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Institute for Natural Resources in Africa

COUNTRY REPORT - FRANCE

REVIEW OF THE STATUS OF THE  
DOMESTICATION OF THE  
HUMAN RIGHTS TO WATER  
AND SANITATION, AND  
MEASURES TO LNOB IN WASH  
IN EIGHT COUNTRIES IN  
AFRICA, ASIA AND THE PAN-EU-  
ROPEAN REGION.



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## FOREWORD

Ironically, the 10th anniversary of the recognition of the Human Rights to Water and Sanitation (HRWS) (UNGA Resolution 64/292, 28th July 2010), coincided with the outbreak of the COVID-19 pandemic which requires access to sufficient water for regular handwashing and hygiene as a critical preventive measure. It also coincides with five years after world leaders committed to achieving targets 6.1 and 6.2 within the framework of the United Nations Sustainable Development Goals (SDGs). The synergies between SDG 6 and other SDGs call for urgent actions as the achievement of this goal will contribute to poverty reduction, good health and wellbeing, education, gender equality, and the reduction of inequalities among societies.

However, billions of people globally still lack access to safely managed drinking water, sanitation services and basic handwashing facilities. In particular, vulnerable and marginalised groups such as persons with disabilities, the elderly, children, women, homeless people, migrants, LGBTQ, etc. suffer various forms of discrimination and are being left behind in accessing water and sanitation services. To facilitate the realisation of the HRWS and Leave No One Behind (LNOB) in accessing safely managed water and sanitation services, urgent action is needed from all relevant WASH stakeholders at local, sub-national and national levels. Knowledge of the progress made by different countries in integrating and implementing HRWS principles is essential for devising targeted interventions in the WASH and related sectors. Providing development partners and other stakeholders with information on various LNOB groups and identifying reasons why they are left behind in WASH service provision is critical for sustainable development.

The Water Supply and Sanitation Collaborative Council (WSSCC), in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the World Health Organisation (WHO) and the United Nations Economic Commission for Europe (UNECE), contracted the United Nations University Institute for Natural Resources in Africa (UNU-INRA) to coordinate a review of the status of the domestication of HRWS in eight countries in Africa (Kenya, Mali, Nigeria, Uganda), Asia (India, Nepal) and pan-European region (France, Serbia). The respective national reviews were conducted by eight national experts from the sample countries under the technical leadership of the UNU-INRA team led by Fatima Denton, Director, with support from Gifty Ampomah and Gerald Forkuor of UNU-INRA. Further support was provided by Raya Marina Stephan, Japheth Mativo Nzioki and Lina Taing as part of a research co-ordination team. Enrico Muratore Aprosio, WSSCC Technical Expert -Leave No One Behind/Equality and Non-Discrimination/Gender, project manager, ensured the overall technical supervision of the research project. Barbara Mateo, LNOB consultant and technical editor, provided invaluable support both in her extensive commentary and in identifying gaps in the project findings. James Wicken and Rockaya Aidara also provided support from WSSCC. The project also benefitted from the technical review and assistance of Rio Hada (OHCHR), Diane Guerrier and Valentina Paderi (UNECE) and Fiona Gore (WHO).

The national reports offer insights on left behind populations, their level of access to WASH and factors affecting their exclusion from intrinsic rights to water and sanitation. Existing institutional mechanisms and how various stakeholders collaborate in providing WASH services to hard-to-reach populations are elaborated. Recommendations on the role of different stakeholders - duty bearers, rights holders, development partners, civil society organisations, etc. – and the capacities needed to reach LNOB groups and facilitate the realisation of HRWS are provided. Best practices from the sample countries which can be replicated in other countries are showcased. These are complemented with highlights on existing opportunities for further programmatic ideas and implementation of activities. The consideration by countries of these recommendations, opportunities and best practices can contribute to accelerated efforts towards the realisation of HRWS and the achievement of SDG 6.

The national reports form the basis for developing a WASH LNOB manual intended primarily for use by United Nations Country Teams (UNCTs) in supporting efforts of countries in realizing the human rights to water and sanitation. The manual details how UNCTs, in collaboration with key policy, implementation and realization stakeholders they support, can facilitate the operationalization of a LNOB process in the WASH sector via a rights-based approach.

## ACKNOWLEDGEMENTS

I am very grateful to the UNU-INRA team for the opportunity they have given to me to participate in this project as the national expert for France, and to prepare this study on a very challenging, important and timely topic.

I would also like to thank all the interviewees for their involvement, for having enthusiastically agreed to my requests for an interview and agreed to respond to my queries by devoting some of their time to providing me with information and documentation. Finally, I would like to give a special mention to Marie-Laure Vercambre, Director of the French Water Partnership, who encouraged this study and gave from up her time to introduce me to many of the actors in the water and sanitation sector in France.

## LIST OF ABBREVIATIONS

AFD	Agence Française de Développement
CICID	Comité Interministériel de la Coopération Internationale et du Développement
COVID 19	Coronavirus Disease of 2019
CSOs	Civil Society Organizations
DIHAL	Inter-ministerial Delegation for accommodation and access to housing
HRWS	Human Rights to Water and Sanitation
IWRM	Integrated Water Resources Management
LNOB	Leave No One Behind
MAM	Mutual Accountability Mechanism
NGOs	Non-Governmental Organizations
OMS	Organisation Mondiale de la Santé
SDGs	Sustainable Development Goals
SEDIF	Syndicat des Eaux d'Île de France
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNICEF (JMP)	United Nations Children's Fund Joint Monitoring Program for Water Supply
UNICEF	United Nations Children's Fund
WASH	Water, Sanitation and Hygiene
WHO	World Health Organization

## EXECUTIVE SUMMARY

France is a country where the vast majority of the population has access to drinking water and sanitation. Some LNOB groups who are homeless or living in precarious habitats do not benefit from this overall picture of access. The situation in the overseas territories (Guadeloupe, Martinique, Guiana, La Réunion, Mayotte and Saint Martin) is different, with higher percentages of people lacking access to water and sanitation.

Local governments are responsible for the provision of drinking water and sanitation. They decide on a drinking water distribution plan determining the zones served by the distribution network. Administrative judges often order local governments to provide water and sanitation to camps and slums, following the actions of NGOs.

France is a party to various international instruments and processes recognizing the HRWS (e.g. UNECE – WHO Regional Office for Europe Protocol on Water and Health (1999), SDGs). It has incorporated the HRWS into its international development policy and action.

The French constitution does not contain an explicit reference to the HRWS, but it does recognize the right to decent housing. France acknowledges various international instruments and commitments recognizing the HRWS. In its national legislation, recognition of this right was subject to an evolution. In 2006, the law recognized that “the use of water belongs to all, and each physical person has the right to access drinking water for purposes of food and hygiene in economic conditions that are acceptable to all” . In 2007, another law prohibited water being cut off in case of non-payment of bills. In 2013 the social water tariff was introduced as an experiment, which can be adopted by the local governments on a voluntary basis. It was introduced generally in a law of 2019.

In order to deal with the particular situation with the overseas territories, a management plan, EAU-DOM, was adopted for implementation locally on a case-by-case basis by both local and national stakeholders.



## 1. INTRODUCTION

### 1.1. Overview of WASH, HRWS and LNOB in France

#### 1.1.1. WASH Institutions and Main Stakeholders

The main institutions and stakeholders involved in accessing the water and sanitation sector in France are:

##### 1. At the government level:

- The Ministry of Ecological Transition is in charge of water management, sanitation, protection of water resources, managing droughts etc.
- The Inter-ministerial Delegation for accommodation and access to housing (DIHAL in its French acronym) includes representatives from the Ministries of housing, health, interior, national education, justice and employment: its mission is to coordinate, promote, implement and support public policies and priorities related to housing and access to it for the homeless or those living in very bad conditions, including squats, camps and slums.
- The Ministry of Health is the focal point for the Protocol on Water and Health, jointly serviced by the United Nations Economic Commission for Europe (UNECE) and the World Health Organization (WHO) Regional Office for Europe.
- The Ministry of Foreign Affairs is in charge of implementing the International Strategy for Water and Sanitation.

##### 2. Local governments are responsible for water and sanitation in their own areas.

One other government institution, the French Development Agency, it implements France's policy in the areas of development and international solidarity, and is a key partner for access to water and sanitation in the French overseas territories)

Other key actors:

- Water-service providers
- NGOs (relief and humanitarian)

These institutions and key actors play their own roles and have their own responsibilities regarding the human rights to water and sanitation, either singly or in close collaboration with each other.

#### 1.1.2. LNOB Groups/Categories

There are no aggregated data in France about LNOB groups, nor are the latter differentiated in the laws.

According to the Joint Monitoring Programme's OMS/UNICEF report (2019)<sup>1</sup> of the 64.8 million people in metropolitan France (excluding the overseas populations), 2.1%, or about 1.4 million, do not have access to a safely managed water service but only to basic services (Coalition eau, Decryptage, 2020).

The same source records that 88.4% of the population of the French metropolitan territory have access to safely managed sanitation, which means that 7.5 million do not have such access and 6 679

<sup>1</sup>The World Health Organization (WHO)/United Nations Children's Fund Joint Monitoring Program (JMP) is responsible for global monitoring of the Sustainable Development Goals (SDG) related to WASH. It produces internationally comparable estimates of progress in providing drinking water, sanitation and hygiene (WASH). The 2019 report presents updated national, regional and global estimates for WASH in households for the period 2000-2017.



023 have access to elementary facilities only<sup>2</sup>, whereas 877 217 have access only to limited services (the vast majority in urban areas).

In the overseas territories the WASH and HRWS situations are much worse (Progress Report on SDGs 2018):

- In Guiana, 7% of the population does not have basic access to drinking water, 6% to hygienic sanitation, and at least 15% are not connected to the public drinking-water networks.
- In Polynesia, 3% of the population does not have access to basic sanitation; on Réunion, 1% do not have access to improved water sources, and 1% lack basic sanitation.
- In Mayotte, 22% of the population do not have running water.
- In Guiana, the lack of access to water and sanitation appears mostly to be an issue related to housing. When living in a decent accommodation, even the poor have access to water and sanitation. The problem in this latter case is financial, that is, the ability to pay water bills. Moreover, achieving decent housing conditions is strongly related to social factors, such as social integration and being employed, factors that imply possession of the necessary documents.

According to the 2019 JMP report (Coalition Eau, Décryptage, 2020):

- In Guiana 4.5% of its inhabitants (about 35 000 persons) do not have access to elementary drinking water services, and 3.4% (about 26 000 persons) lack access to improved sanitary facilities. About 16 000 persons drink surface water, and 4 700 practice open-air defecation.

There is no one source of data, so providing figures for the size of the LNOB population is a challenge. There is no system of data collection specific to access to water and sanitation by marginalized and vulnerable groups. These groups would fall under various categories, such as bad housing or reliance on welfare, etc. However, these data are scattered and cover various situations regarding access to water and sanitation.

Government programmes, such as the Inter-ministerial Delegation for accommodation and access to housing (DIHAL in its French acronym), or NGOs active with vulnerable populations (Fondation Abbé Pierre), have produced studies containing estimates of the population living in slums or without adequate housing or other accommodation.

According to the report produced by DIHAL in 2018 on the situation in the slums (with figures collected by the representatives of the programme in each department), 16 090 persons (5 357 in the Ile-de-France region and 10 733 elsewhere) live in 497 sites considered to be slums. 41 departments are involved in metropolitan France. The report states that 72 sites have access to water (out of 224 sites for which information is available).

In its last annual report on bad housing, the Fondation Abbé Pierre estimates that about four million persons suffer from bad housing or the lack of proper housing. Besides these situations, representing the worse cases, 12.1 million persons are affected to various degrees by the housing crisis. These estimates are based on the last edition of the National Survey on Housing from 2013.

The lack of physical access to water and sanitation mainly concerns a vulnerable population living in temporary camps or slums, such as migrants seeking asylum and regularization in France, or waiting to enter another country such as the United Kingdom), the Roma, as well as homeless people living in squats or on the streets. This is mainly a socio-economic issue. Another category of the population, although in receipt of water and sanitation services, suffers from the problem of affordability,

<sup>2</sup>This figure includes the population which has access to autonomous sanitation facilities but which do not satisfy contemporary standards and are therefore not considered as "safely managed".

as the water bill represents significant part of the budget (in 2015 it was estimated that about a million households out of 28 million could not afford to pay their water bills). This fact will reappear throughout the report.

It is worth noting that during the COVID-19 pandemic, the obligation of solidarity and the protection of public health have prevailed. Before the crisis, 20% of the camps and slums had access to a water source, now they are about 70% (in metropolitan France) (according to DIHAL and one of the interviewees). However, the figure is questioned by NGOs because some “new” water connections represent, just a pipe or a tap 500 meters from the housing site. Nevertheless, the crisis has played the role of raising awareness, and putting at the core front the issues at stake.

An interministerial (Ministries of solidarities and health, Interior and Lodging) Instruction was adopted on March 2020 related to the “support and assistance for the precarious population in front of the COVID 19 pandemic”. This Instruction is addressed to the representatives of the State in the departments who are requested to take the following actions:

- Mapping of the drinking water points in close collaboration with the local collectivities. This mapping has to be known by the professionals and concerned persons
- The homeless need to have access to sanitary and shower services
- Schools, swimming pools or gymnasiums can be made accessible
- Free access to laundromats for the homeless

## 1.2. Overview of Assignment

The purpose of the assignment is to take stock of national integration of the human rights to water and sanitation in France and to identify gaps and challenges. The report will focus on:

- Analysing integration of the human rights to water and sanitation in national and local legislation, policies, strategies, plans, programmes, budgets and monitoring.
- Identifying gaps, challenges, solutions and best practices.

In addition, the report will present national gaps and challenges, lessons learnt and in particular best practices and innovations.



## 2. METHODOLOGY

### 2.1. Data Collection Methods

Most of the data used in this report were collected through interviews, for which the informants are duly thanked. The interviewees provided information and testimonies orally about their work and their experience in the field, and they also conveyed documents such as studies and reports and indicated sources. The laws and other legal and policy instruments were accessed directly on the internet.

### 2.2. Key Informants

I was able to interview various actors involved in the water sector or in assisting vulnerable groups, and playing a role or having good knowledge of the situation regarding access to water and sanitation in France. These actors cover the following sectors, and are thoroughly representative of the situation in France:

1. Government: Ministry of Ecological Transition, Ministry of Foreign Affairs
2. Social services for local governments
3. Private water-service providers
4. Public drinking-water provider
5. NGOs
6. French Development Agency
7. Expert and advocate of access to water and sanitation

The full list of the interviewees is provided in the appendix.

Most of the interviews were conducted remotely because of the epidemic and consequent restrictions. Moreover, at the time of the assignment, it was difficult to get hold of other potential interviewees because of their busy schedules (especially after the lockdown) at a time of summer breaks, not to mention the time restrictions placed on this assignment.

However, the interviews and the documents discovered and collected provide a good overview of the situation in France and meet the requirements for the report. No direct interview was conducted with LNOB groups mainly because of the restrictions and time constraints. Also, not all groups are necessarily "visible", such as the poor living in social housing or other accommodation, or those benefitting from or eligible to draw financial help from social welfare to cover water and sanitation expenses.

### 2.3. Limitations

Two main limitations were encountered in the preparation of this report:

- Time: this constraint had two aspects:
  - Availability of the informants: informants were busy, especially after the lockdown, and because of both the COVID-19 crisis and the summer break.
  - Not all the data collected could be used in the report, for example, detailed case studies, since the implementation of best practices varies from one local area to an-

other (another constraint here is the report's length)

- COVID-19 crisis: at the time of the interviews, face-to-face meetings were still very limited, if they were even possible.



### 3. FACTORS DRIVING THE CHANGE TO HRWS

In, three factors have been identified as driving change in matters related to HRWS, related respectively to history and culture, governance and socio-economic aspects.

#### 3.1. Historical and Cultural

France has a long history of recognizing human rights. Its famous Declaration of Man and the Citizen dates back to 1789, just after the Revolution, and is still in force today, as part of its current Constitution. Similarly, the Preamble to its previous constitution, the Constitution of 1946, which includes recognition of and attachment to various social rights, is also attached to the current Constitution. In particular, the Preamble to the 1946 Constitution recognizes the right to decent housing (see below), which has been interpreted by the courts as including access to water and sanitation. The Council of State has even condemned the Ministry of Interior and the city of Calais for failings with respect to the general “constitutional principle of safeguarding human dignity”. This constitutional principle is referred to in various cases “in the absence of a specific text”.

The country remained engaged at the international level and is Party to more than one treaty related to Human Rights. France has supported adoption of the Resolutions on the Human Rights to Water and Sanitation.

This cultural and historical attachment to human rights generally has contributed to the development and progressive realization of the human rights to water and sanitation in France.

#### 3.2. Socio-Economic Factors

The lack of access to water and sanitation mainly applies to vulnerable populations living in temporary camps or slums, such as migrants (seeking asylum and regularization in France, or waiting to enter another country such as the United Kingdom), Roma, and homeless people living in squats or on the streets.

Vulnerable and poor populations living in social or other types of housing connected to water networks are in a better situation regarding the HRWS, since they continue to have access to water, even when they cannot pay for it, as cutting off water is prohibited in the case of non-payment of invoices. The issue here is affordability, which public policy is working to resolve.

As will be detailed below, having due consideration to the situation of the households concerned, specific financial social measures are in place to cover these debts. Furthermore, one law has launched an experiment in respect of a social water tariff, which can be adopted by local governments if they choose to do so, using their own methods.

### 3.3. Governance

Law n° 2006-1772 of 30 December 2006 on Water and the Aquatic Environment, Article 54, introduced article L2224-7-1 in the General Code of Local Governments, confirming a long established practice regarding the distribution of water. The article establishes the competence of local governments in the provision of drinking water, with distribution as a mandatory mission. Production, transport and storage, however, remain non-obligatory. The article also provides that in the framework of their competence in providing drinking water, local governments decide on a drinking water distribution plan determining the zones served by the distribution network.

Therefore the territory of a local community is divided into two: the zones served by the distribution network, and the zones that are not. The last sentence of article L2224-7-1, added by law n° 2020-105 of 10 February 2020, relates to the struggle to control waste and to the circular economy (article 107). It mandates that the distribution plans mentioned above to define zones where it is appropriate to install drinking-water fountains. The purpose of adding this sentence is to offer the population an alternative to drinks in plastic bottles when they are outdoors (Assemblée Nationale et Sénat 2020). At the same time, these fountains can represent a source of drinking water for people in need, though they do not allow access to proper hygiene.

The 2006 law also introduced article L. 2224-8 in the same Code as that mentioned above, affirming the competence of local governments regarding sanitation.

Public water and sanitation services are financially managed like industrial and commercial public services (article L2224-11), meaning their budgets need to be balanced in respect of costs and income (article L2224-1). They can be managed either directly by a corporation managed or leased or granted, as the local government authority decides.

Therefore, local governments have an obligation to provide water and sanitation in the zones served by the network. In the other zones, such as slums or camps, there seems to be no legal obligation to provide these services, though the courts have derived such obligations from other provisions, as detailed below.

Recognition of the human rights to water and sanitation has also made progress in France thanks to case law.

In 2015, the Constitutional Court (Decision n° 2015-470 QPC, 29 May 2015), which includes among its competences checking the conformity of any law to the Constitution, has judged that the prohibition on cutting off water for non-payment, which appears in article L115-3 of the Code of social

action and families, is in conformity with the Constitution. In its decision, the Court refers mainly to the Preamble of the 1946 Constitution in its sections 10 & 11 (see below).

In France an administrative jurisdiction exists with the mission of protecting citizens against the abuses or mistakes of the administration. It is composed of three levels of jurisdictions: the administrative tribunals (42 in total, including in the overseas territories), the administrative court of appeal (eight in total), and at the highest level the Council of State, which acts as the supreme court, as well as advising the government over proposals for bills, ordinances and regulations.

The administrative jurisdictions are often involved in cases concerning refugees, migrants and other vulnerable populations living in camps and slums. They become involved at the initiative of non-governmental organizations supporting the inhabitants of camps and slums in claims against the city on the territory where they are based, a state representative and/or a Minister. These claims concern various issues related to the situations of refugees and migrants, such as providing information on the procedures regarding the right of asylum, giving special care and attention to unaccompanied under-age young people, and providing housing solutions, or at least proper access to water services, including showers and sanitation, and ensuring the separation of men and women. Numerous cases have been decided by administrative tribunals ordering the local government and/or the state representative to ensure sufficient access to water facilities and sanitation. In their decisions these administrative tribunals refer to the European Convention on Human Rights (which includes an article providing that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment" (article 3)) and to the Constitution (including the Preamble: see below). For example, the tribunals and, after them, the Council of State have judged that "the consideration given by the public authorities to the migrants living on the site (in Calais) regarding their hygiene and their access to drinking water remains obviously insufficient and reveals a deficiency which can expose these persons, in a characteristic manner, to inhuman or degrading treatments, creating a severe and certainly illegal infringement of a fundamental freedom" (own translation). The judges added that "in the absence of a specific text, it behoves the authorities holding the general police power, vouching for the constitutional principle of safeguarding human dignity, to ensure mainly that the right of each person not to be subject to inhuman or degrading treatments is protected" (own translation) (Council of State 31 July 2017, City of Calais, Minister of State, minister of Interior).

UN human rights experts (including Leo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation; Mr. Felipe Gonzalez Morales, Special Rapporteur on the human rights of migrants; Ms. Leilani Farha, Special Rapporteur on adequate housing) have urged the Government of France to devise long-term measures to provide access to safe drinking water and sanitation for migrants in Calais and other areas along the northern French coast.

During the recent lockdown because of the COVID-19 pandemic, cases were brought to administrative tribunals of populations living in camps or slums without access to water and sanitation. The available water and sanitation facilities were at a distance these populations could not access because of the rules imposed under the lockdown and the emergency law. "Considering the specific situation of emergency due to the sanitation crisis," the administrative judge ordered the local governments concerned to ensure the supply of drinking water and sanitation facilities (including shower cabins and restrooms) within close proximity, based on the same arguments as above. The judge ordered also the distribution of "sufficient quantities" of masks and hydro-alcoholic gel to limit the spread of the pandemic in the camps. In most of the cases, the judge's ruling is being implemented.

## 4. DOMESTICATION OF HRWS IN FRANCE

### 4.1 Government Obligation

The government is bound by its international commitments, which need to be translated in its national legislation and frameworks, including its national framework.

#### 4.1.1. National Instruments and Frameworks

France has not included explicit recognition of the human rights to water and sanitation in its national legislation. However, through various pieces of legislation and judicial decisions, it has achieved progress towards such recognition and implementation.

##### i. Constitution

In its Preamble, the French Constitution (4 October 1958) affirms its attachment to Human Rights, as defined in the Declaration of Man and the Citizen (1789) and the Preamble to the previous Constitution of 1946. These two instruments remain attached to the actual Constitution.

The most important text regarding the HRWS is the recognition of the right to decent housing in the Preamble to the 1946 Constitution. This right is deduced from section 10, which claims that the Nation ensures to the individual and to the family the necessary conditions to their development; and section 11, according to which the Nation guarantees to all, in particular to the child, the mother and the elderly, work, health protection, material security, rest and leisure; and to all human beings, who, because of their age, physical or mental state, or economic situation are unable to work, have the right to obtain from the community decent means for living.

##### ii. Legislation and Laws: The Principle

The Law on Water and the Aquatic Environment (2006) includes in the Environment Code an article stating: "Water belongs to the common heritage of the nation. Its protection, its enhancement and its development as usable resource, within respect to natural balance, are of general interest.

In the frame of laws and regulations, as well as previously established rights, the use of water belongs to all, and each physical person has the right to access drinking water, for purposes of food and hygiene, in economic conditions acceptable by all" (own translation) (article L210-1).

The article includes elements of the definition of the right to water as it appears in Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights (2002):

- the water is safe: the article mentions "drinking water"
- it is sufficient, since the article mentions "for purposes of its food and hygiene"
- it should be affordable, i.e. available at "economic conditions acceptable for all"

##### Prohibition from cutting off water

Article L115-3 of the Code of social action and families includes a prohibition on cutting off water. The article states that suppliers of electricity, heating, gas and water to a main residence cannot interrupt their services for non-payment from 1st November of each year to 15 March of next year in the case of families benefiting from a favourable decision granting them assistance from the Sol-

idity Fund for Housing. However, regarding water suppliers, the prohibition applies to the whole year. This version of the article is contained in Law n° 2007-290 of 5 March 2007 introducing the enforceable right to housing and containing various measures in favour of social cohesion (article 36). Therefore, under this article water cannot be cut from a household, even if water bills have not been paid.

### **Social Financing**

In its first part, this same article L115-3 of the Code of social action and families recognizes that each person or family proving they are experiencing specific difficulties, regarding notably assets, insufficiency of resources or living conditions, has the right to receive assistance from the community for water, energy and phone services in relation to his or her housing. This results from Law n° 2004-809 of 13 August 2004 regarding local liberties and responsibilities (article 65).

While as mentioned above water cannot be cut off even if bills remain unpaid, these bills still constitute a debt for the person or household concerned. However, the law grants those who are in a difficult situation the right to assistance from the community. In other words, a financial solution can be provided by the community.

In 2013, Law n° 2013-312 of 15 April 2013, providing for a transition to a sober energetic system and with diverse provisions for water pricing and wind turbines, named the "Law Brottes", introduced an assessment system for the social pricing for water services in its article 28. The system is as follows,

Local governments or their organizations providing water and sanitation services transmit a request for an assessment to the representative of the state in their department and inform the water agency. They are then allowed to adopt the following measures. Invoicing domestic subscribers for water use can take into account the essential need for drinking water for vulnerable subscribers by establishing a progressive rate covering an initial free period of consumption. The progressive rate can be adapted to take into account the income or the number of persons in the household. The law has also set a limit to the following period of consumption.

- Local governments can contribute to financing the experiment from their own budgets by supporting all or some of the help granted to the service to settle the bills of households in situations of great insecurity or facing difficulties in paying their water bills. This provision is an important derogation from the well-established principle in the French legal framework which prohibits the local governments from supporting the costs of commercial and industrial public services from their own budgets (article L2224-2). The principle is that these services (which include water and sanitation services: article L2224-11 General Code of Local Governments), whether managed directly or through concessions, should maintain budgets that balance costs and revenues (article L2224-1 General Code of Local Governments).
- Local government subsidies to the Solidarity Fund for Housing can exceed 2% of the total amount of fees received for water or sanitation (excluding taxes), contrary to the obligation under article L2224-12-3-1 of the General Code of Local Governments. This subsidy can also be paid to the council or inter-council centre for social action during the period of assessment.

In administrating the assessment, the services in charge of billing water can proceed to the payment of aid to households facing difficulties in settling their water bills, the resources to do which are



insufficient.

When support for the payment of water bills concerns the distribution of water and sanitation, an implementation agreement is signed between the service ensuring the billing, the service's managers and the local government for which the service receives the fees.

The assessment is submitted to the consultative commission of local public services for its opinion and for information on the progress of the assessment and its results.

The organizations in charge of social security, of managing housing aid or of social help provide the services involved in the assessment with the necessary data to establish the social pricing for water or to grant aid to households with insufficient income to access water, depending a previous consultation with the National Commission on Information Technology and Liberty.

Initially, the assessment system was supposed to last until the end of April 2018. It has now been extended until April 2021.

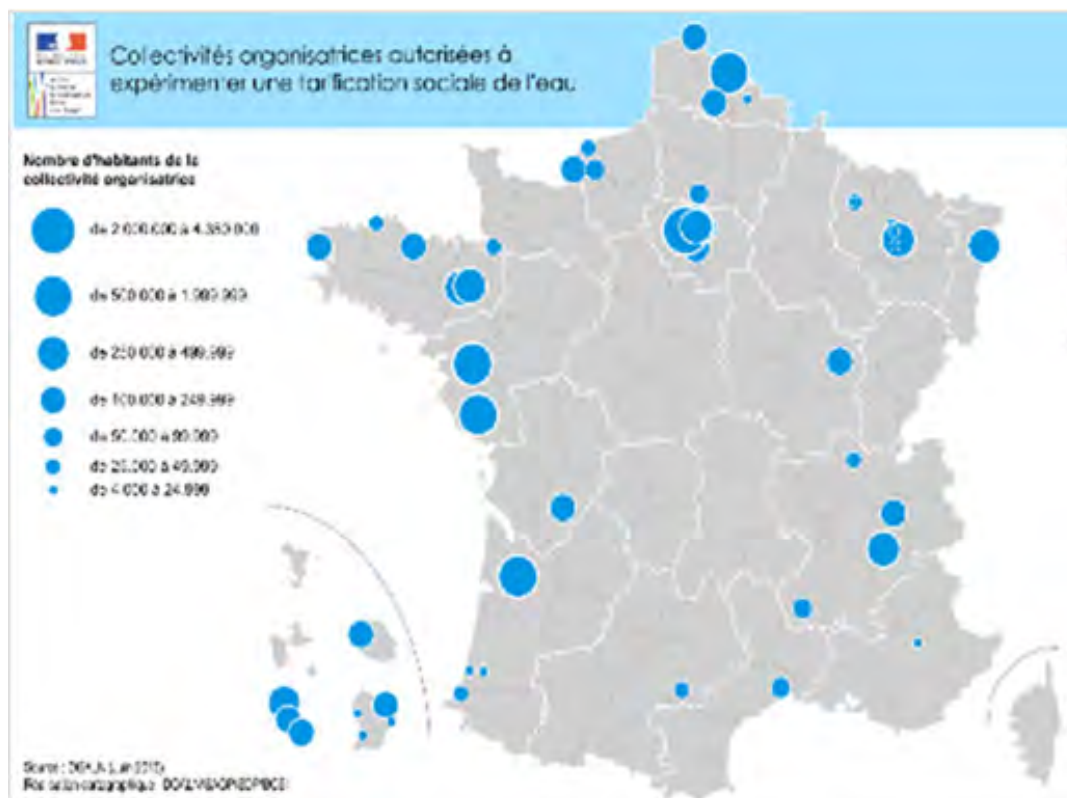


Figure 1 Map of local governments engaging in the social water tariff (Comité national de l'eau, 2019)

### Extension of the Social Measures

In December 2019, the law on involvement in local life and the proximity of public action (law n° 2019- 1461 of 27 December 2019) introduced an article (L2224-12-1-1) contained in the General Code of Local Governments confirming the provisions of the 2013 law and allowing public services providing water and sanitation to implement social measures aiming at giving effect to the right to access water and sanitation in acceptable economic conditions, in accordance with article L210-1 of the Environment Code (see above). Article L2224-12-1-1 mentions that these measures can include the definition of fees, giving due consideration to the revenues of the household, the awarding of aid for the payment of water bills, or to access water or support for water savings. These measures

can include an incentive tariff depending on the quantity of water consumed.

This article also confirms derogation of the principle forbidding local government from supporting the costs of a commercial and industrial public service from their own budgets and allowing them to apply social pricing measures to contribute to the financing of the public services of water and sanitation by covering some or all of such expenses planned by public services providing water and sanitation from their own budgets, within a limit of 2% of the amounts of the perceived water and sanitation fees, excluding taxes, and including the costs related to subsidizing the Solidarity Fund for Housing. The increase already introduced by the previous law is thereby confirmed. Payment of aid can be made to the communal or inter-communal social centres.

When the water bill is not in the name of the beneficiary of the social measures, the housing landlord and the joint ownership unions establish an agreement to define how the financial aid shall be assessed.

Finally the new article confirms the intervention of social security organizations under the same conditions as those defined by the law of 2013.

The law has also introduced new provisions in an already existing article of the General Code of Local Governments, article L2224-12-4. The first provision indicates that the social tariff for water can take into account the essential need for drinking water and sanitation of users in vulnerable situations by planning a progressive tariff, which can include a first free period of consumption (to be defined on a case by case basis by each local government deciding to adopt it). When a local government council adopts a progressive or regressive fare based on water consumption, in the case of the buildings of a collective housing arrangement it can define a special tariff taking account of the number of housing units. Finally, the last addition concerns aid provided to pay water bills. When this aid is a matter of the distribution of drinking water and sanitation, an agreement is signed between the invoicing service, the managers of services and the local governments for which the tariff is perceived, in order to specify the instalment terms of the aid.

This last legislative reform represents a further step towards reaching the objective of giving effect to the rights to water and sanitation in acceptable financial conditions for all. It recognizes the right to access to sanitation in addition to the right to water, which was already included in previous legislation. It also acknowledges the essential need for drinking water and sanitation for vulnerable users. The new law grants local governments the power to establish a social tariff for water. It also creates the potential for improving the financial conditions for paying for water and sanitation to about a million households in France (Coalition eau, 2020), and introduced a measure that is preventive and not just curative, making an intervention possible before the user faces payment difficulties regarding a water bill. Each local government can decide freely on the best solution to applying for a social tariff. The reform represents a derogation of the principle that all users of public services providing water and sanitation in a community pay the same tariff. The law also makes it possible to identify the potential beneficiaries as much as possible, in close collaboration with social security organizations etc.

These measures are not mandatory for local governments but are introduced on a voluntary basis. The new system does not create any obligation in their regard.

### iii. Policies

Following an announcement by the President of the Republic in 2017, all actors in the water sector met in a water conference. The actors involved were locally elected representatives, national water actors members of the basin committees. The first conference (April to August 2018) concerned the water and sanitation networks, while the second (November 2018 to July 2019) focused on climate change and water resources. Seventeen measures were agreed at the first Conference and were announced by the Prime Minister. The last measure, number 17, concerns the social tariff for water and expresses the government's wish that it becomes more widespread. The measure states that the social tariff for water remains a free choice of local governments, which can choose the system they wish to put in place. Nevertheless, the government offers voluntary local communities a water check on the same lines as the existing energy check. The water check would be managed by the same operator. However, to date data confidentiality rules do not allow access to the database so that the target population can be identified.

The Office of Water Policy in the Department of Water and Biodiversity of the Ministry of Ecological Transition is currently working on assessing all the existing social aid systems with the objective of basing the social tariff for water on the same criteria. The main issue is how to support local communities in identifying the target population. Once all the elements have been gathered together and issues resolved, the objective is to prepare a tool kit for the attention of local governments wishing to implement the social water tariff.

#### **iv. Strategic and Development Plans**

##### **International Strategy**

As mentioned above, France has adopted an International Strategy for Water and Sanitation (2020-2030) as a reference framework for all water-sector stakeholders, being the result of an inclusive, multi-disciplinary, participatory approach involving all French stakeholders in the sector: the state and its public-sector agencies; civil society; local government and members of parliament; the private sector; and higher education, research and training institutions. The strategy defines the main policy directions regarding official development assistance in France. The objectives defined in the document provide a framework for action to tackle what the French stakeholders have considered to be today's major challenges: guaranteeing effective access to water, sanitation and hygiene (WASH) facilities, and the protection and preservation of aquatic ecosystems.

According to the Strategy, France's international actions in the water and sanitation sector are guided by the following two objectives:

- Universal and equal access to drinking water, sanitation and hygiene (SDGs 6.1 and 6.2): the document recalls France's international advocacy for the implementation of human rights to drinking water and sanitation and the strengthening of efforts to help the most vulnerable groups, in particular women, girls and the most destitute populations, based on equality and the aim of "leaving no one behind".
- IWRM in catchment basins (SDGs 6.3, 6.4, 6.5 and 6.6): France had drawn up an integrated water resources management model as a tool of good governance and cooperation that contributes to sustainable development, security and peace in a context of climate change.

This strategy focuses on three priorities:

1. Improving water and sanitation sector governance, from the local to global levels. Under this

priority, the following focus areas have been defined:

- i. Improving the local governance of drinking water and sanitation services
- ii. Providing support to structure the WASH sector nationwide and the planning of water use in respect of catchment basins
- iii. Encouraging the cooperative management of transboundary basins and supporting the creation of basin authorities
- iv. Strengthening international water governance

2. Strengthening water supply security for all, as pressures on resources and the number of water-related crises grow.
3. Making resources and tools more efficient by prioritizing more innovative solutions and inclusive financing mechanisms.

The first focus under this last objective is the increasing and more diverse financing in the WASH sector

In light of the important amount of funding required annually at the global level to reach SDGs 6.1 & 6.2, WASH sector financing must be increased significantly and in diverse ways. The strategy sets out the commitments of French development cooperation:

- i. Increase financing dedicated to the WASH sector in least developed countries (LDCs), particularly in the nineteen priority countries (Bénin, Burkina Faso, Burundi, Comores, Djibouti, Gambia, Guinée, Haïti, Liberia, Madagascar, Mali, Mauritania, Niger, République centrafricaine, République démocratique du Congo, Sénégal, Tchad et Togo).
- ii. Take into account the challenges facing WASH when addressing crises and weaknesses, as outlined by CICID on 8 February 2018.
- iii. Balance financing across the water and sanitation sectors by intensifying efforts in relation to sanitation and hygiene.
- iv. Increase the proportion of grants dedicated to a better understanding of water resources and aquatic biodiversity, good governance and capacity building.
- v. Support decentralized cooperation by promoting the mechanism provided by the French Ou-din-Santini Act among France's local government bodies. These decentralized mechanisms of cooperation should also be promoted at the European and international levels. Greater complementarity should be sought between decentralized cooperation and government cooperation.
- vi. Use innovative financing, including lines of credit, guarantees, microfinancing, debt mutual funds and social impact bonds.
- vii. Continue efforts to open up to the private sector in order to reach the most modest disadvantaged populations (microcredit) through the banking system in the countries in question (especially in middle-income countries).

The strategy is equipped with a monitoring and accountability framework, which includes a panel of indicators aimed at enabling two objectives to be met:

- i. Monitor the implementation of France's commitments, in particular changing patterns in its official development assistance in the water and sanitation sectors.
- ii. Provide a guidance tool by evaluating the attainment of certain goals worldwide.

The monitoring and evaluation of the strategy, which will come to term in 2030, is planned to be conducted in three stages:

- An annual evaluation of French interventions in the water and sanitation sectors, conducted using the indicators presented in the Annex, which are related to the number of persons who have gained access to basic drinking water service, and to a safely managed drinking water supply service; ditto for sanitation.
- A mid-term review based on the monitoring indicators and priority targets defined in the Strategy, which will enable sectoral and geographical efforts to be adjusted as necessary.
- An assessment of the Strategy's implementation when its lifespan is over.

### **The EAU-DOM Plan (Water in the overseas departments plan)**

An important segment of drinking water and sanitation services in the French overseas territories are facing difficulties, slowing down economic and social development.

In this regard, on 30 May 2016 the French government launched an action plan (EAU-DOM) for drinking water and sanitation services in Guadeloupe, Martinique, Guiana, La Réunion, Mayotte and Saint Martin. The action plan is intended to last for ten years in order to mobilize the financial capacities and expertise of the State's functionaries. It represents an investment plan taking into account the specifics of each territory. It is guided by four principles:

- Strengthening the governance of local governments in water and sanitation by promoting the level of inter-community cooperation and encouraging the joint management of works.
- Developing the technical and financial capacities of the provision of drinking water and sanitation, improving recovery, benefiting from the expertise of the French Development Agency, and controlling investment costs.
- Redefining the technical priorities for a quality and sustainable service, developing maintenance of the network, and improving the collection and connections to the network.
- Integrating drinking water and sanitation policies in the development of these territories, preserving the health of the aquatic environment and bathing waters, maintaining the rainwater network and involving the population.

The action plan must be launched at a regional conference, each one of the territories mentioned above representing a region. The conferences will be called by a state representative and will gather together various institutional actors, such as the President of the Region, of the Department, the state, the regional health agencies, the French Agency for Biodiversity, the French Development Agency, the Deposit Fund, the president of water and biodiversity, and the water offices.

The objective of the conference is to adopt a strategic document identifying the priorities of the action plan for the next five years and guidelines for the contractual process involving the financiers and the beneficiaries, the aim being to apply the principles of the plan. The document will also define the criteria to identify the local community candidate under the plan. The process will then be as follows:

A contract will be signed between the local community and the members of the conference for a duration of five years. The contract will include the objectives of improving technical and financial performance, agreeing evaluation indicators and priority investment operations, and strengthening capacities, presented annually. The financing of the first phase is specified, as are the annual

evaluation conditions which will allow continuation of the financing. A table concerning biannual follow-ups is annexed to the contract.

The Plan Eau-DOM demonstrates the state's desire to accompany communities and the operators of water and sanitation services in improving access to and the performance of those services.

As of July 2020, twelve progress contracts were signed (2 in Martinique, 1 in Guadeloupe, 1 in Mayotte, 8 in Guiana). Others are under preparation in Guadeloupe.

The actions and experiments regarding the social pricing of water are presented in the findings, as is the EAU-DOM Plan (both are presented below).

#### 4.1.2. Regional and International Instruments

##### i. International Treaties

France is a party to the International Covenant on Economic, Social and Cultural Rights (1966), which recognizes the right of everyone to an adequate standard of living for himself and his family. This right includes the right to adequate housing (article 11).

It is also party to the European Human Rights Convention (1950).

It has campaigned for the United Nations to recognize access to drinking water and sanitation as a human right. Accelerating access to safe drinking water and sanitation and the commitment to the full implementation of the HRWS were integrated to the Ministerial Declaration of the 6th World Water Forum (Marseille, 2012), as the first commitment of the Ministers and Heads of Delegations assembled at the Forum.

Under the last Universal Periodic Review (2018), regarding the HRWS, the following recommendations were made to France (UN GA A/HRC/38/4):

- Ensure equal access to basic rights, including water and sanitation, for all minorities, including Roma populations
- Establish cohesive, long-term strategies to provide access to safe drinking water and sanitation for migrants in Calais and in the north of France.

France has accepted them only partially (UN GA A/HRC/38/4/Add.1).

These recommendations correspond to the issues that were heard by the administrative tribunals and the Council of State, as presented earlier in this report. Punctual solutions have been introduced to provide access to water and sanitation for migrants and the inhabitants of camps, slums and precarious habitats (see above). The government has established an Inter-ministerial Delegation for accommodation and access to housing, the DIHAL, (presented above), to solve problems of access to adequate housing for the homeless or those living in very bad conditions.

France is also a party to the UN Economic Commission for Europe (UNECE) - World Health Organization (WHO) Regional Office for Europe Protocol on Water and Health (1999). The main aim of the Protocol is to protect human health and well-being through sustainable water management, including the protection of water ecosystems, and by preventing, controlling and reducing water-related diseases. Its objective is to ensure an adequate supply of safe drinking water and adequate

sanitation for everyone, and to protect water used for drinking effectively.

In its legal text, the Protocol places a special emphasis on equitable access to water for all members of the population, especially those who are suffering disadvantage or social exclusion. The concept of equitable access is defined in the Protocol with reference to three main dimensions: (1) tackling geographical disparities in accessing water and sanitation; (2) addressing the special needs of vulnerable and marginalized groups; and (3) ensuring that services are affordable.

## ii. SDG 6

Like all nations, France has committed itself to the Sustainable Development Goals. In September 2019 it adopted a road map ([https://www.agenda-2030.fr/sites/default/files/2020-02/20016\\_ODD\\_AmbitionAgenda\\_2030\\_def\\_light.pdf](https://www.agenda-2030.fr/sites/default/files/2020-02/20016_ODD_AmbitionAgenda_2030_def_light.pdf)), which is divided into six challenges. Water appears at various points in the document. One identified general priority is to leave no one behind and to ensure fundamental rights to access services that are essential to everyone. This priority is rejected for the national agenda, as the priority is to give universal access to drinking water services and sanitation, specifically in the overseas territories. The road map again affirms the national ambition, in relation to health, to provide access to all to drinking water services and sanitation.



The road map mentions as a commitment the generalization of processes ensuring access to quality services to supply drinking water and sanitation to all, such as a social water tariff, strengthened support, by local governments on a voluntary basis, to the establishment of systems offering better guarantees of access to water for the poor (creation of a check for water, putting in place free fountains and public restrooms, and ultimately showers) (my emphasis). It also refers to the experiment with regard to the social water fare, which is in place until 2021.

The roadmap also commits France to intensify action regarding access to secure drinking water and sanitation in the overseas territories within the framework of the EAU-DOM plan.

One proposal in the road map is to develop and strengthen awareness and education programmes for access to drinking water in consultation with the users, and more specifically in the framework of the Plan Eau DOM.

Finally the roadmap commits France to support human development internationally by defending a rights-based approach. Here it mentions recognition of the rights to water and sanitation as fundamental human rights.

In 2018, on the occasion of the High Level Forum on the SDGs, France submitted a progress report on SDGs 6, 7, 11, 12, 15, and 17. The report provides an analysis of the situation.

Regarding SDG 6.1, on universal access to drinking water, the National Institute for Statistics and Economic Studies indicates that 99% of the population is connected to a public supply of drinking water. However, it also admits that 93.3% of the population in metropolitan France use a supply of drinking water that is secure. The report recognizes that access to water in France remains an issue for a fraction of the population that is not connected to a drinking water network, some rely on private wells. The report also recognizes a similar situation for a fraction of the population in precarious situations, such as the homeless, migrants in illegal situations, residents in informal housing and households in unsafe conditions.

It is noted in the report that aiming to reach universal access implies identifying those who have insufficient access, even if they represent 1% of the population, because they are the most vulnerable.

Furthermore, for about a million households, water and sanitation bills represent more than 3% of their budget, making it unaffordable.

Regarding SDG 6.2, on universal access to sanitation, the National Institute for Statistics and Economic Studies indicates a figure of 99% having such access. However, the report admits that the figure hides critical situations in the overseas territories.

### iii. MAM

Within the Mutual Accountability Mechanism, France works with the French Development Agency (Agence Française de Développement, AFD), a public institution that implements France's policy in the areas of development and international solidarity. Its mission is to contribute to the economic, social and environmental progress of low- and middle-income countries. In practical terms, this mission is carried out by providing loans, grants, expertise and technical assistance. These forms of assistance are granted to states, local authorities, companies, foundations or NGOs and are used to complete projects in many different fields, including water and sanitation.

Regarding water and sanitation, the AFD acts within the framework of France's International Strategy for Water and Sanitation (2020-2030) with the aim of promoting its implementation.

Its frame of action under the Water and Sanitation sector responds to the following elements:

- Contribute to reaching the SDGs, particularly SDG 6.
- Contribute to implementation of the Paris Agreement, water being at the heart of climate change.
- The priorities of interventions of the sector are:
- Governance: aiming towards a clear and efficient framework that is financially sustainable, with a technically competent operator and user participation.
- Territorial approach: water and sanitation services need to be managed in their environment, using nature-based solutions.

Within the framework of its action, the agency takes into account the social aspects of access to water and sanitation, including the necessary connections, adapted fares and promoting gender equality.

In 2018 1 billion euros were committed to water and sanitation, of which 93 million euros represented loans to sovereign states, 7% non-sovereign loans. In 2019 the committed funds reached 1.3 billion, and the total amount of ongoing projects is 6.5 billion. The funds committed in 2018 are expected to allow 4 million persons to enjoy a safely managed drinking water supply (for 2019, the



number is 5.3 million), and 300 000 to benefit from an elementary supply of drinking water. They will also allow 1 million persons to enjoy safely managed sanitation (for 2019 the number is 1.9 million) and 84000 to benefit from an elementary sanitation service. 84% of the committed funds are intended to provide access to performing and sustainable services for all. In 2018, the permitted funds were predominantly intended for countries in Asia (including the Middle East), followed by Africa and then Latin America. The development of a quality service for all represents the social pillar of the water and sanitation sector strategy and is the main axis of AFD intervention in this area.

During the COVID-19 crisis, AFD provided financing for specific actions at the request of beneficiary countries such as Burkina Faso, Kenya or Morocco to support actions fighting the pandemic, using a specific accelerated procedure. These actions included financial support to water supply providers covering unpaid water bills, awareness campaigns on the importance of handwashing in times of pandemic, contributing to purchases of equipment for handwashing, protecting, building and installing reservoirs for water supply, and capacity building (through webinars) management procedures for water-supply operators in times of crisis.

### 4.1.3. WASH Service Provision

#### i. Equity in Accessing WASH

There are various ways of supporting vulnerable people living in social housing and benefiting from proper connections with water and sanitation networks. As mentioned previously in the report, cutting off water for non-payment of bills is forbidden in France. However, one issue is payment of the bill, which then represents a debt for the household.

In most cases, the population concerned can find financial help through the established systems, managed locally by the social centres. A Solidarity Housing Fund was established in 1990 with the aim of assisting households with low incomes and facing housing problems. Initially the Fund was managed and financed jointly by the State and the departments. Since 2005, management of the Fund and its financing happen exclusively at the level of each department. Its aim has also evolved to provide assistance to cover water, energy and telephone services, in addition to its initial mission. An agreement is passed between the department and representatives of the energy (electricity and natural gas) and water companies to define the amount and modalities of their financial contribution. Other entities can also contribute to the Fund: local governments, public institutions of inter-communal cooperation, and the following concerned organizations:

- Associations involved in the integration and housing of underprivileged persons
- The Family Benefits Office
- The Social Agricultural Mutual Insurance
- Phone services operators
- Public or private landlords

The Fund grants punctual financial help and financial support measures to households in difficulty. The helps provided by the Fund covers various issues related to housing: access to and retaining accommodation and, since 2005, the expenses related to energy, water and phone services.

A household facing difficulties contacts a social worker in its municipality or department (the arrangements can vary from one department to another. Social services can also be alerted concerning the difficult situation in a household. With the assistance of the social worker, a file is started

justifying the situation of the household and its need for social help. A commission studies the file and decides if the household meets the required conditions to benefit of help and what its amount should be.

For households in difficulty, but living in a housing unit (social or not) connected to the network, there are two possibilities:

- a water meter exists in their accommodation. There is an obligation for all new apartments built since 2005 to install individual water meters (some older apartments have also adopted this norm). In this case, the water consumption of a household can be identified individually. It still can be paid with the rent and the service charges, or an individual subscription to water services is taken out with the provider (in general it includes sanitation services).
- There is no water meter. In this case, water is paid with the rent and service charges. It is itemized on the rent receipt, and the volume of water charged is calculated proportionally to the size of the flat.

When water is paid with the rent, the subscription is in the name of the landlord, who pays the total water bill to the water-service provider.

When a household faces difficulties, it needs to address social services in the department or the communal centres for social action directly, depending on how the services are organized locally. Then a file is opened and studied to estimate the amount of aid. The aid is not always individualized for water, especially when water is included in the rent receipt, and not paid directly to the service provider. Even the households themselves do not claim specific help relating to water, but request assistance for housing issues. They eventually ask for help for paying their energy bills, since these are always separate and are paid directly by the user to the provider. Paying water bills becomes an issue only when the contract is directly in the name of the beneficiary. Even in this case it is rarely considered an urgent issue, especially by social services, who deal with financial support, because water can never be cut off, despite the non-payment of bills.

This is the usual system. However, it is noticed that often people in need do not solicit this help, since it requires them to make an effort to go through the required administrative steps and open a file which will be studied in a commission. And the difficulty remains reaching them, since they are not always identified. They might also not know about the scheme and therefore do not use it.

Other systems are in place, such as the Water Solidarity Program developed by the Syndicat des Eaux d'Île de France (SEDIF). However the help provided for paying the water bill (or the amount representing water consumption in the rent receipt) is directly deducted from the bill itself (or from the rent receipt) and the user informed.

The SEDIF<sup>3</sup> participates in the social water fare experiment. In 2019, it has allocated for its Water Solidarity Program 2 millions euros, which were completely spent. The funds are distributed for awareness programs (water saving, awareness about water quality (no need of buying plastic bottles)), assistance, and emergency. 6500 persons have benefitted from the awareness programs, 394 joint ownerships housings benefitted from assistance for works and helps were provided to 5269 households. The SEDIF faces the same difficulty of identification of the households in need of help, especially when the subscription to the water is not individualized but included with the rent and

the services. Some assistance for this identification is provided by the Communal Centers of Social Action.

#### 4.1.4. Monitoring and Evaluation

There is no one monitoring or evaluation system for the situation of the HRWS in the case of the population not connected to the network. For this population, there is a legal gap with no obligation in the national framework to provide for its access to water. The DIHAL which works on the resorption of slums, produces regular assessment reports. It has estimated the number of people living in slums around 16090 persons in 2018, and this number arose to 17619 in July 2019 (Romeurope, 2019). Apparently this number does not include migrants citizens of countries outside the European Union (which is not the case of the Roma people).

In the case of the population which has physical access to water and to sanitation, financial accessibility represents an issue for about one million persons (Point d'étape, 2018). For this category of persons, the social water fare was created, however it is still not implemented completely on the national territory<sup>3</sup>.

Since the legal establishment of the experiment on the water social tariff the National Water Committee, is in charge of preparing the annual evaluation reports on the tests. These reports are publicly available at <http://www.cne.developpement-durable.gouv.fr/acces-a-l-eau-rapports-de-l-experimentation-a1204.html>. The National Water Committee was created in 1964 under the Ministry of Ecological Transition. It is the consultative body on water policy.

Initially fifty local governments had requested permission to participate in this experiment. Afterwards twelve withdrew, so 38 that participate in the process. Every year the Ministry of Ecological Transition collects the data from the participating local governments. Then a follow-up multi-stakeholder meeting is organized gathering together representatives of the local governments concerned and the services of the ministries of ecological transition, of the cohesion of the territories and of relations with the local governments in charge of the steering the experiment, with other actors involved in water pricing and access. This annual meeting is an opportunity to present the results and exchange experience with local governments, since each one adopts its own system.

It is important to note that each local government organizes the governance of its own system of experimentation as it wishes, according to the local circumstances. Each system is unique.

However, local governments cite difficulties in identifying those in need of help in paying water bills. According to French law, it is not possible to access information about the beneficiaries of other social help or to reach households in collective buildings, without individual water meters. The data are collected for each specific use, such as the attribution of specific social help, and cannot be shared for any other purpose.

The monitoring report by the Comité National de l'Eau does not provide any indication about which population groups has benefitted from the system.

The monitoring as undertaken by the Comité National de l'Eau has the objective of evaluating implementation of the social water tariff policy, which covers the affordability aspect of the HRWS, since it concerns a population with physical access to water and sanitation, but without the financial

<sup>3</sup>Where the social water fare is not applied, the benefits of other social aid remain.

means to pay the water bills.

No other monitoring system is in place.

In France the collection of data is governed by the law on data-processing and computers (1978, amended in 2004), in order to protect citizens, freedoms, human rights and private life. According to this law a specific objective must be established for each file or data operation. The data collected for one purpose can be used for another aim. In this regard, identification of the population in need of the social water fare remains a difficulty if it has not declared itself.

## 4.2 Obligations of Other Stakeholders

### 4.2.1. NGOs/CSOs/Faith-Based/Rights Groups:

The number of NGOs in France working for the implementation and realization of the HRWS is quite important. And they are various. There are humanitarians NGOs not necessarily specialized in water, who take various actions for vulnerable groups to improve their livelihoods, therefore ensuring at the best possible access to water and sanitation. Other work with a specific group such as the Roma, while yet others give assistance to the poor. However, their activities are mainly with groups such as migrants living in slums and camps or the homeless living in the streets and in squats. Other NGOs are specialized in the water sector. They act also with the same groups of persons and are strong advocates for what they do. Moreover, during the COVID-19 pandemic and the lockdown, some NGOs that focus on international solidarity and work in developing countries or in crisis zones diverted their activities to French territory.

These NGOs play an advocacy role with local governments to provide access to water and sanitation to the population in its territory living in precarious habitats. They help create awareness of the situation of the population, its needs and possible solutions. NGOs can contribute to the water service by ensuring access, and they often act as intermediaries between the local authorities, the water providers and the LNOB population. In cases of refusal by local governments (who, recall, do not have an obligation to provide water where there is no network), NGOs go to the courts and take part in actions against the local government on whose territory a vulnerable population is being left with limited access to water and sanitation, if any. The administrative tribunals have met their requests and supported their action<sup>4</sup> in ordering the concerned local governments to provide such access.



<sup>4</sup>With the exception of a case in Toulouse (April 2020), where the administrative tribunal requested five NGOs regarding improving access to water and sanitation in thirteen sites in the city. However, later on the NGOs ran the sites and improved the access to water (Smets, 2020).

Present where vulnerable population is not connected to the network live, these NGOs identify the basic needs and alert local governments to provide and improve access to water. Agreements and actions are often taken afterwards, to provide access to water, through public fountains and taps. Some NGOs provide technical assistance and work closely with the water services provider and the population to raise awareness about the drinking quality of the water (so there is no need to buy water bottles anymore) and to make the fountain or tap sustainable. NGOs often provide support to communities in the management of sanitation services as well. Whenever the local government does not answer or refuses to introduce any change in the situation, in this case too a judicial administrative action is sought, as mentioned above. After a judgement against them, most local governments obey the courts and install the required fountains, taps and sanitation services.

Other NGOs offer shelter to the homeless, the displaced, migrants and other people in need, with the objective of re-establishing social ties and trying to arrest the downward spiral. They manage accommodation centres where people in the need are greeted and offered assistance, and they support various administrative procedures for their rights (social housing, residence, work permits etc). In these centres this public can access showers and proper sanitation, and even washing machines.

Some NGOs offer a specific accommodation centre for women. Hygiene kits are distributed, which in the case of women includes sanitary pads, and during the pandemic masks and hydro-alcoholic gels. Those in this sort of situation are in strong demand for hygiene and well-being. People either come to the accommodation centres spontaneously or are sent there by social services. Furthermore, these NGOs work in the neighborhood to find and offer support and shelter to the homeless and others.

In 2006, about thirty French NGOs working in the water and sanitation sector created Coalition Eau, with the goal of promoting universal and sustainable access to safe drinking water and sanitation, while preserving water resources. Coalition Eau represents civil society, its mission being to ensure that its voice is heard nationally and internationally, where political decisions are made, development strategies are negotiated and financial decisions taken.

A recent campaign, "Water is a right" (<http://leauestundroit.fr/>), led by Coalition Eau, has gathered together thirty associations engaged in addressing the challenges of the right to water and sanitation and mobilized for its effective implementation both in France and internationally through French international cooperation. As part of this campaign, an observatory of the right to water and sanitation has been created. The challenge of the observatory is to improve knowledge and understanding of the situations of a lack of access to water and sanitation in France through the collection and analysis of quantitative and qualitative data. The observatory corresponds to the need to better identify and analyse social solutions already reached by local governments. Its trial period runs from January to December 2020, in five cities.

There is no doubt that the NGOs have played a fundamental role in the progressive realization of the rights to water and sanitation in France by providing information on the existing situation and raising awareness. Thanks to their judicial action, local governments have had to execute court orders and provide water and sanitation to LNOB groups in precarious habitats. The new campaign, "Water is a right," seeks the involvement of the elected local governments' counsellors in implementing the HRWS and encourages the state to effectively implement the HRWS and improve its

international cooperation regarding it.

#### 4.2.2. Private-Sector Service

As mentioned above, water and sanitation services are the responsibility of the local governments. Private-sector providers are involved in the management of water and sanitation through a lease or concession agreement with local governments.

In France there is a long tradition of the management of water and sanitation services by private-sector companies. These companies have integrated the social aspects of water and sanitation management into their respective strategies and agreements with local governments in various ways:

- i. For vulnerable populations connected to the network, developing a social fare for water, or contributing to the Solidarity Housing Fund in close cooperation with local governments
- ii. For the population not connected to water, there are two possibilities:
  - A temporary solution: the private water service providers intervene after the local governments have approved the request of a NGO to install a tap or fountain in a camp or slum, with a water meter for a temporary connection to the water, or even a public fountain which allows the homeless access. A methodology or tool kit is offered to assist local entities connect squats, slums and camps. The cost of the public fountains and taps is paid for by the local government, as is the water. The concerned communities are often ready to contribute financially for the water they receive. During the COVID-19 pandemic crisis, it happened that even the private-sector companies ensured access to water at their own cost.
  - More sustainable solutions for proper installations to access water and sanitation can be proposed to each local government on a case by case basis. The private water sector contributes financially to the Solidarity Housing Fund. In some cases, this contribution is specified in the contract between the private company and the local government.

It is worth noting that during the COVID-19 pandemic, the obligation of solidarity and the protection of public health have prevailed. Before the crisis, 20% of camps and slums had access to a water source, now the figure is about 70% (in metropolitan France). The crisis has played the role of raising awareness and putting the issues at stake at the forefront.



## 5. GAPS AND CHALLENGES

The main gap in the legal framework in France regarding access to water and sanitation is the lack of any obligation for local governments to supply water and sanitation on the parts of its territory with no network. In other words, there is no legal obligation to provide water and sanitation in precarious habitats (slums, camps etc). Since the supply of water is the responsibility of local governments, the central government does not interfere to impose any direction on this issue. The situation is solved on a case by case basis, either by the good will and awareness of the elected mayor, advocacy by NGOs, or after a ruling by an administrative judge based on “the constitutional principle of safeguarding human dignity” and referring to inhuman or degrading treatments as mentioned in the European Convention on Human Rights.

Another challenge in France is the complete and full implementation of the water social fare for those who are connected to the network which has physical access to water and sanitation and facing financial difficulties. The adoption of the social water fare relies on the free choice and administration of each local government. The number of local governments involved in the experiment and engaged in its implementation is still limited. The central government wants to make the “water check” general. The first challenge is identifying those in need of benefitting from this social measure because of the confidentiality rules for data which do not allow access to databases so as to identify the target population. The second challenge is to develop implementation of the water social fare on the national territory (when the water social fare is not applied, financial help comes from the Social Housing Fund).

## 6. RECOMMENDATIONS

After this study of the HRWS to LNOB in France, the following recommendations can be formulated:

- There is an urgent need to fill the legal gap regarding access to water and sanitation to those living in precarious habitats, where there is no obligation to provide water and sanitation. The gap has been filled on a case by case basis, through mainly by the actions of the NGOs and legal rulings. A binding provision regarding the HRWS for the population living in slums and camps will also help in improving their situations regarding their other social rights and their economic situations.
- Ensure that implementation of the social water fare is generalized by developing the system towards the identification of the people in the need and develop the policy and enhance awareness regarding local governments.
- Ensure the complete and timely implementation of the Eau Dom plan to achieve the realization of the HRWS, and to make progress towards the realization of SDGs 1 & 2 in the overseas territories.
- Pursue and sustain the measures implemented during the COVID 19 pandemic towards precarious populations
- Increase the effort to develop and implement policies towards the housing and accommoda-

tion of the homeless and persons living in precarious habitats.

- Integration of the EU Drinking Water Directive into the national framework when its revised version is adopted. In its last version, the revision of the Directive has integrated ([https://www.europarl.europa.eu/RegData/commissions/envi/inag/2020/02-18/ENVI\\_AG\(2020\)647127\\_EN.pdf](https://www.europarl.europa.eu/RegData/commissions/envi/inag/2020/02-18/ENVI_AG(2020)647127_EN.pdf)) the obligation to identify people without access, or with limited access, to water intended for human consumption, including vulnerable and marginalized groups, and to take the measures considered necessary and appropriate to ensure access to water for them.

## 7. BEST PRACTICES

The best practices in France can be summarized as follows:

- The prohibition on cutting off water. A household facing financial difficulties continues to benefit from physical access to water and sanitation.
- The availability of social financial help to assist households that are unable to cover their water bills either through the Social Housing Fund (mainly) or the social water fare experiment.
- Consideration of the importance of access to WASH during the COVID 19 pandemic, and adopting specific measures during this period (though they might not last).

Under the Protocol on Water and Health, France has supported activities on equitable access to water and sanitation under the Protocol, thereby contributing to the progressive realization of the human rights to safe drinking water and sanitation in the pan-European region.

Furthermore, in 2012-2013, France carried out a self-assessment exercise on equitable access to water and sanitation by applying locally (in the Greater Paris urban area) a specific tool available under the Protocol: the Equitable Access Score-Card. The exercise allows a baseline measure of the equality of access to water and sanitation to be determined and to draw some key findings. Governance frameworks to ensure equitable access were found to be in place. The national legislation recognizes the right of everyone to access drinking water for food and hygiene use under conditions that are economically acceptable to all. There are also specific funds and preventive and remedial measures aimed at helping the most economically disadvantaged users.

The assessment further noted that access to water and sanitation is linked to housing, which explains the key difficulties experienced by certain categories of users, namely nomadic populations and the homeless. Even though some of their needs are addressed through national sector policies and within the performance contract of water operators (e.g. it may include the provision of municipal equipment, such as public fountains), significant challenges remain.



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## APPENDICES

### List of Interviewees

#### Central Government :

Ministry of Europe and Foreign Affairs

Vincent Szeper, Head of the Pole Water, Pollution, and transversal Affairs, Under Direction of Environment and Climate

#### Ministry of Ecological Transition

Aude Ratinahirana officer, national water policy, Office of water Pollution, Direction of water and biodiversity

#### French Development Agency

Céline Robert, Head Water and Sanitation Division

#### NGOs

Action contre la Faim :

Elisa DEHOVE WASH coordinator, France

Julien EYRARD, WASH Adviser for Asia

Jean Lapègue, Water Sanitation and Hygiene Service Responsible, Expertise and Advocacy Direction ACF-France, World Water Council Governor, Global WASH Cluster SAG Member

#### Aquassistance

Rémi BOUTIN, Operation support, and project manager

#### Coalition Eau

Edith Guiochon, task officer

Sandra Métayer, coordinator

#### Collectif National Droits de l'Homme Romeurope

Agathe Battistoni, Network officer

#### Secours Islamique de France

Romain Crochet, Coordinator of the technical and methodological pole, technical referee, water hygiene and sanitation

Laura Le Floch, advocacy officer

Antoine Osbert, Responsable of social missions in France for the department 91

#### Solidarités International.

Manon Gallego National Coordinator in France

#### Water Service Providers

SEDIF

Sandrine Meynier, Officer in charge of the relation with the users

SUEZ

Hugues d'Antin, Director Institutional Relations , Board Member of the FP2E, Board Member of the FWP

Veolia

Armelle Perrion-Guinot, Responsible of promotion of sustainable development and commitment access to

essential services

Jason Wilson, project officer, Social Innovation

**Independent Expert**

Henri Smets, expert water and sanitation, member Water academy

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