



**Permanent Mission of Bosnia and Herzegovina
to the United Nations
at Geneva**

202-03-41-614/07

The Permanent Mission of Bosnia and Herzegovina to the United Nations at Geneva presents its compliments to the Secretariat of the United Nations High Commissioner for Human Rights and with regard to the OHCHR letter 0577 dated April 26th 2007 has the honour to herewith enclose the information provided by the Ministry for Human Rights and Refugees of Bosnia and Herzegovina referring to the Human Rights Council decision 2/104 of November 27th 2006 entitled “Human Rights and Access to Water”.

The Permanent Mission of Bosnia and Herzegovina to the United Nations at Geneva avails itself of this opportunity to renew to the Secretariat of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, June 22nd 2007

**SECRETARIAT OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

Geneva

Fax: 022 928 90 10

a) Positions in terms of international human rights commitments that need to be considered in terms of the approach to safe potable waters and sewerage

Water is a limited natural resource and a general good which is the staple item for human living and health. Implementation of the right to water requires ensuring of continued international cooperation and assistance for the purpose of exercise of the right to potable water internationally, with maximum respect for exercise of this right in other countries, primarily in the neighborhood, in the framework of international river basins, considering the surface and ground waters, that is, water sources, used or intended for use for drinking. In terms of the aforementioned, mutual respect for the right to water is required, meaning undertaking of such actions on implementation of the aforementioned right in the framework of a national jurisdiction which will not prevent another state in exercise of its own right under its own jurisdiction. Any embargo or other limitation of rights to potable water must be excluded. This obligation pertains not only to individual states as international law subjects, but to their citizens too, that is, to all legal entities seated in such state.

The regulations on waters and potable water in the Republika Srpska define the obligation to respect international provisions pertaining to water and access to potable water, as well as channeling of any natural entity.

Priorities shall include all activities aimed at ensuring of:

- access to minimum water that is safe and sufficient for household and personal use in order to prevent disease;
- access to water and water supply systems and provision of water supply services without discrimination in any form, including ensured physical access to water plants and services providing sufficient, continued and regular potable water supply;
- supervision of implementation or prevention of rights to water;
- prevention of threats related to contamination and pollution, or introduction of harmful and dangerous matters into waters;
- establishment of sanitary protection zones and protective measures for water sources used or intended for use for drinking, and
- other activities for implementation of the aforementioned activities.

b) National legislation or draft legislation pertaining to fair access to safe potable water and sewerage (constitution, separate laws, bylaws, etc), including those pertaining to provision of related services by the private sector

Based on constitutional authority, the Federation of Bosnia and Herzegovina passed a new Law on Waters (Official Gazette of the Federation of BiH, no. 70/06), resulting from the Water Sector Institutional Strengthening Project in Bosnia and Herzegovina, funded by the EU Commission.

According to the definition from the Law on Waters (hereinafter referred to as: the Law) as determined in Article 3, paragraph 1, water is a common good and as such is under special protection of the state (Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, cantons, cities and municipalities), and it is not owned by anyone, that is, it does not have the properties of other commodities, but it is a heritage that must be preserved, protected and treated appropriately. Water management, including potable water, is implemented by considering the best available technologies and new scientific accomplishments related to natural laws and best environmental practices, which has been integrated into the Law as a general principle.

In chapters V and VI, the Law contains provisions pertaining to use and protection of waters. Article 45, of the Law contains an explicit provision according to which everyone is entitled to use waters under the conditions provided for in the Law, including rational and economic use of water in the manner and scope preventing dissipation of water and harmful changes of its properties, including the legal right to use water for other persons. Article 46, of the same Law provides for common use of waters, and Article 48, contains the provisions relating to the quality of potable waters. According to the quoted Article, the quality of water used for drinking (water supply) must correspond to the requirements stipulated in the regulation on the potable water quality. Legal entities involved in the water supply are obligated to ensure permanent and systematic inspection of water, and undertake measures to ensure health safety of potable water and technical functionality of devices. Control of potable water shall be conducted only by the authorized laboratories meeting the legally prescribed requirements. Special records shall be conducted on captured waters. Article 65 of the Law contains provisions on protected areas, primarily of the areas intended for capturing of potable water. Article 66, of the same Law contains provisions on the potable water protection areas, including provisions pertaining to implementation of potable water sources protection by establishment of sanitary protection zones, sanitary and other requirements in specific protection zones, ban and restriction of activities and captures on the territory of such zones, financing of implementation of protection measures, authorities and legal entities in charge of implementation of decisions on sanitary protection zones, and penalty provisions in case of violation of the provisions of the decision on sanitary protection zones.

Pursuant to the Law, preparations are underway for passing of bylaws for its implementation. The Law on Waters is harmonized with the provisions of the EU Framework Directive on Waters (Directive of the EU Parliament and Council, no. 2000/60/EC), to a very high extent (over 80%).

The constitution of the Republika Srpska, Law on Waters, Law on Utility Activities, bylaws and enactments of the local community authorities, based on the aforementioned laws, define the general accessibility of water as a resource for any natural person, as well as the use of the community infrastructure.

c) Examples of court decisions pertaining to safe potable water and sewerage

Decision of the Constitutional Court of Bosnia and Herzegovina no. AP 112/93 dated August 26, 2004, (Official Bulletin of BiH, no. 48/04), Official Gazette of the Federation of BiH, no. 67/04), testing and confirming the fair procedure by the competent authorities in terms of addressing applications for concessions for potable water supply. The concession, or rather the procedure that was the subject of the appeal, ensured equal potable water supply for all residential areas.

It is the legal obligation of the administration authorities, the Ministry of Health, to check potable water quality as a food item, and in case its quality is not satisfactory, violation procedures are instituted, as well as those court ones. Court verdicts may also pertain to claims by persons who have suffered damage.

d) National action plans, development programs, state policies or urgent measures pertaining to access to safe potable water and sewerage

Pursuant to the Constitution of Bosnia and Herzegovina, all prerogatives that pertain to management of natural resources (including potable water), as well as to environmental

protection, are in the competency of the Entities, which is also specified in their respective constitutions.

NEAP has been adopted, for both Entities and for Bosnia and Herzegovina, which also addresses the potable water issues, there are development programs adopted by the Government of the Republika Srpska, which pertain to access to potable water and sewerage, there is established policy for this area, as well as urgent measures defined to ensure more complete building of infrastructure for potable water and sewerage in the Republika Srpska.

e) Effect of these national laws, court decisions, action plans, development programs, state policies and other measures in promotion or restriction of fair access to safe potable water and sewerage

The laws, court decisions, action plans, development measures and other activities aim at ensuring of standards and hygiene conditions for living and preservation of water as a resource.

In the Federation of Bosnia and Herzegovina, forthcoming is beginning of the implementation of the new Law on Waters, which has also stipulated new institutions in the form of water agencies.

Activities are underway for development and passing of the Water Management Strategy, which will determine the water management policy. Implementation of the Water Management Strategy requires passing of water management plans for the defined water areas (Sava Water Area and Adriatic Basin Water Area). The aforementioned plans shall on a mandatory basis contain specific goals which also include:

- summary review of the significant pressures and human activity impacts on the status of surface and ground waters;
- identification and maps of protected areas;
- maps of monitoring network and overview of the monitoring program results, used to monitor ecological, chemical and quantity status of surface and ground waters and protected water areas;
- goals of water management, including goals for sustainable water use, with timeframes for accomplishment of the stated goals,
- overview of the economic analyses of water use;
- overview of the program of measures also pertaining to overview of measures undertaken to establish monitoring of all sources used or planned for use for public water supply, the abundance of which exceeds 100 m³ per day, a summary overview of control of water capture and accumulation, including an overview of registries and stating of cases in which exceptions have been made, summary overview of completed controls of spot drains and other activities affecting the status of waters, and the like.

Establishment of specific effects of specific regulations, court decisions, action and other plans and measures requires definition of project tasks aimed at obtaining of data available to other management levels. The utilities, including potable water supply, according to the constitutional allocation of competencies in the Federation of Bosnia and Herzegovina, fall into the competency of cantonal authorities.

The effect of the laws, development plans, state policy and other decisions is to increase the scope of access to potable water and sewerage systems for each individual under similar

conditions.

f) Examples of concepts deemed to be “the best practices” related to access to safe potable water and sewerage

The concept as an example of the “best practice” related to access to potable water and sewerage is “Vodovod i kanalizacija” Banjaluka, Sarajevo, Zenica.

g) All other existing initiatives and standards pertaining to fair access to safe potable water and sewerage, scope and legal status of these initiatives

Initiatives started for fair access to potable water and sewerage and they are implemented pursuant to the established regulations, and there are no examples of rejection of such initiatives.