases, and only with the consent of the municipality. This commitment was one of the key reasons for giving preference to IWL. Despite this, Sofia Water has increased water prices more than three times, which negatively affects the exercise of the right to water and sanitation, especially by the most vulnerable and marginalised individuals and groups. In addition, the absence of an effective system to monitor and control the implementation of the concession contract resulted in the lack of accountability of the concession-holder with respect to the citizens of Sofia.

⁵² Bulgarian Constitution, art. 5, para. 4.

The latter demonstrates the failure of the state to comply with its obligation to protect the right to water and thus, to prevent the concession-holder from compromising affordable access to sufficient and safe water through the establishment of an effective regulatory mechanism. As stated in General Comment No. 15, this mechanism should include independent monitoring, genuine public participation and the imposition of penalties for non-compliance of contractual obligations by the concession-holder. This is not in place despite the abundant but very fragmented legislation in the field of water management and the recently adopted regulation concerning water supply and sanitation services.

In conclusion, the success or failure of any water management/privatisation model and strategy depends on the state's capacity to find a balance between economic policy and fundamental human rights, namely the right to water as expressed by the General Comment No. 15 on the Right to Water. Furthermore, any successful strategy should have the right to water at its heart and involve full stakeholder participation.

Source:

TISHEVA Genoveva, GORBOUNOVA Daniela,
Bulgarian Gender Research Foundation, "Case Study on the Right to Water in Bulgaria", 2006.

See also Appendix 2

● Romania

In Romania, the right to water is not expressly contained in law as a justiciable right. However, it is expressly mentioned in international human rights instruments, such as the "Convention on the Elimination of Discrimination Against Women" and the "Convention on the Rights of the Child", which Romania ratified in 1982 and 1990. Also, it emerges from other fundamental rights, established in the constitution, and from the Water Law and the Law of Environment. However, since the right to water is not expressly recognized in law, there is no monitoring body to assess and report particularly on the implementation of the right to water. However, its realisation, or non-realisation, is monitored indirectly by national and local authorities, as well as by local operators through assessing the application of different laws referring to sufficient, safe, physical accessible and affordable water supply.

In Romania, water supply and sanitation is ensured either by centralised systems or by individual wells and springs, and individual pit latrines, respectively. In 2004, 98 % of the urban population, but only 33 % of the rural population was connected to centralised water supply systems. By way of contrast, in the same year, 90 % of the urban population, but only 10 % of the rural population was connected to centralised sanitation systems. To connect rural areas to centralised systems, especially those rural areas with water quality problems due to unsustainable sanitation systems or harmful agricultural practices based on inappropriate use of fertilisers, water supply systems with public taps along the roads have been constructed. Individual household connections will follow, once sewerage and waste water treatment systems have been installed. (See also: Chapter on Best Practices)

The main problem Romania is currently facing regarding the implementation of the right to water is the high cost of necessary infrastructure to ensure access to improved water supply and sanitation, especially in rural areas. This is accompanied by people's inability to pay high tariffs, due to lack of direct subsidies for water supply and sanitation, as well as lack of differentiated tariffs.

However, benefiting from pre-accession financial instruments of the EU, progress in infrastructure development has already been made in the last few years. Accordingly, Romania has elaborated a National Development Plan, a document for strategic planning and financial programming, regarding social and economic development.⁵³ This plan, an instrument to access to EU financing, includes strategies for infrastructure development, especially in rural areas, aiming at reducing the gap between urban and rural areas, between different areas within a development region, and between development regions. Furthermore, within the scope of the negotiation on the *acquis communautaire*, Chapter 22 - Environment, Romania developed a second plan, stipulating specific tasks and clear deadlines for each county and local authority, including the quality of drinking water, the treatment of waste waters and the modernisation and extension of water supply and sewerage systems. This suggests that the state comply with its obligation to fulfil the right to water by taking positive measures directed towards the full realisation of the right to water.

Source:

LUCAVETCHI Irina,
"Case Study on the Right to Water and Sanitation in Romania", 2006.
See also Appendix 2

53 Romania's National Development Plan : <http://fonduriue.mfinante.ro/pnd/>

● Kosovo

Since 1999, Kosovo is a country in transition under United Nations Interim Administration Mission, UNMIK. Its final status is to be defined by the end of 2006. Since the elections of the first Assembly, in 2002, national laws related to water and sanitation have been developed and approved by the Assembly, including the Water Law in 2004.

The right to water and sanitation is not expressly contained in the abovementioned legislation. Nevertheless, the Water Law stipulates *"equality in regard to water use: meaning that all persons have equal and proportional rights to use water"*. Additionally, the National Environmental Strategy indicates, as a strategy orientation: *"ensuring the right to drinkable water for all citizens"*. However, neither the Water Law nor the National Environmental Strategy define how *"equality concerning water use"* and *"the right to drinkable water"* will be achieved. Moreover, so far, there is no monitoring body in Kosovo to assess and report on the realisation of the right to water and sanitation.

Concerning access to adequate water supply, in 2003, only 44% of the overall population was connected to a public water supply system. This figure drops to 7% in rural areas, where a large proportion of the population relies on water supply from private wells (about 60 %) or on local independent water supply systems. The figures concerning access to adequate sanitation are even worse, since, in 2003, only 28% of the overall population was connected to a sewage system. As for water supply, this figure drops to 3 % in rural areas, where a large part of the population uses septic tanks. Often, the latter are not constructed according to sanitary standards, resulting in wastewater infiltration into the groundwater, jeopardising drinking water supply from private wells. This is accompanied by the lack of any wastewater treatment plant throughout the Kosovo; consequently, wastewaters are directly discharged into surface waters or filter into groundwaters, resulting in the contamination of both ground- and surface waters used for drinking water supply.

Kosovo has no national standards on drinking water, but uses EU standards and WHO guidelines; the latter standards apply mostly to water delivered from the public water supply system but less to water extracted from private wells. Accordingly, the Institute of Public Health (IPH) indicate that about 80 % of the rural population that rely on water supply from private wells consume contaminated water. This critical situation is underlined by a research conducted by the World Health Organization (WHO) in 2000, which indicates that *"Kosovo has the highest morbidity rates in Europe in terms of disease transmitted by water"*.⁵⁴

Since access to water and sanitation in rural areas is worse than in urban areas, most investments have been directed towards the rural areas. However, a large part of these latter investments are directed towards the implementation of small independent water supply systems, but only a very small part towards the construction of sanitation systems, perpetuating the critical situation on the non-realisation of the right for everyone to safe water.

Source:

KORCA Bardha, University of Prishtina,

"Case Study on the Right to Water and Sanitation in Kosovo", 2006.

See also Appendix 2

● European Roma

This case study focuses on the minority population of European Roma, examining those situations when the reason for Roma having limited access to water and sanitation is discrimination. In these situations, water and sanitation is insufficient or unsafe because of differential treatment by state officials, whether intentional or not. This is obvious in those settlements where the Roma make up the majority of the population and where the living conditions are markedly worse than those in other communities.⁵⁵

With estimates ranging from seven to ten million members, the Roma are the most numerous minority in Europe. They are among the most deprived communities wherever they live. Their marginalisation is the result of centuries of overt discrimination and exclusion. Although they arrived in Europe a long time ago, they have been traditionally regarded as unwelcome outsiders. Water and sanitation is but another field where the rights of the Roma population are drastically limited. The Roma have less access to social services such as housing, education or health, they live shorter lives than the non-Roma population and are subjected to continuous harassment by state officials.

This case study examines if adequate access to water and sanitation is ensured without discrimination to Romani communities in Europe. The almost complete lack of relevant data, as well as the variety of political and cultural settings across Europe make any comprehensive study of the topic a very difficult enterprise. However, the information that is available leads to the conclusion that as a rule, life in Romani settlements is characterised by the absence of one or more of the factors necessary for the adequacy of water as highlighted by General Comment No. 15.

54 OXFAM GB, "Villagers must have Drinking Water", Kosovo, March 2005, p. 6.

55 For the purposes of the case study, the term "Roma" includes persons describing themselves as Roma, Gypsies, Travellers, Sinti, as well as other terms.

In certain settings, the Roma share the hardships of every day life with the non-Roma population, including inadequate water and sanitation. In such situations, disadvantage due to ethnicity is compounded due to other factors, such as social status or geographical location. However, data suggests wide disparities between the Roma and the majority population with regard to water and sanitation. The most striking example is the frequent sight of a water pipe ending where the majority neighbourhoods ends and the Romani settlements starts. In the fortunate case in which the Romani settlements are covered by water and sanitation networks, the systems tend to be in a poor state of disrepair. Simultaneously with suffering from access to poor water and sanitation, in many cases, the Roma are facing problems of affordability that sometimes result in mass disconnections or even forced evictions.

While the paper focuses on Central and Eastern Europe, examples from Western European countries are also briefly presented. In this sense, although Roma living in Western Europe generally benefit from better living conditions than those in Central and Eastern Europe, the Roma minority remains a marginalised group throughout Europe.

Source:

COJOCARIU Constantin, *European Roma Rights Centre (ERRC), « Minorities and the Right to Water and Sanitation : The Case of the Roma », 2006.*

See also Appendix 2

b. Best practices

The following section presents some examples of concrete measures adopted by various stakeholders at the national or the local levels to ensure that everyone enjoys the right to water, as soon as possible. The section draws on the examples given in the various case studies on the right to water and sanitation in Central and Eastern Europe and follows the elements of the right to water as set out in General Comment No. 15. The presentation does not lay claim to completeness, rather a few examples will be highlighted to give insight into concrete steps taken to advance towards the full realisation of the right to water in the aforementioned region. Naturally, the reader will find further examples in the case studies contained in their full length in the Appendix 2.

Unfortunately, the case studies do not disclose concrete measures adopted to advance towards the full realisation of the right to sanitation as set out in the Final Report of the Special Rapporteur of the UN Sub-Commission on the Promotion of the Human Rights. Accordingly, the examples of best practices presented here focus on measures aiming at implementing the right to water. However, the various case studies underline the often neglected interdependence between the right to water and the right to sanitation as stated by the Special Rapporteur. They show that the realisation of the right for everyone to safe water is often jeopardised by the non-realisation of the right to sufficient, safe and accessible sanitation for all. It follows, that further research on the implementation of the right to water and sanitation, is required to analyse those concrete measures adopted by various stakeholders to advance towards the full realisation of the right to sanitation.

● General issues

Implementation of a national plan, including concrete targets and timelines

To ensure that everyone enjoys the right to water and sanitation, as soon as possible, the **Hungarian** Government has elaborated a National Environmental Plan, including separate programmes to improve the quality of drinking water and to expand both the sewerage network and the sewage treatment.⁵⁶ The various programmes are specified in government decrees and contain specific targets and timelines. The implementation of the programmes is supervised by the Ministry of Environment and Water through a system of indicators.

Likewise, **Romania** has elaborated a National Development Plan that includes strategies for infrastructure development, aiming at reducing the gap between urban and rural areas, between different areas within a development region, and between development regions.⁵⁷ A further plan resulted from the negotiation on the *acquis communautaire*, Chapter 22 - *Environment*, stipulating specific tasks and clear deadlines for each county and local authority, including the quality of drinking water, the treatment of waste waters and the modernisation and extension of water supply and sewerage systems.

Implementation of contractual relations and accountability mechanisms

In **Hungary**, the implementation of the abovementioned National Environmental Plan is accompanied by the establishment of contractual relations between the households and the services companies.⁵⁸ The exact content of the contracts, including

⁵⁶ SOMOGYI Eszter, op. cit.. See also Appendix 2

⁵⁷ LUCAVETCHI Irina, op. cit.. See also Appendix 2

⁵⁸ SOMOGYI Eszter, op. cit.. See also Appendix 2

the rights and responsibilities of both sides, is legally regulated by the Government Decree 38/1995 and the Law on Consumer Protection. Based on consumer's complaints, the Hungarian Inspectorate of the Consumer Protection monitors the observance of the aforementioned rights and responsibilities established in the contracts.⁵⁹ So far, the Inspectorate has conducted several enquiries on the practice of different service companies. Additionally, the State Auditory Authority examines the operation of the service companies and the owner municipalities from a financial point of view: how they set the fees, the cost-elements of the fees, the financial structure of the investments etc.. The implementation of both contractual relations and accountability mechanisms allowed Hungary to advance towards the full realisation of the right to water and sanitation.

Information and participation of individuals and groups in decision-making

Within the scope of water sector reforms, the **Ukrainian** Government initiated, in 1999, a Law Draft Process on "Drinking water and drinking water supply".⁶⁰ From the very beginning, the NGO Mama-86 participated in this process, organising public consultations on the Law Draft in different regions of Ukraine. The consultations resulted in 155 amendments, which were delivered to and discussed with the authorities responsible for the Law Draft – the Parliament Committee on Environmental Policy. Due to the lobbying of the NGO, a third of the amendments were incorporated into the Law, which was finally passed in 2002. These amendments include the right of individuals and groups to participate in decision-making that may affect their exercise of the right to water and sanitation.

Again, in 2004, the NGO Mama-86, together with Ukraine Water Association (UWA), organised public consultations on the Draft of State Programme "Drinking Water of Ukraine" (2006-2020), which resulted in 110 amendments on the Draft. Half of the amendments were incorporated in the State Programme, adopted in 2005, including special provisions to address the needs of the vulnerable and marginalised individuals and groups concerning water and sanitation.

The participation of the NGO Mama-86 and the UWA in the formulation of the Law and the State Programme gives an example of the implementation of the *Aarhus Convention*, ratified by Ukraine in 1999. It also provides an example of the importance of public participation in decision-making resulting, in this case, in the recognition of several key elements of the right to water and sanitation in the aforementioned documents. (See also chapter: *Ukraine*)

Prevention of discrimination and participation of vulnerable and marginalised individuals and groups in decision-making

The year 2005 marked the start of the **Decade for Roma Inclusion**, an initiative of a number of governments in Central and South Eastern Europe to close the gap between the Roma and the region's majority populations.⁶¹ The Decade benefits from the support of a number of international and regional agencies and donors such as the Council of Europe, the European Union, the Open Society Institute, the World Bank etc.

The European Union has been by far the most important donor of funds for the development of infrastructure in candidate countries, including water and sanitation systems. A part of aid for development under the EU Phare programme⁶² has been earmarked for Roma development initiatives. Between October 2001 and July 2003, 26.2 million euros was spent on infrastructure programmes, primarily in order to improve the living conditions within Roma settlements. The effort had mixed results. A project implemented in **Slovakia** aiming at improving basic infrastructure (drinking water supply, sewerage and road communications in 30 out of a total of 620 Roma settlements) faced numerous difficulties and had unsatisfactory results mainly due to the lack of community involvement in the projects. A more 'bottom-up' approach led to a more effective implementation of similar programmes in **Romania** and **Hungary**, which included a number of other components besides that of investment in infrastructure, such as the setting up of local partnerships, anti discrimination training etc..

Pilot projects aiming to improve infrastructure in Roma settlements have also been implemented by national governments, international civil society organisations or through bi-lateral assistance programmes. A fair number of initiatives may be cited as good practices. Such an example is that of the community development project launched by the Romani Union Amaro Drom, a Romani NGO, in Levan, **Albania**. The predominantly Roma-populated village lacked a sewage system. The community elected a local Roma board, which planned and implemented the project, with the community's participation. At the end of the project, all streets of the Roma settlement were connected to the sewage system.⁶³ (See also: *Case Study on European Roma*)

⁵⁹ Ibid.

⁶⁰ TSVIETKOVA Anna, op. cit.. See also Appendix 2

⁶¹ COJOCARIU Constantin, op. cit.. See also Appendix 2

⁶² EUROPEAN COMMISSION, *Review of the European Union Phare Assistance to Roma Minorities: Interim Evaluation of Phare Support Allocated in 1999-2002 and Implemented until November 2003*, European Commission, 2004.

⁶³ MINORITY RIGHTS GROUP INTERNATIONAL, *Roma Poverty and the Roma National Strategies: The Cases of Albania, Greece and Serbia*, Minority Rights Group International, September 2005, p. 5.

● Availability

Priority of essential amount of water for personal and domestic uses

In **Romania**, within the Water Law, the priority of essential levels of drinking water for personal and domestic uses over other uses is expressly recognised to ensure access to a minimum essential amount of water for personal and domestic uses.⁶⁴ The same law stipulates that any limitation of drinking water for domestic and personal uses in favour of other uses is illegal.⁶⁵ Additionally, the law asserts the use of surface or ground waters for household needs up to a flow of 0.2 litres per second free of charge.⁶⁶ The basic minimum amount of water stipulated is 50 litres per person per day.⁶⁷

In case of severe drought or other natural disasters, restriction plans are applied, according to the social and economic importance of the users. The plans are approved by the basin committees and are presented to the public.⁶⁸ In case of severe problems, local authorities provide affected communities with drinking water.

Provision of a basic minimum amount of water for personal and domestic uses

In **Hungary**, the definition of a basic minimum amount of water for personal use is related to the limitation of water supply.⁶⁹ Limitation can occur for different reasons; when it occurs because of the non-payment of water fees by domestic users, the regulation specifies that a basic minimum amount of 50 litres per capita per day has to be supplied. Where households are disconnected, the service provider has to ensure water supply within less than 150 metres, by installing, for example, public taps. If the limitation occurs only temporarily for technical reasons and it affects more than 500 people longer than one day then the minimum amount is 30 litres per capita per day that has to be provided.

In application of the aforementioned regulations, the Nyírségvíz Service Company, operating in the city of Nyíregyháza and 37 neighbouring settlements, disconnected, 23 households in 2005. In each case public taps were installed to provide the affected households with the basic minimum amount of water.

● Quality

Introduction of small-scale purification technologies

To ensure access to safe water, particularly for the most vulnerable and marginalised individuals and groups, the State Programme for Drinking Water of **Ukraine** stipulates the adoption of short-term measures, including the installation of local water purification devices in those areas with anthropogenic and natural contamination, the Chernobyl zones.⁷⁰ Among primary target consumer groups are schools and hospitals, as well as residents of ecological disaster zones. The implementation of these measures lies within the responsibility of local authorities.

● Physical accessibility

Implementation of low-cost alternatives

In **Romania**, water supply systems with public taps along the roads have been constructed to connect rural areas to centralised water supply systems, especially those rural areas with water quality problems due to unsustainable sanitation systems or harmful agricultural practices.⁷¹ Individual household connections will follow, once sewerage and waste water treatment systems have been installed.

To ensure physical access to safe water, the village of Fantan (**Armenia**) also decided on the implementation of a low-cost water supply alternative.⁷² After the outbreak of the dangerous infectious disease of tularaemia, also known as 'rabbit fever', in 2003, the Water User's Company of Charentsavan (WUC) built a new groundwater supplied water system. The WUC first installed public street taps at various points in the village. Only recently, the WUC started to connect the various households, providing indoor-taps and installing water meters; so far, 50% of the meters have been installed. The WUC allows the poorest villagers to pay the individual household connection and water meter installation gradually during the first six months.

64 LUCAVETCHI Irina, op. cit.. See also Appendix 2

65 Water Law 107/1996, art.10 (1), (2)

66 Ibid., art.9 (2)

67 Ministry of Public Health, Order 536/1997, art.22 (2)

68 Ibid., art.14

69 Government Decree (38/1995), SOMOGYI Eszter, op. cit.. See also: See also Appendix 2

70 TSVIETKOVA Anna, op. cit.. See also Appendix 2

71 LUCAVETCHI Irina, op. cit.. See also Appendix 2

72 MANVELYAN Elena, SIMONYAN Lilik, ANAKHASYAN Emma and GRIGORYAN Knarik, op. cit.. See also Appendix 2

● Affordability⁷³

Participation in decision-making on water and sanitation tariffs

In **Armenia**, the right to information and participation in decision-making on water and sanitation is expressly recognised in the *Aarhus Convention*, the *Law on Access to information* as well as in the *Water Code*. The latter includes the right of NGOs and citizens to participate in discussions regarding the approval of water and sanitation tariffs by the Public Service Regulatory Commission.⁷⁴ The participation of a consumer rights organisation in the revision of the water and sanitation tariffs of Yerevan and Armenia water companies allowed the consumer's needs in tariffs settings to be taken into account.⁷⁵

Assistance to low-income households

In order to ease affordability problems of low-income households in **Hungary**, several forms of social assistance are provided at different levels:⁷⁶ (1) cross-subsidies between domestic and business/institutional water and sewage fees, (2) central subsidies to fees of those water and sewage companies that have high production costs, (3) central and local housing allowance programmes to support low-income households to cover their housing related costs, and (4) central and local arrears management programmes to assist low-income households to pay off their arrears of housing expenditure.

Moreover, at the local level, some water and sewage services companies have established special social-assistance programmes. Thus, in 2003, the Nyírsévíz Service Company introduced a programme to support low-income households by covering the basic (constant) element of the two-factor water and sewage fee. Additionally, the municipality of Nyíregyháza introduced a subsidy programme to support low-income households to install sub-meters. The programme ensured that practically all housing units were individually metered by the end of the nineties.

Since the days of the Soviet Union, the **Ukraine** employs cross-subsidies between different user groups.⁷⁷ Accordingly, in 2001, the tariffs for the general population was half those for budgetary organisations,⁷⁸ and about two and a half times less than those for industrial and commercial enterprises; however, the range of cross-subsidies varies from one oblast to another.

Additionally, in 1996, the State implemented a programme of housing subsidies, which establishes that those households that are supposed to pay more than 15 % of their monthly income in housing and municipal expenditures (later it was changed to 20 % of income) receive appropriate non-cash subsidies. Furthermore, in some cities, such as Kiev, Odessa, or Cherkassy, free of charge street taps, water-rooms or artesian wells have been installed to ensure water supply to the most vulnerable and marginalised individuals and groups.

Implementation of arrears write-off programmes

In **Armenia**, the National Assembly passed in 2002 the Law No. 441-N, which granted major privileges to the country's population in the clearance of water arrears provided that they are partially paid.⁷⁹ It was recommended that the population install water meters in their apartment within six months and conclude respective agreements with the water utility to that end.

Arrears Write-off Procedure. All the water arrears up until 1 January 2000 were to be written off from water users provided they pay 50 % (for round-the-clock water supply) or 30 % (for scheduled supply as of 1 January 2003) of the arrears accumulated between 1 January 2000 and 9 December 2002. Those covered by the social assistance program (PAROS) and entitled to poverty benefit are to pay 30 % and 15 % of the charges respectively. This would mean that the water user has settled with the water utility for water consumption. For those who have duly paid for the water all those years, the bill would also be re-assessed. Thirty percent would be deducted from the amount paid between 1 January 2000 and 9 December 2002 (as payment for water), and the remaining 70 % would be deemed to be an advanced payment. However, in addition to installing a meter, the debtor would also have to make current payments in full and in a timely manner. It is important to highlight that the Government Decree does not oblige one categorically to install a meter in their apartment. However, it is a prerequisite for the arrears write-off.

Programme results. The Household Arrears Restructuring Programme has had a major positive impact on the collection rate. The alternative to meeting the conditionality of the programme was arrears collection in court in full over the entire period

⁷³ See also: SMETS Henri: "Social protection in household water sector in European Countries", 2006. See also Appendix 1

⁷⁴ MANVELYAN Elena, SIMONYAN Liliik, ANAKHASYAN Emma and GRIGORYAN Knarik, op. cit.. See also Appendix 2

⁷⁵ INSTITUTE OF URBAN ECONOMICS, *Review of key reforms in urban water supply and sanitation sector of the republic of Armenia*, Moscow, 2004. Quoted in: MANVELYAN Elena, SIMONYAN Liliik, ANAKHASYAN Emma and GRIGORYAN Knarik, op. cit.. See also Appendix 2

⁷⁶ SOMOGYI Eszter, op. cit.. See also Appendix 2

⁷⁷ TSVIETKOVA Anna, op. cit.. See also Appendix 2

⁷⁸ Budgetary organisations are organisations financed by the state budget, such as military, public schools, public hospital and others.

⁷⁹ INSTITUTE OF URBAN ECONOMICS, op. cit.; Quoted in: MANVELYAN Elena, SIMONYAN Liliik, ANAKHASYAN Emma and GRIGORYAN Knarik, op. cit.. See also Appendix 2

of default without any relief. Thus, the implementation of the programme facilitated financial rehabilitation of the water supply and sanitation utilities.

The same programme accounts for mass installation of individual water meters in the households, which has also increased the collection rate, since, firstly, this lowered the bill, and secondly, increased public confidence in the bills issued increased. By incorporating the promotion of individual meter installation as one of the key components of the programme, the government accomplished several things at once: it improved the financial standing of the water utilities and enhanced transparency in the sector.

Implementation of procedural protections against disconnections

In the case of non-payment of water and sewage fees, service companies in **Hungary** can apply sanctions against non-payers, which are regulated by several legal provisions.⁸⁰ Additionally, exact procedures are stipulated in the business code of the service companies as well as in the contract established between the service companies and the households.

The households can turn to the court if they consider that the debt is less than the service company states, that it is not valid or that the procedures against them are not fair. Likewise, the service providers can start legal procedures against the non-payers; on the base of the court decision they can foreclose on the households. If the households have no resources and their debt is substantial, the service companies can ask a foreclosure on the households' property. There is no data available on the number of cases of foreclosure. However, according to Somogyi, it can be supposed that the number of such foreclosure is limited since – for political reasons - the municipalities do not support this option.

In the city of Nyíregyháza, where households do not pay their water and sewage fees for six months, the local service company sends out a warning letter informing the households on the debt and the possibility of sanctions. Should the households fail to pay or negotiate their debt with the company and, provided it is higher than 50 thousand HUF, the company usually disconnects the households. Before disconnecting the company has to inform the State Public Health Authority, which examines whether there are seriously ill or disabled persons living in the households whose rights would be damaged. As set out in the Government Decree 38/1995, in case of disconnection, a basic minimum amount of 50 litres per person per day has to be provided. In 2005, the local company followed the abovementioned procedure and disconnected 23 households in Nyíregyháza; in each case a public tap was installed to provide the affected households with the minimum amount of water.

In case of non-payment, instead of disconnection, the service company may also limit the water supply. Likewise, limitation of water supply is regulated by several legal provisions. However, due to technical impediments, the local company uses this possibility very rarely.⁸¹

c. Key factors

This section develops from the case studies several key factors critical for achieving implementation of the right to water and sanitation. It is important to highlight that one should be wary of any generalisations, since the various key factors refer to a specific context, that is Central and Eastern Europe. They may vary with time and space, making their specification in a given context necessary.

It is also important to underline that, by identifying key factors, one returns inevitably to the starting point of this paper, that is the value-added of the right to water and sanitation itself. Consequently, the different key factors developed upon the case studies highlight what is at the heart of the right to water and sanitation as set out by the Centre on Housing Rights and Evictions and the German Federal Foreign Office, bringing this paper full circle. As for the previous section, this one does not lay claim to completeness.

● **Priority to individuals and groups without access to water and sanitation⁸²**

Fundamental to the right to water and sanitation is the implementation of the principle that no person may be deprived of sufficient, safe, accessible and affordable water and sanitation to satisfy basic needs. Consequently, in order to allow the right to water and sanitation to be fully exercised, giving priority to those individuals and groups deprived of access to water and sanitation, ensuring their access to sufficient, safe, physical accessible and affordable water and sanitation, constitutes the most critical key factor.

⁸⁰ SOMOGYI Eszter, op. cit., See also Appendix 2

⁸¹ See also: Ibid., See also Appendix 2

⁸² See also: UN CHR, *Relationship between...*, op. cit., para. 51.

● *Prevention of discrimination*

Fundamental to the right to water and sanitation is also the implementation of the principle of non-discrimination. Consequently, in order to allow the right to water and sanitation to be fully exercised, giving priority to the prevention of any discrimination regarding the provision of sufficient, safe, physical accessible and affordable water and sanitation, represents another key factor.

● *Recognition of the interdependence between the right to water and the right to sanitation*⁸³

As stated elsewhere, the right for everyone to safe water depends on the realisation of the right for all to sufficient, safe, physical accessible and affordable sanitation. Since unsustainable sanitation and insufficient wastewater treatment often jeopardise full realisation of the right to water, giving priority to the implementation of the right to sanitation, constitutes another key factor. As already stated, the realisation of the right to water is also key to the realisation of the right to sanitation, making them totally interdependent.

● *Definition of rights, obligations and responsibilities, identification of authorities, provision of resources*⁸⁴

Key to the implementation of the right to water and sanitation is also the definition of rights, obligations and responsibilities for the process, the identification of authorities responsible to observe their compliance, as well as the provision of necessary financial and human resources.

● *Adoption of action plans*⁸⁵

The adoption of a national and a local action plans, including precise targets and timelines, as well as specific indicators and benchmarks, allowing the monitoring of the progressive realisation of the right to water and sanitation, represents another key factor regarding the implementation of the right to water and sanitation.

● *Implementation of accountability mechanism*

Key to the implementation of the right to water and sanitation is also the adoption of accountability mechanisms to assess and report on the implementation of the right to water and sanitation, including complaints mechanisms for those denied access to water and sanitation.

● *Information and participation of individuals and groups in decision-making*

Participation of individuals and groups in decision-making processes that may affect their exercise of the right to water and sanitation, constitutes another key to the implementation of the right to water and sanitation. As mentioned elsewhere, participation presupposes full and equal access to information and education.

● *Implementation of redistribution mechanisms*

Finally, key to the implementation of the right to water and sanitation is the adoption of mechanisms aiming at redistributing available financial resources between 1) high-income and low-income households, 2) different user groups, 3) urban and peri-urban areas, and 3) urban and rural areas, to ensure progressive realisation of the right for everyone to water and sanitation without discrimination. This includes those mechanisms aiming at redistributing available water resources between 1) different user groups, 2) urban and peri-urban areas, and 3) urban and rural areas, to ensure access to sufficient water for all without discrimination.

⁸³ See also: Ibid., para. 44 and 50.

⁸⁴ See also: UN CESCR, *General Comment No. 15*, op. cit., para. 46.

⁸⁵ See also: Ibid., para. 46 and 53.

IV. Conclusions ...

This paper has focused on the implementation of the right to water and sanitation in Central and Eastern Europe, following the definition of the right to water and sanitation as set out in the General Comment No. 15 and the Final Report of the Special Rapporteur of the UN Sub-Commission on the Promotion and Protection of Human Rights, respectively. The paper firstly shed light on the right to water and sanitation in different Central and Eastern European Countries, including Armenia, Bulgaria, Hungary, Kosovo, Romania, Ukraine, and with respect to the European Roma. The paper then disclosed various measures adopted by different stakeholders at the national or local level to progress towards the full realisation of the right to water and sanitation. Finally, the paper identified some key factors critical for achieving the implementation of the right to water and sanitation.

It is important to highlight that this paper, including the case studies represent just one step within a larger process undertaken by Solidarité Eau Europe aiming to contribute to the full realisation of the right to water and sanitation in Central and Eastern Europe. However, as mentioned elsewhere, further research is required to identify those measures allowing to ensure the realisation of the right to sufficient, safe, physical accessible and affordable sanitation for all. Further research is also required to disclose those mechanisms aiming at redistributing available financial resources between urban and peri-urban areas, as well as between urban and rural areas, in order to ensure progressive realisation of the right for everyone to water and sanitation. Naturally, this includes the disclosure of those mechanisms aiming at redistributing available water resources between different user groups, urban and peri-urban areas, and urban and rural areas, respectively, in order to ensure the full realisation of the right for everyone to a basic minimum amount of water, that is sufficient and safe for personal and domestic uses.

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VI. Appendices ...



Appendix 1: Right to Water Workshop

- *Right to Water Workshop*
- *Programme of the Workshop*
- *List of participants*
- *Presentation Virginia Roaf*
- *Presentation Henri Smets*
- *Synthesis Emanuele Lobina*
- *Synthesis Sabine Hoffmann*

Appendix 2: Case Studies

- *Standard Format*
- *Armenia*
- *Bulgaria*
- *European Roma*
- *Hungary*
- *Kosovo*
- *Romania*
- *Ukraine*

Appendix 3: Documents

- ROAF Virginia, KHALFAN Ashfaq and LANGFORD Malcolm, « Monitoring Implementation of the Right to Water: A Framework for Developing Indicators », *Global Issue Papers No. 14*, Brot für die Welt, Centre on Housing Rights and Evictions (COHRE), Heinrich Böll Stiftung, March 2005.
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