

Supporting Reform Processes in the Mediterranean Water Sector to Overcome Challenges for Private Sector Participation

A Regional Perspective

Governance &
Financing for the
Mediterranean
Water Sector

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Author:

Koussai Quteishat

Water Regional Specialist, Jordan River Consulting Services

Edited by:

Anthi Brouma

Deputy Regional Coordinator, GWP-Med

Tassos Krommydas

Senior Programme Officer, GWP-Med

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Contact us: secretariat@gwpmed.org

About the project

Addressing the strong inter-linkages between water governance and sustainable financing, the “Governance & Financing for the Mediterranean Water Sector” Regional Project (2013-2017) aimed to diagnose key bottlenecks and identify realistic solutions to overcome them with emphasis on private sector participation.

Jointly designed and implemented by the Global Water Partnership - Mediterranean (GWP-Med) and the Organisation for Economic Cooperation and Development (OECD), the Project was formally labelled by the Union for the Mediterranean (UfM), while strategic partnerships with the Swedish International Development Cooperation Agency (Sida), the FEMIP Trust Fund (FTF) of the European Investment Bank (EIB), the GEF-UNEP/MAP MedPartnership Programme and the Mediterranean Component of the EU Water Initiative (MED EUWI) have ensured its successful implementation.

This Regional Project developed through an interplay of regional and national activities, the latter implemented in four focus countries (Jordan, Lebanon, Palestine and Tunisia).

For more information on the Project, its activities and outputs please visit:
<https://www.gwpmed.org/governanceandfinancing>

QUOTATIONS FROM THE LEAD NATIONAL PARTNERS IN THE FOUR FOCUS COUNTRIES



Lebanon

The Project “Governance & Financing for the Mediterranean Water Sector” has built on our coherent efforts at the Ministry of Energy and Water towards the financial sustainability of the water sector and has assisted us in making important steps forward, including with the involvement of private sector and banks in particular.

On the one hand, we have managed to strengthen and expand the support commercial banks in Lebanon provide to smaller-scale non-conventional water resources projects, utilising one of the green financial mechanisms of the Central Bank, the Lebanese Environmental Action (LEA).

This was achieved through the preparation of criteria for the selection of bankable small-scale projects, which are indeed important to complement through private initiative the work carried out by institutions and add value by increasing the efficiency of the sector.

On the other hand, the expertise provided by the project throughout the implementation of the Lebanese Dialogue has contributed to a better understanding of the gaps in the enabling environment for PSP and the possible interventions and ways forward to improve it. We will use these recommendations along with the Water Code, currently under enactment by the Parliament, to regulate more effectively the water sector and benefit from the involvement of the private sector, also through the recently approved PPP Law. Moreover, we look forward to further educate and build capacity of relevant stakeholders on the PSP options in Lebanon through our Centre d'Information et Formation aux Métiers de l'Eau (CIFME).

Fadi Comair
General Director of Hydraulic and Electric Resources
Ministry of Energy and Water
Lebanon

At a time when BDL was exploring the possibility to enhance its financing mechanisms, especially the conditions set in the circular related to the Lebanese Environment Action (LEA), the “Governance & Financing for the Mediterranean Water Sector Project” came to assert the importance and the greater added-value of water related components in projects, particularly in new certified buildings.

Accordingly, our aim is to further push the Lebanese commercial banks to benefit from this Project and to collaborate in order to establish a small-scale pilot project in any hospital, commercial center or university, whereby this governance and financing nexus can effectively be measured.

Wael Hamdan
Executive Director
Head of the Financing Unit
Banque du Liban

QUOTATIONS FROM THE LEAD NATIONAL PARTNERS IN THE FOUR FOCUS COUNTRIES



Tunisia

The project has contributed to addressing the information gap regarding the role that the private sector can play in water governance and its development, and to providing a reflection on how to enhance the engagement of all water sector stakeholders.

Improving the performance of the utilities’ quality of service is a water governance-related challenge that still needs to be addressed, including through the strengthening of transparency mechanisms in water policies.

Ali Kchouk
Director of Annual Hydraulic Programming, BPEH
Ministry of Agriculture Hydraulic Resources and Fisheries
Tunisia

Safeguarding and ensuring the availability of water, this increasingly scarce resource, will be a geopolitical and strategic issue in the years to come. Let us work together, with enhanced private sector participation, to achieve in the water sector the most efficient allocation of risks and skills between public and private partners.

Atef Majdoub
President of the General Forum of Public Private Partnership (IGPPP)
Presidency of the Government
Tunisia

QUOTATIONS FROM THE LEAD NATIONAL PARTNERS IN THE FOUR FOCUS COUNTRIES



The provided support was an important step in the development of interactive dialogue among partners in the sector towards sustainable development and support of water sector governance by setting some principles for the general framework of enhancing financial sustainability and increasing the efficiency of water service providers

Mazen Ghuneim
Chairman of the Palestinian Water Authority



The water sector faces many challenges, including growing water demand due to the population growth and the waves of refugees, which has put the ministry in the need to work on the development of governance and financial instruments to secure the sustainability of the water services effectively and efficiently. MWI had a great opportunity to work with the “ Governance & Financing for the Mediterranean Water Sector” Project to explore more about the best practices in the region with other countries as well as to enhance MWI capacities in terms of Governance and Financing

Ali Subah
Secretary General
Ministry of Water and Irrigation
Jordan

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ACRONYMS & ABBREVIATIONS

AFD	French development agency (Agence française de développement)
BdL	Central Bank of Lebanon (Banque du Liban)
BOT	Build-Operate-Transfer
BOOT	Build-operate-own-transfer
BOO	Build-own-operate
BPEH	Office of Planning and Hydraulic Balance (Bureau de Planification et des Équilibres Hydrauliques) [Tunisia]
CSR	Corporate Social Responsibility
DG	Director General
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EPC	Engineer, procure and construct
EU	European Union
FEMIP	Facility for Euro-Mediterranean Investment and Partnership
GDA	Agricultural development group (Groupement de développement agricole) [Tunisia]
GDP	Gross domestic product
GEF	Global Environment Facility
GWP-Med	Global Water Partnership – Mediterranean
HCP	Higher Council for Privatisation and PPP [Lebanon]
IBRD	International Bank for Reconstruction and Development (World Bank)
ICT	Information and Communication Technology
IMF	International Monetary Fund
IWRM	Integrated Water Resources Management
JVA	Jordan Valley Authority
JWU	Jerusalem Water Undertaking [Palestine]
LEA	Lebanese Environmental Action for Water, Air and the Environment
MED EUWI	Mediterranean Component of the EU Water Initiative
MENA	Middle East and North Africa
MEW	Ministry of Energy and Water [Lebanon]
MFS	Minimum Functional Specifications
MoE	Ministry of Environment [Palestine, Lebanon, Jordan]
MoF	Ministry of Finance [Jordan]
MPs	Members of the Parliament
MWI	Ministry of Water and Irrigation [Jordan]
NGOs	Non-Governmental Organisations

NWC	Northern Water Utility [Lebanon]
NWSS	Official Development Assistance
NWU	Tunisian Consumer Defence Organisation (Organisation Tunisienne de Défense du Consommateur)
OECD	Organisation for Economic Cooperation and Development
ONAS	National Sanitation Office (Office National de l'Assainissement) [Tunisia]
O&M	Operation and Management
PA	Palestinian Authority
PPP	Public Private Partnership
PSP	Private Sector Participation
PWA	Palestinian Water Authority
RIA	Regulatory impact assessment
RU	Regional Utility [Palestine]
Sida	Swedish International Development Cooperation Agency
SIWI	Stockholm International Water Institute
SNCC	National Climate Change Strategy (Stratégie nationale de changement climatique) [Tunisia]
SONEDE	National Water Supply and Distribution Company (Société Nationale d'Exploitation et de Distribution des Eaux)
SP	Service Provider
SWIM-H2020 SM	Sustainable Water Integrated Management-Horizon 2020 Support Mechanism
UfM	Union for the Mediterranean
UNDP	United Nations Development Programme
UNEP/MAP	United Nations Environment Programme (UNEP)/Mediterranean Action Plan (MAP)
USAID	United States Agency for International Development
US \$	United States Dollar
VfM	Value for Money
WAJ	Water Authority of Jordan
WHO	World Health Organisation
WSE	Water and Sanitation Establishment
WSRC	Water Sector Regulatory Council [Palestine]
WW	Wastewater

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REPORT OUTLINE

This report contains four chapters and three appendices, formatted as follows:

Chapter 1

is an introduction to the Governance & Financing for the Mediterranean Water Sector Project, its goals, objectives and activities. The chapter describes the national policy dialogues implemented in four focus countries, namely Jordan, Lebanon, Palestine and Tunisia from 2013 to 2017, as well as the regional interface the Project facilitated during that period through the organisation of regular conferences. Furthermore, the interaction between national and regional activities is analysed, presenting at the same time the scope of the present Regional Report that imparts a regional perspective to the systematic work done in the four focus countries and compiles the findings from the respective technical documents for further use within the region and beyond.

Chapter 2

introduces briefly the conceptual framework of the water governance-financing Nexus.

Chapter 3

reviews common issues in the four focus countries for each of the areas of recommendations elaborated during the respective National Dialogues. The chapter then examines additional features of these policy dialogues and discusses some of the lessons learned. Three tables, summarizing the findings of the national dialogues, are also given in this chapter specifically regarding the regulatory frameworks, stakeholders participation efforts, and recommended actions.

Chapter 4

reflects on the Regional Dialogue process in the context of the Project and how it contributed to exchanging experiences and commenting and validating the outputs of the national dialogues. The Chapter also.

Chapter 5

presents a set of concluding remarks on how the Project's findings can complement efforts at both national and regional levels towards sustainable water financing and can also contribute towards further regionalisation of actions on the water governance & financing nexus agenda.

Annex I

presents the Statement of the Project's concluding Regional Conference on Water governance in MENA and wider Mediterranean region (Barcelona, 12-14 December 2017)

Annex II

provides an overview of governance & financing in the water sector of the focus countries, including the role of water utilities, principles of good governance and levels of responsibilities, and a taxonomy of types of projects in the water sector and their contract and finance related issues.

Annex III

gives a brief outline of key characteristics of a well performing water utility, also highlighting that good internal governance is a key ingredient to the success of PSP.



Chapter 1 INTRODUCTION

Stemming from the realisation of the inherent linkages between governance and the mobilisation of financial resources for the water sector, the aim of the Governance & Financing for the Mediterranean Water Sector Project has been to diagnose related bottlenecks and identify plausible and realistic recommendations to help overcome them.

The Project, jointly designed and implemented by the Global Water Partnership-Mediterranean (GWP-Med) and the Organisation for Economic Cooperation and Development (OECD), was formally labelled in 2012 by the Union for the Mediterranean (UfM), as an endeavour of regional scope that contributes to peace, stability and sustainable development. Strategic partnerships with the Swedish International Development Cooperation Agency (Sida), the FEMIP Trust Fund of the European Investment Bank (EIB), the GEF-UNEP/MAP MedPartnership Programme and the Mediterranean Component of the EU Water Initiative (MED EUWI) have helped set the project in motion and achieve its full implementation.

The official Project launch took place in Barcelona, Spain, on 28-29 May 2013 during a High-level Regional Conference organised at the seat of the UfM Secretariat and in the presence of more than 110 stakeholders from across the Mediterranean. During its almost five-year timeframe (2013-2017), the Project developed through an interplay of regional and national activities¹; the latter implemented in four focus countries, namely Jordan, Lebanon, Palestine (with two phases of work) and Tunisia.

More specifically, structured and inclusive Policy Dialogues were conducted at country level engaging a wide range of stakeholders from the government, utilities, private sector, civil society, donors and regional organisations, within and beyond the water sector, and firmly anchored within formal national water sector processes. The Dialogues built on the GWP-Med and OECD long-standing tradition of providing neutral platforms for building consensus and sharing good practices/lessons learnt through evidence-based consultation processes, fact-finding missions, background reports, bilateral and multilateral semi-structured interviews, case studies and peer-review. These National Policy Processes concluded with the elaboration of separate Reports for each of the four focus countries.

The country Reports were compiled building on the active input described above thus, shedding light on the structures and processes of policy-making in the water sector of the focus countries and the way these processes challenge sustainable financing, including through private sector participation. The diagnostic part of the Reports, carried out according to tested OECD methodology and capturing the status quo of public-private partnerships (PPPs) in the water sector (and water services in particular), provided the basis for informed discussion and exchanges and was complemented by a set of policy recommendations based on international best practices as well as country-specific action plans tailored to the particular national context and needs. The technical work, facilitated and supported by GWP-Med, involved a set of multi-stakeholder workshops that were conducted under the auspices of the Ministries in charge of water and provided tangible input to the development and finalisation of the Reports.

¹ Information and material from the national and regional components of the Project are available at <http://www.gwpmed.org/governanceandfinancing>

In brief,

- The Policy Dialogue in *Tunisia* was carried out in close co-operation with the Bureau de Planification et des Équilibres Hydrauliques (BPEH) of the Ministry of Agriculture, Natural Resources and Fisheries as the main focal point, and concentrated on the applicability of various PSP modalities, financial and fiscal sustainability of the Tunisian water sector, and consequently of the PSP itself, and on the need for greater transparency and related legislation.
- in *Jordan*, the Dialogue was conducted under the guidance of the Ministry of Water and Irrigation (MWI) and revolved mainly around the corporatisation efforts for the water utilities and the regulation of water services, legislations in their draft stage at the time of the dialogue and the financial sustainability of the water sector under the threat of a fiscal and cost recovery crisis.
- the Policy Dialogue in *Palestine*, under the leadership of the Palestinian Water Authority (PWA), placed emphasis on the ongoing water sector reform and the provisions of the new water law with regard to the distribution of responsibilities, especially between strategic sectoral planning and regulation of water services, and the way to enhance the role of the private sector in water infrastructure.
- in *Lebanon*, the Policy Dialogue was a follow-up to previous work conducted in 2009-2010 jointly by GWP-Med and OECD, in close collaboration with the Lebanese Ministry of Energy and Water – Directorate General of Hydraulic and Electrical Resources (MEW), and besides the assessment of water PPPs, it focused on the role of banks in supporting sustainable water financing. The expansion and enrichment of innovative financing structures supported by the Central bank of Lebanon (BdL) formed the core of the Dialogue, with technical assistance provided for the elaboration of criteria/guidelines for the selection of bankable water projects, particularly in the area of non-conventional water resources. The potential replication of the Lebanese prototype in other countries of the MENA region is already under exploration.

From the above, priority issues for each of the countries were delineated. These core findings, from the National Dialogues and the accompanying technical work, have been shared, discussed and peer-reviewed within the regional component of the Project. This process has taken place, in the form of an informal interface during regular regional conferences bringing together each time more than 110 stakeholders from across the countries of the Mediterranean and from across public, private and civil society organisations. Further to the Launching Regional Conference in May 2013, three more regional conferences have been organised within the Project's timeframe: Athens, 28-30 Oct. 2014; Tunis, 5-6 Dec. 2016; Barcelona, 12-14 Dec. 2017. The latest event in Barcelona, through targeted input and feedback, has contributed directly to the compilation of the present Regional Report.

The idea underpinning this Regional Report is to impart a regional perspective to the systematic work done in the four focus countries and to put together findings from the respective technical documents in one report to help stakeholders from the countries and the region become aware of similarities as well as peculiarities belonging to the individual countries. If not sharing best practices, it would then be lessons learned.

A regional perspective would normally delineate commonalities either as common problems that exist or as common solutions that may apply in different contexts, or preferably both. This Report therefore further develops the Project's essence and objective, being the contribution for the provision of water and wastewater services to all, which is the ultimate goal that tools of finance, governance and integrated water management as a whole seek to achieve. Besides utilising the juxtaposition among the findings of the four National Dialogues, the Report has also been enriched through experiences shared in the Regional Conference on "Water Governance in MENA and wider Mediterranean region: strengthening integrity and financing for water security and sustainable development"² that was held in Barcelona on 12-14 December 2017. The Conference marked the conclusion of both the "Governance & Financing for the Mediterranean Water Sector" Project² as well as the "Water Integrity Capacity Building Programme in the MENA" led by the UNDP Water Governance Facility at SIWI. Moreover, the Conference gave the opportunity to share the experience of Portugal in the regulatory respect, where policy, regulation, and information base are outlined as essential components for water services to be able to attract finance and assure integrity. This is presented in Annex II of this Report, as a valuable case for consideration by all MENA countries.

The Regional Report first reviews the topic of governance and private sector participation in the water sector, reflects on both the national and regional dialogues, and highlights core cases selected for the focus countries. Invariably, in each of the country reports, whereas legislation is addressed calling for reform in governance to facilitate private sector participation in the water sector and modalities are presented for structuring finance, the key supposition remains that costs of finance need to be recovered. Costs cannot be recovered without having properly run utilities that provide services to clientele who are satisfied with the quality of the service, nor would partnership with the private sector succeed without qualified counterparts from the public sector. Whereas this partially falls within stakeholders participation efforts well covered in the country reports, and each country report addresses the need for efficient operations, this regional report concludes with annexes that describe governance and structure requirements for utilities to be able to perform well.

² The Barcelona Conference marked the conclusion of two regional projects, namely the "Governance & Financing for the Mediterranean Water Sector" and the "Water Integrity Capacity Building Programme in the MENA" led by the UNDP Water Governance Facility at SIWI. Both projects were formally labelled under the UfM framework and supported primarily by Sida.

Chapter 2

THE GOVERNANCE & FINANCING NEXUS – An overview

It is widely acknowledged that the global ‘water crisis’ is in fact largely a ‘governance crisis’, necessitating the efficient design and effective implementation of policy reforms aligned with the principles of Integrated Water Resources Management (IWRM) and with due consideration to inclusive stakeholder engagement and pro-poor and gender-sensitive approaches. However, governance reforms, through the operationalisation of dedicated strategies and plans for the provision of safe drinking water and basic sanitation to the populations, require funds that countries often fail to secure. The mobilisation of finance for the Mediterranean water sector in particular, has proven to be a formidable task, and is usually beyond individual government capacities. Though international support to the water and sanitation sector has increased over the past years, it still falls short of the requirements that the implementation of individual country strategies necessitate. In conjunction with that, discussions over the potential role of the private sector for the sustainable financing of water services have brought into the forefront the need to have a sound water governance framework in place.

In the context of the “Governance & Financing for the Mediterranean Water Sector” Project, this governance-finance nexus has been investigated in four Mediterranean countries, namely Jordan, Lebanon, Palestine and Tunisia while the findings and lessons learnt have been shared across countries through the Project’s regular regional interface.

Dedicated National Reports were elaborated through multi-stakeholder national consultation processes, referring to ongoing water sector reforms in each of the four focus countries. Such reforms are not independent of the overall economic reform aspired by the individual governments who have been advised that market-based approaches represent a most sensible way to manage their economies. Given that the provision of sustainable water and sanitation services is vital to the country’s continued economic growth, governments have developed policies and strategies to address the needed reforms. As strategies are translated into action plans, investment needs come to the surface. Considering that each of the four focus countries of the Project is heavily indebted, it becomes apparent that continued reliance on central government for major infrastructure projects as well as management and finance of facilities’ expansion and improvements in the water sector would be unsustainable, if not unrealistic. It is also apparent that individual governments started or are planning to start the process of promoting private sector involvement in sector developments. This is seen in the adopted/under preparation water laws and legislation which support this promotion.

Promoting private sector involvement in water sector developments is one major effort towards sustainable financing of the development needs. Such financing is built on four pillars, namely technical, financial, legal, and socio-economic. Learning from PPP experiences, these pillars are normally targeted for due diligence in any PPP transaction of any level. Transaction advisers are usually composed of experts in all these disciplines. Setting PPP aside, it is important to apply situational analysis where these pillars are well described and well documented as they provide the background for proper decision making. Policies should then revolve around improving these pillars starting by collecting and disseminating even the basic of information.

Evidence has repeatedly shown that water infrastructure can only be sustainable if the communities it serves are sustainable, and if decision makers and citizens understand the value of water infrastructure and the efforts behind the provided services. Policy makers should build and maintain the technical, financial, and managerial capacity necessary to ensure long-term sustainability. Within their capability, customers and local governments (where independent from central government) should provide appropriate financial support to ensure the sustainability of funded projects, particularly through the involvement of the private sector.

A large variety of guidelines, instruments, and publications exist in support of better governance in the water sector. In an effort to compile these resources, an Inventory was prepared by the OECD³ which gathers more than 100 governance tools, water and non-water specific, around 4 thematic building blocks: stakeholder engagement; performance and governance of water supply and sanitation; basin governance; and integrity and transparency. These building blocks have become more tangible as the already difficult situation in the Middle East & North Africa (MENA) and wider Mediterranean region, characterised by serious water challenges that pose obstacles to the region’s development trajectory, is exacerbated by explosive demographic changes, unemployment, poverty, changing consumption patterns including rising water and food demands, urbanisation, growing energy needs, environmental degradation, climate change, and gender disparities. Along with political unrest in the region, these factors have highlighted the clear demand for more efficient water and sanitation service provision, wider participation of stakeholders, more decentralised planning and implementation processes and more transparent and accountable decision making. In such situation, introducing PSP, as an option for sustainable finance, along with adapting existing governance structures and developing new ones, to create an enabling environment were the objectives of this Project. This warranted consensus building through national policy dialogues as one platform and dissemination of inter linkages, along with collected good and bad practices through regional fora as a second platform. Results are discussed in the next two chapters.

³ World Water Forum, Contributions to the 2030 Sustainable Development Goals, May 2016

Chapter 3

THE GOVERNANCE & FINANCING NEXUS - National Policy Dialogues

3.1 Overview – Methodology

As mentioned above, in the framework of the Governance & Financing for the Mediterranean Water Sector Project, national activities were implemented in Jordan, Lebanon, Palestine and Tunisia, through targeted and structured Policy Dialogues with the objective of identifying main governance challenges in the sustainable financing of water services, including through the involvement of the private sector. This was accomplished through in-depth technical investigation alongside multi-stakeholder dialogues. Emphasis was given on the consultation process so as to reach an overall and common understanding of the issues at stake and develop recommendations and tailored action plans in a consensual manner. The process was inherently reform-driven, with guidance from international best practices.

More specifically, the Policy Dialogues engaged a wide range of stakeholders from the government, utilities, private sector, civil society, donors and regional organisations, within and beyond the water sector, and were firmly anchored in formal national water sector processes. The Dialogues built on the GWP-Med and OECD long-standing tradition of providing neutral platforms for building consensus and sharing good practices/lessons learnt through evidence-based consultation processes, fact-finding missions, background reports, bilateral and multilateral semi-structured interviews, case studies and peer-review. These National Policy Processes concluded with the elaboration of separate Reports for each of the four focus countries.

The country Reports were compiled building on active input and feedback from the stakeholders (including answering questionnaires, giving input during policy workshops and bilateral interviews held in the respective countries, as well as providing written comments) and shedding light on the structures and processes of policy-making in the water sector of the focus countries and the way these processes challenge sustainable financing, including through private sector participation. The diagnostic part of the Reports, carried out according to tested OECD methodology and capturing the status quo of public-private-partnerships (PSPs) in the water sector, provided the basis for informed discussion and exchanges and was complemented by a set of policy recommendations based on international best practices as well as country-specific action plans tailored to the particular national context and needs. The technical work, facilitated and supported by GWP-Med, involved a set of multi-stakeholder workshops that were conducted under the auspices of the competent Ministries in charge of water in the focus countries and provided tangible input to the development and finalisation of the Reports.

And as indicated previously, the national processes maintained parallel linkage to the Project's regional component; national findings were fed into the regional component both by providing inputs to the regional conferences and by contributing towards building informal platforms for water governance and policy makers along with private actors.

The core attribute of the National Policy Dialogues was the active involvement of a large number of stakeholders, who were engaged in a constructive and informed manner in the elaboration process for the National Reports. An overview of the participation level in the four focus countries respectively, including ratio of women involved and number of institutions, is given in the table below:

Country	Individuals involved	Women ratio	No. of Institutions / Organisations
Jordan	157	31%	57
Tunisia	162	41%	65
Lebanon	120	35%	30
Palestine	189	27%	39

3.2 Essence of the Policy Dialogues

The essence of the Policy Dialogues has been captured and transformed to results, a summary of which is provided at the end of this chapter in three tables (Tables 1-3), with specific reference made to each of the focus countries: the first table summarises the legal framework for PSP, the second table addresses stakeholders' engagement, whereas the third is a summary of recommended actions. The tables are put together in a matrix form where similarities and differences across the four countries can be detected for easy reference and comparison.

A key asset in the interactive dialogue process has been the awareness raising and consensus building among the stakeholders, some of whom had no previous conception about the private sector's contribution in water and the way governance structures can either hinder or facilitate the participation of the private sector through an appropriate enabling environment.

The findings from the National Dialogues indicate that there are common challenges among the four countries investigated with regard to the regulatory framework, the budgetary processes and to the engagement of stakeholders. Accordingly, similar lines of needed actions are called upon. The next three sections include some remarks and conclusions which can be drawn according to the three areas of recommendations detailed and juxtaposed in Table 3 at the end of this chapter.

3.3 Regulatory Framework

In general, regulatory frameworks need further development as uncertainty and gaps in the legislative and regulatory frameworks for water and PPPs still exist thus, undermining the legal clarity of PSP, limiting its opportunities and destabilising the process as a whole. The following sub-sections summarise the findings for the elements of the country dialogue for each focus country as well as targeted inputs from the author of the Report, as/where relevant.

Chapter 3: THE GOVERNANCE & FINANCING NEXUS

National Policy Dialogues

3.3.1 Legislation

Stemming from interim findings of this study, efforts to adopt legislation to address governance needs were indeed taking place in each of the focus countries.

A Water Code, albeit needing revision, is in place in Tunisia. The Government still needs to specify how the updated water sector strategy, the updated water code, the concessions law, the future PPP law and the proposed strategy for a green economy will complement each other as this will certainly clarify the framework for PSP in the water sector.

In Lebanon, the Water Code is pending ratification by the Parliament since its adoption by the Cabinet of Ministers in October 2017. The Code foresees possible delegation of drinking water, sanitation and irrigation services for a maximum period of 25 years. Forms of concession, affermage, management contracts, 3rd party management as well as construction, operation and transfer contracts are listed under the designation of delegated services, hence defining the possible modalities for PSP. Furthermore, a draft law submitted by MEW to the Cabinet in 2003 had envisaged regulation for delegated services and BOT projects for construction, operation and transfer of dams and annexed works, including water and sanitation networks, drinking water and wastewater treatment plants. According to this draft law, evaluation of projects and preparation of specifications is MEW responsibility, being the signatory to PPP contracts after Cabinet's approval. Management of the process is made through a commission established within MEW. It is apparent that this draft Law will very likely conflict with the PPP law, adopted in September 2017, which mandates a Higher Council to lead the process of Privatisation and PPPs. However, the role of MEW remains as signatory to the PPP contract but instead of the process being led by a commission established by MEW, the process will be lead by the Higher Council for Privatisation HCP (the name subsequently (2017) modified to Higher Council for Privatisation and PPP) to highlight its active role in supporting the effective implementation of this law's provisions throughout the approval process of PPP projects. The question of regulating the service providers remains pending.

Jordan's legislation is limited to institutional laws and bylaws. The question of having a comprehensive water law is frequently revisited but is always hindered because of fear that it would weaken existing institutional laws, which are nevertheless wide-encompassing. Although these laws and bylaws are exhibiting increased enforcement, compliance mechanisms are further needed. These are usually associated with stakeholders' buy-in to the policies in place.

Palestine represents a case where water sector reform resulted in the enactment, in 2014, of a comprehensive water law which has a well-thought out national water policy and strategy (1992) as its background. It is the only country, among the four investigated, that has a comprehensive water law in place, which addresses issues and establishes targets. The Law is in its infancy, and though it calls for institutional changes and start-ups, these calls are yet to be fully delivered and are thus far encountering strong resistance to change.

3.3.2 The PPP Unit

A critical institutional issue is where PPP units are located in the government architecture, whether e.g. at the Ministry of Finance or at satellite units in competent institutions, and whether the area of responsibility is sector-specific or cross-sectoral. Jordan has had a PPP unit in place for some time. Tunisia and Lebanon have recently passed PPP Laws indicating that both countries are yet to undergo the learning curve and would still need time to apply and practice the process. Palestine has yet to enact a PPP Law.

Jordan enacted the PPP Law in 2014 and established the PPP unit within the Ministry of Finance. At the time of writing (end of 2017), the Unit's involvement has been in 10 projects, only one of which relates to water and wastewater, albeit at the request of the Ministry of Environment, for an industrial wastewater treatment plant⁴. No activities are noted with the water sector that has had institutional experience in PSP for a much longer period than the PPP unit itself. At the end of 2017, Jordan signed a cooperation agreement with France to assist the PPP Unit in the development of a work plan for partnership projects for a period of three years. During this period, workshops and training will be given on partnership between the two sectors in both Arabic and English. The training will target the staff of the PPP unit, as well as other ministries and government institutions. The cooperation will also include the appointment of specialists to support the PPP unit and to conduct a study for development of the unit's staff.

Tunisia has 4 PPP Units, the most prominent of which are the ones at the Prime Ministry in form of a commission and the other at the Ministry of Finance. Both facilitate the process but final approval for launching the procurement process comes from the Commission at the Cabinet.

In Lebanon, the Higher Council for Privatisation and Partnership is the authorised party to approve, facilitate, launch, and manage PPP projects. The related Ministry or procuring party joins the Council as well as follow-up committees as member within the HCPP and pursues the process from project initiation until full realisation.

In Palestine, on the other hand, the French Government was requested to support Palestine in establishing a PPP unit within the PWA. The French Government and their consultants, however, proposed (yet to be reviewed and approved by the Cabinet of Ministers) a central PPP unit to be established at the Ministry of Finance and Planning for all development sectors. At the time of writing (end of 2017), no such unit has been established, nor has there been a development of a PPP law/by-law in Palestine.

The PPP unit is an important contribution to the regulatory framework and is expected to play a major role in the projects' development process. It would (a) focus on strengthening the procedures of project selection and approval, (b) ensure that the tools needed to decide on project procurement are in place, and (c) ensure the value for money analysis is applied by public entities on regular basis in the process of financially evaluating the projects. The challenge, however, remains that a PPP unit should not become another bureaucratic step, making the process from conceptualisation to realisation even more lengthy.

⁴ A major issue at the present time is assigning the actual signatory to the PPP arrangement as the MOE does not have the mandate over the financial transactions of the contract nor the management capabilities over such type of project.

3.3.3 Regulation

Common to all four countries is the set of regulations that pertain to the most basic level of governance, that of defining the relationship between the water sector and the citizens/consumers. This interactive relationship is drawn at the practical level to which all other activities (overall governance, legislation and finance) should lead. It translates to effective provision of water and wastewater services to the people defining the relationship between the service provider (utility) and its customers. Such a relationship needs to be regulated with the objective of providing the best service possible, albeit with the understanding of prevailing limitations. The regulator ensures that the rights of both sides are preserved, while respective obligations are also met. International best practices are clear on this subject and indicators that reflect this relationship are well documented. The concept of establishing a common understanding between the parties is based on an interactive process, hence the need for dialogue processes between the parties.

From the four focus countries, only Palestine has an independent regulator whose duties and responsibilities are defined in the Water Law.

Jordan's water sector is regulated by the owner of the utilities (the Water Authority/Ministry of water) through Service Agreements with the service providers, originally public utilities that have been corporatised. These entities are turning more and more towards becoming operation and maintenance companies with the regulator owning the assets, hence regulating, among other reasons, for protecting its own investments. Becoming an O&M company, however, is quite different from the initial intention of having a corporatised public entity which would have some responsibility over its capital investments. This change in the relationship calls for revisions to current agreements.

In Lebanon, regulation of the water sector is inherent in the MEW mandate, whereas legislation for regulating the service providers according to international practices is entirely absent. As for regulating PPP arrangements, efforts by the Ministry of Energy and Water to take the lead in PPP processes did not materialise, and the role was given to the HCP and PPP (Council) in the related 2017 law. The fact of the matter remains that the process itself, though led by the Council, remains within the hands of MEW as the related ministry in the case of water and electricity as it has an automatic membership in the Council in relation to its projects, prepares the preliminary studies, assists the Secretary General of the Council to prepare the feasibility study, is then represented at the Committee formed for the purpose, formulates the working team that supports the Committee's work in preparing the PPP documents, negotiates with bidders and ultimately signs the Contract. This applies to the water sector and, would also apply to wastewater if MEW becomes the related ministry in that sector.

In Tunisia, the National Report makes no special note of this regulatory role, but references a hierarchal structure with water services in the urban areas operated by SONEDE (National Water Supply and Distribution Company) and regulated by the Ministry of Agriculture, Natural Resources and Fisheries, whereas wastewater in the urban areas is operated by ONAS (National Sanitation Office) and regulated by the Ministry of Environment. However, water and wastewater in the rural areas are meant to be regulated by GDAs (Agricultural development group/ Groupement de développement agricole), though essentially the services go unregulated.

All four country reports recommend strengthening the autonomy of service providers. It is essential, therefore, that the readers of this Report refer to Annex III of the present document. The Annex identifies what a well performing water utility should entail on the basis of international best practices, which delineate the minimum requirements for both structure and governance of the utility in order to perform well. This revolves essentially around having an autonomous provider on one side and an independent regulator on the other. Having this in place, represents an important ingredient for success and an assuring environment towards PSP.

3.4 Budgetary Processes

Budgetary processes need to be improved as water operators are hindered by limited financial sustainability leading to the call for substantial subsidies and overall fiscal constraints that in turn add pressure on the water and wastewater sector to call for reform. Tackling this formidable situation should follow the principle that resolving a problem of this nature needs to be broken down into components.

Experience in Jordan and Palestine has shown the effectiveness of this procedure. The process starts by separating the bulk supply of water and the treatment of wastewater from the business of water retail and sewage collection, thus ring-fencing the points of subsidy, and pinpointing financial needs where they belong. The objective would then be to segregate between on the one hand finance at national scale (national budget) for developing and delivering the resources to the service providers, and on the other hand, the service providers' responsibility for cost recovery for their own operation and maintenance activities (utility's budget). Cost recovery is thus, focused on the retail business versus the adequate provision of services. The role of PSP is then delineated as either assistance in the partial or full delivery of services, or as investment in the provision of the resource (source development or wastewater treatment). These require different PSP modalities and involve different public clients. A later section in Annex II of this Report addresses this separation.

Box 1:
PSP Paradigm Shift by Multinational Enterprises

The recent development of social engineering programmes by private operators (for example Suez Environnement) in the context of the new business model for water in developing countries testifies to the importance of dialogue with stakeholders before choices are made as to the mode of management. The forms of PSP practiced by multinational enterprises have also changed as a result of feedback from experience, shifting from a "contract" focus (a 20 or 30-year concession) to a "process" focus based on transferring know-how and technical skills through management contracts that are more flexible, less risky and less demanding in terms of investment

Water Services and the Private Sector in Developing Countries, AFD March 2012

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It is worth noting that Palestine has an easier role in identifying where subsidy is needed because the majority of its bulk water for major urban areas (60% and on the rise) is provided at specific locations, at a negotiated price, by an Israeli water company. The process, however, still needs regulation in terms of times of supply, metering locations and water pressure at the points of delivery.

In the case of Jordan, however, an exogenous factor is the high cost of the energy consumed by the service providers. Energy costs are variable with time and essentially on the rise, yet the tariff is not. In the absence of the ability to adjust tariffs accordingly, the difference between the cost of energy prevailing at a certain baseline value and date and that cost at a later date has to be borne by the government. This should not be mislabelled as subsidy and should show in the respective budgets, hence be sufficiently transparent to provide for performance-based PSP contracts for energy cost reduction. These types of contracts have been applied in Jordan and would be on the increase if the regulator sets specific indicators for the operator to enhance operational energy efficiency.

There are too many issues to address in Lebanon and too many assumptions, to properly define a baseline situation. This is a welcoming and fertile ground for PSP, as was the case of Tripoli in 2003, Gaza in 1995 and Amman in 1996 when contracts were awarded for the management of these utilities. The Gaza and Tripoli contracts were for four years, whereas for Amman, initially for 4 years and then extended to 7. However, in all three cases, the impact of these management contracts has lingered until today and is generally positive. In the case of the Water and Sanitation Establishments (WSEs) in Lebanon, it is suggested that some form of due diligence be done before a management contract is considered. This is necessary for developing realistic contract specifications and a common and agreed information baseline on the state of services and infrastructure against which the operator's performance and progress can be measured and evaluated. Management contracts introduce know-how and build capacity, and at a relatively fast pace (See Box). The desperate need for qualified staff by WSEs in Lebanon is well documented. Facing the same problem, capacity development was built into the management contract for water, and wastewater and services in the city of Algiers, Algeria, whereby the management contract included, as a component, the establishment of a "Local Training Centre for Water and Sanitation Services Activities." This can be replicated in Lebanon.

Tunisia shares with other focus countries the importance and need for developing a pricing methodology that clarifies the process and criteria for updating tariffs, as international experience shows. However, there is no comprehensive information available on the extent and the breakdown of subsidies granted by the State, nor on the deterioration of infrastructure. ONAS has always been subsidised, and SONEDE has received subsidies from the State for several years. Although these operating subsidies appear in the government's budget, loan guarantees are not specifically mentioned there, nor are the growing deficits of the water and sanitation utilities. This is a serious handicap towards attracting private sector, as it seriously questions accountability. This is also especially important as PPPs may have contingent liabilities, which need to be monitored in the budgetary process.

Essential to all focus countries, however, is to have the ability to manage the loan, grant, self-finance combination schemes. This is because the reliance on grants is becoming the norm, whereby grants are used to reduce loans and thus reducing the cost of the final product onwards to the consumer. This was the model used in Jordan in all of the major PPP schemes. It is worth-noting that As Samra Wastewater Treatment plant was the first ever such model applied in a USAID supported project.

3.5 Stakeholders' Engagement

Stakeholders' engagement needs to be genuinely addressed, and systematically improved, in all focus countries in order to respond to greater accountability mechanisms. These mechanisms need to be developed because water and wastewater issues are of social and socio-economic significance. This holds true for all four focus countries where the importance of the subject is much underestimated. This is necessary at two levels; one being at the national policy level and the other at the service delivery level, each requiring a different set of messages. The subject has a three-prong approach: (1) creating an information base, updating it, and making its contents widely available, (2) educating on and encouraging water savings, simultaneously inducing behavioural change, and (3) establishing and implementing a communication strategy that targets audiences depending on the message/messages that need to be conveyed. All four country reports are in agreement with those needs and list these recommendations as specific actions.

Jordan is a case where all three activities of the above approach have been tried recurrently, yet although assessed as successful at the end of a related project phase, people seem to be remotely attached to these issues because each campaign addressing water supply and demand seems government initiated. When it comes to utilities, on the other hand, the trust gap between the utilities and their customers is too large to bridge due to a long history of inefficiency. At the level of major PPP projects, however, the relationship between the Government and the people seems to be more at ease simply because the major stakeholders are usually many and people view such projects as significant nationally whereas the provision of services more at the personal level. The case of As-Samra Wastewater Treatment Plant, for example, represents a success story of an inclusive dialogue among all major stakeholders that had led to the development of a sustainable PPP project in wastewater treatment (see Box 2). See also Annex I for the types of water projects and their levels of acceptability by the stakeholders.

Whereas the approach described above tends to envisage public involvement as receptor of awareness raising messages towards water saving and other conservation initiatives, the country reports refer to Water Users Associations (WUAs) in water sector strategies and policies, as models for stakeholders' participation. The Water Law in Palestine calls for establishing such associations (in irrigation). Jordan already practices the process, with limited success though, among farmers in the Jordan Valley. In Lebanon, the National Water Sector Strategy also refers to stakeholders' participation and the creation and building the capacity of formal WUAs, but exclusively in connection with irrigation management.

Box 2:⁵

Approach towards involving stakeholders in As Samra PPP Project in Jordan

The operation of the As Samra plant, as well as the development of the extension, illustrates the benefits of an inclusive approach involving major stakeholders. Owing to its complexity and wide-ranging impacts, the As Samra wastewater treatment plant has a large and diverse array of stakeholders, ranging from the banks that risk capital, the politicians who risk reputation and those concerned about nature protection, to the neighbourhood leader concerned about local economy preservation. Work on perception and expectations carried out when operations started on the phase one of the plant helped to improve understanding and knowledge about the infrastructure project and to build consensus around the purpose of the expansion and its benefits. Participants showed interest in job creation during expansion phase – working opportunities for women were explored with special care – and emphasis was put on communication with politicians and the public. According to its promoters, this dialogue was critical to developing a sustainable project (De Pazzis, 2014).

<https://www.worldfinance.com/infrastructure-investment/project-finance/as-samra-wastewater-plant-expansion-continues>

⁵ <https://www.worldfinance.com/infrastructure-investment/project-finance/as-samra-wastewater-plant-expansion-continues>

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Water for irrigation purposes is not within the scope of the 'Governance & Financing' Project. The WUA model, however, represents a potential, and indeed a practical solution in dealing with GDAs in rural Tunisia where a GDA is responsible for both irrigation and domestic water. Though small in size (run by 5 to 7 unqualified volunteers), the tremendous number of these users' associations managing nearly 80% of the water in Tunisia make it imperative to address this issue. The case of GDAs falls under the broad issue of decentralisation, actual stakeholders' engagement, and last but not least, improvement in the management of water. The National Report for Tunisia views the concept as follows: "The involvement of small-scale operators in rural areas is one option that could be considered, based on the results of studies now underway on the GDAs. The conclusions of the studies could provide a useful basis for identifying ways of improving the quality of rural service, including cases where private enterprises could intervene, cases where the community-based GDA could be consolidated, and areas where the mandate of SONEDE could be reassessed and reinforced. Given the presently perilous state of most GDAs in Tunisia, PSP should be envisioned only on a pilot basis, with support from the public authorities (Rural Engineering) for reorganising the microsystems. Moreover, given the small scale of the GDAs, private participants would have to be small-scale operators or individual enterprises whose capacities would need considerable strengthening, with suitable supervisory instruments. Countries such as Morocco, where small private operators have taken over service in rural areas, offer examples of the pros and cons of this option and successful ways of involving private operators."

The overall concept of decentralisation is discussed further in the section below.

3.6 Key Messages of the Dialogues

3.6.1 Decentralised utilities

The World Bank recently (2017) issued a report and a toolbox on the subject of aggregation of utilities⁶, highlighting that aggregation is a universal trend, yet has to have a purpose to succeed. The executive summary of the World Bank report is shared in Box 3 below.

On the issue of decentralisation, all four focus countries have had their experience with aggregating or disaggregating the service providers. Jordan, many years back, had municipalities operating the water facilities resulting in huge inefficiencies and were then aggregated under the leadership of the highly centralised Water Authority of Jordan (WAJ). In later years, as the concept of corporatised entities developed, three entities were formed and are currently expanding their geographical domains to cover the country; operating in the North, Middle and South.

Palestine currently has over 300 service providers, with the plan -as specified in the Water Law- to form three Regional Operating Units (ROUs), North, Middle and South in the West Bank and a fourth one in the Gaza Strip. Notably, the Middle ROU will be operated by the Jerusalem Water Undertaking (JWU), corporatised in 1966 when the West Bank was under Jordanian sovereignty. Indicators show that JWU is one of the most efficient utilities in the Arab World, albeit with the highest water tariff as well.

In 2000, Lebanon consolidated its nearly 22 utilities into four Public Water and Sanitation Establishments (WSEs) in accordance with Law 221/2000 and its amendments (Law 241 and Law 377), though far from being corporatised. The Law was passed in 2000, yet enforcement was delayed and related application Decrees were finalised only at the end of 2005. Until today, the Water and Sanitation Establishments have not yet received the necessary resources (human and financial) for their efficient operation as administratively and financially autonomous entities.

Box 3:

Executive Summary of World Bank Report on Amalgamation of Utilities

World Bank Report; ""Joining Forces for Better Services: When, Why, and How Water and Sanitation Utilities Can Benefit from Working Together"

The recently adopted Sustainable Development Goals (SDGs) set an ambitious agenda of providing universal access by 2030 to safely managed water supply and sanitation (WSS) services. Policy makers and sector practitioners know that the SDGs will be achieved only if service providers can provide better services at a lower cost. Yet, in the last decades, policy approaches to structuring service delivery at the right level have been conflicting: some countries have chosen to consolidate service provision centrally, hoping for greater professionalism and economies of scale, whereas others have chosen to decentralise and empower local governments in the hope that more local accountability would provide strong incentives for good services. To reconcile those two apparently contrary trends, an increasing number of countries and local governments are turning, with varying degrees of success, to the aggregation¹ of local utility companies. Making utilities work together has been regarded as an opportunity to improve the cost efficiency and performance of service providers, thus making them more sustainable. There is ample empirical evidence in the literature on the existence of economies of scale in the WSS industry, at least up to a certain level. Furthermore, it seems that large utilities tend to operate at a lower unit cost and perform better than smaller ones.

For instance, Abbot and Cohen (2009) found that significant economies of scale exist in the WSS industry. More recently, in a study analyzing the performance of WSS utilities in Africa, Van Den Berg and Danilenko (2015) found that size matters in achieving good performance. Two recent analyses based on IB-Net data for utilities in the Danube region (Klien and Michaud 2016) and in the Latin American and the Caribbean Region (Diaz and Flores 2015) showed lower unit costs for larger utility companies. These studies compare utilities serving cities of different sizes. It is not clear when the same scale effects are achieved by grouping a number of noncontiguous providers into a single, larger, provider. Many utility companies and countries embarking on such an aggregation processes have found that those benefits do not always materialise in practice and that the accompanying processes are arduous and fraught with political challenges.

Tunisia has one non-corporatised government water entity and one wastewater public entity operating in urban areas and over 1000 entities in rural areas with emphasis on "taking advantage" of the decentralisation concept. Amalgamation is not considered as an option in Tunisia but rather having small private operators support the GDAs in rural areas.

Experts in the water world are not in agreement on the better choice between centralised versus decentralised utilities. An employee of the Water Sector Regulatory Council in Palestine analysed the performance of service providers in Palestine through a set of weighted indicators. The published report⁷ concluded that larger utilities performed better than smaller utilities.

⁶ Report titled: "Joining Forces for Better Services: When, Why, and How Water and Sanitation Utilities Can Benefit from Working Together", available at <https://openknowledge.worldbank.org/handle/10986/28095>

⁷ Murrar, A. (2017), "The Relationship between Size and Performance of Palestinian Water Service Providers", Journal of Water Resource 9, 536-552. <https://doi.org/10.4236/jwarp.2017.95035>

3.6.2 Potential Role of Local Banks

The Policy Dialogue in Lebanon focused primarily on the role of banks in promoting water efficiency projects under the framework of non-conventional water resources management (NCWRM). As tackled and discussed during the Policy Dialogue in the country, Lebanon has thus taken the lead in the involvement of commercial banks in financing water and energy projects, taking advantage of the green financial mechanisms available under the Lebanese Environmental Action (LEA) of the Central Bank of Lebanon (BdL).

The National Policy Dialogue and related technical work, assisted with a) the expansion and enrichment of the innovative financing structures supported by BdL in the NCWRM spectrum and b) the elaboration of criteria/guidelines for the selection of bankable water/wastewater projects, particularly in the NCWRM area, specifying what type of interventions can be part of this scheme. A differentiated approach was applied in the development of criteria, for smaller and larger-scale projects respectively, with attention in both cases paid to social and environmental considerations as well as gender and the access of women to such mechanisms.

Two issues were confronted in the process, namely the slow rate of return on investment for this type of projects (as well as for most water-related projects) that could discourage investors, and the fact that commercial banks in Lebanon can lend money only to private stakeholders. The former was addressed by giving due consideration to smaller projects and the latter through finding appropriate ways to engage more actively the local authorities/municipalities through the collaboration with a third party (private company, NGO etc).

The Lebanese example, as a prototype of success in relation to local bank’s involvement in the water and energy sector, has been showcased beyond the national context (including during the Barcelona Regional Conference, Dec. 2017) and a rapid Background Analysis of the enabling conditions for banking sector involvement in the water sector, with emphasis on Jordan, Palestine (and potentially Morocco and Tunisia) are planned by the SWIM-Horizon 2020 SM Project for 2018. This will capitalise on the involvement of banks in the consultation process and contribute towards a model for replication elsewhere in the region, transferring the know-how and experience from Lebanon.

3.6.3 Some Lessons Learnt

Whereas the above analysis highlighted some similar and not so similar practices among the focus countries, attempts were also made to compare these practices with international practices. The above discussion on the different challenge/recommendation areas inherently contains also lessons learnt on the process as well as on the outcomes of the National Policy Dialogues. Some additional learning points include, but are not limited to, the following:

- cross-institutional interaction is key to the successful introduction of reforms, e.g. delicate relationship between regulators of water services and the ministries in charge of water
- capacity of institutions is severely challenged and thereafter hampered when frequent changes of administration take place
- financial independency and autonomy of both regulators and utilities remains a highly challenged area with revenue mobilisation and collection steadily at low levels
- though capacity building of both public and private sectors for effective PPP interaction figure steadily at the top-ranked priority issues, knowledge remains modest on PSP spectrum, often confusing PPP with privatisation
- private sector, including banks, remain largely unclear on their role in water financing and of the benefits from getting involved
- influencing policy is time-demanding taking much longer than planned or calculated

The above lessons highlight some of the gaps that need to be addressed/accommodated by the national water sector reform processes.

3.7 Summary of Country Dialogues Findings

Presented in the next pages is a summary of the findings from the four country reports in three tables, containing information as follows:

Table 1 - Summary and excerpts from findings of the four country reports –
LEGAL FRAMEWORK FOR PSP

Table 2 – Summary and excerpts from findings of the four country reports –
STAKEHOLDERS PARTICIPATION

Table 3 – Summary and excerpts from findings of the four country reports –
RECOMMENDED ACTION PLANS

The tables are not intended to replace the actual reports, which contain a wealth of information not included herein. The findings are juxtaposed in order to impart a regional perspective to the uniqueness of the individual countries, and gauge the specific actions that need to be taken to achieve the overall objectives of meeting governance and finance challenges in line with international practices.

TABLE 1 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - LEGAL FRAMEWORK FOR PSP



TUNISIA: On the national level

A draft PPP law, now under examination in Parliament, provides for the possibility of a broader range of modalities for involving the private sector. In particular, it foresees the delegation of public services, which is of direct relevance for the water sector. The draft law provides for simplified PSP procedures for small-scale projects, but the actual thresholds are still under discussion. Energy, telecommunications and sanitation have been suggested as pilot sectors once the law is ratified.

Related to the Water Sector

A National Climate Change Strategy (SNCC) was developed providing a framework for considering risks and challenges facing the water sector, and a context for the potential contribution of PPP, but has not yet been adopted.

The Water Code, first adopted in 1975 and amended several times, is the principal legislative tool for the water and sanitation sector and needs further revision, but no timetable has been established for this task.

The right to water has been officially recognised in the new Tunisian Constitution: Emphasis is now on the responsibility of government and the components of society to preserve the country's water resources and to manage them properly.

Although the PPP legislation represents in a strong signal of political commitment to PSP, the government will need to specify how the updated water sector strategy, the updated strategy, the future PPP law and the proposed strategy for a green economy will complement each other and will help to clarify the framework for PSP in the water sector.

Prime Ministerial Circular No. 14 of 2011 includes provisions governing the procedures for preparing legislation aiming to enhance the quality of legislation in all sectors and to reduce administrative burdens for private enterprises but have gaps related to technical grounding (notably the tariff regulation function) and the transparency and accountability of services vis-à-vis users.

Sanitation and water services are operated by separate companies that compete for funds.

Quality standards need to be updated and enforced more effectively.

Issues

Too many institutions involved in regulating the utilities.
There is no authority responsible for assembling and managing information on PSP in the water sector

TABLE 1 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - LEGAL FRAMEWORK FOR PSP



JORDAN: On the national level

The Government enacted a PPP law in 2014 that defines the PPP, establishes a Partnership Council chaired by the PM to approve projects, tendering process & final contracts.

The Government also created a PPP unit within the Ministry of Finance mandated with registering priority projects in the PPP pipeline, review of feasibility studies & viability reports, and provides contracting authorities (such as WAJ in the water sector) with technical support during project lifecycle.

Related to the Water Sector

The Ministry of Water and Irrigation preceded other sectors in government by corporatizing water utilities and had succeeded in concluding projects under different forms of PPPs/PSPs.

The Sector had already reconciled PS intervention in its O&M functions, in the management of services, and in investment.

Institutional laws, particularly that of the Water Authority of Jordan, govern the water sector at large. Even though a comprehensive Water Law has been periodically entertained, there has not been enough drive to follow the idea through.

A unit within the Water Authority, started as a Project Management Unit, evolved into a Project Monitoring Unit and had accumulated the two roles of following-up on capital investment as well as of the monitoring of the utilities, albeit without power. Neither autonomy given to the corporatised utilities nor independence to the regulator.

Issues

The precarious financial situation of the Main water provider (WAJ) remains the main impediment for further Private Sector involvement in terms of both:

Insufficient funds to cover its obligations and low credit worthiness (due to heavy debts) barring project finance.

Autonomy for the utilities, along with an independent regulator, are both nearly absent.

TABLE 1 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - LEGAL FRAMEWORK FOR PSP



PALESTINE: On the national level

The 2013 Policy and Strategy document considers private sector partnership to be an essential part of the reform process.

The Cabinet issued letters on 26 May 2013 (a) authorising the Ministry of Agriculture to set a comprehensive policy towards farmers using treated wastewater in irrigation, seemingly in support of a private project in Jenin, (b) requesting the Permanent Economic Committee to adopt PSP studies conducted for the water sector to be followed by the legal process of competitive tendering, (c) requesting specific government entities to open a dialogue with the Palestinian Private Sector to discuss investment opportunities in the Water Sector, and (d) requesting studies and preparation for Private Sector Participation in water and wastewater projects and in coordination with relevant authorities and submit these projects to the Permanent Economic Committee.

The 2014 Water Law specifically mandates the PWA to help create a stable and suitable investment environment to encourage the private sector to invest in the activities and investments of the water sector. It also calls for making institutional, regulatory and economic changes to encourage partnerships with the private sector; all according to a Bylaw to be drafted for this purpose. Having a specific PSP bylaw is seen as beneficial to the process and in line with efforts taken in this regard elsewhere in the region.

Enactment of a PPP bylaw is a way to demonstrate political commitment to PPP, and primarily, the need for such legislation came as a specific request from the local private sector.

PWA requested the French Government to investigate the establishment of a PPP unit for water projects. These indicated the need for a central government organisation and proposed a central PPP unit. Detailed proposal is still under consideration by the Prime Ministry.

Issues

With the Water Sector Regulatory Council in place, and the new Water Law (2014) setting the ground for further action, roles among entities supposed to be in synergy are neither clarified nor understood.

TABLE 1 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - LEGAL FRAMEWORK FOR PSP



LEBANON: On the national level

Draft laws have been in process since 2007.

Law 48 on the Regulation of Public Private Partnerships was ratified in September 2017.

The Higher Council for Privatisation and PPP was mandated to lead the process.

The Council sets up a well- represented project committee to implement the process with recourse to the Council along the way.

The Law specifies mechanisms for transparency, describes the steps and responsibilities of the various actors during the selection of and negotiation with the best bidder and then throughout project implementation.

The Council's Secretariat General shall provide training to the public sector staff to develop their capabilities and enable them to effectively study and manage PPP projects.

Related to the Water sector

The Water Code, approved on 7 October 2017 by the Cabinet is pending Parliament's ratification. The Water Code foresees possible delegation of drinking water, sanitation and irrigation services for a maximum period of 25 years. Forms of concession, affermage, management contracts, 3rd party management as well as construction, operation and transfer contracts are listed under designation of delegated services.

Draft law submitted by MEW to the Cabinet in 2003 envisages regulation of delegation and BOT projects for onstruction, operation and transfer of dams and annexed works, including water and sanitation networks, drinking water and wastewater treatment plants. According to this draft law, evaluation of projects and preparation of specifications is MEW responsibility as signatory to PPP contracts with Cabinet's approval. Management of the process is made through a commission established within MEW. However, the 2017 PPP law states that the HCP and PPP manages the process but the related ministry is present from the beginning as a member in the Council on projects related to the ministry.

Issues

Interface between the national PPP law and water sector proposed law not well defined particularly in terms of allocation of responsibilities for the set-up of projects resolved in 2017 PPP Law.

TABLE 2 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - STAKEHOLDERS' PARTICIPATION



TUNISIA

The political and social crisis gripping Tunisia demands immediate implementation (or strengthening) of tools for information, consultation, dialogue and joint decision-making in order to win general public acceptance of water policy objectives.

Social forces can have a real influence on water policies in Tunisia and can in fact drive reforms if the dialogue fora in place are consolidated and strengthened and if new mechanisms are introduced. it is urgent today to involve all stakeholders, in particular civil society, governorates and municipalities in a dialogue to define guidelines for the country in managing water and sanitation services.

Stakeholder engagement is an instrument of governance that can help achieve better outcomes in terms of efficiency, transparency, participation and equity in managing water and sanitation services.

There are several degrees of citizen engagement, ranging from information sharing to various consultative arrangements leading to a more significant input into the decision- making process. Dialogue with stakeholders must be based on the principles of clarity of focus, representativeness and transparency.

Indicators developed by the water provider SONEDE cover essentially technical aspects of water supply, and not quality of service and hence need to be extended, especially since user satisfaction surveys do exist.



JORDAN

There are a few platforms for engaging users on different aspects of the water sector.

Customer engagement is only at its beginnings. The government recognises the importance of engaging with end-users on a variety of issues bearing on the provision of water and wastewater services. However, efforts to reach out to the consumers seem to be done in an ad hoc way.

Lack of trust among the public of water supply provision calls for greater effort by the government, potentially using PSP, to develop mechanisms for engaging with major stakeholders. Past PSP experience has shown the danger of labour force opposition.

Action Plan of the Water Strategy for, the Ministry of Water and Irrigation has developed a list of activities for establishing customers' confidence. Though the parameters are clear in terms of the time-bound activities, the indicators of success do not seem to have been defined nor were specific targets set.

A solid information base would help raise awareness on critical issues such as the state of water resources, costs of water and wastewater supply services and the role of private companies. Explaining these issues could make tariff increases for water and wastewater more palatable to consumers.

Regular public customer satisfaction surveys, as a common practice, are probably the most efficient way to reach out to the general public.

TABLE 2 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - STAKEHOLDERS' PARTICIPATION



PALESTINE

Raise the awareness by strengthening the information base on critical issues such as national water resources, tackling corruption and illegal activities in the sector, real cost of water and wastewater supply services.

Identify and engage with groups of stakeholders to discuss and gain support on issues such as investments, private sector responsibilities and transparency, tariff levels, and service quality, ensuring that women and men are equally and equitably represented.

Prepare a communication strategy to raise awareness and show responsiveness to consumers' needs and interests. Clear goals for awareness raising activities are to be tracked by indicators to measure levels of performance. Messages are to target different groups (men/women, public/private etc.). This strategy should ideally be developed and implemented, in a participatory manner with the private actors engaged in the sector to also build broad-based relations and knowledge.

Support the implementation of the Action Plan evolving from the 2012 "Gender Strategy for the Environment Sector with emphasis on water and solid waste", which sensitises gender into water policies while monitoring and enhancing women's leadership role.



LEBANON

Practical experience in interactive dialogue at the level of policy and decision making remains rather limited in Lebanon. Even more limited, is the possibility of stakeholders to participate in informed public debates. This also applies to the water sector, where examples exist but are not extensive.

The National Water Sector Strategy refers to stakeholders' participation exclusively in connection with irrigation management, and specifically to the creation and capacitation of formal Water Users Associations (WUAs). Moreover, the public involvement is only envisaged as receptor of awareness raising messages towards water saving and other conservation initiatives.

Integrity and transparency are essential for good water governance. Efforts involve first the nation as a whole and then applying it to the water sector, suggestion was made to form a National Water Council that would include other authorities to overlook the management of resources.

Key issue in this regard is Gender mainstreaming which can be readily enhanced along with the involvement of children and youth.

Chapter 3: THE GOVERNANCE & FINANCING NEXUS

National Policy Dialogues

TABLE 3 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - RECOMMENDED ACTION PLANS



	TUNISIA
RECOMMENDED CORE ACTION PLANS	<p>Identify form of PSP best suited to objective</p> <ul style="list-style-type: none"> Consider forms of PSP in the water sector in light of past experience, the local and international private sector appetite, and the improvement of framework conditions Consider the use of BOT-type PSP arrangements for desalination or wastewater treatment plant Consider involving small private operators to support the GDAs in rural areas
REGULATORY RELATED RECOMMENDATIONS	<p>Improve access to database information on water and sanitation services</p> <ul style="list-style-type: none"> Scale up efforts to develop performance indicators and see that the results are published Update and complete the existing water information system and check its consistency with the various information producers
SERVICE PROVIDERS RELATED RECOMMENDED ACTIONS	<p>Strengthen the financial and decision-making autonomy of water operators</p> <ul style="list-style-type: none"> Give water operators more autonomy by granting greater flexibility in managing investments and current operations Ensure that tariffs cover their costs Accompany price-setting with cost reduction measures <p>Develop an institutional structure conducive to sound management of PSP</p> <ul style="list-style-type: none"> Strengthen legislative framework for PSP and PPP in water sector; establish mechanisms for reconciliation with existing laws Strengthen government capabilities in the area of PSP, and PPP in particular Maintain a close link between the budget and planning processes
FUNDING AND FISCALLY RELATED RECOMMENDATIONS	<p>Ensure the fiscal affordability of PSP</p> <ul style="list-style-type: none"> Record government subsidies to water sector transparently in budget/accounts Introduce a strategic financial planning tool specific to the water sector Specify in budget all contingent liabilities arising from government commitments in the water sector to minimise fiscal risks <p>Value for money</p> <ul style="list-style-type: none"> Establish list of investment projects in water and sanitation sectors Define equitable rules of the game for selecting between a public and PSP option
CAPACITY BUILDING RELATED RECOMMENDED ACTIONS	<p>Establish competent team to monitor projects and manage engagement with private partner during operational phase of a PSP project</p>
COMMUNICATION AND STAKEHOLDERS PARTICIPATION RECOMMENDED ACTIONS	<p>Make communication a strategic and cross-cutting activity on Tunisian government agenda</p> <ul style="list-style-type: none"> Strengthen capacities of communication divisions of SONEDE and ONAS Define the target population groups for communication purposes <p>Activate and strengthen the existing participatory and consultative forums</p> <ul style="list-style-type: none"> Strengthen the GDAs as a forum for participation and sharing of experience Strengthen the role of NGOs Encourage participations by vulnerable groups (young people, women) <p>Take better account of specific territorial circumstances</p> <ul style="list-style-type: none"> Improve the representation of governorates and municipalities on National Water Board Strengthen cooperation in public agencies

TABLE 3 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - RECOMMENDED ACTION PLANS



	JORDAN
RECOMMENDED CORE ACTION PLANS	<p>Address the funding gap</p> <ul style="list-style-type: none"> MoF should commission a report detailing water sector subsidies and long-term needs Develop strategic financial plan for water and WW service sector <p>Address the strategic planning gap</p> <ul style="list-style-type: none"> Set up strong dedicated PPP capacity in the MoF, PM's Office and other key agencies, and develop related methodologies
REGULATORY RELATED RECOMMENDATIONS	<p>Embed more systematically the instruments of good regulatory policy in the water sector to improve the efficiency and accountability of the regulatory framework for water</p> <ul style="list-style-type: none"> Roll out systemic use of tools that ensure regulatory quality in the water sector
SERVICE PROVIDERS RELATED RECOMMENDED ACTIONS	<p>Continue the corporatisation efforts and strengthen the autonomy of water providers</p> <ul style="list-style-type: none"> Professionalise staff in the water operators Strengthen financial sustainability of operators Address gaps in performance monitoring through development of a set of common performance indicators
FUNDING AND FISCALLY RELATED RECOMMENDATIONS	<p>Address the procurement and value for money process gap</p> <ul style="list-style-type: none"> Develop a basic VfM methodology building on established practices Develop standard contract for PPPs to bridge the legal framework gap Ensure competition in bidding process <p>Address the fiscal guardian gap and public affordability</p> <ul style="list-style-type: none"> Improve budgeting procedures and link projects, budget preparation, execution and accounting, to ensure that fiscal risks are identified, managed and treated transparently
CAPACITY BUILDING RELATED RECOMMENDED ACTIONS	<p>Address the capacity gap</p> <ul style="list-style-type: none"> Enhance private sector participation capacity in the administration
COMMUNICATION AND STAKEHOLDERS PARTICIPATION RECOMMENDED ACTIONS	<ul style="list-style-type: none"> Support relevant NGOs and universities that have a productive role to play in strengthening the information base for the water sector Produce clear and evidence-based information on the potentially beneficial role that private actors can play in the water sector <p>Strengthening existing mechanisms and platforms for stakeholder engagement</p> <ul style="list-style-type: none"> Strengthen multi-stakeholder platforms to encourage the dialogue between NGOs, academics, citizens and local governments and service providers on water-related issues Engage customers more systematically <p>Define a communication and capacity development strategy</p> <ul style="list-style-type: none"> Develop media campaigns based on previous lessons and recommendations Target key stakeholders such as youth and women

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National Policy Dialogues

TABLE 3 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - RECOMMENDED ACTION PLANS



	PALESTINE
RECOMMENDED CORE ACTION PLANS	<ul style="list-style-type: none"> Submittals to Cabinet Water Tariff Regulations Water and Wastewater Connection Regulation Regional Water Utilities Regulation Regulation on licensing of SPs Regulation to create environment that would encourage private sector investment in water Legislation for WR Protection Zones SPs Incentives by-law Identifying and regulating extent of local authorities' participation in general structure of Regional Utilities
REGULATORY RELATED RECOMMENDATIONS	<p>Establish accountability mechanisms for WSRC</p> <ul style="list-style-type: none"> Agree on core functions of WSRC WSRC to regularly conduct RIAs with gender/socio-economic considerations <p>New controls on groundwater</p> <ul style="list-style-type: none"> Set up database and feed it with validated information (including health-related indicators disaggregated on socio-economic status, sex and age), wherever groundwater is used Eliminate free abstraction quantities Assess aquifer safe yield Limit abstraction quantities Enforce measures against illegal use Enforce against deteriorating GW Legislate for WR protection zones
SERVICE PROVIDERS RELATED RECOMMENDED ACTIONS	<p>Strengthen the autonomy of water providers</p> <ul style="list-style-type: none"> Apply cost recovery basis in tariff setting and support revenue collection Proper set tariffs accompanied by accountability measures on use of revenues, improve bill collection, enhance capacity to efficiently manage resources at their disposal <p>Financial self-sufficiency of water entities</p> <ul style="list-style-type: none"> Assess financial relationship between entities (flow of money) Identify single points of subsidy Use tariff studies data
FUNDING AND FISCALLY RELATED RECOMMENDATIONS	<p>Tariff regulations and tariff policy</p> <ul style="list-style-type: none"> Develop mechanisms to identify true cost of water in bulk; set up process for utilities to follow a uniform accounting system Conduct affordability and willingness to pay study through public and multi-stakeholders' consultations, disaggregating gender, income, etc. Develop a dynamic customer database with a clear grievance mechanism
CAPACITY BUILDING RELATED RECOMMENDED ACTIONS	<p>Capacity Building in PPP contracts</p> <ul style="list-style-type: none"> Project portfolio identification Identify project applicability to PSP/PPP Project Preparation methodology Basic VfM methodology Introduce the social context of investment into VfM Procedure for preparing contingency liability report
COMMUNICATION AND STAKEHOLDERS PARTICIPATION RECOMMENDED ACTIONS	<p>Suggested checklist for actions related to stakeholder engagement regarding PPPs</p> <ul style="list-style-type: none"> Strengthen information base on: national water resources, real cost of water production, wastewater services, gender roles water resources management Engage stakeholders to discuss and gain support on investments, tariffs, service quality Prepare Communication & Capacity Development Strategy to raise awareness and identify consumer needs and interests <p>Communications in support of PPP</p> <ul style="list-style-type: none"> Produce clear and evidence-based information on the potentially beneficial role that private actors can play in the water sector to dispel the myths and clarify what the private sector has (or has not) brought in Palestine based on experiences (in Gaza and partially in Bethlehem).

TABLE 3 –
SUMMARY AND EXCERPTS FROM FINDINGS OF THE FOUR
COUNTRY REPORTS - RECOMMENDED ACTION PLANS



	LEBANON
RECOMMENDED CORE ACTION PLANS	<p>Build on criteria developed in the framework of the LEA for financing loans in water, air an environment</p> <ul style="list-style-type: none"> Continue consultations with private sector and banks to solidify and speed-up the needed actions in an open, transparent and inclusive manner Capitalise on involving banks in consultation process as it will assist with the financial sustainability of the water sector and contribute a model for replication elsewhere in the region
REGULATORY RELATED RECOMMENDATIONS	<p>Improving water regulatory framework</p> <ul style="list-style-type: none"> Advance sector reforms regarding Parliament approval of final version of Water Code & follow-up the process to ensure effective implementation and enactment Strengthen legal framework to improve performance of water delivery, WW services, the organisational bylaws of the Water Establishments, a new organisational law for the Ministry of Energy and Water's restructuring, and amendments of Law 221/2000 Emphasise sub-sectors (WW collection, disposal & irrigation) Make transparent tariff structure Develop procurement framework
SERVICE PROVIDERS RELATED RECOMMENDED ACTIONS	<p>Improve financial sustainability of water services</p> <ul style="list-style-type: none"> Restructure and support WSEs to reach administrative and financial autonomy Improve WSE performance management Improve support functions (Strategic Planning and Business Planning, Fixed Asset Management, Customers' Service, Control and Audit functions) Improve manpower skill to ensure appropriate operation, maintenance of assets and optimal water delivery <p>Institutions and their development</p> <ul style="list-style-type: none"> Development SIP to determine the funding necessary to meet given targets Direct finance to where it will have the greatest impact and meet targets Assist with identifying different means for obtaining additional finance and provide arguments for more effective contesting of government budgets Rank initiatives in impact and investment needs via prioritisation exercises Promote policy dialogue and consensus building on realistic water-sector targets
FUNDING AND FISCALLY RELATED RECOMMENDATIONS	<p>Procurement decision based on new PPP law</p> <ul style="list-style-type: none"> Start process with project feasibility from line ministry; establish project committee by HCP to conduct study including feasibility and assessment of private sector interest; assisted by a working group, prepare extensive documents including prequalification criteria; after approval by HCP, refer to Council of Ministers for approval; launch process, assisted by MED 5TP (EIB program) for technical, financial and legal services, and bidding process
CAPACITY BUILDING RELATED RECOMMENDED ACTIONS	<p>Capacity</p> <ul style="list-style-type: none"> Conduct extensive gender sensitive staff training, accompanied with hands-on practice, to retain and embed local and external experts within procuring organisation
COMMUNICATION AND STAKEHOLDERS PARTICIPATION RECOMMENDED ACTIONS	<p>Enhancing water integrity, stakeholders' engagement and gender mainstreaming</p> <ul style="list-style-type: none"> Endorse anti-corruption Committee, independent from executive and legislative powers, to support clear accountability mechanisms and transparent procedures Ensure regular accountability and transparency in the public sector, e.g. require institutions to submit yearly progress reports Enact law for public access to information <p>Enhance stakeholders' and public engagement in the water sector</p> <ul style="list-style-type: none"> Expand water-related dialogue to NGOs, academics, citizens and local authorities Develop a sufficient knowledge base, reinforce trust and establish a regular communication platform Encourage behavioural change in youth Provide better educational material for all grade levels and train teachers Introduce environmental conservation clubs through NGOs to increase awareness and capacity development Efforts should be participatory and inclusive; periodically assess impact Consider retaining specialist companies until in-house experience is built <p>Enhance gender mainstreaming</p> <ul style="list-style-type: none"> Engage economists, gender specialists, communication experts, ICT experts, etc. to encourage more women engagement Govt. should encourage women business owners to invest in water and in companies with mixed management. Central Bank can ensure credits to banks are conditional to gender equality in loans

Chapter 4

THE GOVERNANCE & FINANCING NEXUS - The Regional Dialogue

4.1 Background

As mentioned previously, the Governance & Financing for the Mediterranean Water Sector Project was implemented through an interplay of national and regional activities. At regional level, regular cross-Mediterranean events constituted a constructive platform for experience and knowledge sharing, while at the same time peer-reviewing and showcasing the results of the analytical work conducted at national level. The regional component concerns a broader dialogue, aiming to share policy experiences and promote best practices across the Mediterranean and beyond, and explore the potential replication of the conducted line of work. At this level, the interface between policy makers and private sector on governance reforms was facilitated towards the enhancement of financial sustainability in the water sector and was coupled with informed interaction with civil society actors.

The Project was launched by GWP in Barcelona on May 28, 2013 in close cooperation and under the auspices of the Union for the Mediterranean (UfM) Secretariat. The Conference was attended by 100 participants from 22 countries across the Mediterranean including Ministers, high-level government officials, intergovernmental and non-governmental organisations as well as stakeholders from the water utilities, private sector, donor community, and academic institutions. Following the Launching Conference, three regional Conferences were held in the context of the Project as follows:

The 1st Regional Conference (Athens, Greece, 28-30 October 2014) gathered more than 110 Mediterranean representatives and peer-reviewed the findings of the work in Jordan and Tunisia.

The 2nd Regional Conference (Tunis, Tunisia, 5-6 December 2016), also attended by more than 110 participants, reinforced the informal regional platform among policy makers, private sector actors and civil society representatives, reviewed the findings of the work in Palestine and also contributed to the compilation of a compendium of replicable good practices, relevant to the MENA context.

The 3rd and final Regional Conference (Barcelona, Spain, 12-14 December 2017) gathered more than 140 participants from across the Mediterranean. During the Conference, the outcomes from all the National Policy Dialogues were presented and disseminated, experiences and insights on sustainable financing mechanisms for water infrastructure were shared, ways for promoting action at both policy and implementation levels were identified, synergies (existing and upcoming) with related initiatives and projects, as well as the role of cross-cutting themes (e.g. gender, integrity, rights, etc.) in the water governance and financing line of work were explored. Finally, recommendations at the regional level concerning different groups of stakeholders were elaborated by the participants in the Conference through a highly participatory process.

The final Regional Conference, contributing also to the finalisation of this Regional Report, served as the closing event of another regional project titled “Water Integrity Capacity Building Programme for the MENA”. There was significant added value in this joint endeavour of addressing Governance & Financing together with Water Integrity, having good water governance as the common denominator. The purposes of this joint effort were to assess policy gaps so as to develop an informed way forward for good water governance policies that would improve integrity and contribute to sustainable financing of the water sector through national activities and also in the regional political arena. Significant challenges still exist in the Region towards this direction, however, both projects have contributed in committing institutions and stakeholders to the governance principles of transparency, accountability and participation, at the same time creating a fertile ground for investments.

4.2 Reflections on the outcomes of the Final Regional Conference in Barcelona

The Regional Conference was indeed a forum to review and check the up-to-date status of water sector reforms in the focus countries. It was also an opportunity for countries outside the ones directly involved in the Project (such as Albania, Egypt, Morocco and Portugal) to share their experiences. Success stories are nourishing, and regardless of the level of innovation they provide tangible evidence that having a proper basic platform is the essential step for moving forward. The overall spirit at the Conference was very positive and energetic with the champions involved knowing what needs to be done to address the challenges facing private sector participation in the water sector and are set to achieve it, fully aware of the hurdles ahead. It is correctly described that regional conferences for country specific activities are stops to refuel to keep moving forward. As an example, whereas transparency was simply one of the issues encountered in the National Report of Tunisia, it is now a subject of its own. (See the Case on Tunisia in the next chapter).

Whereas the value of national work comes from the fact that it is needed and that it is happening, the regional approach can be described as looking past one’s nose. Cross benefits are tremendous in that the interplay opens horizons, shares experiences and builds on practical approaches. This value, however, is best appreciated when practiced in an interactive manner. Whereas literature on water issues, including water governance is abundant, training opportunities are many, putting the recommendations into practice remains the answer.

4.2.1 Governance, financing and integrity

One of the key outcomes of the Regional Conference in Barcelona concerns the integration of integrity and sustainable financing under governance reforms in the water sector. Transparency and accountability are key elements in addressing the challenges facing the MENA region. Good governance calls for creating institutions harboured by a legal and regulatory environment that would also enable sustainable finance. Integrity, on the other hand, is essential for creating ownership and building trust. Corruption has to be both fought as well as prevented, and regulations need to be put in place to achieve both. Whereas fighting corruption is a cure to the illness, introducing integrity is a vaccination against it. With trust, enforcement of the law targets compliance rather than enforcement and incentives rather than penalties. Resources are preserved and societies act in unity when proper governance is in place. Investment in the sector and generating aid for such needed investment warrant accountability. Water related integrity reduces costs on societies enhances growth, and preserves resources. Integrity in water and wastewater provision of services is of tremendous importance towards the building of trust and mutual respect among the providers and their customers. It is apparent, therefore that integrity is central not only toward good governance but to financing as well. The generic formula for enhancing integrity is to be able to collect information, validate this information, and disseminate it with unquestionable transparency and availability.

Chapter 4: THE GOVERNANCE & FINANCING NEXUS - The Regional Dialogue

4.2.2 Concrete suggestions on the way forward

The needs to move forward are driven by the existing deficiencies and gaps highlighted in the National Reports. Additionally, the way towards moving forward is also charted in the respective national action plans. Recommended actions cannot be more thorough; some are at the micro level of detail; and some already inform, not only of what has to be done, but also on the how. A summary of the actions proposed for each of the focus countries were already given in Table 3 of the previous Chapter 3.

Regional recommendations, which were elaborated by participants to the Barcelona Conference through an interactive working session involving parallel roundtables, included as an annex to the Conference Statement, are presented in Annex I of the present Report.

The primary suggestion of the statement, among other recommendations, is the continuation of the multi-layered line of work on the governance & financing nexus concerning three routes to follow starting with (1) the need to more in-depth technical support in the areas where the national and regional activities have already taken place and applying the methodology in more countries in the region, (2) pilot testing of recommended modules of PSP, and (3): establish a regional platform as a forum for exchanges and dissemination of knowledge.

Of specific nature was the recommendations related to the banking sector and its possible contribution to sustainable water financing and the promotion of green banking through the SWIM-H2020 SM programme of peer-to-peer exchange. As the scoping work for this activity has already been done, it would be of benefit to capitalise on this and identify smaller scale projects in collaboration with banks interested in piloting the 'learning by doing' approach. Typically, the peer to peer process maintains communication with all the remaining banks and other interested stakeholders. This specific activity, in line with the three items identified in the previous paragraph, would need expansion to more countries in the region during a follow-up phase to the current project.

Chapter 5 CONCLUSIONS

Whereas each country report provides a set of conclusions and recommendations, and so does at the Regional level the Statement of the Barcelona Conference and its Annex, these conclusions relate to the effort put towards generating a regional perspective to the subject, utilising the individual experiences. Perhaps there is bias in the conclusions towards the utilities' needs rather than the PPP needs as the latter is sector neutral, whereas the utilities are those that in effect provide the water and wastewater services.

The highly interactive country efforts through dialogue and generating consensus in both analyses and solutions are highly commendable. Not only were institutions in the water sectors in the four focus countries receptive to the Project goals, but they were also transparent and engaged in providing whatever information was needed to identify the issues hindering finance in the first place and ways to involve the private sector in both helping to solve chronic financial shortages and in contributing to the countries' economic development.

Market-based approaches in solving economic problems have been successful in all the four countries. However, it is only relatively recent that market considerations are becoming acceptable for a highly social product such as water. This shift was supported by stories of success in the region and elsewhere, but also with -and nearly an equal magnitude of- stories of failures. That has not been without lingering memories of noted transformation in efficiencies though at a lower level of technical sustainability. Decreasing sustainability is invariably connected with the absence of incentives. Internationally, standard practices for the process of involving the private sector have led to changes of paradigms to accommodate new facts on the ground. There were failures in PSP both in the focus countries and in the international arena. However, there may have been losses and profits but no failures in PPP BOT types of projects.

Similar economic circumstances in all four countries have led to similar negative results. The process that led to the present situations is different in each of the countries and the process that would need to be followed towards recovery may also differ but, as each country report and the collective approach for regional solutions indicate, actions are possible and solutions are achievable.

It can be concluded from both country and regional efforts that the governance and financing nexus is in fact a very realistic and comprehensive governance, finance and integrity nexus. National efforts are commendable, as success can be seen from the recommended needed actions that were consensually agreed upon in each country. The process that was utilised, i.e. the interplay of national dialogues and solid technical work, has proven effective in arriving at the actions needed; such actions being at the institutional, legislative, financial and stakeholders-driven frameworks at all levels of government, public utilities and civil society at large with due consideration towards gender mainstreaming. It is clear, therefore, that similar successes can be achieved if the process was applied in other countries as, though the ultimate objective is driven by financial needs to provide efficient water and wastewater services to the populations at large, the interim stages that the process goes through self-reflection on the existing situation in each of the countries investigated. Whereas the process is a success, it has also matured through the different experiences it encountered and similarly so within the focus countries that went through the process itself and others that were observers to the process through the Project's regional fora; consideration for gender mainstreaming and of CSR options, are perhaps among the most prominent examples in this learning process. Hence, the process can and should be replicated in other countries. As for the countries that were the subject of focus, awareness has raised the bar in demand and further in-depth efforts are needed to continue advancing the process. Examples of this are several, the primary of which in each country are as follows:

Tunisia: The water and wastewater sub-sectors can remain separated only when there is an effective overall sector regulator (including irrigation in this case). Whether this statement is entirely correct or not, the need for dealing with the regulatory process is of utmost importance and further support to Tunisia in this regard is needed. This is not in isolation of finance nor integrity needs.

Jordan: Corporatisation efforts of existing utilities and amalgamating them as regional entities is in progress. The autonomy of these entities, however, has always been in question turning the companies into operation and maintenance companies further isolating them as contributors towards finance needs. The entire quagmire of utilities gradually becoming public again, the companies' owner becoming solely responsible for finance at the cost of further indebtedness, and the owner taking the role of the regulator has to be resolved. Jordan needs support in defining and clarifying the roles of the various players in the field, more so than the need for PSP support.

Palestine: Great efforts were made to create a regulator who is successfully implementing the most essential of its role by setting up a comprehensive information system. At this stage of development, financial stress on the regulator is threatening. Another transition step that needs to be taken includes the amalgamation of service providers to form autonomous somewhat centralised utilities. The regulator needs support to keep the momentum going, while the sector needs support in the amalgamation process and in clarifying the institutional roles. Furthermore, the opportunity for adding integrity to the regulator's role as the champion for change is calling.

Lebanon: The people of Lebanon have yet to appreciate having a proper service provider with autonomy. This is very difficult given the lack of knowledge, expertise, and finance; not to mention the need for addressing issues of responsibility for the wastewater subsector, which are not clear. The quick and effective solution to the needs of the water providers is the management contract approach that would provide the know-how and build the capacity of the individual water organisations. This would also give the country the opportunity to develop the regulatory concept. Lebanon needs support in this and also in the peer to peer exchange for developing and disseminating other issues, such as the management and conservation of water resources, corporatisation of utilities, and introducing the regulatory concept. At the same time, the Lebanese model involving the innovative financing mechanism of the Central Bank and commercial banks, can function as a prototype for peer to peer exchange and learning in the region and beyond.

The above selected issues confirm the regional call through the Barcelona Statement that a follow-up phase of the current project should be put in place, applying the methodology in other countries beyond the focus countries yet also fulfilling the need for more in-depth technical support in the areas where the national and regional activities have already taken place. At the same time, and setting off from the Lebanese prototype involving the banking sector, there is scope and great potential for exploring alternative mechanisms for the sustainable financing of the water sector.

The driving energy is national but synergy is regional. Neither should be under-estimated.

Statement of the Conference on Water Governance in MENA and wider Mediterranean region

The 136 participants, representing a range of different stakeholders, gathered in Barcelona on 12-14 December 2017 for the Regional Conference on Water Governance in MENA and wider Mediterranean region: Strengthening integrity and financing for water security and sustainable development, we endorse the following statement and kindly request the Union for the Mediterranean (UfM) Secretariat to utilise it for the implementation of the UfM Water Agenda and also to forward it to relevant and appropriate political constituencies, working groups and fora.

The Regional Conference was co-organised by the Sida-funded 'Governance & Financing for the Mediterranean Water Sector' project implemented by the Global Water Partnership – Mediterranean (GWP-Med) and the Organisation for Economic Cooperation and Development (OECD), and the Sida-funded 'Regional Water Integrity Capacity Building Programme in MENA' implemented by SIWI UNDP Water Governance Facility, GWP-Med and IUCN-ROWA, and in close synergy with the EU-funded 'Sustainable Water Integrated Management and Horizon 2020 Support Mechanism (SWIM-H2020 SM)' regional project.

- Water is fundamental for sustainable development, having a crucial role in human well-being, socio-economic growth and the health of the environment and ecosystems alike. The Middle East & North Africa (MENA) and wider Mediterranean region faces serious water challenges that pose obstacles to its development trajectory. Further to water scarcity, translating into acute water stress in some cases, explosive demographic changes, unemployment, poverty, changing consumption patterns including rising water and food demands, urbanisation, growing energy needs, environmental degradation, climate change, gender disparities are among the conditions exacerbating further the already complex and difficult situation. Moreover, part of the region currently faces an enduring economic crisis, socio-political instability, conflicts and large-scale migratory movements often under dramatic conditions. The vast majority of these conditions have a direct impact on the availability and the quality of water resources for people and nature in the Mediterranean, with high and rising associated costs in human lives and livelihoods in general and in monetary terms. At the same time, political unrest in the region has amplified the need for socio-economic and political reforms. There is a clear demand for more efficient water and sanitation service provision, wider participation of stakeholders, more decentralised planning and implementation processes and more transparent and accountable decision making.
- With due respect to the human right to water and sanitation, the provisions of the Sustainable Development Goals (SDGs) and the Paris Agreement, there is widespread recognition that governance lies at the heart of the water predicament and is key to overcoming the related challenges and achieving water security. Creating a functional institutional, legal and regulatory environment, and enabling sustainable water financing including through facilitating private and public-sector initiatives that fit within the social, economic and cultural setting of the society, is integral for good water governance, while integrity is critical for enhancing ownership, reducing corruption and building trust in the water sector.

- In the MENA and Mediterranean region, despite the significant allocation of public funds and the flow of aid, countries struggle to meet the financial requirements that water-related strategies and plans entail. The lack of a sound governance framework undermines the quality and financial sustainability of the water and sanitation sector in particular. Mismanagement, low financing and lack of absorption capacity at both national and local levels impede the efficient mobilisation of additional managerial and financial resources, particularly from the private sector. Capitalising on lessons learnt from the Governance & Financing project (including the National Dialogues on the governance & financing nexus and the interface of public-private-civil society actors during the regional meetings) and the shared experiences of the Barcelona Conference, we urge the continuation of a multi-layered line of work on the governance & financing nexus concerning:

- ◊ the provision of technical support for deepening and/or replicating the used methodology in more countries in the region,
- ◊ the pilot testing of the recommendations on the enabling environment for private sector participation, including micro-PSP, banks and green financing also through blending finance, and
- ◊ the set up and facilitation of a structured regional platform for exchanges and joint learning.

- In the MENA and Mediterranean region, water's contribution towards reduced poverty and inequality, economic growth and ecosystem sustainability is compromised by the way water resources are managed and water and sanitation services are provided. Weak governance squanders resources and hinders people from acting together in line with agreed goals. Fragmented institutions obstruct accountability in a sector with high investment and aid flows. Lack of water-related integrity incurs huge cost for societies, in lives lost, stalling growth, wasted talent and degraded resources. In addition, the SDG agenda provides a set of agreed development goals that cannot be achieved without addressing the governance challenges in the water sector. Building on the experience of Regional Water Integrity Capacity Building Programme, and the discussions of the Barcelona Conference we propose further investments in building collective action on water integrity through:

- ◊ clarifying roles and responsibilities of water actors,
- ◊ strengthening and professionalising public institutions and service providers in delivering impartially on their mandates,
- ◊ building information sharing and opening the decision-making processes to all possible actors in society, with particular attention to the next generations, the women and vulnerable groups; as well as developing engagement and coordination mechanisms with all different stakeholders,
- ◊ learning from the experiences accrued, sharing and upscaling positive water integrity practices, and
- ◊ monitoring progress and benchmarking through agreed standards.

We believe that these set of actions will contribute to enhance trust in the water sector and its institutions, strengthen the social contract and set a new water governance paradigm in the region that leaves no one behind.

- Regarding the engagement of the banking sector in sustainable water financing, we welcome the SWIM-H2020 SM current and upcoming activity on promoting green banking through peer-to-peer exchange. Capitalising on scoping work done and on the Conference's deliberations, we support the identification of smaller scale projects in collaboration with banks interested in piloting the 'learning by doing' approach, while communication will be kept open with all the remaining banks and other interested stakeholders. We therefore, urge the continuation and expansion of this activity with more countries during a follow-up phase.
- In closing, we stress that advancing water governance requires vision, leadership, consistency, dedication of human and financial resources, time and commitment of institutions and stakeholders to the principles of transparency, accountability and participation, creating at the same time a fertile ground for water investments. We thus, strongly encourage that the necessary steps are taken, and assistance is provided for the continuation of the processes presented in the Conference through follow up projects and other coordinated undertakings.

Annex to the Statement– Recommendations from working sessions

Recommendations addressed to Decision Makers

From a financing perspective:

1. On the regulatory/legal/policy level: Decentralisation of the decision-making process for more ownership by the involved stakeholders and legal definition of the roles of the different stakeholders. Political will and development of an enabling environment that would attract the private sector
2. On the mobilisation of financial resources level: Transparency and accountability in the bidding procedures and allocation of projects; financial autonomy of water service providers; efficient water tariffs; allocation of financial resources adequate for long term investments
3. On the management/institutional level: Awareness and capacity building on the fact that water is NOT a free good; maintaining and rehabilitating water networks to decrease non-revenue water; proper control procedures and monitoring for efficient service delivery.

From an integrity perspective:

1. Implementation of legal provisions, including enforcement mechanisms, that ensure integrity at all levels and allow stakeholder participation and access to information with respect to water governance and project development. Tools in that direction include public hearings, obligation to publish public information on public governance KPIs, operations of complaint and appeal mechanisms, consultations procedure prior to development of water projects
2. Strengthening of the judiciary authority with respect to water governance
3. Implementation of a national independent regulatory agency with civil society representation in the agency's board.

Recommendations addressed to Regulators & Water Utilities

From a financing perspective:

1. Pursue cost reductions through Improved efficiencies including in energy consumption, reductions in non-revenue water, preventive maintenance, water saving measures and utilisation of non-conventional water resources
2. Practice proper financial management through ring fencing utilities' accounts, accurate and fair tariff structures covering O&M costs, reinvesting not needed available funds, annual updating of financial projections
3. Improve collection efficiency through the engagement of customers in decision making (especially tariff adjustments), surveys on willingness to pay and ability to pay, adopting pro-poor policies, ensuring that customers pay the connection fee, and eliminating free water (except for identified poor cases and with coordination with related government institutions)

From an integrity perspective:

1. Awareness raising in-house on the importance of water integrity and capacity building in managing integrity risks.
2. Engaging in a participative setting of governance indicators and reward-based assessment process
3. Gain/rebuild trust of serviced citizens by putting in place "Customers complaint mechanisms" guaranteeing and demonstrating short response time

Recommendations addressed to Civil Society & Academia

From a financing perspective:

1. Civil society to be considered as a full partner and engaged at all levels, while increasing the integrity and transparency of NGOs
2. Unnecessary preconditions for participation should be removed.
3. Priority to be given to local Civil Society organisations and to equal opportunities

From an integrity perspective:

1. Engage in a "Systematic Approach to Water Integrity". This implies a systematic data collection and open information sharing, building sustainable relationships with the project owners and developers, participating to the projects development at all stages, and building its own capacity.
2. Map the different actors and relations between them, to clarify each other's roles and responsibilities, to engage in development of integrity standards within the Civil Society institutions, to act as observatories (adequately financed)
3. Promote a culture of integrity. It is recommended to integrate the integrity values and practices in schools' curricula, starting with the first years at school.

Recommendations addressed to Private Sector & Banks

From a financing perspective:

1. Raising awareness for both bankers and private sector
2. Consider non-conventional types of collaterals such as future cash flows and feasibility of the project, reputation of the project developer
3. Reduce risks in Nexus projects by integrating the advantages of certain sectors to address the disadvantages of other sectors

From an integrity perspective:

1. Formally commit to progress on environmental, social, and governance issues (ESG) within their core business and disclose ESG information.
2. Develop strong CSR policies based on international standards including anti-corruption
3. Proactively work and communicate their CSR activities and progress.

Recommendations addressed to International Financing Institutions & Donors

From a financing perspective:

- 1. Increase the visibility of water in the international financing landscape and National Strategies on Development or Climate. Investing in “water” is essentially investing in a wide variety of industries
- 2. Focus not only on large projects, but also on “soft” funding (such as for capacity building for project preparedness and accessing funds) as well as at the small scale.
- 3. Explore cross-sectoral synergies and inter-linkages, ensure policy integration, involve all relevant actors, and promote coordination among funders to avoid duplications, utilise economies of scale and promote synergies between the development and climate agendas

From an integrity perspective:

- 1. Full transparency on the funding opportunities and the funded projects. A common platform should serve this purpose.
- 2. Support “collective action” for the strengthening of Water Integrity, to support stakeholder networks at national and subnational level, and adopt human rights and integrity indicators for the selection of initiatives to be financed.
- 3. More attention to be given to the “sustainability” of the water projects financed e.g. by a holistic and nexus approach, long-term funding strategies aligned with national and regional strategies as well as the SDGs, enforcement of the Human Rights Based Approach, engagement with local actors for continuous financing after implementation, dialogue and co-creation mechanisms with public and civil society
- 4. Integrate “Integrity” within donors’ strategies, by streamlining integrity within the donor’s institution, creating a coalition of donors supporting good governance and integrity, especially in high-risk sensitive areas, by investing more in building the integrity capacity of public and civil organisations and developing case studies demonstrating the return on investment related to integrating integrity into project financing.

This Appendix revisits the subjects of governance and finance in the water sector in order to ease the reader into the relationship between these two topics. The first section describes in general terms the role of the water utilities and where the investment lies, leading to the needs for regulating the investment. The second section addresses Governance which is further delineated into three levels of responsibilities and decision-making powers. It also gives an indication of how the focus countries fare with respect to the Governance principles. The third section addresses the finance component, discussing ownership and operations of water and wastewater projects relating them to their respective suitable finance models.

1. Role of Water and Wastewater Utilities

1.1 Provision of water and wastewater services; delivering a social product

For the provision of water (Figure 1), the Utility receives the water in bulk at delivery points or collects it from the source but is responsible for storing it and distributing it through networks that they provide and maintain and deliver it to the consumers being either domestic, industrial or irrigation users. The system is usually monitored with meters and pressure measurement devices.

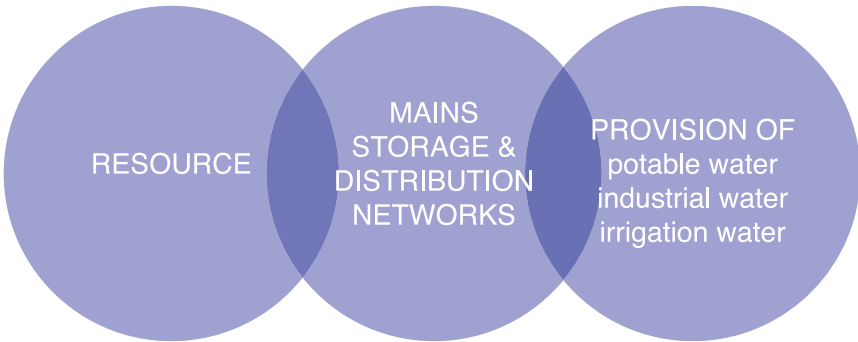


Figure 1: Provision of Water Services

For wastewater (Figure 2), the Utility collects the wastewater generated from the consumers and transports it to a discharge point where it is treated and disposed of at a specified quality either to nature or for further reuse.

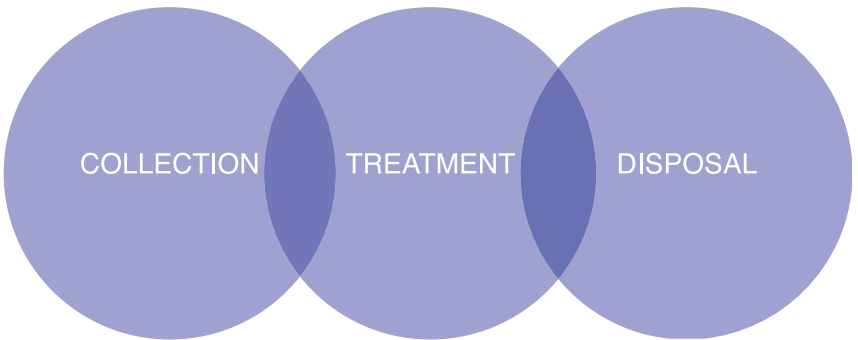


Figure 2: Provision of Wastewater Services

All stages in this scene are complex; the product is entirely of social significance with service contracts governing the relationship between the Utility (investor and provider) and all facets of society (consumers and buyers of the product and service). The process is investment-based warranting regulation.

1.2 Regulating investments

As for capital investments such as major networks and other piping, reservoirs, pumps and hydraulic systems, as well as treatment plants of any sort, the process is regulated technically through conventional engineering designs and value engineering. Even in PSP contracts, this component is usually an EPC contract; the rest being financial transaction costs, finance costs, risks and so on. Governance here requires a transparent procurement system.

Operations and operational investments, on the other hand, have a more complex regulatory process. As the utility is closer to the public, it is more social and interactive. If operated well and with proper regulatory mechanisms, operational financial sustainability is nearly always within reach. Regulatory mechanisms here revolve around the protection of the consumer through better governance while safeguarding the rights of both sides of the equation. This is done by providing the best service possible while raising awareness of local conditions (such as scarcity of supplies) that would limit such ambitions. Stakeholders represent all societal elements, such as gender, the poor, low consumers, refugees, etc. that need to be catered to.

2. Water Sector Governance

2.1 National Governance

Governance of the Water Sector in the four focus countries of this report, namely Tunisia, Lebanon, Jordan and Palestine, revolves around the public responsibility and commitment towards the provision of water as the most basic product that is essential for the livelihood of the populace and the development of the nation. This provision, however, comes at a price which exceeds national budgets. Countries then resort to loans and grants which are subject to oversight from the International Monetary Fund (IMF) who periodically reviews the country's situation and recommends changes in current policies and/or the introduction of new policies.

These are the exogenous forces that drive the process. Figure 1, common to all four countries, shows that national programmes in the focus counties are affected by the oversight of the IMF, multi-lateral and bi-lateral donors with an impact on national and sector policies as, invariably, these overseers call for specific reforms. This is evidenced in the following excerpts from the IMF Country Reports¹ related to three countries (Palestine is not a member of IMF but has a strong presence of the WB and other donors):

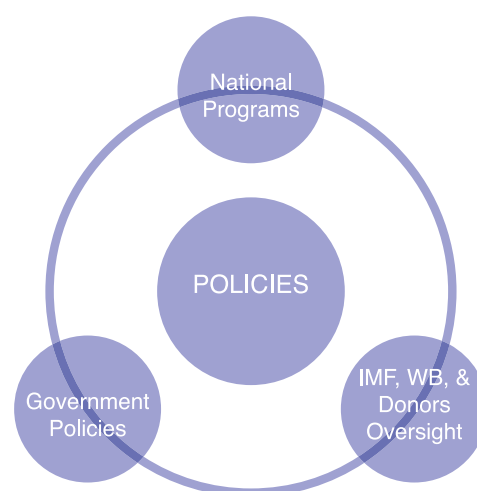


Figure 3: National Governance

On Jordan - "The fiscal performance, which saw the combined public sector deficit decline from 7.1 percent of GDP in 2015 to 3.8 percent of GDP in 2016, was underpinned by the strong improvement in the performance of the National Electric Power Company (NEPCO) and in the primary balance of the central government, with a somewhat better-than-programmed outcome for the Water Authority of Jordan (WAJ)". Energy and water subsidies were the target, affecting the overall country credit. As the energy issue has been settled (elimination of subsidies), the weight fell heavy on the water sector with current electricity prices alone exceeding total revenues from water and wastewater services, at most utilities.

On Tunisia – "IMF Staff urges the authorities to follow through with their plans to make the High Anti-Corruption Authority fully operational by end-2017. To improve Tunisia's attractiveness as an investment destination [...] it is important to achieve a regulatory and legal framework for private sector development that is clear and predictable". Corruption is targeted by the Report as the impediment to progress.

On Lebanon – "The wide budget deficit also remains a source of vulnerability, and led to public debt reaching 148 percent⁸ of GDP in 2016. [...] The authorities can also promote sustainable growth through structural reforms, including by taking steps to improve the business climate. There is a need to improve the institutional framework before undertaking large investment projects, and to assess the risks and potential fiscal costs arising from any Public-Private Partnership projects". Budget deficit and institutional issues are highlighted in the IMF Report.

It can thus be seen that reform in each of the four countries is under scrutiny. This has led governments to adopt policies and undertake reforms that are conducive to better performance and to securing funds for their development schemes. This was in essence the first Governance item, and the starting point is thus reform of national governance to be able to attract finance and, once attracted, is successfully managed.

2.2 Sector Governance

The second level of Governance is that of the Sector itself within the context of the national budget. Schemes are approved and included in the budget, debt ceilings are introduced and revenue generation is scrutinised. Both schemes and figures are subject to approval by Parliament or similar institution where stakeholders are represented. Figure 4 is a depiction of the process which is also common among the four focus countries.

⁸ IMF Country reports

2.3 Utility Governance

The third level of Governance is that at the utility level. Figure 5 below shows the different elements associated with the utilities functions. The utility is either a bulk or retail supplier of water, interacting with the Governing entity to develop a tariff policy in order to be able to deliver the service which is subject to scrutiny internally through audits and externally through the Regulator's inspection thereby ensuring the performance quality. The key to sustainability is, therefore, having a proper governance structure in place.

The model described above and depicted in Figure 5 is the proper setup but all four countries are different in terms of its details, the primary of which are institutional structures, tariff settings and regulatory mechanisms. However, outcomes are identical in all countries, as follows:

- All four focus countries face a cost-recovery dilemma, which threatens the financial sustainability of the water sector.
- All four focus countries provide below par services under fiscal stress, and one(Jordan) to the point of financial crisis which has led the government to accept a Stand-by Agreement from the International Monetary Fund (IMF), calling for significant reforms in public expenditure.
- There is little domestic fiscal space in the short to medium term to meet capital and operating requirements in the water sector.
- The tariff structure and level in all four countries do not meet the growing costs in the Sector.

It is clear that the current path is not sustainable demonstrating the need for reforms that would strengthen the water entities' finances. There is scope for cost reduction, and enhanced operational and service efficiency. There is also a need to analyse the impact of tariff and subsidy structures to clarify the room for manoeuvre and ensure that the expected objectives of tariff policies, once adopted, are achieved and the implications of such policies are well understood.

The purpose of this section is to show that finance, the key factor in harmonizing the needs for investment in the water sector with the country's development, is supported by the environment that governs the relationship between the customer (the population at large) and the utility (the water and wastewater service provider) where tariffs play the major role in the relationship. All four country reports addressed this issue and essentially concluded that citizens' buy-in is key to the success of the sector by first attracting the willingness of the people to pay for the service and understanding and accepting the role of the public-private partnership in development. The next section addresses finance in the water sector followed by a section where the uniqueness of this public private partnership when applied to investment in water projects.

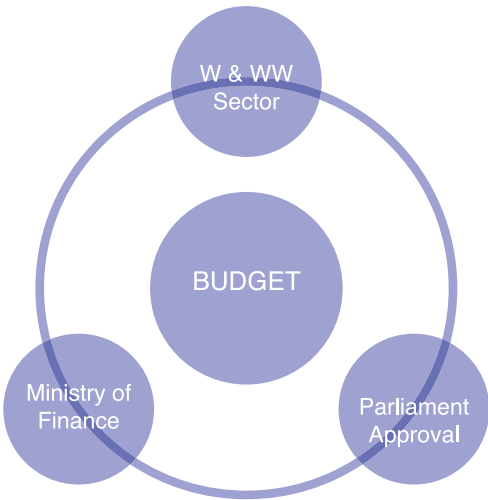


Figure 4: Sector Governance

3. Water Sector Finance

Funding for investment in the water sector, and management of that investment, has traditionally been seen as the role of government, albeit in cooperation with donors. However, there are usually constraints faced by the sector in relation to the sources of finance available from either the public or the private sector. Constraints to finance vary among each of the four countries. In Tunisia, it is the depressed economy prevailing since the revolution, hence also applicable to other public enterprises. In Lebanon, it is the sheer magnitude of needed investments. Updating the 10-year water strategy revealed investment needs of nearly US\$ 8 billion whereas commitments cover only a small percentage of that figure. Similarly, in Palestine, financial constraints faced by the Government are far beyond budgetary capabilities. In Jordan, serious constraints are a consequence of the overall levels of debt already carried (nearly US 2 billion and on the increase) by the dominant public entity in the water sector, namely the Water Authority of Jordan (WAJ).

There are two types of investments in the water sector; capital and operational. In terms of investment related to the provision of services in the four focus countries, the following can be noted:

- As for capital investments, all four focus countries have insufficient funds for the amount of investments that their strategies require. Capital investments in all four countries are the responsibility of Government; resorting to loans and grants to cover these needs.
- As for operational investments, the four countries differ somewhat in addressing these requirements. Whereas full cost recovery (capital and operational) is the declared target in each of the countries policies and strategies, O&M cost recovery remains the practical ambition for some time to come.

Deficit in operational budgets, or parts thereof, are covered by Government. Tunisia is characterised as more of the traditional type of public utilities. Lebanon shows distinctly dispersed authority over the utilities particularly regarding their wastewater functions. Jordan's water utilities are essentially corporatised entities that perform only O&M functions, in order to limit their investment needs to these functions, yet major investments remain the national concern. Palestine is considered to be currently in modular transition of both institutional setup and accountability of the utilities in terms of performance and cost transparency.

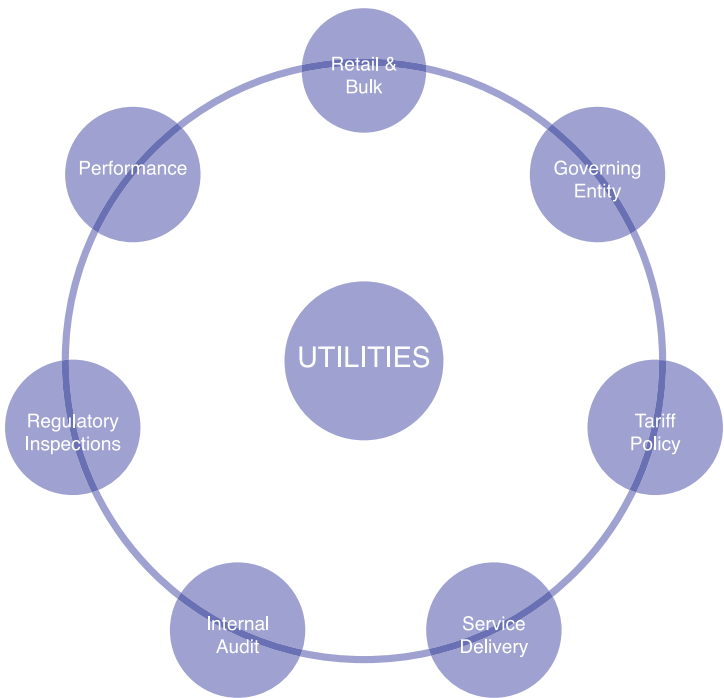


Figure 5: Utility Governance

3.1 Needs to consider finance options

As a result of the above analysis, burgeoning debts are incurred by the governments to meet their water and wastewater needs. Such needs are in competition for funds, needed by governments, to cover costs of essential services such as security, health and education which are also on the rise. It has thus become necessary to consider options for finance that would include the private sector in addition to the public domain.

Figure 6 shows the relationship between the type of fund, its source and the resulting contractual modality. Sources for public funds for water are either the budget, grants, loans or any combination thereof. There are three types of contracts associated with the use of public funds, namely through (1) conventional Engineering, Procurement and Construction (EPC) contracts, (2) Management Contracts or (3) Lease Contracts. With private funds, the sources of finance are either private or multi-lateral banks. Associated contracts are in the form of Build, Operate and Transfer (BOT model or any of its derivatives), or through a Concession Model.

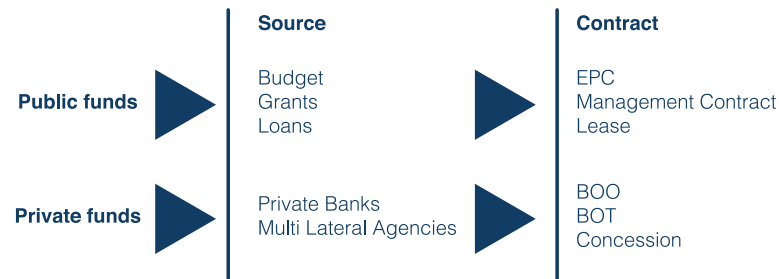


Figure 6: Public and Private Funds and Resulting Contract Forms

Since water is seen as a public good with social significance, delivering such a product by the public sector, a duty nevertheless, must have economic viability. However, investment by the private sector requires financial viability. The objective of a partnership between the private and public sectors is then finding common grounds to deliver the social good yet appreciating the fact that it also has a true financial value (Figure 7). For a project to be financially viable, it has to pass the projects finance criteria, the primary component of which is the recovery of costs from project revenues. These are generated from tariffs applied on the citizens against the service provided by the utility which is entrusted to deliver water and collect and treat wastewater within the communities.

In brief, if consumers can pay whatever tariff is imposed on them, then finance of water projects is not a problem.

As this is not the case, proper Governance then balances between the affordable tariff that can be imposed versus the quality of service being provided; all within the framework of existing rules and regulations and the social context of equity, disparity, transparency, etc

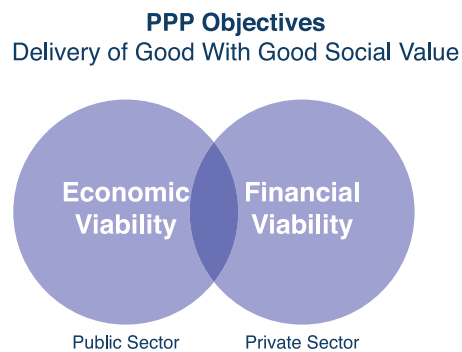


Figure 7: Delivery of Public Good with Social Value

The country reports address how PSP is conceived in the respective countries, as follows:

For Tunisia, it gives specific suggestions on specific forms of PSP that are applicable. In the order of increasing complexity, these are as follows: creating and training small scale operators for urban areas, task-specific contracts, concessions for sanitation services, and BOT for desalination or wastewater plants.

In Jordan, where PSP is fairly well developed, suggestions in the report are not made for contract forms but are limited to capacity development in PSP regulations. Experience to date with PSP projects had been regulated by contract without recourse to modification of other legislations, except for those concerning land ownership.

In Palestine, PSP in water and sanitation is practically non-existing. The report falls short of specifically identifying PSP contract forms and projects but goes in detail into the regulatory framework. This is because the water sector, at the time that the policy dialogue took place, was amidst reform, hence the title of the specific report becoming "Sector Reform to include PSP".

The Lebanon report, on the other hand, highlights the scattered roles and responsibilities within the country, not only in operations (though the number of water providers has been substantially reduced) but within the operations themselves as responsibilities for water and sanitation seem separated. Furthermore, emphasis is on regulations and laws surrounding the sector. Capacity building needs are also highlighted with focus on structuring PPP arrangements for water and wastewater infrastructure projects, and differentiating the PPP process for different contracting options.

3.2 Projects and the extent of Private Sector Involvement

The following Figure 8 shows the possible relationships in public projects between the private and public sectors, ranging from totally public in terms of ownership and operations to totally private.

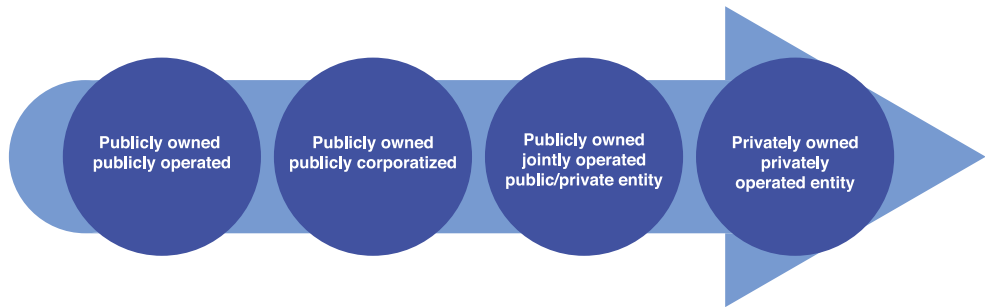


Figure 8: Increasing order of private sector involvement

Each stage in the trend has a governance and a regulation structure. Governance and selection of the public-private project transaction is, therefore, scene dependent, as follows:

3.2.1 Input-output project model

The first major project type is the plant model where input into the plant is either contaminated/saline water that needs to be treated in a plant delivering fresh water or treated wastewater, schematically shown in Figure 9 below.

These project types are the most suitable for a private sector enterprise; becoming the norm with specially desalination plants. This emanates from the basic principle that a public entity in charge of providing people with water wants just that, i.e. “water and not water factories”. The public off taker usually specifies his needs based on minimum functional specifications (MFS) that generally provide (as design input to the developer) the following:

- Required capacity
- Envelope of water/wastewater/seawater conditions for reference operations
- Product water quality
- Project lifetime and consistent materials guideline

These are then translated by the Developer into detailed specifications incorporated in an EPC contractual agreement.



Figure 9: Plants Type Project Model

Transactions are usually successful for this type of model, with many such models in place. Reasons for such success are:

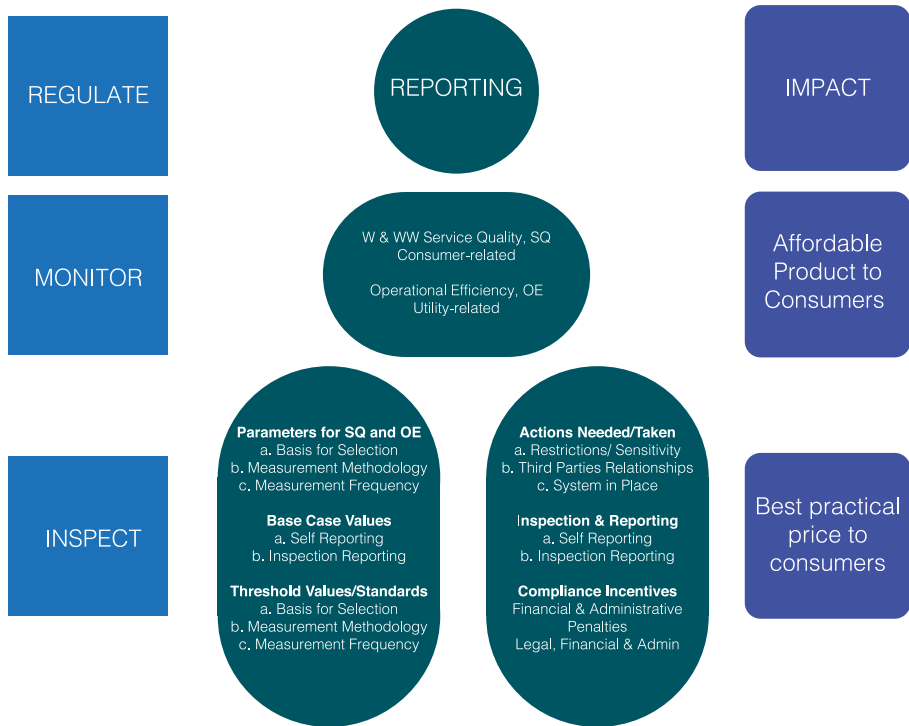
- It is a direct relationship between one entity and another; with qualified know-how.
- This type of transaction and its implementation are usually regulated through a contract while market competitiveness regulates the price.
- Governments interest is not owning factories, but in the product of these factories. Hence the concept of private sector involvement is readily accepted. Evidence to this is the great number of desalination facilities, and increasingly so for wastewater treatment plants that are PPP modules to the extent that some are even infinitely owned by private companies as developers that bind the governments with off- take agreements for purchasing the product.

3.2.2 Service Delivery and Operational Models

The models cover the broad range of services provided by the utility. It can cover one or more of the functions. Service functions need relatively smaller investments (mostly operational) and hence, optimally, the selection of the PSP format should be performance-based in order for the project to cover itself financially. Examples of services that can be delegated are: reduction of non-revenue water, customer services billing and collection, energy reduction, etc.. and can extend to cover all functions of the utility

1. Introduction

The four reports clearly show that even with the presence of rules, regulations and laws that promote private sector interventions, overall governance is dependent at the end on the success of internal governance specifically applicable to water and wastewater when the sector performs well. This performance is related to the internal governance of the utilities themselves. It is therefore of great value here to highlight the key characteristics of well-performing companies to be able to identify gaps that need to be addressed. The following chart identifies the horizontal and vertical flow in the functions of the utilities related to regulation, performance and desired outputs.



While there is no single model than can describe a well performing water utility there are a number of key aspects that do enable a company to perform well. This chapter highlights the need for clarity of the various roles of the stakeholders in the sector and the ability of the company to be properly funded to achieve its mandates. These mandates should be clearly specified while achievements against targets are independently monitored. No two utilities are the same, even within the same country, and it is therefore essential that these differences are recognised in the targets set for them and in their financial capacity to achieve the targets. The principles of achieving good performance are universal, however, and the company’s degree of control over its operating environment will affect the ability of utility managers to achieve that good performance. Main performance elements and considerations for a water utility are the following:

2. Financial Control

The degree to which a utility has control over its finances is a key determinant in good performance. Financial control includes whether the utility has an input into the tariff setting process, whether there is external control over budget and whether the management of the utility have control over internal costs such as pay scales and salaries and the procurement process, etc. The degree to which the utility has the ability to control these issues affects their performance.

3. Legal Control

The legal structure and framework for how the utility operates affects the performance of the organisation. Clear understanding of applicable laws which legislate relationships and responsibilities is essential as well as a legal basis that allows for responsible and effective management and governance.

4. Board of Directors

The Boards of Directors are required to operate in the best interests of the utilities they represent. The ability and approach to carry out this duty has direct effect on utilities performance. The appointment of suitable members to the Boards of Directors of the companies is therefore of great significance.

5. External Oversight

Most utilities throughout the world are subject to external oversight and target setting, whether this is from independent regulators, political oversight or the owners themselves. Most utilities are subject to an annual independent financial audit to ensure compliance with financial regulations. In addition to financial audits, performance audits are recommended such that the regulatory agency not only monitors but can also make suggestions for efficiency improvements.

6. Clarity of Roles

A key aspect of well-performing utilities is a clear understanding by all parties of the respective roles of each of those parties. This is particularly the case in relation to capital expenditure where there can be confusion over what constitutes capital work and what constitutes operational replacement. Similarly, the input of capital schemes by donors can add to the confusion over responsibilities.

7. Business Management Practices

It is essential for a well-performing utility to develop business management practices that identify internal objectives and the methodology for achieving them. A detailed business plan which describes the goals and objectives of the company is critical, together with implementation plans. Other important plans and strategies include human resource management, asset management and development strategies which are essential in supporting the overall business plan.

8. Customer Focus

Better performing utilities are oriented to customers and their needs, and spend dedicated time in establishing a dialogue with them. It is usual that customer satisfaction is a KPI for good performance particularly in regions of water scarcity. Such satisfaction and a feeling of ownership makes decisions proposed by utilities and adopted by the owner organisations more credible and acceptable. Provision of real-time information to customers, for example, is an avenue many companies are addressing, particularly with the benefit of internet and social media.

9. Conclusion

As mentioned above, no two utilities are the same, even within the same country. It is therefore essential that these differences are recognised in the targets set for them and in their financial capacity to achieve the targets. The principles of achieving good performance are universal, however, and the degree to which there is control over their operating environment will affect the ability of utility managers to achieve that good performance. Evaluators should review the situation of the existing utility companies in the areas outlined above and make recommendations that will support the development of continuous performance improvement. Whereas the above sections in this chapter address issues relevant to the Service Provider, the following table shows what the service provision should entail in order to attract finance and assure integrity thus emphasising that service provision in essence is the indicator to be supported and by which major parameters can be assessed.

The Case of Portugal⁹:

Three components for water services to attract finance and assure integrity⁸

Sound public policy

- Strategic planning
- Set of policies

Proper regulation

- Implementation of instruments for regulation:
 - ◊ Water law
 - ◊ Regimes of water resources and water services and of their regulation
 - ◊ Rules for tariffs, taxes, quality of service, water quality, wastewater discharge, technical issues,
- Instruments in place:
 - ◊ Structural such as organisation, legislation, information, capacity building of the sector
 - ◊ Behavioral such as legal, contractual, economic, quality of service, drinking water quality, and consumers interface regulation
 - ◊ consumer protection, etc.

Information base

- Data collection, validation and update
- Dissemination and open access to information

⁹ Based on a presentation at the Barcelona Regional Conference 2017 by the by the former Portuguese Water Regulator

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