

Regulation of Water Services in Slovenia

ABSTRACT: *Water is a natural resource of paramount importance for human life and other living beings. Owing to its status as a common good, water is exempt from the concept of private property. The right to clean drinking water has been recognised as a fundamental human right, serving as the foundation for the enjoyment of all other human rights. In Slovenia, the right to drinking water is enshrined in its Constitution. This study examines the provision of drinking water in Slovenia. In Slovenia, the supply of drinking water is organised as a mandatory local economic public service and municipalities are responsible for ensuring the supply of drinking water to residents within the framework of local economic public services. Numerous laws govern this area, and compliance with these laws is mandatory. Crucial to ensuring the delivery of clean drinking water to individuals is the presence of appropriate infrastructure that facilitates the provision of high-quality drinking water services. Despite water being a public good, its supply is not cost-free. Therefore, this study discusses the financing of the drinking water supply system and the allocation of these financial resources. Individuals who are consumers of drinking water services are required to pay for this service. In cases where individuals fail to settle the costs associated with drinking water supply, various sanctions may be imposed, including, as a last resort, the discontinuation of water supply in cases of non-payment.*

KEYWORDS: *drinking water, right to drinking water, Slovenian law, local economic public services, drinking water supply, drinking water cost.*

1. Introduction

Water is one of the most critical resources for humanity. Owing to its significance, it represents a major environmental concern, as without it, human existence would not be possible. Despite the vital role of water in sustaining life on the planet, it is unfortunately often perceived as something taken for granted. Moreover, water is frequently handled with insufficient care. The fact that water covers over 70% of

* PhD candidate at the University of Ljubljana, urska@flumina.si.



Earth's surface may convey the impression that there is plenty of it. However, it is important to remember that only 1% of this is drinkable water, whereas 97% of it is salt water and other 2% is freshwater in the form of ice. As water is a highly limited resource on our planet, it is crucial that access to water is properly regulated, along with its management.

Today, more than 2.1 billion people worldwide continue to lack adequate access to safe and readily available water, despite general advancements in sustainable development.¹ The primary factors contributing to unequal access to water include climate change, demographics, economy, society, culture, infrastructure, technology, water resources, and more.²

1.1. The Right to Safe Drinking Water

Water is a valuable natural resource essential to public health and survival. For people to live with dignity, they must have access to water. Moreover, it is necessary for other human rights to be realised. Everyone has the right to adequate, acceptable, safe, physically accessible, reasonably priced water for home and personal use. This is known as the human right to water. Safe water is essential for cooking, drinking, personal hygiene, and household hygiene needs. It lowers the frequency of water-related diseases and prevents dehydration-related deaths.³

Numerous international documents, including treaties, declarations, and other regulations, have acknowledged the right to water.⁴ Before the UN Committee on Economic, Social and Cultural Rights (CESCR) adopted its General Comment No. 15 on the right to water,⁵ the right to water had been enshrined in various conventions and agreements, such as in Convention on the Rights of the Child and Convention on the Elimination of All Forms of Discrimination against Women. Finally, the right to water was recognised globally with a Resolution adopted by the General Assembly on 28 July 2010⁶ which recognised the right to safe and clean drinking water and sanitation as a human right essential for the complete enjoyment of life and all human rights.⁷

1 See Office of the United Nations High Commissioner for Human Rights, OHCHR and the rights to water and sanitation. Available at URL: <https://www.ohchr.org/en/water-and-sanitation>.

2 United Nations, The Millennium Development Goals Report 2015. Available at URL: [https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20\(July%201\).pdf](https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf).

3 General Comment No. 15 (2002), The Right to Water, UN Doc. E/C.12/2002/11.

4 General Comment No. 15 (2002), The Right to Water, UN Doc. E/C.12/2002/11 and Sancin and Juhart, 2023, p. 107.

5 General Comment No. 15 (2002), The Right to Water, UN Doc. E/C.12/2002/11.

6 Resolution adopted by the General Assembly on 28 July 2010: The human right to water and sanitation, A/RES/64/292.

7 Ibidem, p. 2.

The human right to water is inseparably linked to the management of water resources. Only through such an approach the right to water can be consistently implemented in practice, ensuring that individuals have access to drinking water in their places of residence. In addition to important international legal frameworks⁸ regarding the right to water and water resource management at the European Union (EU) level, this study focuses on the regulation of water resource management in Slovenia, including the presentation of public services and payment mechanisms for the provision of this public service.

2. Legal Regulations of the Field

In addition to international legal sources and provisions at the EU level, each individual country has its existing national law, which must be in accordance with both EU law⁹ and international law. In Slovenia, drinking water protection and supply are regulated by various legal acts that are interconnected.

This study presents only the most significant legal acts addressing this topic.

The highest legal act in Slovenia is the Constitution of the Republic of Slovenia¹⁰ (hereinafter, the Constitution), which regulates the management of public goods, including water. According to Article 70 of the Constitution, a special right of use of public goods can be acquired under conditions specified by law. Moreover, the law specifies the conditions under which natural resources can be exploited. In 2016, the Constitution was amended with Article 70.a, explicitly stating that everyone has the right to drinking water and that water sources are public goods managed by the state.

The Constitution holds the highest hierarchical position among the legal acts in the Republic of Slovenia. Therefore, all other legal acts in Slovenia must comply with the Constitution. Despite the amendments made to the Constitution, not all hierarchical

⁸ You can read more about this in the article Sancin and Juhart, 2023, pp. 106–124.

⁹ In this domain, several European directives are of paramount significance. For instance, these include Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast), Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council and Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration. These directives must be duly transposed into national law.

¹⁰ Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a in 92/21 – UZ62a.

lower legal acts regulating the field of drinking water have been revised. For example, the Environmental Protection Act¹¹ (hereinafter, ZVO-2) mandates obligatory municipal public utility service for environmental protection in the supply of drinking water. ZVO-2 was enacted after the amendment of the Constitution in 2016, and its provisions regarding the supply of drinking water have remained unchanged, even after the constitutional amendment. Nonetheless, these provisions are in accordance with the Constitution, which, in its new Article 70.a, stipulates that the state shall ensure the supply of the population with drinking water and water for household use directly through self-governing local communities and on a not-for-profit basis.¹²

However, despite changes to the Constitution and ZVO-2, the Decree on drinking water supply,¹³ based on ZVO-2, has not undergone any amendments. This decree was established under the previous law, which covered environmental protection in Slovenia before the constitutional amendment. It outlines the tasks conducted within the framework of the public utility service and the conditions for the supply of drinking water.

In practice, it is evident that despite the constitutional amendment, significant revisions in hierarchical lower legal acts have not occurred. Therefore, decision-makers must always make decisions in accordance with the new constitutional provision. In practice, certain difficulties have arisen owing to the absence of harmonisation of national legislation with the constitutional provision. The Constitution stipulates that water resources shall be a public good managed by the state. However, Slovenian legislation does not define the term 'water resource', and different professional fields interpret it according to their respective beliefs. Moreover, the legislation lacks definitions of 'supply of the population with drinking water' and 'water for household'. A clear definition of the terms used in the Constitution is essential to ensure the actual enforcement of the right to drinking water, as guaranteed by Article 70.a of the Constitution. In addition to these definitions, the legislation should regulate the purpose of the use of drinking water supply. Such regulation would enable a distinction between normal household consumption of drinking water and other types of water usage. This distinction should be reflected in the overall legal framework – from pricing policies to the conditions for disconnection of water supply owing to non-payment and similar situations. Currently, the legislation does not prioritise the supply of drinking water to the population or to households. In the event of an actual shortage of drinking water, problems may arise if access to drinking water is granted equally to all users, including economic operators, who may require water for their business activities. Additionally, the transposition of the constitutional provision into

11 Official Gazette of the Republic of Slovenia, No. 44/22, 18/23 – ZDU-10 in 78/23 – ZUNPEOVE.

12 See also Sancin and Juhart, 2023, p. 115.

13 Official Gazette of the Republic of Slovenia, No. 88/12 in 44/22 – ZVO-2.

statutory law should regulate potential restrictions on access to drinking water, as the right to water is not unlimited. Constitutional Court Judge Dr. Knez, in his concurring opinion to the decision No. Up-519/19¹⁴ emphasised that the Constitution does not confer a right to drinking water that would be free from obligations or limitations. Those who behave irresponsibly in their use of water are not granted a right under the Constitution to an unlimited supply of drinking water under all circumstances.

Despite the fact that the legislative framework has not yet been fully harmonised with the constitutional provision, certain aspects of the right to drinking water are already reflected in existing national legislations and subordinate regulations. For example, the Services of General Economic Interest Act¹⁵ (hereinafter, ZGJS), which delineates the modalities for implementing the economic public service in local communities; the Water Act¹⁶ (hereinafter, ZV-1), which prescribes provisions pertaining to water protection areas, specific water use, and their regulations; the Decree on the methodology for determining prices of obligatory municipal public services for environmental protection,¹⁷ which specifies the methodology for determining the prices of drinking water supply services; and the Rules on drinking water,¹⁸ which prescribes the criteria that drinking water must meet.

Provisions concerning drinking water are present throughout numerous laws and sub-legal acts. In addition to the legislation enacted at the national level, regulations have been established by individual municipalities. Municipal ordinances are intended to regulate specific water bodies from which the population is supplied with drinking water. Concurrently, individual municipalities independently regulate this domain exclusively within their territories, potentially resulting in divergences in the regulation of this field among different municipalities.¹⁹

3. Forms of Drinking Water Supply Management

Ensuring the realisation of the right to safe drinking water is of utmost importance, with its management being vital to provide individuals with drinking water that is characterised by availability, accessibility, affordability, quality and safety, and acceptability.

14 Concurring Opinion of Judge Dr Rajko Knez to Decision No. Up-519/19, dated 29 September 2022.

15 Official Gazette of the Republic of Slovenia, No. 32/93, 30/98 – ZZLPPO, 127/06 – ZJZP, 38/10 – ZUKN in 57/11 – ORZGJS40.

16 Official Gazette of the Republic of Slovenia, No. 67/02, 2/04 – ZZdrI-A, 41/04 – ZVO-1, 57/08, 57/12, 100/13, 40/14, 56/15, 65/20, 35/23 – odl. US in 78/23 – ZUNPEOVE.

17 Official Gazette of the Republic of Slovenia, No. 87/12, 109/12, 76/17, 78/19 in 44/22 – ZVO-2.

18 Official Gazette of the Republic of Slovenia, No. 19/04, 35/04, 26/06, 92/06, 25/09, 74/15, 51/17 in 61/23.

19 See also Sancin and Juhart, 2023, p. 115.

Globally, various forms of water resource management exist, categorised into state, collective, and privatised water resource management.²⁰ The forms primarily oriented towards the public interest are state and collective management. State management aims to ensure universal access to water, typically accompanied by affordable pricing. In collective management, community members pool financial resources to make water accessible to all community members. In contrast, privatised water resource management operates in a more market-driven and capitalist manner. This approach often has adverse environmental impacts or affects the population negatively owing to higher water costs, limited accessible water quantities, or inadequate treatment of and contamination in the water supply.²¹

In Slovenia, most drinking water is provided by public water supply systems, which represent state management of water supply. The amendment to the Constitution in 2016 was prompted by concerns over the potential commercial exploitation of drinking water.²² Following this constitutional amendment, the right to drinking water is now constitutionally guaranteed in Slovenia. The new Article 70.a of the Constitution specifies that water resources for drinking water supply in this context are not considered as commodities for trade. They are dedicated primarily to ensure sustainable and adequate drinking water supply for the population and household needs.

The state institutes a distinct regime through economic public services, allowing it to directly regulate its relationship with the providers of economic public services. This arrangement primarily addresses the conditions, procedures, and modalities for the execution of economic public services. The provision of public services is typically ensured within the framework of organised public service activities.²³ The underlying premise of public services, even in various approaches adopted by individual states, is the common general interest, which justifies the state's intervention in specific domains where such activities are conducted.²⁴

Economic public services serve to provide material public goods, such as products and services, the permanent and uninterrupted production of which is in the public interest, secured by the Republic of Slovenia, municipality, or another local community to meet public needs, particularly in cases and to the extent that they cannot be supplied through the market, as stipulated by the ZGJS. Economic public services are determined by laws in the fields of energy, transport, telecommunications, communal and water management, and the administration of other forms of natural resources, environmental protection, as well as laws regulating other areas

²⁰ See Eman and Humar, 2017, p. 120.

²¹ Eman and Humar, 2017, pp. 120, 121.

²² See Pevcin and Rakar, 2017, p. 3.

²³ See Ferk and Ferk, 2008, pp. 38, 39.

²⁴ See Brezovnik, 2008, p. 21.

of economic infrastructure.²⁵ Although it is possible to conduct economic public services within the scope of market activities, doing so would risk the uneven and imbalanced distribution of specific goods and services among the population.²⁶

Moreover, the state, through local self-government communities, ensures the direct and non-profit supply of the population with drinking water and water for household use.²⁷ The local community provides economic public service in any of the following manners: (i) through a direct management operation, in cases where owing to the small scale or nature of the service, establishing a public company or granting a concession would be uneconomical or irrational; (ii) by means of a public economic institution, when providing one or more economic public services that, by their nature, cannot be conducted for profit or are not intended for profit; (iii) through a public company, when offering one or more extensive economic public services, or when the nature of the monopoly activity, as determined by law as an economic public service, necessitates this approach, and the service could be operated for profit, or (iv) by awarding concessions.²⁸ Therefore, the state decides on the establishment and discontinuation of public service provision, sometimes necessitating an evaluation of whether the state is justified in instituting a legal regime for public service in specific activities.²⁹

The supply of drinking water as an obligatory municipal economic public service for environmental protection is conducted by various public service providers. In Slovenia, most cases of drinking water supply are managed by public companies, although, there are a few instances of concessions and direct management operations.

The Decree on Drinking Water Supply defines the types of tasks performed within the obligatory municipal economic public service for drinking water supply and certain conditions for providing drinking water, either as a public service or for personal use. The Decree also sets standards for communal infrastructure that must be fulfilled to conduct the public service. It lays down measures for public service implementation. This includes defining the contents of the environmental protection operational programme related to drinking water supply and the obligations of the municipalities and public service providers in the execution of public service. The execution of public service tasks must be in accordance with the methods and conditions of drinking water supply.

Notwithstanding the prevalence of public companies as the primary mode of drinking water supply, there are cases in Slovenia where water supply is handled by

25 Article 2 of ZGJS.

26 See Trpin, 2004, pp. 1376–1382.

27 Article 70.a of Constitution.

28 Article 6 of ZGJS.

29 See Trpin, 2004, pp. 1376–1382.

concessionaires. One prominent example is Pivovarna Laško in the Municipality of Laško, which obtained a concession in 1998 and extended its contract for an additional 15 years in 2009.³⁰ Prior to the conclusion of the 15-year term, based on an agreement to terminate the concession contract between the concessionaire Pivovarna Laško d.d. and the grantor Municipality of Laško, the execution of the economic public service for drinking water supply was transferred to the Municipality of Laško in 2016. The municipality now provides drinking water supply in the form of a direct management operation.³¹

Notably, in Slovenia, a certain percentage of individuals continue to obtain water from private water supply systems. According to the Decree on Drinking Water Supply, municipalities must ensure public service for the entire area of the municipality. In areas where the municipality does not provide public service, individual water supply or self-supply of a building or engineering structure can be established within settlement areas. It is important to consider that an area with a public water supply system is an area with 50 or more permanent residents and a settlement density exceeding five permanent residents per hectare.³² The same applies to areas with fewer than 50 permanent residents and a settlement density of five or fewer permanent residents per hectare unless self-supply of drinking water or self-supply of a building with drinking water is implemented within the settlement area.³³ In this context, an individual living in an area where a water supply system is already established must connect to the public water supply.³⁴ This implies that individuals cannot self-supply from a private water source in an area within the public water supply system.

4. Water Supply Infrastructure

To ensure adequate and quality drinking water supply, appropriate infrastructure that allows individuals to access water is crucial.

In Slovenia, the construction of water infrastructure is considered a matter of public interest.³⁵ Water infrastructure includes water structures, facilities, or installations intended for water management, particularly flood embankments, weirs, thresholds, reservoirs without the land within the reservoir area intended for occasional water retention, and collection basins, among others.³⁶ Additionally, it includes

³⁰ See Gantar, 2013.

³¹ See Novak, no date.

³² Article 9 of Decree on Drinking Water Supply.

³³ Ibidem.

³⁴ Article 10 of Decree on Drinking Water Supply.

³⁵ Article 44/3 of ZV-1.

³⁶ Article 44 of ZV-1.

water monitoring activities. Detailed provisions concerning water infrastructure are outlined in the Rules laying down water infrastructure.³⁷ According to these Rules, transport pipelines, which are regional or main water supply networks for delivering drinking water from the source to the drinking water distribution network and serve a local purpose, are also considered part of water infrastructure.³⁸

Special status for water infrastructure facilities can be obtained for individual objects based on a decision by the relevant ministry. All necessary permits must be obtained, as without them, the status of water infrastructure cannot be acquired. The status of water infrastructure granted may also be terminated, if the water infrastructure in a specific area becomes unnecessary.³⁹

In most cases, water supply services in Slovenia are provided by public companies. However, it is not mandatory that the drinking water be supplied solely through their water infrastructure; it can also be provided through state-owned infrastructure. The ownership of water infrastructure can either be at the state level or be the responsibility of the public service provider. Notably, water infrastructure, including the land on which it is constructed, is not considered public property, and cannot be obtained through adverse possession.⁴⁰

Local municipalities conduct drinking water supply through public waterworks, which are considered local infrastructure. A public waterworks represents a water supply network that serves the purpose of public service as municipal economic public infrastructure. Additionally, a part of the public waterworks is the external hydrant network for firefighting, which is hydraulically connected to the public water supply, as determined by the Decree on Drinking Water Supply.⁴¹ Waterworks obtains public status only when it is designated as municipal economic public infrastructure for providing public service.⁴²

The state is responsible for transport pipelines and may co-finance the construction of local drinking water supply infrastructure. The financing is facilitated through the Water Fund for intermunicipal or regional projects. Co-financing is not permitted for primary and secondary pipelines.⁴³

In some situations, municipalities take over private water supply systems, primarily when the number of residents who were previously supplied by a private water supply increases in a specific area.

37 Official Gazette of the Republic of Slovenia, No. 46/05.

38 Article 2/2 of Rules laying down water infrastructure.

39 Article 45 of ZV-1.

40 See also *Globevnik*, 2012, p. 110.

41 Article 2(3) of Decree on drinking water supply.

42 I U 1959/2011 at March 15th 2012.

43 Chapter 4 – Water Fund – ZV-1.

Ownership of the water supply system does not impact the eligibility to request payment for services rendered in the public service of drinking water supply. The payment of invoices for drinking water supply is solely determined by whether the entity provides the public service of drinking water supply and whether the individual required to pay the bill can be regarded as a user of the public service.⁴⁴

4.1. Renewal of Water Supply System

Adequately maintaining water supply systems is essential for the safe supply of drinking water. In Slovenia, as well as worldwide, the primary challenge in planning, constructing, and managing economic public infrastructure is financing and the long-term reliability of systems. A significant portion of water infrastructure was built over thirty years ago, which means substantial funds will be required for its renovation in the future, although various system improvements are already in progress, primarily to meet environmental requirements.⁴⁵

Thus, establishing proper records in this field is essential; through such records, reliable infrastructure renewal can be conducted, leading to efficient decision-making and reduced maintenance costs.⁴⁶

5. Cost of Water

The price for drinking water supply is determined based on the Decree and on the methodology for determining prices of obligatory municipal public services for environmental protection. In addition to numerous other responsibilities, the founder of the public economic institute decides on the prices or tariffs for the use of public goods.⁴⁷ With this Decree, the authority for price determination has shifted to municipalities, making them the regulatory body for approving prices of communal services.

The cost of drinking water supply includes a network fee ('omrežnina') and a water fee ('vodarina'). The network fee is charged in accordance with the applicable price list and is based on the size of the water meter or the capacity of the connection, if the building is not equipped with a meter for consumption measurement. The network fee is billed monthly and is not dependent on water consumption. It covers the costs of depreciation or leasing of basic assets and equipment that constitute public

44 VSK Sklep I Cp 481/2018 at October 9th 2018.

45 See Pergar and Polajnar, 2013, p. 286.

46 Pergar and Polajnar, 2013, p. 286.

47 Article 21 of ZGJS.

infrastructure, infrastructure maintenance and renewal, compensation expenses,⁴⁸ expenses for connection renewal and maintenance of connections to the public water supply,⁴⁹ compensation for water rights, and financing expenditures within the network fee costs (which include costs associated with debt financing for the construction or renovation of public water supply infrastructure). If public infrastructure for drinking water supply purposes is located outside the municipality, a proportional part of the leasing costs of this public infrastructure is also included in the network fee. The criteria for sharing costs can be based on co-ownership shares or the extent of the use of public infrastructure, as agreed upon by all municipalities as owners. In contrast to the network fee, the water fee covers the costs of providing the public service. This indicates that it includes only those costs that can be associated with providing public service.⁵⁰ The water fee is charged in accordance with the applicable price list and is based on the quantity of water supplied. For buildings equipped with consumption meters, the normative consumption is determined based on the meter's diameter (considering the normative drinking water consumption). For buildings with other types of water meters, the normative consumption is determined proportionally by considering the network fee factors. For buildings without consumption meters, the water fee is calculated based on the connection capacity, considering the normative drinking water consumption. The service provider determines the actual consumption and settles the accounts for the previous billing period with users at least once a year.

In 2019, a Comparative Analysis of the Implementation of Mandatory Municipal Economic Public Services in the Field of Environmental Protection⁵¹ (*Primerjalna analiza izvajanja obveznih občinskih gospodarskih javnih služb varstva okolja*) was prepared by the Institute for Public Services. The study aimed to categorise drinking water supply service providers into groups based on a crucial parameter and

48 This encompasses compensation for servitude, damages caused in connection with the construction, renovation, and maintenance of public service infrastructure.

49 These are costs related to the reduction of income from agricultural activities in accordance with regulations governing compensation for the reduction of income from agricultural activities owing to adaptation to water protection measures.

50 This primarily pertains to specific categories, such as direct material and service costs, direct labour costs, other direct costs, general (indirect) production costs, which include material costs, depreciation of business essential assets, services, and labour; general procurement and sales costs, which encompass material costs, depreciation of business essential assets, services, and labour; general administrative costs, which include material costs, depreciation of business essential assets, services, and labour; interest costs owing to financing the provision of public services, direct selling costs, water compensation costs for the sale of drinking water, and for water losses up to permissible levels of water losses in accordance with the regulation governing the supply of drinking water; other business expenses, and the return on invested business essential assets of the provider (this represents the return of the provider, which must not exceed 5% of the value of business essential assets for the direct provision of individual public services).

51 See Cerkvėnik, 'Inštitut za javne službe', 2020.

comparatively illustrate and analyse how individual service providers achieve selected explanatory parameters. These parameters significantly influence cost levels and explain the positioning of each service provider in a comparative group. As the prices for drinking water supply services are provided at the local level, it was found that the organisation of these services is highly fragmented and cost intensive. Additionally, these services are delivered under varying conditions in different supply areas and are influenced by numerous technical, technological, and local characteristics. All these factors collectively impact the service price.⁵²

In the previously mentioned case of the Municipality of Laško, where the drinking water supply was provided by a concessionaire, residents had to pay up to 30% more than residents in the neighbouring Municipality of Celje.⁵³ This raises legitimate concerns about the privatisation of water sources and restrictions on access to drinking water in many cases.

In Slovenia, the price of drinking water is uniform for all users, irrespective of social status or the quantity consumed. In contrast, countries such as Belgium apply a progressive tariff system, whereby the price increases with consumption, and four tariff levels are established for drinking water. Socially vulnerable individuals are supported through a water levy mechanism, and disconnection from the water supply is not permitted without a prior social assessment and a judicial decision. In France, vulnerable groups may benefit from subsidised access to drinking water or are entitled to a basic quantity of water free of charge. In Slovakia, the price of drinking water is regulated based on the cost of supply, profit margins, necessary investments, and the efficiency of the system. In the Netherlands, the extraction of groundwater is subject to additional taxation to promote the use of surface water. Drinking water supply is exclusively conducted by public entities, as private sector involvement is legally prohibited.⁵⁴ Slovenia, unlike several of these countries, does not implement a progressive pricing model or define a minimum quantity of drinking water as a matter of social entitlement, and lacks institutionalised solidarity mechanisms such as dedicated social water funds.

5.1. Sanctions for Non-Payment of Drinking Water Services

In cases where individuals are connected to a public water supply, Article 5 of the Decree on Drinking Water Supply is relevant. It states that the recording of the amount of water taken from the public water supply, the identification of the payer,

⁵² See Cerkvnik, 'Inštitut za javne službe', 2020, p. 55.

⁵³ See Eman and Humar, 2017, pp. 120, 121.

⁵⁴ See Zobavnik, 2020.

and the payment for public service for users of the public service are conducted in accordance with the municipality's regulation governing the public service. Therefore, each municipality has internal regulations specifying the sanctions for non-payment of water charges.

The first sanction for individuals who fail to make payment within the deadline specified on the invoice is the payment of legal late interest. In the older ordinance of the Municipality of Črna na Koroškem, Article 36 of the Ordinance on Drinking Water Supply in the Municipality of Črna na Koroškem⁵⁵ stated that the user must pay the bill within the timeframe specified on the invoice or the bill. If the user fails to settle the water fee within the specified timeframe after receiving the bill, the operator is required to issue a reminder. In the reminder, the operator sets an additional deadline for payment and informs the user about the consequences of non-payment. The consequence of non-payment is legal action. In cases of delay, the user is also charged legal late interest. In this ordinance, the initial sanction was not water disconnection, although the ordinance provided for the possibility of cutting off the water supply. The ordinance allowed for the discontinuation of drinking water supply in cases where the installation was inadequate, or if the user allowed the connection of another user to their internal installation, and when other violations related to the water supply system occurred. Currently effective municipal ordinances, such as the Ordinance on Drinking Water Supply and Wastewater Management in the Municipality of Celje,⁵⁶ the Ordinance on Drinking Water Supply in the City Municipality of Ljubljana,⁵⁷ as well as the Ordinance on Drinking Water Supply in the Municipality of Moravče,⁵⁸ prescribe water disconnection as a sanction for non-payment.

Moreover, a water disconnection case in the Municipality of Moravče was the subject of a legal dispute.⁵⁹ The court reviewed the decision of the first-instance court regarding the water disconnection.

In the Ordinance on Drinking Water Supply in the Municipality of Moravče, the third paragraph of Article 42 states that the operator must issue a reminder to the user who fails to pay the water bill, set an additional 15-day payment deadline, and warn them about the consequences of non-payment. After the payment deadline has passed, water supply can be disconnected without further warning. In addition, Article 45 of the Ordinance on Drinking Water Supply in the Municipality of Moravče states that water may be disconnected if the user does not settle the costs based on the issued bill, even after receiving a reminder before the disconnection within the specified time.

55 Official Gazette of the Republic of Slovenia, No. 92/2009 on November 16th, 2009.

56 Official Gazette of the Republic of Slovenia, No. 9/2010 on February 9th, 2010.

57 Official Gazette of the Republic of Slovenia, No. 59/2014 z dne 1. 8. 2013.

58 'Uradni vestnik Občine Moravče št. 07/05, 02/08'.

59 VSL Sklep I Cp 585/2022 on May 26th, 2022.

Through a temporary injunction, the first-instance court, at the request of the plaintiff, ordered the defendant municipal company to re-establish the previous state of possession at its own expense by reconnecting the water at the user's point, and it prohibited the defendant from interfering with the plaintiff's possession of the property or carrying out any actions that would hinder, obstruct, or impede the water supply at the user's point. In addition, it specified a penalty of EUR 5,000.00, which would increase in the event of a breach of the temporary injunction, until the cumulative penalty reaches EUR 500,000.00. The first-instance court rejected the defendant's objection in this regard. The municipal company appealed against the decision of the first-instance court, and the second-instance court granted the appeal.

The higher court determined that it is undisputed that the plaintiff owed payment for water supply to the defendant. In this specific case, it emphasised that water disconnection to the plaintiff was not an unlawful action because it was based on the third paragraph of Article 42 and Article 45 of the Ordinance on Drinking Water Supply in the Municipality of Moravče. The plaintiff did not argue that the ordinance was unconstitutional. The plaintiff referred to the decision of the Constitutional Court of the Republic of Slovenia, Case No. Up-156/98, dated 11 February 1999. However, it can be inferred from the Constitutional Court's decision, Case No. Up-156/98, that the provisions in the ordinances authorising water suppliers to disconnect water supply in case of non-payment for services rendered are not unconstitutional. Although the activities of the municipal company would not be endangered owing to one user's non-payment, as water supply is not so expensive, the principle of equality must be considered in specific cases. Allowing the plaintiff not to pay her debt owing to her poor financial condition should apply to all users of the defendant's services with similar financial conditions. In this judgement, the Constitutional Court determined that water disconnection is a permissible, appropriate, effective, and necessary measure when it complies with the principle of proportionality. The enforcement process is not an equivalent measure to disconnecting the water supply, which typically results in prompt payment, and no additional debts are incurred during the process (if water supply is not paid in the future). However, the enforcement process is associated with additional costs and is time-consuming. Owing to the plaintiff having an individualised water consumption bill that she did not pay, the intervention is permissible, suitable, effective, and necessary, and it cannot be replaced with a milder measure.

The second case, also related to non-payment for the supply of drinking water, was addressed in the judgement with the reference number VSM Sklep I Cp 989/2016 dated 27 September 2016.⁶⁰ In this legal case, only a part of the costs was settled. The defendant claimed that as a provider of economic public services, they supply the facility with drinking water. They believed that the plaintiff was causing a conflict

60 VSM sklep I Cp 989/2016 on September 27th 2016.

by unilaterally amending and changing the issued bills for water supply, wastewater disposal, and wastewater treatment. The first-instance court, as confirmed by the second-instance court, correctly assessed the defendant's actions through the principle of proportionality. It was established that disconnecting water supply owing to non-payment of water service charges was by no means envisaged for the non-payment of a disputed, smaller portion, amid the undisputed part of these costs.

Although courts, in some cases such as non-payment owing to a disputed portion of the invoiced service, grant requests for the cessation of interference with possession through water disconnection, in some cases, such intervention continues to be permitted. However, the interruption of water supply constitutes an inappropriate measure, particularly considering that this right is enshrined in the Constitution. Inappropriate measures have been highlighted by Vasilka Sancin and Miha Juhart, in their article.⁶¹ They emphasise that the supply of electric energy is not subject to sublegal regulations, such as individual municipal ordinances, and a special procedure for disconnecting electric power is envisaged. It is essential that disconnections of electric energy are separately assessed concerning individuals with special social and life circumstances.

To prevent potential violations of the constitutionally guaranteed right to drinking water, a minimum quantity of drinking water could be secured and ensured to all individuals, irrespective of their ability to pay. The establishment of social funds to support the most vulnerable members of society could further strengthen this safeguard.

Based on comparative solutions applied in other countries, it would be reasonable to introduce legislation stipulating that water disconnection may only occur following an assessment of the individual circumstances. A meaningful safeguard could include mandatory consultation with the Centre for Social Work prior to any disconnection in cases involving non-payment. Furthermore, it could be legally required that disconnection is only permitted based on a judicial decision.

Such measures would contribute to ensuring that the exercise of enforcement mechanisms—such as disconnection—does not result in a breach of the constitutional right to drinking water.

6. Conclusion

The right to drinking water is a fundamental right vital for human existence. Providing suitable access to drinking water to every individual is essential. Although some countries encounter issues with sourcing drinking water, Slovenia, being one of the wealthiest countries in water resources, does not encounter such difficulties.

61 See more in Sancin and Juhart, 2023, p. 121.

Realising this at the national level and managing water resources appropriately is crucial to ensure the well-being of future generations.

Member states of the EU individually regulate the provision of drinking water. The regulation of drinking water is divided across various laws and subordinate acts, which primarily contain general provisions related to the supply of drinking water and how it should be ensured. More specific provisions are left to the discretion of each municipality, within their legal instruments, predominantly in the form of municipal ordinances. These ordinances specify the methods of drinking water supply, responsibilities of involved entities, conditions for connection and discontinuation of water supply, and so on. Considering the constitutional provision regarding the right to access clean drinking water, legislative changes in this area should be implemented, as the enforcement of this constitutional right cannot be left to municipal ordinances.

In Slovenia, municipalities that provide drinking water services generally do so through economic public services. Therefore, municipal councils determine the pricing of these public services based on the Decree on the methodology for determining prices of obligatory municipal public services for environmental protection.

Individuals are required to pay for drinking water supply, despite their constitutionally guaranteed right to access clean drinking water. This cost is partly fixed and not dependent on the quantity of water consumed. Therefore, it is imperative to ensure that aging and deteriorating water supply systems are adequately renewed. Non-payment for drinking water supply can lead to sanctions in the form of water supply discontinuation, which represents an extreme measure. The appropriateness of such measures are debatable.

In Slovenia, the right to access clean drinking water is constitutionally guaranteed. However, the author believes that despite the existing system, there is a need to reform the regulations in a manner that harmonises the provision of drinking water more effectively. In the future, water will become an even more essential resource, making it necessary to establish a comprehensive legal framework for its management.

Bibliography

- Administrative Court, judgment and decision nr. I U 1959/2011, dated March 15, 2012.
- Brezovnik, B. (2008) *Izvajanje javnih služb in javno-zasebno partnerstvo*. Maribor: Inštitut za lokalno samoupravo in javna naročila.
- Cerkvenik, S. et. al., – Inštitut za javne službe (2020) *Primerjalna analiza izvajanja obveznih občinskih gospodarskih javnih služb varstva okolja*, [Online]. Available at: https://arhiv2023.skupnostobcin.si/wp-content/uploads/2021/01/primerjalna-analiza_oskrba-s-pitno-vodo_2019_zakljucno-porocilo.pdf, dne 8.9.2023 (Accessed: 10 September 2023).
- Constitution of the Republic of Slovenia, Official Gazette of the Republic of Slovenia, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121, 140, 143, 47/13 – UZ148, 47/13 – UZ90, 97, 99, 75/16 – UZ70a in 92/21 – UZ62a.
- Constitutional Court of the Republic of Slovenia, judgment and decision nr. US RS Up-156/98 dated February 11, 1999.
- Decree on drinking water supply, Official Gazette of the Republic of Slovenia, No. 88/12 in 44/22 – ZVO-2.
- Decree on the methodology for determining prices of obligatory municipal public services for environmental protection, Official Gazette of the Republic of Slovenia, No. 87/12, 109/12, 76/17, 78/19 in 44/22 – ZVO-2.
- Eman, K., Humar, S. (2017) '(Vsiljena) privatizacija vodnih virov – nova oblika kriminalitete zoper vodo (in ljudi) z vidika kritične ekološke kriminologije', *Revija za kriminalistiko in kriminologijo*, 68(2), pp. 116–134.
- Environmental Protection Act, Official Gazette of the Republic of Slovenia, No. 44/22, 18/23 – ZDU-10 in 78/23 – ZUNPEOVE.
- Ferk, P., Ferk, B. (2008) *Javne službe, državne pomoči in javno zasebna partnerstva*. Ljubljana: GV založba.
- Gantar, P. (2013) *Voda kot posel?* [Online]. Available at: <http://www.zares.si/voda-kot-posel/> (Accessed: 15 October 2023).
- General Comment No. 15 (2002) The Right to Water, UN Doc. E/C.12/2002/11.
- Globevnik, L. (2012) 'Vzdrževanje vodne infrastrukture in vodotokov – pomen, realnost in perspektive', *I. Kongres o vodah Slovenije*, pp. 110 – 121.
- Higher Court in Koper, judgment and decision nr. VSK I Cp 481/2018, dated October 9, 2018.
- Higher Court in Ljubljana, judgment and decision nr. VSL I Cp 585/2022, dated May 26, 2022.
- Higher Court in Maribor, judgment and decision nr. VSM I Cp 989/2016, dated September 27, 2016.

- Novak T. (no date) *Vzdrževanje vodovoda v Občini Laško po novem v pristojnosti Komunale Laško*. [Online]. Available at: <https://komunala-lasko.si/sl/11-obvestila/139-vzdrzevanje-vodovoda-po-novem-v-pristojnosti-komunale-lasko> (Accessed: 10 September 2023).
- Office of the United Nations High Commissioner for Human Rights (no date) *OHCHR and the rights to water and sanitation*, [Online]. Available at: <https://www.ohchr.org/en/water-and-sanitation>, (Accessed: 10 September 2023).
- Pergar, P., Polajnar, M. (2013) 'Odločitveni model povezovanja računovodske in tehnične evidence gospodarske javne infrastrukture', *Geodetski vestnik*, 57(2), pp. 286-298.
- Pevcin, P., Rakar, I. (2017) 'Institucionalna evalvacija izvajanja javne službe oskrbe s pitno vodo', in Javna uprava kot gonilo družbe: e-zbornik člankov.
- Resolution adopted by the General Assembly on 28 July 2010: The human right to water and sanitation, A/RES/64/292.
- Rules on drinking water, Official Gazette of the Republic of Slovenia, No. 19/04, 35/04, 26/06, 92/06, 25/09, 74/15, 51/17 in 61/23.
- Sancin, V., Juhart, M. (2023) 'The Right to Safe Drinking Water in International Law and in Slovenia's legal framework and implementation', *Agrár és Környezetjog/ Journal of Agricultural and Environmental Law*, 18(34), pp. 106-124.
- Services of General Economic Interest Act, Official Gazette of the Republic of Slovenia, No. 32/93, 30/98 – ZZLPPO, 127/06 – ZJZP, 38/10 – ZUKN in 57/11 – ORZGJS40.
- Trpin, G. (2004) 'Javne službe in javni zavodi', *Podjetje in delo*, nr. 6-7, pp. 1376-1382.
- United Nations (2015) *The Millennium Development Goals Report 2015*. [Online]. Available at: [https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20\(July%201\).pdf](https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf), (Accessed: 10 September 2023).
- Water Act, Official Gazette of the Republic of Slovenia, No. 67/02, 2/04 – ZZdrI-A, 41/04 – ZVO-1, 57/08, 57/12, 100/13, 40/14, 56/15, 65/20, 35/23 – odl. US in 78/23 – ZUNPEOVE.
- Zobavnik I. (2015) 'Pitna voda, Primerjalni pregled (PP)', *Državni zbor, Raziskovalno-dokumentacijski sektor*.