



THE
WASHREG
APPROACH

METHODOLOGY



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INTRODUCTION

The Sustainable Development Goal (SDG) 6 Global Acceleration Framework calls for a dramatic acceleration to meet off-track SDG6 targets. The SDG targets for water, sanitation and hygiene (WASH) go further than just the provision of facilities. They target safely managed water and sanitation services, which requires sustainable local service models operating under a robust regulatory framework.

Estimates indicate that, despite progress made in the preceding decades, in 2020, around 1 in 4 people lacked safely managed drinking water in their homes and nearly half the world's population lacked safely managed sanitation (UNICEF & WHO, 2021). Lack of safe water, and poor sanitation and wastewater practices, have serious impacts on people's health and the environment. The recognition of the human rights to water and sanitation, and the international commitment towards sustainable water and sanitation services for all, expressed through the SDGs, demands a stronger focus on both expanding the coverage of facilities and services, and on ensuring the quality of services delivered. Regulation of water and sanitation services in the economic, social, public health and environmental dimensions, is an essential governance function, which ensures better service outcomes, in terms of affordability, consumer protection, quality of service, public health, and environmental protection.

The WASHREG approach is a multi-stakeholder diagnosis used to identify national regulation gaps and challenges in water and sanitation services provision. The methodology facilitates the development of a set of actions and practical solutions for initiating a process of developing, strengthening, or aligning regulatory roles and responsibilities. This WASHREG Approach methodology guides practitioners through the WASHREG approach process and accompanies the introduction of this series: "The WASHREG Approach: An Overview".

In most jurisdictions regulation of water supply is significantly more established and well-defined than for sanitation, especially for on-site sanitation facilities and faecal sludge management. Regulation of sanitation is in a period of rapid evolution and effective approaches are beginning to emerge. As such guidance within the WASHREG approach is likely to evolve and new experiences emerge.

This product is part of the set of guidance documents produced under the "Accountability for Sustainability" partnership, between UNICEF, SIWI and the UNDP-SIWI Water Governance Facility – which aims at increasing sustainability of WASH interventions through the improvement of governance in the service delivery framework. **The World Health Organization (WHO) and the Inter American Development Bank (IADB) have provided substantial inputs to this document, to the development of "The WASHREG Approach: Methodology" and to the accompanying "The WASHREG Approach: An Overview".**

We believe that by strengthening regulatory activity, countries can improve the performance and sustainability of water and sanitation service delivery and achieve the SDG targets on universal access to realize the human rights to water and sanitation for all.

1. THE WASHREG APPROACH

1.1 Objectives of the WASHREG approach

The **WASHREG approach is a multi-stakeholder diagnosis used to identify national regulation gaps and challenges in water and sanitation services provision. The implementation of the methodology facilitates the development of a set of actions and practical solutions for initiating a process of creating, strengthening, or aligning regulatory roles and responsibilities.**

For water and sanitation services, there is no single model for a good regulatory framework and its implementation. Every country has its own institutional and legal settings that face a wide range of different challenges. The WASHREG is a systematic approach, structured to help decision-makers and practitioners better understand those challenges and differences, and to help them to define and implement their regulatory objectives. Those regulatory objectives should ideally be as recommended by the Organisation for Economic Co-operation and Development (OECD) to: “serve clearly to its policy goals, be clear for the users, have a sound legal and empirical basis, produce benefits that justify costs, be consistent with other regulation and policies, be implemented in a fair and transparent way, minimize cost and market distractions and promote innovation through market incentives”¹.

1.2 The WASHREG Approach Methodology

This WASHREG Approach: Methodology, the “Methodology”, accompanies the “The WASHREG Approach: An Overview”. The overview intends to help WASH practitioners and other sector stakeholders understand the diversity of different regulatory functions and roles within a broader enabling environment, that are required for effective and sustainable WASH service delivery.

This document presents an actionable methodology that aims to help decision-makers and practitioners to diagnose the regulatory context for water and sanitation, shape related adjustments, select among common regulatory activities and tools to facilitate the needed adjustments, and plan for implementing adjustments in terms of the required financial and human capacities.

1.3 Target audience

The WASHREG approach is proposed as a collective process, to be conducted by national and sub-national governmental institutions, existing and potential regulators, development partners, consumer or operators’ associations, and other relevant WASH stakeholders, to facilitate the definition of a roadmap for improving water and sanitation services regulation. Although the analysis and recommendations are made collectively, the process must be led by the government and requires high level political will.

A suggested list of stakeholders to be included in the WASHREG approach is included in Annex 4.

1.4 Scenarios for implementation

Many different country contexts could be envisaged for application of the WASHREG approach. Generally, the tool is envisaged to be helpful and useful in the four scenarios described below:

a) Scenario 1: No Regulatory body, no regulatory function

Firstly, the approach could be very relevant in a context where neither regulatory body nor its powers are institutionally established and legislated. As much as some of the regulatory

¹OECD, & Institute, K. D. (2017). Improving Regulatory Governance.
<https://doi.org/https://doi.org/https://doi.org/10.1787/9789264280366-en>

functions may still be performed, for example by users' associations regulating service quality or by local leaders setting tariffs or protecting consumers, these regulatory functions are nevertheless performed on a voluntary basis and are often exposed to a lack of accountability. In this scenario, the WASHREG approach could be used to diagnose how to formalize these regulatory functions, including by developing a roadmap for the setting up of a new regulatory body, and to strengthen accountability in the future.

b) Scenario 2: Existing regulatory body, eager to improve

Performing a regulatory function in a consistent manner is a very delicate task, as being an impartial arbiter requires the pre-requisites of institutional and political autonomy and solid financial and human capacity. Since the 1990s, the trend of establishing a national regulator has, in some cases, resulted in regulatory institutions with a mandate that is not delivered in practice or has resulted in significant gaps in mandates, meaning services for a significant section of the population falls outside regulatory mandates, as is often the case for rural and small community water-supplies and onsite sanitation systems and associated faecal sludge management (FSM) services. Without sufficient financial or human resources, and with its staff performing other governmental functions within the host ministries, as is sometimes observed, regulators risk failing. Other aspects that commonly encourage regulators to reassess their performance include its economic efficiency, the structure of the regulatory cycle, or the choice of implementation modalities within different regulatory areas. For both regulators with specific difficulties and those eager to continuously improve, the WASHREG approach can help governments to strengthen the existing regulators, by diagnosing capacity, operational or institutional constraints in the regulators' performances and adopting adequate remedies as proposed in the resulting WASHREG strategic plan.

c) Scenario 3: Existing entities conducting regulatory function without clear mandate

The most likely scenario in many countries, is where the regulatory functions are performed by various governmental institutions, without the clear separation of mandates between them. Consequent duplication or gaps in performance are often reflected in weak water and sanitation services performance, and low levels of consumer satisfaction. In turn, actors are often in doubt about who to refer to and to hold accountable when in need of protection, information, and monitoring and enforcement related to water and sanitation services provision. Building on existing good practices and often existing capacities within different Ministries and institutions, the WASHREG approach could help a government harmonize and optimize its regulatory functions under one institutional home. Alternatively, the WASHREG approach can help strengthen the accountability links among the existing regulatory institutions, through delineating a more coherent matrix of roles and responsibilities.

d) Scenario 4: Sector fragmentation

Finally, an additional complexity of the sector being regulated by several institutions, with or without clear mandates, is the one where regulatory functions are performed without the necessary coordination between different sub-sectors, or geographic areas. It is often evidenced that this scenario can result in rural areas being neglected or abandoned, or some geographical areas of the country being excluded from water and sanitation services regulation. The WASHREG approach could be applied at different governance levels, or sub-sectors, to identify a more coordinated approach to regulating the entire water and sanitation services sector. In some cases, the WASHREG approach might facilitate a process of centralizing regulatory powers in one national institution, or support the harmonization of existing regulatory bodies and functions to overcome silo and fragmented ways of regulating water and sanitation services. In countries where urban and rural areas are regulated by two different institutions, the WASHREG approach

can, for example, help the two regulatory bodies to optimize their joint performance through enhanced coordination and synergies. The WASHREG approach can therefore help and strengthen national regulatory coordination regardless how many institutions are performing regulatory mandates, or how many distinct

regulatory sub-sectors exist. The WASHREG is a very versatile process and tool, which is adaptive to any kind of fragmentation, as it focuses on regulatory areas through the regulatory cycle and is illustrated through case studies showing good practice regulatory applications worldwide.

2. THE WASHREG STEP BY STEP COUNTRY PROCESS

To ensure the most successful regulatory reform process it is important to understand how the WASHREG approach and tool contributes to a wider national regulatory reform process. Figure 1 illustrates how the WASHREG approach and tool is strategically placed within a multilevel

national regulatory reform process. Assigned as the principal engine of this process, the WASHREG tool drives the multilevel national regulatory reform process. An explanation of each step of the process follows.

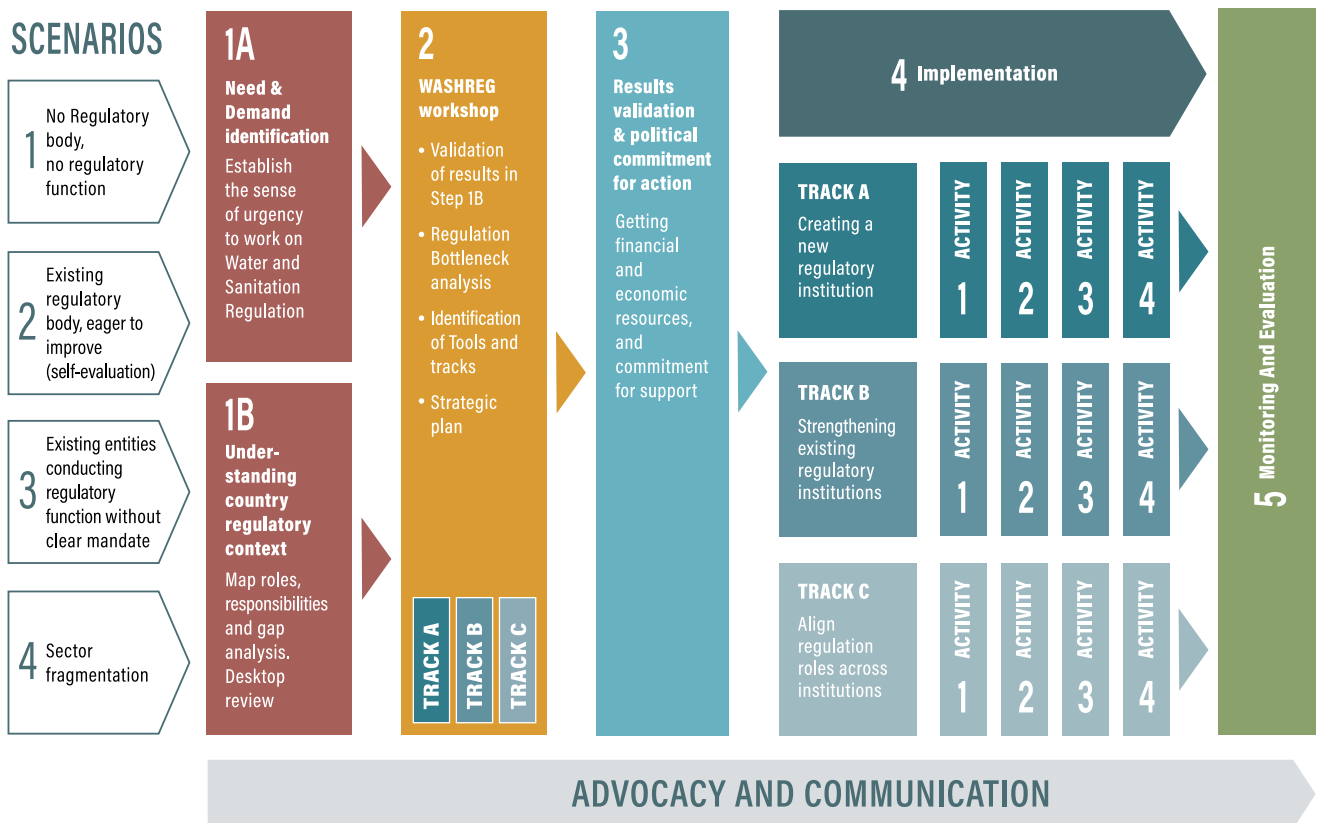


Figure 1. The WASHREG step by step country process.

Step 1a: Need & Demand identification

In principle, before committing time and resources to reforming water and sanitation services regulation, to ensure sustainable reform, it is important to establish the need and demand for reform. Hence, before embarking on implementing the WASHREG approach, it is therefore recommended to conduct a brief consultative process with different stakeholders, and primarily decision makers, to confirm that both the ‘demand’ and ‘need’ exist as pre-conditions before proceeding. There might be for instance, a demand from government or its partners but limited need, or conversely, a strong need for the WASHREG approach but that may not be necessarily supported by the adequate demand.

Table 1 below illustrates a simple decision matrix that may be useful to help chart the best course of action depending on the relative ‘need’ and ‘demand’ for WASHREG. When there are both need and demand, the conditions are optimal for WASHREG. Where there is a need with limited demand, then the key stakeholders must be sensitized to the benefits of WASHREG. When demand is shown but with limited need, stakeholders should further assess the relevance of the WASHREG at that time. In case of a double no-answer, further actions are not envisaged. While the reasons for lack of demand can be on the political and/or governmental side, the limited need may be caused by lack of

understanding of the added value of improving water and sanitation services regulation.

It is important to note that the level of demand and need can be very different for water and for sanitation, with sanitation regulation generally being less advanced. WASHREG also offers an opportunity for the water sector to show lessons learnt and help facilitate engagement on what needs to happen to improve sanitation regulation.

Some suggested questions to ask when conducting this first assessment of NEED are:

- Who is performing different regulatory areas and how satisfactory is the performance?
- Which regulatory areas are missing from current regulatory efforts?
- How appropriate are existing regulatory frameworks and standards, what are the gaps, and how can they be improved?
- Are the human rights to water and sanitation regulated appropriately?
- Are the human resources available to regulatory institutions adequate to perform their mission?

The need should be matched with the demand for the exercise. Then, it will be essential to

CURRENT CONTEXT		IS THERE NEED FOR WASHREG? IS WASHREG RELEVANT?	
		YES	NO
IS THERE DEMAND FOR WASHREG?	YES	Conditions are optimal for immediate application of WASHREG	Stakeholders should collectively assess the relevance of WASHREG
	NO	Stakeholders need to be sensitized to the need for WASHREG	No action needed

Table 1: Demand versus need decision matrix for WASHREG

identify stakeholders who might be receptive to a regulatory reform process. The assessment of DEMAND will include:

- Identifying (and eventually mobilizing) relevant stakeholders who can advocate for a national regulatory reform process to be initiated
- Engaging with government to assess political will
- Assessing the level of interest in regulatory reform from relevant public and private organizations (associations of utilities, and of consumers, etc.)

In case, there is NEED but insufficient DEMAND, there will be a need to take actions to raise demand, through advocacy, supported by an evidence base of weak regulation, as well as dialogues among stakeholders and other appropriate actions depending on the context.

Step 1b: Understanding the country regulatory context

National context plays a key role when undertaking a regulation assessment. This sub-step is aimed to help understand the country context and existing regulatory enabling environment upon which to build from. To that end, the main components of this step are:

- Understanding the overall context in which regulation takes place, including internal aspects related to the WASH sector (e.g., coverage, technologies, quality, etc.) as well other external factors (e.g., environmental risks, socio-economic situation, political context, etc.).
- Understanding the legal framework and policies which are in place for the regulation of water and sanitation services and the extent to which they are effective in achieving their intended regulatory objective. This is done through legislative mapping and interviews with stakeholders and opinion leaders. A canvas to help the tracking of the different regulatory responsibilities and

perceived effectiveness has been developed to be used during this step (Annex 1).

- Understanding the acting institutions that exercise regulatory responsibilities. This is done through mapping of roles and responsibilities, and the analysis of gaps and overlaps, and perceived weaknesses by stakeholders.

This step will be conducted through a combination of desk review, and consultations and interviews with key stakeholders. When relevant, a first report can be produced summarizing the current regulatory context and the perceived areas of improvement.

Step 2: The WASHREG workshop

The WASHREG workshop is designed as a multi-stakeholder workshop, in which stakeholders can jointly develop a common vision for regulation of water and sanitation services. For most countries, the WASHREG workshop can clarify the objectives, roles and responsibilities, costs and benefits of regulation, and reveal opportunities for incentivizing operators' performance. Clarification of regulatory concepts, objectives, powers, and tools will facilitate further improvement of the regulatory functions for water and sanitation services. Annexes 3 and 5 propose generic and detailed agendas for the workshop.

The WASHREG workshop is built on the analytical framework that conceives water and sanitation services regulation as a set of rights and duties among the relevant actors involved in regulation i.e., governments and public administration, regulatory authorities, service operators and consumers, and the accountability relationships between them. The analytical framework structures regulation as a set of three regulatory powers for each one of the six common regulatory areas, and is analysed during the WASHREG workshop in a logical sequence (Figure 2) to identify the challenges and constraints, and actions to overcome them. The added value of a sequenced workshop around the regulatory cycle is that the WASH practitioners will be able to identify synergies

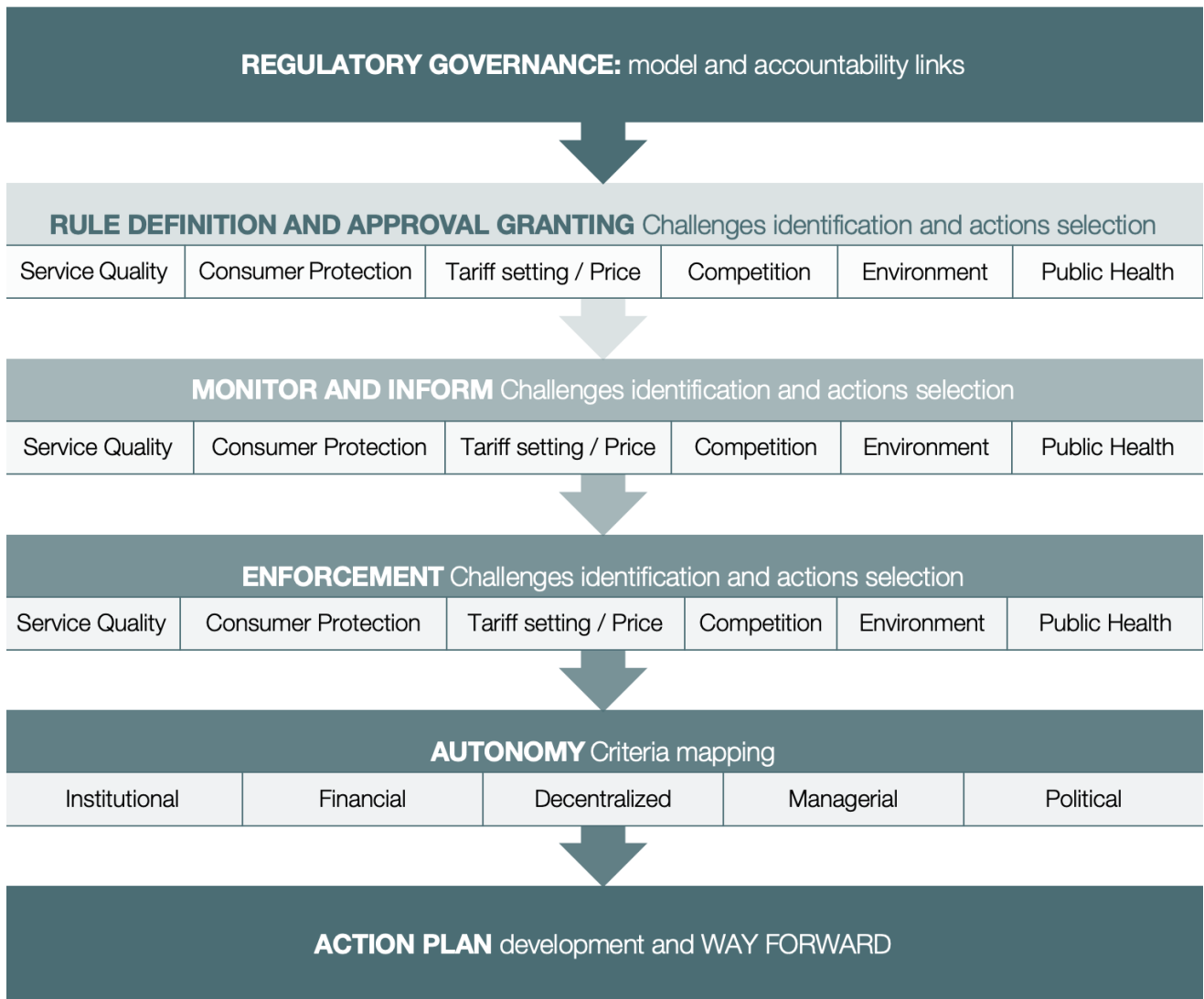


Figure 2: The WASHREG workshop logical analytical sequence

and overlaps between some activities under the different regulatory areas and capitalize on those synergies within the overall regulatory framework.

In line with Figure 2, the workshop follows a methodology that includes an assessment of regulatory performance for each regulatory power of the regulatory cycle, for each regulatory area, by using and assessing regulatory criteria (Annex 6). The regulatory performance assessment is followed by the review and selection of the most appropriate actions sheets with examples of regulatory actions from regulators around the globe (The set of Action sheets is published as a separate document). The actions within the action sheets are then proposed for further adoption and implementation, in order to address those regulatory criteria scored as being either ‘not

performed’ or ‘weak’ during the regulatory performance assessment. The exercise should be done separately for water and sanitation, when the institutional mandates and the level of maturity of regulation in each subsector requires so. It is also important to note that the choice of regulatory areas to be covered needs to be done in the preparation phase before the workshop, to ensure the right representation of stakeholders, and tailor the agenda accordingly. Figure 2 presents the logical analytical sequence of the tool, covering all regulatory areas and steps in the regulatory cycle, but the scope of the workshop needs to be adapted to the context.

Water and sanitation services regulation aims to enable sustainable public sector policy, to protect consumers, and to protect service operators. While these objectives may be

WASHREG STRATEGIC ACTION PLAN IMPLEMENTATION TRACKS	OPPORTUNITIES	RISKS
TRACK A: Creating a new regulatory institution	<ul style="list-style-type: none"> • Redefine/reset the sector • Political and public consensus • Regional and international interaction and exchange 	<ul style="list-style-type: none"> • Lengthy political and legislative process • Lack of financial, technical, and/or human capacity of a new institution
TRACK B: Strengthening institutions performing regulatory tasks, including extending mandates	<ul style="list-style-type: none"> • Use of existing capacities, structures, and experience • Building on existing synergies, partnerships, and knowledge 	<ul style="list-style-type: none"> • Existing competition over power across different institutions might still remain
TRACK C: Align regulatory roles across institutions	<ul style="list-style-type: none"> • Optimized resources • Easier regulation of different sub-sectors • Faster overall application 	<ul style="list-style-type: none"> • Resistance to change and institutional inertia. Existing institutions resist reform

Table 2: Opportunities and risks for different implementation tracks for the WASHREG Strategic Action Plan

conflicting in some contexts, regulators require an appropriate level of autonomy to conduct their tasks, free from the influence of political parties, regulated entities, and consumers. The set of autonomy criteria (Annex 2) are used to identify challenges and opportunities to be considered when developing of WASHREG action plan and roadmap. Then, the different possible tracks of WASHREG strategic action plan implementation will be analysed to identify the opportunities and risks of each (see Table 2).

The main goal of the WASHREG workshop is to develop a Strategic Action Plan for water and sanitation services regulatory reform, which is to be endorsed by the workshop participants, and further validated by the relevant authorities, usually after the workshop. Aspects of regulatory reform might require additional scoping, piloting, and stakeholder engagement before being formally adopted. WASHREG therefore will help to get an overview of the whole regulatory cycle, determine where the biggest gaps are, and suggest actions to improve it. The Strategic Action Plan will contain an estimated budget, financing sources, lead institutions and timeframes and sequences for each of

the prioritized actions. The workshop can also be focused on working on the regulatory design and regulatory governance, focusing the analysis on the autonomy of the regulator and the coordination of the regulator with other actors. Table 2 shows different Scenarios where WASHREG can be used. The WASHREG workshop can be conducted over three days. Work is done in parallel groups throughout the days, with some sessions for reporting back and consolidation. It is suggested to conduct the workshop over four days if all six regulatory areas are to be analysed, as the alignment and coherence of action plans in different regulatory areas will require additional time. The WASHREG workshop may also serve to develop the capacity of national institutions and reinforce capacities of such institutions to drive national regulatory reform processes. A proposed generic agenda for a WASHREG workshop can be found in Annex 3. The success of the workshop is dependent on a good preparatory process (Steps 1a and 1b), good facilitation, as well as the right participant selection and actual participation. For that purpose, a suggested participant's list can be found in Annex 4. Annex 5 provides a more detailed agenda, that can

help facilitate the process, and Annexes 2, and 6 provide the regulatory criteria to assess autonomy as well as criteria per regulatory area.

Step 3: Results validation and political commitment

Following the WASHREG workshop, there is a need for refinement, validation and endorsement of the Strategic Action Plan and roadmap drafted during the workshop. This requires a closer look at some of the regulatory proposals from the workshop – i.e., in terms of the scope, interoperability with existing/other regulations, the implementation costs, potential intended and unintended consequences, or testing some new tools through pilots- among others, and further consultation when needed. The final Strategic Action Plan might include more detailed steps for the implementation of the reform process, as well as the resources needed, and can incorporate actions and commitments from other stakeholders, such as development partners (donors), who might be interested in supporting the process both technically and financially.

An official government entity (or entities) with the capacity to take the needed steps to initiate the reforms would need to endorse the action plan. In some cases, the decisions can be made at Ministerial level (i.e., by Ministerial Order), while in other cases the legislative needs to approve new laws, decrees, and regulations that either create the new regulatory entity or clarify the roles and responsibilities.

This step is paramount for the success of the WASHREG Approach and might require the organization of a high-level meeting to validate the recommendations made as part of the WASHREG workshop and ensure the needed political will to initiate the reform process. Therefore, the WASHREG workshop is not the end, but the beginning of a process, that is country and context specific, and driven by government.

Step 4: Implementation

The implementation of the Strategic Action Plan varies depending on the local context

and the scope and timeframe of the regulatory reform process which might require further stakeholder engagement. Some action plans might be implemented in just two years, while other processes might require a much longer period, to ensure not only the update of the legal framework, but also the creation, establishment, and consolidation of new regulatory entities.

While being implemented, the Strategic Action Plan might need to be revisited and adapted where necessary. The process of developing new legal instruments and frameworks might take longer than expected, and financial restrictions might cause delays in implementation. Although external partners can technically and financially support this process, the success of the action plan implementation requires clear leadership from government.

It is recommended that the mechanism for regular follow up and accountability for the results is agreed within the Strategic Action Plan.

Step 5: Monitoring and Evaluation

Monitoring and evaluation of the regulatory reform activities are crucial steps to firstly track progress and allow course corrections, and secondly, hold institutions accountable for their actions. To track progress and allow course correction, periodic monitoring must be conducted to identify constraints and adapt the plan in a timely manner to new circumstances that may occur. It is also recommended that an independent review is undertaken to evaluate whether activities have been implemented as planned and whether the activities are achieving the intended objectives. Secondly, monitoring and evaluation can secure accountability for the new regulatory responsibilities during the transition period. Consequently, this step will hold the institutions conducting regulatory tasks accountable to improve their performance, ensuring that water and sanitation services regulation fulfils its mandate, and as appropriate, progressively expands its mandate.



ANNEXES. WASHREG IMPLEMENTATION TOOLS

ANNEX 1. WASHREG CANVAS ON REGULATORY RESPONSIBILITIES

ANNEX 2. AUTONOMY CRITERIA

ANNEX 3. WASHREG WORKSHOP
GENERIC AGENDA 3-DAY

ANNEX 4. WASHREG WORKSHOP
SUGGESTED PARTICIPANTS

ANNEX 5. WASHREG WORKSHOP
SUGGESTED DETAILED AGENDA

ANNEX 6. REGULATORY
AREA MAPPING CRITERIA PER
REGULATORY POWER

ANNEX 1. WASHREG CANVAS ON REGULATORY RESPONSIBILITIES

The template should be filled in separately for water and for sanitation services by the experts involved in Step 1b

AREAS AND ACTIONS PER SUB-SECTOR (I.E., URBAN/ RURAL, NATIONAL/ SUBNATIONAL)		SERVICE QUALITY			CONSUMER PROTECTION			TARIFF SETTING			COMPETITION			ENVIRONMENT			PUBLIC HEALTH		
		Service quality regulation entails defining levels of service based on product characteristics such as technical requirements or customer responsiveness			Consumer protection entails resolving consumer complaints in the second instance (after they have been dealt with by service operators)			Tariff setting consists of setting overall tariff levels and tariff structures to ensure delivery of services at an affordable cost while ensuring the long-term financial viability of the sector			Competition regulation consists of monitoring the market (in the case of a monopoly provider) and of ensuring competition in the market where applicable (in the case of small-scale providers, such as water tankers)			Environmental regulation entails rules on water abstractions and management of wastewater, faecal sludge, and effluent along the sanitation chain, with the aim of protecting the environment for the existing and future generations			Public health regulation focuses on rules around compliance with health-based standards and risk management approaches for ensuring drinking water safety and safe management of the sanitation chain, for public health protection		
Overall, how effective are regulations perceived in this area? L - Low, M - Medium, H - High		L	M	H	L	M	H	L	M	H	L	M	H	L	M	H	L	M	H
1. Define new rules	Is there an institution mandated to do this, or otherwise doing it without a clear legal mandate? YES/NO if yes, who?																		
	Comments																		
2. Monitor and Inform	Is there an institution mandated to do this, or otherwise doing it without a clear legal mandate? YES/NO if yes, who?																		
	Comments																		
3. Enforce existing rules	Is there an institution mandated to do this, or otherwise doing it without a clear legal mandate? YES/NO if yes, who?																		
	Comments																		

ANNEX 2. AUTONOMY CRITERIA

INSTITUTIONAL AUTONOMY
PRIORITY: Sufficient skills and capacity are secured to initiate / implement regulatory functions
Capacity building programmes or activities around regulatory aspects are in place to support regulator, operators, and consumer associations
There is technical and financial capacity in place to sustain regulatory approvals, and for conducting and enforcing audit procedures for sustainable service performance indicators
There is sufficient administrative and communication capacity within the regulator to support consumer rights, monitor their contract and reconcile conflicts with operators
There is sufficient financial, administrative, and operational capacity within a regulator to define, inspect and enforce tariff structures
There is sufficient legal capacity within a regulator to oversee, monitor and correct anti-competitive sectoral behaviour
There is sufficient human, technical and operational capacity within a regulator to conduct water resources management and environmental regulation
There is sufficient human, technical and operational capacity within a regulator to conduct public health monitoring
There exists regional regulatory competence and technical exchanges
Regulatory staff are regularly trained within their roles
There is publicly available a Regulator Strategy and Work Plan that includes technical and human capacity requirements
Regulatory activities are properly planned and structured over time and across institutions
Established partnership agreements exist with development partners or other partners to ease technical secondments and competence exchanges

FINANCIAL AUTONOMY
PRIORITY: Sufficient resources are secured to initiate or implement regulatory functions
A regulator financially covers its functions from the collected licenses, fines and/or fees
State subsidy to sustain a new regulatory institution is in place for an initial period of at least two years
Resource mobilization strategy aimed to sustain a regulator over a given period is in place

MANAGERIAL AUTONOMY
PRIORITY: The regulator can determine its own administrative and operational procedures
Requirements for regulatory staff are established and publicly available
There are transparent administrative procedures for recruitment times, and renewal of regulatory staff
There are established salary scales and other incentives for employees
Regulatory staff are statutorily protected from political interference in their nomination or destitution
The regulator can establish its own internal operational procedures to maximize the efficiency of its functions

POLITICAL AUTONOMY

PRIORITY: Decisions and activities of the regulatory institutions are unbiased / free from undue influence

A national law that designates a regulator and its mandated functions is in place

Political leaders at all levels do not interfere with the scope of regulatory functions

Defined legislative and statutory acts separating the roles and protecting against interference are in place

Regulatory reporting requirements to the Parliament or/and citizens are in place

DECENTRALIZED REGULATORY AUTONOMY (IF APPLICABLE)

PRIORITY: There are legislative mechanisms, which allow a regulator to delegate and supervise certain activities to lower decentralized levels of governance

Local level institutions have enough staff to perform delegated regulatory tasks

There are capacity building programmes in place for staff at the sub-national regulatory authority on relevant matters related to their scope of regulation (e.g., tariffs, service quality, public health, etc.)

There is sufficient administrative, financial, and operational capacity at local level to perform delegated functions

ANNEX 3. WASHREG WORKSHOP GENERIC AGENDA (3-DAY WORKSHOP)

	Day 1	Day 2	Day 3
9:00-12:30 (+ 30min break)	SESSION 1 INTRODUCTION TO REGULATION OF WASH SERVICES IN THE COUNTRY (180)	SESSION 3 RULE DEFINITION (90)	SESSION 7 PRIORITIZATION OF ACTIVITIES THROUGH CROSSGROUP WORK (120)
		SESSION 4 INFORMATION COLLECTION AND MONITORING (90)	SESSION 8 IDENTIFICATION OF PROS AND CONS FOR DIFFERENT TRACKS OF ACTION (60)
12.30-13.30	Lunch Break		
13.30-18.30 (+ 30min break)	SESSION 2 REGULATION ACCOUNTABILITY TRIANGLE (180)	SESSION 5 ENFORCEMENT (90)	SESSION 9 ACTION PLAN AND WAY FORWARD (180)
		SESSION 6 AUTONOMY (90)	

ANNEX 4. WASHREG WORKSHOP SUGGESTED PARTICIPANTS

GROUP	GROUP PARTICIPANT REPRESENTATIVES
Government (national)	Government entity/department assigned to lead the WASHREG process. The government can delegate the organization of the exercise to external facilitators/partners, but there needs to be one focal point from the government side.
	At least one representative for each of the Ministries that have direct or indirect roles and responsibilities for WASH (i.e., Ministry for Planning, Decentralisation / Local Government, Finance, Health, Agriculture, Industry, Environment, Water and Sanitation, etc.).
	Decision maker(s), or decision maker representative. It would be good to have the presence of the decision maker (Minister, representatives of the legislative) at least during the opening and/or closing ceremony, to ensure buy-in and political support to the process.
	Regulators, or entities with some service oversight functions where no regulator exists
	Standards Authority officials, where they exist
Government (sub-national level)	Representatives of Basin authorities
	Representatives of Regional Water and Sanitation Departments, or other line ministries at sub-national level
	Representatives of District/Municipality Councils and/or association of municipalities/districts
Development Partners	Representatives from development partners and donors
Civil society	NGO (local and international)
	Community based organizations
	Water user's associations
Service operators	Public and private operators – note; small and large service providers should attend, not only large utilities
	Water management committees (village)
	Operator associations (e.g., FSM service provider associations)
Total people: 15-20 people (minimum requirement). Ideally around 50 key resource people	

NOTE: The sectorial representation of Ministries depends on the scope of regulation to be discussed (the above list considers Public Health, Economic and Environment). In case both water and sanitation are covered, there should be a balanced representation for both water and sanitation. The regional and local representation depends on the current level of decentralization in the country as well as whether the regulation being discussed is covering large cities, smaller cities, and/or rural areas. Special consideration should be given to gender equality, and representation of youth and marginalized groups.

ANNEX 5. WASHREG WORKSHOP

SUGGESTED DETAILED AGENDA

SESSION 1 - INTRODUCTION TO REGULATION OF WASH SERVICES (180')

DISCUSSION POINTS	The WASHREG analytical framework is structured around the six areas of regulation present in most cases. These are Service Quality, Consumer Protection, Tariff Setting, Competition, Environment and Public Health. Whichever regulatory area is analysed, regulatory actions can be divided into three main regulatory powers: rule definition, information collection and monitoring, and enforcement.
EXPECTED OUTCOME	The main regulation concepts are understood through its key elements, principles, functions, and areas.

TIME	ACTIVITY	MATERIALS
20	A. Opening of the event. Opening words by: - National counterpart and event host	PPT about WASH challenges, Regulation in country
10	B. Who is in the room? Introduction of participants	
5	C. Agenda presentation	Agenda
40	D. Regulation of Water and Sanitation Services: theoretical presentation about the main contents of the "WASHREG Approach: An Overview" document on regulation	Intro to Regulation PPT
30	E. Questions and Answers	
60	F. Regulatory functions, types, and country samples. Situation in the country (results of Steps 1a and 1b)	Presentation of results of Steps 1a and 1b
15	G. Questions and Answers	

SESSION 2 - REGULATION ACCOUNTABILITY TRIANGLE (180')

DISCUSSION POINTS	The water and sanitation services regulation principles are linked to the rights, responsibilities, and good practices of all relevant actors i.e., governments and public administration, regulatory authorities, service operators and consumers. The regulation accountability triangle helps participants identify the existing functions and relations within water and sanitation public service delivery.
EXPECTED OUTCOME	The regulation accountability triangle enables participants to have the overall picture of the sector delivery framework, through an easy-to-understand visualization.

TIME	ACTIVITY	MATERIALS
30	A. Introduction to regulation accountability triangle exercise	PPT Accountability service delivery framework
60	B. Mapping the actors Divide the room in groups: Groups will use the regulation accountability triangle to identify the main actors involved in service provision to gain a better understanding of actors involved. Groups should work in identifying the triangle for one subsector (either urban or rural), with actors, and the regulatory instruments within their roles and responsibilities.	Flipcharts Markers
60	C. Discuss triangles. Feedback by groups	
30	D. Questions and Answers	

SESSION 3 - RULE DEFINITION (90')



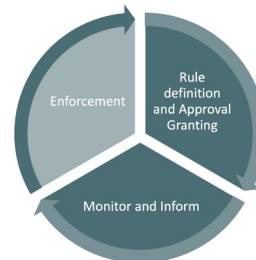
TIME	ACTIVITY	MATERIALS
10	A. Types of activities: Presentation of the main elements for rule definition power in tariff setting, service quality, consumer protection and competition, environment, and public health.	PPT, Regulatory action cards
30	B. Scoring the criteria: Divide the room in groups, preferably by area of regulation. Each group scores in parallel the 'rule definition' criteria (see Annex 6) by i) red for "not performed", ii) yellow for "weak" and iii) green for "performed".	Rule definition criteria
30	C. Discuss potential regulatory activities: Divide the room in groups. Each group will work in parallel with different action cards (see Annex 7) to address the weakest criteria scored previously.	A4 sheet Exercise Green Internet
20	D. Discuss proposed regulatory activities in plenary discussion, so the groups can provide feedback to each other on their analysis.	Projector

SESSION 4 - MONITOR AND INFORM (90')



TIME	ACTIVITY	MATERIALS
10	A. Types of activities: Presentation of the main elements for information collection power in tariff setting, service quality, consumer protection and competition, environment, and public health.	PPT, Regulatory action cards
30	B. Scoring the criteria: Divide the room in groups, preferably by area of regulation. Each group scores in parallel the 'monitoring and informing' criteria (see Annex 6) by i) red for "not performed", ii) yellow for "weak" and iii) green for "performed".	Monitoring and informing criteria
30	C. Discuss potential regulatory activities: Divide the room in groups, each group will work in parallel with different action cards (see Annex 7) to address the weakest criteria scored previously.	A4 sheet Exercise Green Internet
20	D. Discuss proposed regulatory activities in plenary discussion, so the groups can provide feedback to each other on their analysis.	Projector

SESSION 5 - ENFORCEMENT (90')



TIME	ACTIVITY	MATERIALS
10	A. Types of activities: Presentation of the main elements for enforcement power in tariff setting, service quality, consumer protection and competition, environment, and public health.	PPT, Regulatory action cards
30	B. Scoring the criteria: Divide the room in groups, preferably by area of regulation. Each group scores in parallel the 'enforcement' criteria (see Annex 6) by i) red for "not performed", ii) yellow for "weak" and iii) green for "performed".	Enforcement criteria
30	C. Discuss potential regulatory activities: Divide the room in groups, each group will work in parallel with different action cards (see Annex 7) to address the weakest criteria scored previously.	A4 sheet Exercise Green Internet
20	D. Discuss proposed regulatory activities in plenary discussion, so the groups can provide feedback to each other on their analysis.	Projector

SESSION 6 - AUTONOMY MAPPING (90')

DISCUSSION POINTS	Water and sanitation services regulation needs certain levels of autonomy: institutional, financial, decentralized, managerial and political autonomy.
EXPECTED OUTCOME	Identify challenges and gaps in relation to autonomy needed for the regulatory function.

TIME	ACTIVITY	MATERIALS
15	A. Types of capacities and autonomies: Presentation of institutional capacity and political, financial, and managerial autonomy.	PPT
45	B. Autonomy mapping: Divide the room in groups. Each group will score in parallel the institutional capacity criteria by i) red for “not performed”, ii) yellow for “weak” and iii) green for “performed”.	Autonomy criteria
30	C. Discuss autonomy aspects, and how to improve them.	Projector

SESSION 7 - PRIORITIZATION OF ACTIVITIES THROUGH CROSSGROUP WORK (120')

DISCUSSION POINTS	Water and sanitation services regulatory reform activities need to be set in a realistic manner, considering the availability and potential for technical and financial resources.
EXPECTED OUTCOME	Prioritize actions to be included in the Strategic Action Plan and identify synergies and overlaps in relation to different activities.

TIME	ACTIVITY	MATERIALS
45	A. Interactive discussion: Working groups will provide feedback about their analysis to identify and select actions to be taken forward.	Flipcharts
45	B. Voting session: Participants will vote for which activities can be taken forward in each area/component.	Materials for voting, and/or prioritization
30	C. Consolidation of priorities in plenary discussion	Projector

SESSION 8 - IDENTIFICATION OF PROS AND CONS FOR DIFFERENT TRACKS OF ACTION (60')

DISCUSSION POINTS	Pros and cons need to be considered when deciding one specific track of action, considering the particularities of the context, political will, financial and technical support availability.
EXPECTED OUTCOME	Identify the opportunities and risks of each one of the tracks of implementation.

TIME	ACTIVITY	MATERIALS
60	A. Interactive discussion: in plenary, groups will identify the pros and cons of each one of the tracks of implementation.	

SESSION 9 - ACTION PLAN AND WAY FORWARD (180')

DISCUSSION POINTS	Actions selected need to be analysed, taking into consideration, the costs, source of funding and responsible institutions for implementation, in order to allow for an adequate selection of activities to be included in the action plan.
EXPECTED OUTCOME	Strategic Action Plan endorsed by the workshop participants and further validated by the relevant authorities (this may happen after the workshop, since it might require formal approval from line minister/s, prime minister, parliament, etc.).

TIME	ACTIVITY	MATERIALS
120	A. Activities / Cost / Funding / Responsibility	
40	B. Showcase of all the selected regulatory actions to be taken forward	PPT
20	C. Closing remarks and next steps within the consultative process toward a reformed or new Country Regulatory Framework.	

ANNEX 6. REGULATORY AREA MAPPING

CRITERIA PER REGULATORY POWER

SERVICE QUALITY CRITERIA	POWER
PRIORITY for Rule Definition: Service quality reference values that reflect realistic objectives to be achieved by the operators are in place	RULE DEFINITION
Established clear and transparent performance indicators for all service operators	
The policy and legal framework include regulatory approvals, and conducting and reporting audit procedures, for sustainable service performance	
The legislative framework mandates the regulator to set the service quality indicators	
Consumer associations can participate and access the established norms and standards at any time	
There are service quality guidelines and policies accessible to all interested parties	
PRIORITY for Information Collection: Internal and external data assessing the quality of service is regularly updated	INFORMATION COLLECTION AND MONITORING
There is a protocol for periodic data collection, analysis, and reporting on service performance	
Best practices and analytical reports outlining recommendations for service performance quality are regularly produced and published	
Consumers are properly informed about the service quality in a timely manner	
Different performance trends can be compared	
There is impartial and independent verification of service performance	
Collected service quality information is benchmarked to motivate operators to improve performance	
PRIORITY for Monitoring: Operators are selectively audited and inspected to ensure their compliance with contracted service quality norms and standards	
There are regular audits to check the accuracy of data for service quality indicators	
Established procedures are in place for the validation of the reliability of service quality data provided by the operators	
Service operators' internal structure for reporting is adjusted to match the auditing procedures	
There is a reliable and transparent auditing process	
There is improved economic efficiency in inspection activities	
PRIORITY for Enforcement: System of regulatory sanctions, incentives, or rewards for operators to adhere to regulatory norms and standards is in place	ENFORCEMENT
There are incentives for operators to share data about service performance in a timely manner	
Established penalty procedures for operators in breach of regulations are in place, including the obligation of sharing service performance information	
Service operators are legally engaged to comply with the service quality norms and standards	
Consumers are protected from operators' misconduct	
Service operators are prevented from infringing consumer rights	

CONSUMER PROTECTION CRITERIA	POWER
PRIORITY for Rule Definition: Clear policy, regulating the relation between consumers and operators, is publicly available	RULE DEFINITION
There are rules related to i) prohibiting the charging of prices that do not match costs, ii) the obligation to give prior notice of suspension due to non-payment, and iii) the frequency of billing and minimum payment time	
Service operators are contracted in accordance with consumer protection policy	
Consumer associations take an active role in shaping the protection policy and regularly share feedback	
Procedures for creating participatory consumer platforms at utility level are in place and are actively supported by operators	
Consumers Service Charters are in place	
There are accessible mechanisms in place to inform consumers about their rights and duties	
PRIORITY for Information Collection: Established mechanisms to receive information about consumer protection are in place	INFORMATION COLLECTION AND MONITORING
There are surveys, forums, or other types of mechanisms where consumers can provide their feedback about the service provision	
Essential information and feedback about operators' performance are regularly collected	
There are public meetings, markets, or seminars, where consumers can learn about their rights	
There are mechanisms for active public engagement in the sector	
There are established consumer online complaint and information mechanisms/platforms	
PRIORITY for Monitoring: Established and transparent procedure exists for regular monitoring of the consumer contract and complaints	
There are regular and random annual audits to ensure operators' compliance with the consumers rights stipulated in the contract	ENFORCEMENT
Operators and consumers are alerted in a timely manner in case of irregularities	
Conflicts between operators and consumers are mediated and reconciled in a timely manner	
Consumers are reimbursed in case of validated compensation	
PRIORITY for Enforcement: Consumer protection is enforced through sanctions and rewards	
Established benchmarking reward mechanisms for operators achieving a high degree of consumer satisfaction are in place and implemented	
Service operators are legally engaged to comply with the contractual obligations	
Established infringement procedures and penalty mechanisms for operators' non-compliance with the contract are in place and implemented	

TARIFF SETTING CRITERIA	POWER
PRIORITY for Rule Definition: Criteria, rules and process for tariff setting are legislated along the Lisbon regulatory principles²	RULE DEFINITION
Tariff structures and service invoicing approaches are approved by regulator	
Tariff setting process includes a participatory dialogue with consumers	
Tariff setting process is based on actual costs of the provision of services and projected investments	
An established transparent process with rules and responsibilities for regular tariff adjustment is in place	
PRIORITY for Information Collection: Financial and operational information is regularly collected from operators and consumers	INFORMATION COLLECTION AND MONITORING
Established mechanisms are in place to collect information about operators' current and projected tariffs, and consumers' ability to affordably purchase alternative services	
Updated information on the economic status of operators is publicly available	
Consumers are informed about the tariff structure in a timely manner	
Operators' accounts and operational data are assessed by the regulator in its office, and through audits	
PRIORITY for Monitoring: Compliance with approved tariffs is regularly monitored	
Operators are systematically inspected on their tariff collection	ENFORCEMENT
Overcharged tariff amounts are reimbursed to consumers	
Operators are audited over several regulatory cycles at cluster and national level in order to identify their financial and operational performance trends	
There are monitoring mechanisms to oversee whether the approved tariffs correspond to real operator expenditures	
PRIORITY for Enforcement: Established administrative infringement procedure for tariff non-compliance is in place and implemented	
Operators are alerted and allowed sufficient time to correct their tariff non-compliance	
Operators who do not comply with the regulatory instructions beyond the grace period are sanctioned	
Tariff non-compliance penalties are transparent and range from loss of license to financial modalities	
The regulator manages each case of tariff non-compliance in a timely manner	
There are sanction mechanisms in place to allow only those operators with validated accounts to provide services	

²https://iwa-network.org/wp-content/uploads/2015/04/Lisbon_Regulators_Charter_SCREEN_EN_errata.pdf

COMPETITION CRITERIA	POWER
PRIORITY for Rule Definition: The regulatory framework is aligned with the competition legislation and policy	RULE DEFINITION
Established transparent procurement processes are open equally to public and private entrants to the water and sanitation market	
Competitive procedures and contract allocations are transparent and publicly accessible	
Only licensed and procured operators can compete within the market of service provision	
Regulators define competition and procurement rules for both informal and formal operators	
PRIORITY for Information Collection: The regulator supervises the sector competition by gathering relevant information	INFORMATION COLLECTION AND MONITORING
Changes in an operator's contractual status such as mergers or acquisitions are registered by the regulator in a timely manner	
Operators are obliged by their license to declare any change in their legal status	
There exists established publicly available information about competition policy and abuses	
The regulator coordinates and communicates its market findings with a national anti-monopoly authority	
PRIORITY for Monitoring: Established procedure and guidelines for evaluating open market competition are in place and implemented	
There are monitoring mechanisms in place to prevent operators from abusing a dominant position	
There are monitoring mechanisms in place to detect any kind of illegal state aid towards operators	
Market competition among operators is regularly inspected and measured against price and quality	
The monitoring mechanisms in place are shared with the national anti-monopoly authority	
PRIORITY for Enforcement: Established penalty mechanism for operators' anti-competitive actions is in place and enforced	ENFORCEMENT
Mandatory procurement or legal penalties are imposed on operators when in a monopoly position	
Mandatory reimbursement of illegal of state aid is imposed on operators in order to restore the market competition	
There exist mechanisms to compensate consumers for anti-competitive market abuses	
A national anti-monopoly authority supports a regulator when applying sanctions	

ENVIRONMENT CRITERIA	POWER
PRIORITY for Rule Definition: Rules are set on water abstractions and management of wastewater, faecal sludge, and effluent along the sanitation chain	RULE DEFINITION
Environmental duties are stipulated in the water and sanitation service operators' contracts	
National environmental norms are properly transposed into the WASH sector	
Water abstraction and discharge permits are issued by a regulator through a transparent process	
Wastewater and faecal sludge treatment, use/reuse and disposal standards and rules, are set in cooperation with other regulators (e.g., public health and service quality)	
Allowable discharges are transparently stipulated within the service contract	
Established environmental indicators relating to water and sanitation service provision are accessible to public	
Civil society is actively engaged in shaping the environmental sectoral policy relating to water and sanitation service provision	
Boundary zones are legislatively protected from illegal discharges	
PRIORITY for Information Collection: Established mechanisms are implemented for the collection, validation, processing, and dissemination of information about water abstraction, and wastewater, faecal sludge, and effluent discharges/use/reuse/disposal	INFORMATION COLLECTION AND MONITORING
There is equal treatment through a transparent procedure for all operators when applying for abstraction or discharge/use/reuse/disposal licenses	
There is an established and active national register of water resources abstraction and wastewater/faecal sludge discharge/reuse points	
There is a national register of substances allowed to be discharged in designated areas with permissible maximum limits	
Water and sanitation sectoral environmental related information is publicly available	
PRIORITY for Monitoring: Established monitoring mechanism for compliance with environmental norms by users and operators is in place and implemented	
There are monitoring mechanisms for water abstraction points and registration permits	
There is a transparent inspection procedure for analysing operator discharges	
There is open public access to the inspection reports for abstractions and discharges	
Established coordination between a regulator and a national environmental authority to share the data and procedures is in place and implemented	
PRIORITY for Enforcement: Established penalty mechanism for environmental sectoral misconducts is in place and implemented	ENFORCEMENT
Operators are prevented from making damage to the environment in a timely manner	
Operators' overall performance assessment includes its environmental records	
Service operators' environmental performances are publicly available through regulatory reports	
The regulator coordinates financial sanctions for environmental damages with the national environmental authority	

PUBLIC HEALTH CRITERIA	POWER
PRIORITY for Rule Definition: Rules are set around compliance with health-based standards and risk management approaches for ensuring drinking water safety and safe management of the sanitation chain	RULE DEFINITION
There are clear and transparent procedures in place for monitoring drinking water safety, including frequencies and locations, as well as analytical and reporting requirements	
A risk-based approach (e.g., Water Safety Plan, WSP) is applied to set health-based norms, including to identify and update priority drinking water safety parameters (including associated limits, monitoring frequencies and locations), and is required or promoted as a proactive risk assessment and risk management instrument by service operators	
Service operators are contractually bound by drinking water safety norms	
Drinking water safety norms and standards are publicly available	
Design and construction standards for septic tanks and pit latrines exist and meet public health standards	
A risk-based approach (e.g., Sanitation Safety Plan, SSP) is used to set health-based standards for safe wastewater and faecal sludge discharge, handling, and reuse, and is established as a proactive risk assessment and risk management instrument	
PRIORITY for Information Collection: Established mechanism for drinking water safety and safe sanitation product information collection, dissemination and review exists	INFORMATION COLLECTION AND MONITORING
There is a procedure for reviewing and reporting water suppliers' compliance monitoring results	
Water safety information is made available by service providers to regulators and consumers in a timely fashion	
There is an annual drinking water safety compliance report publicly available that includes statistics on infringements	
There is an incident response protocol, which specifies roles and responsibilities of different agencies, including for communicating relevant public health risks related to drinking water	
There is a transparent procedure in place for reporting safety standards of sanitation waste and reuse products and related health protection control measures	
PRIORITY for Monitoring: There are established surveillance mechanisms for drinking water safety and sanitation product safety compliance and for auditing Water Safety Plans and Sanitation Safety Plans	
There are clear and transparent procedures for monitoring drinking water safety, including frequencies and locations, as well as analytical and reporting requirements	
There are clear and transparent procedures in place for reporting on, and auditing, WSP implementation	
There are protocols in place to address exceedances and to alert service operators on non-compliance	
Authorized or accredited laboratories and service operators are regularly inspected	
There are protocols in place for addressing consumer complaints about water safety	
There are clear and transparent procedures for monitoring drinking water safety by the surveillance authority, including frequencies and locations, as well as analytical and reporting requirements	
There are clear and transparent procedures in place for reporting and auditing on SSP implementation	

Continued on next page

<p>PRIORITY for Enforcement: Established incentive and/or penalty system for (non)compliance in in place and enforced</p>	<p>ENFORCEMENT</p>
<p>There are established and enforced, transparent infringement administrative procedures for service operators when in breach of drinking water safety standards, safety of sanitation products or its use, or in breach of regulated WSP or SSP</p>	
<p>Incentive mechanisms are defined and implemented for excellence in compliance</p>	
<p>Sanctions are applied in a timely manner to avoid danger to public health, and maximise potential for remediation of damage</p>	
<p>Mechanisms are in place to regularly update regulations and supporting programmes based on the infringements and enforcement, as well as through broader consultations with stakeholders</p>	

THE
WASHREG
APPROACH

METHODOLOGY

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