# INTERNATIONAL WORKSHOP ON MONITORING AND REGULATION OF WATER SUPPLY SERVICES IN RURAL AREAS IN BURKINA FASO

# Presentation per ESAWAS Regulators Association

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## 1. REGULATION OF WATER SUPPLY SERVICES

### 1.1. Definition, objective and role of WSS regulation

OECD define regulation as "Diverse set of Instruments used by government / non-governmental bodies to control some aspect of the behaviour of a private economic actor and supported by the explicit threat of punishment for non-compliance"

According to Oxford reference, regulation is "Explicit rules to govern behaviour that are enforced by specified institutions or agencies. In case of breach, sanctions can be imposed"

Form practical perspective, regulation refers to "Measures or interventions employed by the government or other competent authorities to govern/influence the behavior of a sector and the players in it".

#### **1.2.** Types of regulation

There are different types of regulation depending on the aspects that are regulated. These include:

**Economic regulation** – dealing with economic and financial aspects of WSS service provision: price, financing, accounting, management plans

**Technical regulation** – dealing with technical aspects of WSS service provision: Quality of service, water quality, performance, infrastructure and technologies

**Contractual regulation** – deals with the role of regulator in designing, modelling and implementation of agreements between players (owner and provider, provider and consumer, between providers) for WSS service provision

**Environmental regulation** – deals with environmental protection: prevention of pollution/contamination of environment

Social regulation - concerns with pro-poor approaches and social inclusion in WSS service delivery

**User interface regulation** – deals with consumer protection, education, management of complaints, social engagement.

Regulation can also be differentiated as urban regulation for urban service regulation and rural regulation dealing with rural WSS service provision. Regulation can also concern public or private depending on whether the services are provided by public entities of private operators.

#### 1.3. Objective and role of WSS regulation

The objective of regulation is to formalize the sector, provide clear guidance for those working within it and monitor the performance of the sector.

Regulators have the role of **balancing the interests** of Government (ensure that policies are implemented and citizens aspirations are met), of service providers (ensuring the sustainability of service through cost recovery in the long-run) and of consumers (ensure the quality of service at fair value).

The ultimate goal of regulation is to **ensure access to high quality, sustainable and affordable WSS** services for all.

## 1.4. Enabling environment of WSS regulation

For regulation to be effective and achieve its mandate, there should be an enabling environment which include:

**Policy framework** that provides strategic guidance for WSS service provision. It should be aligned with other government agendas (public health, environmental protection, etc). It is the policy framework that defines the WSS sector regulation.

**Legal framework** that provides legal basis for WSS services provision, Service quality standards, responsible institutions and the establishment of the sector regulator

**Institutional framework** that clarifies the roles and responsibilities of different institutions, coordination and accountability mechanisms and highlights the regulatory oversight of WSS service provision.

The policy, legal and institutional framework defines the legitimacy of WSS regulation. The framework also determines the functions, powers and competencies of the regulator.

### 1.5. Models of WSS regulation in Africa

The WSS regulatory landscape study conducted by ESAWAS across Africa revealed that most countries have a mixed regulatory arrangement based on multiple regulatory models. Four predominant regulatory models were identified. The predominant regulatory model refers to the regulatory model under which the primary service provider in each country is regulated.

**Regulation by agency** (37%) - A regulatory body (semi-) autonomous from the government has discretionary powers to regulate WSS or aspects of WSS. This regulatory agency can be mandated to perform a specific set of functions (i.e., economic regulation) or hold a more comprehensive set of powers for regulating WSS service delivery

**Ministerial regulation** (33%) - A ministry is tasked with performing some or all regulatory responsibilities for WSS.

**Regulation by contract** (28%) - A public entity and a service provider agree on contractual clauses that determine how key aspects of WSS service provision are defined and controlled, such as tariffs and service standards.

**Self- regulation** (2%) - A service provider (typically a public utility or unit of local government) provides WSS services and is legally mandated to perform regulatory activities upon itself.

In some countries like Mozambique, regulation by contract is combined by supervision of an independent regulator. The regulator sets the tariff/ approves tariff agreed upon by contracting parties and may provide standardized terms and conditions of the contract. This form of regulation is referred to **Hybrid Regulation**.

### 2. COMPLIANCE MONITORING

### 2.1. Understanding compliance monitoring

Compliance monitoring is the process employed by the regulator to help the service provider to achieve regulatory compliance which ultimately leads to improved service provision. The entire process entails 3 main steps:

**Compliance monitoring** - Continuous assessment of service provider's adherence to existing regulatory requirements and standards

Compliance reporting - Compiling and communicating the findings and recommendations

**Compliance enforcement** - Application of mechanisms (sanctions/incentives) to redress the fault and improve the performance

Compliance of service providers is checked against the sector law and other statutory instruments, the license conditions, the general requirements for operations and behavior, the standards in place such as water quality standards and Service Level Guarantees – quality of service targets, minimum acceptable service levels.

#### 2.2. Methods of compliance monitoring

**Periodic reporting** – the service provider is required to submit reports on its operations on a regular basis (monthly, quarterly, annually) as set by the regulator

**Annual sector performance report** – providing the status of sector performance as a result of combined performances of service providers in different predefined key performance indicators.

**Inspections** – Visit conducted by authorized regulatory staff to licensed service provider's sites or premises to check and examine their operations or documents related to the regulated services being provided and assess their compliance with regulations and license conditions.

The objective of inspections is to assist the service providers take appropriate measures to comply to regulatory requirements, prevent infringement and improve their operations.

#### 2.3. Types of inspections in WSS

**Scheduled inspections** - Routine inspections conducted at specified period of time/regular intervals as per annual inspection plan already communicated to service providers.

**Unplanned inspections** - Adhoc inspections conducted in case of emergency to assess the extent of the problem and take necessary measures to address the issues. Eg: case of contamination of water.

**Follow up inspections** - Conducted to verify the implementation of the recommendations from previous inspections. These inspections may or may not be planned and communicated to the concerned service provider.

**Technical inspections** – look at technical aspects of service provision such as infrastructure conditions, quality of service standards, technical efficiency in terms of processes, NRW, metering, etc; asset management including maintenance of infrastructure and facilities.

**Commercial inspections** – deal with customer-related operations such as customer base, tariff structure, billing, collection and customer complaints management.

Financial and Human Resources inspections – check the financial sustainability and staff capacity of the service provider. These include aspects such as expenditure (costs) management, revenue management, business plan, strategic plan, accounting procedures, procurement procedures and human resource management.

# 2.4. Inspection process

## Inspection planning

- Elaboration of an annual inspection plan
- Organization of preliminary information
- Definition of components to be inspected
- Communication to providers and other main stakeholders
- Action plan for on-site visit
- Instructions for carrying out inspection

### Execution of inspection entailing the following:

- Opening meeting at the service provider to present the purpose of inspection, what will be inspected, required staff, etc
- Inspection of technical, commercial, financial and HR aspects
- · Field inspection to check the infrastructure, field operations
- Collection of evidence: photographic records, reports and other documents
- Identification and registration of non-compliance
- Closing meeting at the service provider to agree on the findings

**Inspection report** highlighting the inspected service provider, inspected component, findings with evidence and recommendations for the way forward based on the findings

**Issuance of directives and orders** which are actions to be taken by the service provider to address the identified non-compliances

### 3. RURAL WATER SUPPLY

### 3.1. Rural water supply systems

Population in rural areas get water through:

- Piped water sources standpipes (communal/public taps, private-household connections) and water kiosks
- Protected dug wells
- Borehole / Pumped wells
- Springs
- Rainwater harvesting systems

## 3.2. Key challenges of rural water supply

#### Fragmentation

- Different types/systems/models
- · Many actors investment, asset ownership, management

### Lack of appropriate regulatory framework

• Rural water supply can't be regulated the same way as urban water supply

## Limited technical, human & financial resources

- Infrastructure supply, quality control
- Professional service provision
- Rural water supply depends largely on external investments for infrastructure
- Sustainability of service low revenues from tariff/charges

#### Lack of data for decision making

- Data collection tools & management systems
- Coverage per system
- Functionality of system

## 3.3. Rural water supply in Rwanda

The rural water supply sector in Rwanda has been evolving over the years since 1964 with the following key milestones:

1964 – Delegation to **Association Internationale pour le Developpement Rural** (AIDR) to construct, operate and manage all rural water infrastructure. Service provision was free

1984 - **Transfer of rural water infrastructure to communes** (districts) due to increase in infrastructure and to incorporate beneficiaries' participation

1987 - **Presidential law no 291/11 of 15<sup>th</sup> May 1987** transferring the ownership of water supply infrastructure management to Districts

1994 - Creation of 3 management models: **Regie Associative** (Community-Based Management), **Regie administrative** (management by districts and **Regie professionnelle** (management by private operators)

2004 - **New water policy reinforces PPP** following the assessment indicating that schemes managed by private operators functioned well while CBM has failed.

2009 - **Sector Wide Approach (SWAp)** – partnership between government and development partners to strengthen inter/intra sectoral coordination and rationalization of DPs initiatives.

2010 - WSS policy stipulated **Districts as owners of WSS infrastructures**, reinforced the **PPP as the standard way** to operate piped WS schemes in rural areas and revenue collection based on metered consumption

2014 - Water supply and Sanitation Corporation (WASAC) was created with a specific directorate (RWSS) to empower Districts and to ensure the sustainability of water and sanitation infrastructure and services

2023 - The national policy for water and sanitation gave **full responsibilities of WSS to WASAC across the entire country** with possibility of delegating rural water supply services to private operators (youth companies)

Institutional arrangement for rural water service in Rwanda

Policy, planning and design – led by the Ministry of Infrastructure (MININFRA) in collaboration with WASAC, the Water and Sanitation Corporation and the Districts especially for planning and design for water supply infrastructure.

Construction of rural water supply infrastructure – led by WASAC in collaboration with public sector, NGOs, and the private sector.

Management and Operation of rural water supply systems – this is the overall responsibility of WASAC. However, the utility can delegate the management of rural water supply systems to private operators under the delegation contract signed between WASAC, District and operator.

Financing – rural water supply sector is financed through government budgets, contributions from development partners (AfDB, WB, etc.), NGOs and Revenue from water bills.

Regulation and supervision of service provision – this is done by Rwanda Utilities Regulatory Authority (RURA) through issuance operating licenses to WASAC & private operators, approval of rural water tariff, setting service quality standards and monitoring compliance with regulation and quality standards.

The monitoring of rural water supply in Rwanda involves water quality monitoring, implementation of water safety plans, establishment of monitoring indicators appropriate for rural water, sector performance report and Management Information System (MIS).

## 3.4. Key considerations for effective rural water supply

Adaptive Regulatory Frameworks designed to respond to specific conditions of rural areas: light regulation, differentiated pricing and service delivery models and governance systems that encourage community participation.

**Clarity of roles and coordination**: clear roles of different involved stakeholders and intervention coordination mechanisms

**Strengthening local capacities**: capacity-building for local authorities and service providers in financial & technical management of rural water supply systems

**Promote simple and resilient technologies**: adoption of technologies suited to rural areas, considering local realities. Eg. solar-powered pumps.

**Inclusive tariffs**: differentiated pricing systems based on the payment capacity of rural populations, while ensuring sustainability of service provision

**Sustainable financing mechanisms**: encourage innovative financing approaches for operation and maintenance while the government secure funds for infrastructure. Eg. Urban – rural water cross subsidization

