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Barometer of the main gaps, contradictions and constraints existing within the legal and regulatory framework in the field of communal services

3rd edition

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The mapping of gaps, conflicts and constraints existing within the legal and regulatory framework in the field of communal services, 3rd edition, was performed by a team of experts within the Project on civic engagement in local governance – MA IMPLIC, funded by the Swiss Agency for Development and Cooperation (SDC) and implemented by Skat Consulting Ltd.

The opinions expressed in this report do not represent the official position of the Swiss Agency for Development and Cooperation (SDC) or of Skat Consulting Ltd.

ABBREVIATIONS AND ACRONYMS

ALRC	Agency of Land Relations and Cadaster
AMAC	Moldova Apă-Canal Association
ANRSC	National Authority for Regulation of Public Utility Communal Services (Romania)
CALM	Congress of Local Authorities of Moldova
CPA	Central Public Authority/Central Public Administration
EBI	European Bank for Investments
EBRD	European Bank for Reconstruction and Development
GD	Government's Decision
GIZ	German Agency for International Cooperation
IMS	Informational Management System
JSC	Joint-Stock Company
LPA	Local Public Authorities
LTD	Limited Liability Company
MARDE	Ministry of Agriculture, Regional Development and Environment
ME	Municipal Enterprise
MIRD	Ministry of Infrastructure and Regional Development
MNC	Moldavian Normative in Constructions
NAER	National Agency for Energy Regulation
NAPH	National Agency for Public Health
NFRLD	National Fund for Regional and Local Development
NGO	Non-Governmental Organization
OITE	Technical-Municipal Infrastructure Objects
PSA	Public Service Agency
ROITE	Register of Technical-Municipal Infrastructure Objects
RM	Republic of Moldova
TAU	Territorial Administrative Unit
SWM	Solid Waste Management
VAT	Value Added Tax
WSS	Water Supply and Sewerage

INTRODUCTION

General context

The access to qualitative communal services represents one of the basic needs of the population, while being an important factor for economic development, tourist attractiveness and sound environment. The lack or improper of these services has a major immediate impact on the quality of life and represents one of the reasons leading to the depopulation of the rural areas of the country, as the available data¹ show a great disparity in the access to such services between urban and rural areas. Moreover, some communal services are practically inexistent in the villages/communities of the Republic of Moldova². On the other hand, in the communities where such communal services are rendered, the LPAs and service providers also face multiple challenges.

According to the existing legislation³, the responsibility for the organization and rendering of public communal services is assigned to the local public authorities of 1st level (hereinafter – LPA 1) as a domain of activity belonging to them. Although, especially given the many challenges faced by them, the LPAs may not be left alone in front of this difficult task. According to art. 13 of the Law 1402/2002, the central public authorities are responsible for ensuring a conducive policy, legal and regulatory framework in the given domain. Likewise, according to the legal provisions, the Government should support LPAs in creating, developing, and improving public communal services, identifying a regulating, and licensing institutions, including quality control of rendered services based on certain performance indicators, as well as in developing the infrastructure in this field. Consequently, both LPAs and the central public authorities have a shared responsibility towards the citizens as regards ensuring accessible, safe, and qualitative communal services.

Obviously, the current unsatisfactory situation regarding the access to and quality of the communal services is caused by several factors. Structural and systemic issues in local governance field (such as territorial-administrative fragmentation, limited administrative and financial capacities, low economic potential, depopulation, etc.), have a major impact on the development of the technical-municipal infrastructure and communal services. At the same time, the hypothesis that has been taken as a basis for this mapping exercise is that a coherent and operational institutional and normative framework, both at a national and local level, is also necessary for the good operation of the communal services. The documentary analysis, discussions and organized interviews confirmed such hypothesis, pointing to the fact that some challenges or trends in this area are caused or amplified namely by some gaps in the national normative and institutional framework. For example, the lack of efficient mechanisms to control the activity of small WSS service providers leads to the non-application or partial application/observance of the regulations approved by NAER by the providers and LPAs in rural areas, although, according to the law, they are mandatory for all providers. Likewise, the lack of normatives/standards in WSS and SWM, the lack of legal solutions and mechanisms to determine the citizens to conclude contracts for the evacuation of waste or to connect to and pay for the sewerage service, as well as other legislative and institutional gaps, etc. are some of the aspects that have a direct negative impact on the functioning of communal services.

¹ Such as the data of the 2014 census, from other reports and statistical data of the National Bureau for Statistics (for instance <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6978>), reports of the Court of Accounts (for instance [this one](#)), various national strategies, etc.

² According to statistical data, the number of communities having benefited from municipal waste collection services in 2021 was of 519 communities (note – namely communities, not to be confused with the number of territorial administrative units of 1st level), including 55 municipalities and cities and 464 villages, which represents 33.9% of the country communities. See more at - [Infrastructura străzilor din localitățile urbane și serviciile de salubritate în anul 2021 \(gov.md\)](#)

³ See article of the Law on public communal services no. 1402/2002, in corroboration with article 4 of the Law on administrative decentralization no. 435 from 26.12.2006

The scope and focus of the mapping

The legal and regulatory framework governing the creation, organization and rendering of public communal services in the Republic of Moldova is a vast one and is composed by multiple documents of various levels: normative acts, departmental administrative acts, construction normatives, standards, etc. The Law on public communal services no. 1402/2002 is the basic (framework) legislative act regulating the creation, organization and rendering of public communal services. Besides, for some types of communal services special laws are provided (such as the water supply and sewerage services, thermal energy supply or management of the housing stock), although such special laws are still missing for other services⁴.

The Law 1402/2002 on public communal services, as amended, includes the following local services to the category of communal services:

- a) water supply;
- b) thermal energy (heating) supply;
- c) sewerage and treatment of wastewater and rainwater;
- d) sanitation (solid waste management), greening of the localities;
- e) local public transport;
- f) administration of the public and private housing fund.

For practical reasons, starting with the first edition of the Barometer the mapping exercise was limited to only two communal services operated and rendered both in rural and in urban localities, namely the water supply and sewerage service and the solid waste management service. To allow noticing the evolution in time, the second and third editions of the Barometer selected the same two communal services. At the same time, the corresponding methodology which has been tested for the two above mentioned domains could be applied in the future (inclusively by the relevant public authorities or development partners/projects) for a similar assessment of the legal and regulatory framework of other communal services.

The same as in the first two editions of the Barometer, the mapping exercise is focused on identifying the gaps and contradictions in the legal and regulatory framework, which prevent from the provision of good quality and affordable communal services in a sustainable manner. At the same time, the Barometer offers some guidance and proposals to improve the situation and overcome the identified problems. In more concrete terms, the mapping captures only the problems (gaps, contradictions, etc.) which have their roots in the legal and regulatory framework that regulates the organization and rendering of communal services. The structural and systemic issues in the sphere of local governance not directly related to the provisions of the normative framework, such as the lack of human and institutional capacities, shortage of money, etc., will not be part of this inventory.⁵

Description of the tool

The barometer of the main gaps, contradictions and constraints existing within the legal and regulatory framework in the field of communal services represents the result of the mapping exercise performed based on a documentary analysis and review (strategies, laws, decisions, studies, articles, etc.) followed by interviews and discussions with relevant stakeholders (mayors and other representatives of the local government, service operators, AMAC, experts in the given field).

The barometer is covering five dimensions that comprise most important aspects of communal services' creation, organization, administration, control, and monitoring, namely:

⁴ For example, for the communal service of waste management, although currently the discussions with the relevant authorities show that the development of a special law in this domain is also envisaged.

⁵ Within the Project on civic engagement in local governance – MA IMPLIC these issues are separately approached in other activities, such as technical and financial assistance offered to LPAs.

- Dimension 1:** Overall legal and institutional framework
- Dimension 2:** Normatives, standards and performance indicators
- Dimension 3:** Financing and tariffs
- Dimension 4:** Property management
- Dimension 5:** Intermunicipal cooperation.

For each dimension, the current situation is shortly described and a list of issues (gaps, contradictions, etc.) was compiled accompanied by an assessment and/or verification of the evolution (progress, lack of changes or regress) and the urgency of fixing the respective problem. In this sense, the mapping methodology is using a color coding for both the **trend** and **urgency**, as follows:

Table 1. Trend and urgency to fix the issue

Trend	Urgency
changes made to the normative framework in the last 12 months have actually worsened the situation.	very urgent (the status quo with a specific service cannot be improved because of the current legal framework urgent).
no changes were made to the normative framework in the past 12 months or draft normative documents have been developed, but have not been approved yet.	somewhat urgent (the legal and regulatory framework is not perfect but local governments are able to manage or cope with this).
the changes made to the normative framework in the past 12 months improved the situation in the given domain, progress has been registered in solving certain challenges identified in previous editions of the Barometer.	not urgent (the current legal/regulatory framework is not causing any problems in practice).

Moreover, for each identified problem, as the case may be, the actions necessary/recommended by the team of experts to improve the relevant normative framework or to implement it are shown. The 3rd edition of the Barometer covers the period April 2022 – April 2023, giving an appreciation of the trend (evolution) and urgency of solving the identified challenges in relation to this period of time. The first two editions of the barometer launched in April 2021 and, accordingly, April 2022, are available on the website of the Ma Implic project⁶ and may be consulted for a more complete view on the evolution of the situation in this field.

Application and practical value of the barometer

The barometer's foremost value and function is to provide a comprehensive overview of relevant issues within legal and regulatory framework that could be a focus of the central government-local authorities' policy dialogue and/or advocacy campaigns. For a more efficient approach of the identified issues, the central public authorities have created institutional dialogue platforms with the development partners, and at the end of 2022 a meeting of the External Assistance Committee in the sphere of water supply and sewerage have already been held.

The barometer could also serve as an interinstitutional monitoring tool, showing the evolution over time of various aspects of communal service's legal and regulatory framework, including in the context of the reforms in the sphere of local public administration. This type of monitoring could

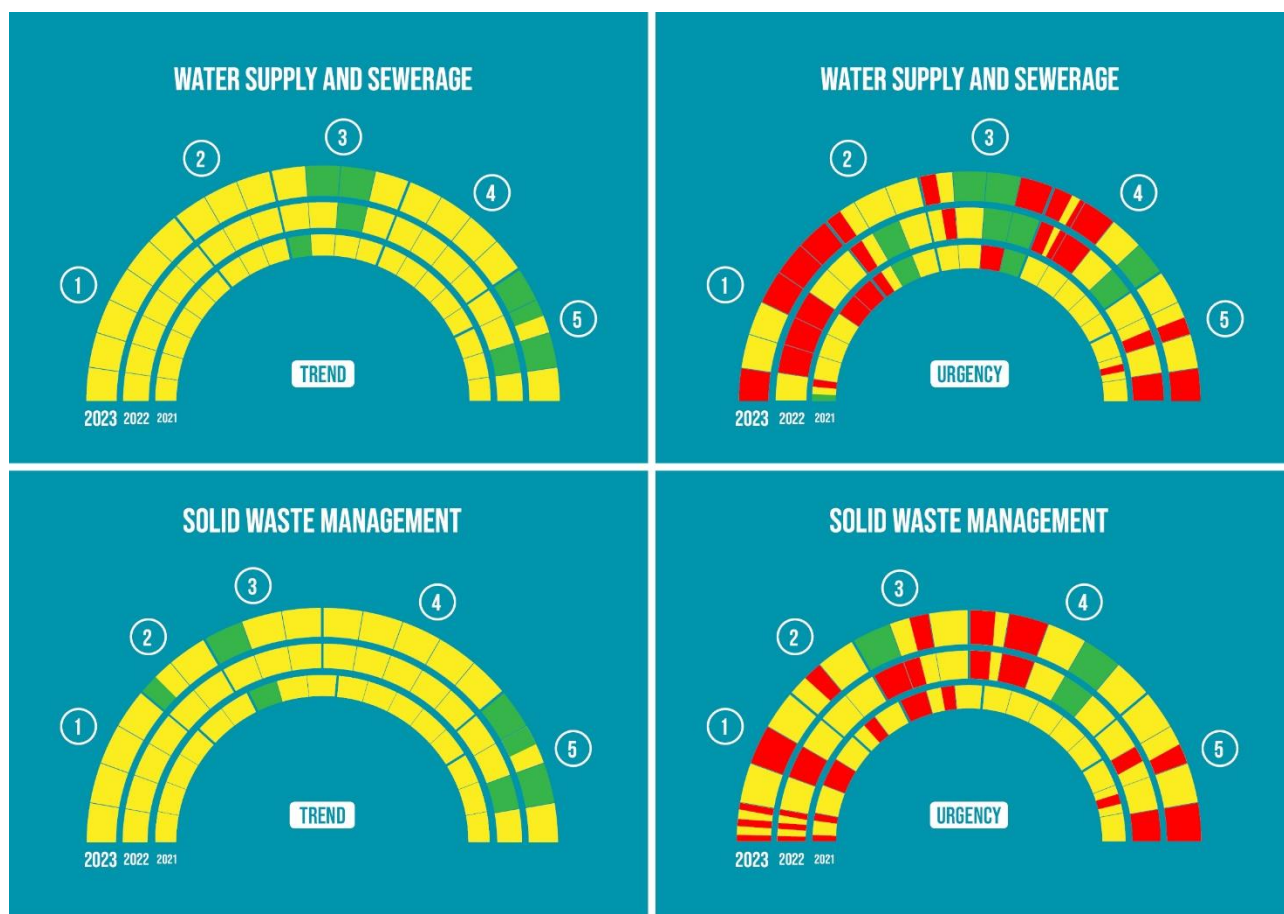
⁶ <https://ma-implic.md/download/barometrul-serviciilor-de-gospodarie-comunala-aprilie2021/?wpdmdl=4132&refresh=642dc3d3c55b31680720851> și <https://ma-implic.md/download/barometrul-principalelor-lacune-contradictii-si-constrangeri-existente-in-cadrul-normativ-afereent-serviciilor-de-gospodarie-comunala-editia-a-2-a/?wpdmdl=5899&refresh=642bb28a1ca261680585354>

have a double impact. On the one hand, it could incentivize the national authorities to take action to improve the situation in the field of communal services. For example, we noticed the inclusion of certain recommendations or challenges mentioned in the previous editions of the Barometer in the action plan for 2020-2024 on the implementation of the Water Supply and Sanitation Strategy (2014-2030)⁷. Even if the inclusion of these challenges and recommendations from the Barometer in the action plan is not a guarantee that they will be solved in reality/in time (taking into consideration the degree of implementation of the previous policy documents), it still represents an important step by means of the formal inclusion of such topics in the agenda of the authorities. On the other hand, the clear inventory of the most important challenges made in the Barometer could contribute to the identification of interventions/activities, which could be supported by the development partners by means of technical assistance, expertise, grants, etc. For example, with the support given by the MĂ IMPLIC project, several problems identified in the previous editions have been solved (like the development and promotion in a legislative procedure of the law on the intermunicipal development associations).

Main findings from the 3rd edition of the Barometer

As it is also shown by the comparative visualization from Figure 1, as well as by the detailed examination of the findings from the tables below, for the most part of domains and indicators the situation changed insignificantly from the moment of preparing the second and even the first edition of the Barometer.

Figure 1. Comparative graphic visualization of the trend and urgency of issues/gaps identified in the 1st - 2nd - 3rd editions of the Barometer for the fields of Water Supply and Sewerage and Solid Waste Management



In relation to the normative framework in general, during the period covered by the 3rd edition, in the sphere of WSS the working group created by the Environment and Regional Development

⁷ [anexa1_1_442.docx \(live.com\)](#)

Commission (currently the Environment Commission) has received and examined a series of proposals from the key stakeholders, as well as the draft law as such for the amendment of Law no. 303/2013, only in the following period it is planned to be developed and advanced in legislative procedure. In the waste management field, the draft law on managing the services of solid waste management has been developed with the support of the development partners, and the promotion of the draft law for approval is planned for 2023. The draft law is in course of completion and has not yet been published and subjected to public consultations.

From the institutional point of view, after the separation in 2021 of the Ministry of Environment and the Ministry of Infrastructure and Regional Development (hereinafter – MIRD), the water supply and sewerage service has been assigned to MIRD and the water protection and waste management service – to the Ministry of Environment. The institutional reform process and transfer of the WSS field to MIRD was and is quite a difficult and slow one, as the specialty department has been only created on 07 December 2022 on the basis of GD no. 852/2022. Till now the transfer process has not been completed fully, there are still some unclarities and discussions on the institution responsible for the fulfilment of certain tasks (such as reporting on the implementation of the national strategy for the development of WSS services). The new department is not yet fully operations, an institutional gap has been identified in relation to the continuity of processes, as the human resources responsible for WSS remained totally in the Ministry of Environment, and some requests in the field of WSS are still sent to it.

In relation to normatives and standards, progress has been registered in this period in the waste management field (normatives have been approved in relation to used oils and tires, as well as in relation to scrap vehicles). On the other hand, the development and implementation of regulations regarding the organization and operation of the SWM services and regarding the waste deposits are only at a starting phase. No new construction normative/regulation in the field of WSS has been developed. Still, a positive evolution is the approval on 29.12.2022 of the amendments to Law no. 181/2014 on public finances and fiscal responsibility to allow signing multiannual contracts, applicable inclusively for the services of construction normative development. We have to remind that the impossibility of signing multiannual contracts was one of the main reasons for which the process of normative development was stopped for the last 3-4 years, even if the annual thematic plans for the development of normative documents in constructions were approved.

In relation to financing and tariffs, the tariff calculation methodology in the field of SWM has been approved by a Government Decision (GD no. 881/2022) and the tariff calculation methodology for WSS services has been adjusted by NAER at the end of 2022 (Decision of the Management Board of NAER no. 937 from 16.12.2022). At the same time, at the beginning of 2023, NAER announced the initiation of the procedure for the amendment of the Regulation on establishing and approving, for tariff determination purposes, the technological consumption and water losses in the public water supply systems (approved by the Decision of the Management Board of NAER no. 180/2016 from 10.06.2016). Taking into consideration the very large losses supported by the service providers due to the very old infrastructure and lack of financial resources for immediate major investments, the revision of the approach is imperious to avoid the total bankruptcy of the sector (taking, at the same time, into consideration the balance between the supreme interest of the consumer and the coverage of real expenses incurred by the serviced providers in the conditions of the current infrastructure). Also in relation to financing and tariffs, at the end of 2022 amendments were made to the Fiscal Code⁸, and the water supply and sewerage services for the objects with housing destination were transferred from article 103 (exemption from VAT without deduction right) to article 104 (exemption from VAT with deduction right), thus one of the problems mentioned in the previous editions have been practically solved.

⁸ https://www.legis.md/cautare/getResults?doc_id=134829&lang=ro

In relation to the dimension of property management, the situation remained unchanged. Even if certain amendments were approved to the normative documents and the international tender for contracting the developer of the informational system is in process of performance, ROITE is not yet operational at this moment. A major problem relating to property management (and tariffs) is connected with the establishing of royalty, some interviewed service providers and LPAs mentioned difficulties in including it due to the lack of a delimitation, evaluation and adequate recording/registration of the corresponding infrastructure this, in its turn, creates major problems for the service providers in repaying the loans contracted from international financial institutions.

As regards dimension 5, intermunicipal cooperation, in February 2023 a new law has been approved on AIC, this being one of the possible forms of intermunicipal cooperation and offering several tools and flexibility in fulfilling the initiatives of cooperation and service regionalization. Other challenges mentioned in the previous editions in this field continue to be of current importance.

I. GAPS, CONTRADICTIONS AND CONSTRAINTS IDENTIFIED IN THE LEGAL AND REGULATORY FRAMEWORK RELATING TO WATER SUPPLY AND SEWERAGE (WSS)

Dimension 1. Overall legal and institutional framework

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>Legal and regulatory framework in the field of WSS (overview)</p>	<p>The public service of water supply and sewerage is regulated by the Law no. 303/2013. In 2018 the law was updated more substantially to eliminate the identified gaps and to adapt it to the EU acquis⁹. Still, although more than four years have passed since the coming into force of the corresponding amending law, certain innovations and amendments introduced by it remain inapplicable in case of most LPAs and service providers, including in case of those 44 licensed service providers (such as the provisions on royalty and development fund, inventory of technical-municipal infrastructure and delegation of public service, approval by the LPA of the Regulations for the organization and operation of Performance indicators for the public WSS service, development of the website to ensure transparency and improve the relations between the consumer and service provider, etc.).</p> <p>As a result of multiple requests and proposals from LPAs, WSS service providers and NAER, on 16.02.2022 by Decision of the Environment and Regional Development Commission no. CMD-06/51 a Working Group was created, the objective of which was to examine Law no. 303/2013 and to prepare a draft law for its amendment and completion. The activity of the working group resulted in gathering proposals from the main stakeholders in the field, and with the support of the consultants employed by the development partners a synthesis of received proposals and a sketch of the draft law were prepared. After a short break, in the following period the activity of consultation with the members of the working group and key stakeholders and of finalization of the draft law and its promotion in a legislative procedure will be resumed. During the „Security of water supply and sanitation in Moldova” project, implemented on the basis of the financing agreement between the Republic of Moldova and the</p>			<ul style="list-style-type: none"> - Ex-post impact analysis of Law 303/2013; - Functional analysis of the institutional framework in the field of WSS at a central level (authorities responsible for policy development and implementation, regulating, controlling authorities, etc.); - The priority aspects to be taken into consideration during the completion of the legal framework are: <ol style="list-style-type: none"> a. Introduction of an Informational Management System which would ensure the reporting of performance indicators by the service providers (independently on their size and status); b. Gradual elimination of the model of direct management of the WSS service; c. Mandatory licensing for all service providers, or gradually, licensing of those with more than 2000-3000 users, but with the imposition of norms of activity for small service providers as well, with the introduction of a mechanism to ensure the conformity with the norms approved nu NAER, and if such norms may not be observed, the LPA shall be obliged to delegate the management to a licensed service provider.

⁹ Law no. 322 from 30.11.2018 for the amendment of Law no. 303/2013 on the public service of water supply and sanitation // Official Monitor no. 86-92 from 08.03.2019

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>International Development Association¹⁰, in March 2023 a consultant has been contracted, who shall support the efforts of the authorities to develop the draft law for the amendment and completion of Law no. 303/2013. During the preparation of the draft law, major problems faced by the sector shall be taken into consideration and approached, including those pointed out by the stakeholders from the field (LPAs, service providers, AMAC, NAER, users, etc.), and it will be also important to reflect in the draft law certain measures and tools necessary for the promotion of the objectives and vision of the sectoral public policy, such as the regionalization of services.</p>			<ul style="list-style-type: none"> - Identification of mechanisms to ensure the regionalization of WSS services and the increase of the quality of rendered services.
	<p>The Law no. 1402/2002 on communal public services needs a throughout assessment and update in accordance with actual evolutions and trend.</p> <p>Thus, the analysis of the law shows that a more detailed and clear reflection of the competence of public authorities of various levels is necessary, including of the specialized central public administration bodies, regulatory bodies¹¹, of the IMC aspects and mechanisms are poorly reflected and incorporated in the law, the law does not distinguish between LPA 2 and 1 (it operates with generic notion "local public authorities").</p> <p>It is to notice that in the list of categories of communal services stated in law 1402, as compared to the experience of other countries, there are no aspects regulating the sector of construction and rendering the street lighting service, and natural gas supply, although these domains are also included in the competences of LPAs¹².</p> <p>Another example is the unclarity regarding the notion of service provider: one the one hand, the definition (Art. 2) mentions that „the service provider is a legal person...”, and art. 10 letter c) of the same law stipulates that natural persons and/or their associations may also be service providers. For comparison, the law 303/2013 does not include natural persons and/or their associations in the list of service providers that may manage the WSS service</p>			<ul style="list-style-type: none"> • Assessment of the Law 1402/2002 and its update according to the current requirements and realities; • Correlation of the law with other relevant legislative acts (and vice-versa), including those from the field of local public administration (law 435 and 436), with the law 303/2013, with the Civil Code, etc. • More clear reflection of the central specialty authorities responsible for the domain of communal services, not only of the Government, as well as of the regulatory authorities (after the determination of the vision and policy in this field for other communal services, as well, such as for solid waste management); • In the process of work on the law, examining the opportunity to create a specialized National Regulator responsible for the field of

¹⁰ Ratified by Law no. 169/2020 // Official Monitor no. 208-216/393 from 15.07.2022

¹¹ See, for example, art. 12 and section 4 of the Law on public utility communal services from Romania [LEGE 51 08/03/2006 - Portal Legislativ \(just.ro\)](https://portal.legislativ.ro/LEGE_51_08/03/2006)

¹² See art. 4, para. (1), let. d) and i) of the Law no. 435/2006 on administrative decentralization.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>(see Art. 13, para. (4)).¹³ Consequently, during the assessment of the Law 1402/2002 and preparation of the draft law for its amendment and completion, these inadvertences should be taken into consideration (either to adjust the definition from article 2, or to exclude the natural persons and their association from among the communal service providers, if this is deemed to be fit).</p> <p>A third aspect that has to be clarified in the process of adjustment of the law is the one related to the assignment of the goods that are part of the public communal service systems to the public domain of the administrative-territorial unit (art. 4, para. (2)). More details regarding this aspect are given in Dimension 4 „Property management“.</p> <p>Although during the discussions and interviews held in the process of developing the second edition of the Barometer some initiatives of revising the given law have been mentioned, in the period before the development of the third edition of the Barometer these intentions have not been materialized.</p>			<p>communal services (see more details in the paragraphs below).</p>
	<p>Some provisions from the Law 303/2013 on WSS or from the Law of public communal services no. 1402/2002 contain ambiguous provisions regarding the role of LPA 2 in the organization and rendering of communal services (see, for example, the syntagm “of rational interest” or “rendered at a rayon level” which leave room for interpretation). Article 4 of the Law no. 435/2006 on administrative decentralization and article 8 of the law 303 define the rendering of WSS services as a domain of activity specific to LPA 1, consequently the rayon authorities may only have a complementary/cooperation role (financial support, for example) at the initiative and request of LPA I, and any interference should be excluded. The lack of specification of the level of LPA to which they refer within Law 1402/2003 (for ex. art. 14, 15 and others) mentioned above also contribute to deepening such unclarities.</p>			<ul style="list-style-type: none"> • Inclusion in such laws provisions to clarify the syntagma “public communal services of local or raional level/interest” and “rendered at a rayon level” to avoid confusions regarding the right to create those public communal services. The right to create communal services of rayonal/regional level should be explicitly granted to LPAs of first level, as this right is already exercised by them by association/intermunicipal cooperation (Intermunicipal Development Associations (IDA, Ltd, JSC or other current or future legal organizational forms).

¹³ Apropos, in this way the status of the Water Consumer Associations, which still continue to manage the WSS service in many localities, remains unclear, but as the service providers in rural areas are not subject to licensing currently and are not subject to regulation by ANRE, this form continues to be used contrary to the legal provisions.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>General aspects of the national institutional framework in the field of WSS</p>	<p>As a result of the reform of the central specialized public administration in 2021, the Ministry of Agriculture, Regional Development and Environment has been divided again into the Ministry of Environment and MIRD, and the construction domain has been transferred from the Ministry of Economy to MIRD. The delimitation of competences between the two ministries resulted in the transfer of the field of water supply and sewerage to MIRD, including the aspects relating to funding capital investments in the service infrastructure, and policies and normative framework.</p> <p>It is to mention that during 2022 a series of actions necessary for the completion of the process of transferring the competences in the field of WSS from the Ministry of Environment to MIRD have been taken. Thus, with the approval of GD no. 852/2022 on the amendment of certain Government's Decisions (strengthening and improving the efficiency of activity of the Ministry of Infrastructure and Regional Development), a new domain has been added to GD no. 690/2017 on the organization and functioning of the Ministry of Infrastructure and Regional Development – „water supply and sanitation infrastructure“. Likewise, for the development and implementation of policies in this field, a new subdivision with 5 units of staff has been created within MIRD – „ Directorate of policies in the field of water supply and sanitation“.</p> <p>An important aspect mentioned in this context also in the previous edition of the barometer is ensuring the keeping/overtaking of the experience and institutional memory. We remind that the civil servants dealing previously with this domain remained in the composition of the Ministry of Environment, and their temporary detachment to the new subdivision to ensure the transfer of knowledge, as suggested, has not been done for various reasons.</p> <p>With the transfer in 2021 of the construction domains from the Ministry of Economy to MIRD, the issue of competence delimitation in the sphere of communal services between these two ministries, mention in the first edition of the Barometer, is not valid anymore. Nevertheless, the issue of construction normatives and standards remains as sharp and important</p>			<ul style="list-style-type: none"> • Ensuring the keeping of institutional memory and transfer of experience and relevant information (a relevant example is the reporting on the implementation of the national strategy on WSS and of the action plan, which has caused several confusions and misunderstandings relating to the fulfilment of this duty for 2022). • Strengthening the capacities of the newly created subdivision in MIRD – Directorate of policies in the field of water supply and sanitation.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>even after the performance of this transfer of competences (see more details in Dimension 2). On the other hand, the Ministry of Economic Development and Digitization remains responsible for the policies in the sphere of public property management (see paragraph 6 of GD 143/2021 for the approval of the Regulations of the Ministry of Economic Development and Digitization), a very important aspect especially in case of large projects in which part of the communal service infrastructure will be the property of the state.</p>			
<p>Regulation of the activities of WSS service providers</p>	<p>The law 303/2013 on WSS attributed the competences of national regulator in WSS field to NAER.</p> <p>According to articles 7 and 32 of the Law 303/2013, the activity of ANRE is oriented towards regulating the activity of larger service providers (providing services at a rayon, municipality and city level). According to the information placed on ANRE website, currently 44 service providers in the country at a country level are license holders¹⁴. The activity of other service providers is not coordinated and, accordingly, is subjected to financial, organizational, and other risks¹⁵, the activity of the other serviced providers is not monitored and supervised at a national level (see art. 7, let. (2), let. j)-s) referring almost exclusively to the service providers operating at a rayon, municipality and city level). In such situation, even if art. 8 of the Law 303/2013, stipulates that the competence to monitor the fulfilment of the tasks of a service provider and approval of all the documents relating to the process of rendering the WSS service belongs to LPA, the activity of such service providers is subjected to financial and organizational risks, often the LPAs themselves are the ones which, because of lacking capacities, do not ensure the observance of existing regulations. Consequently, the need for monitoring and supervision by a national authority of the small service providers' activity is imperious.</p> <p>Uncertainty in this regard is created by the provisions of para. (5) of art. 7 of this law, which stipulates that "the service providers supplying/rendering</p>			<ul style="list-style-type: none"> Clarification of the duties of NAER in relation to the service providers rendering WSS services in villages /communities provided with centralized water supply systems, and with or without sewerage and wastewater treatment systems. As the provisions of para. (5) art. 7 of the law 303/2013 and their practical application cause major challenges in the regionalization process. In general, during the revision of 303/2013 it is recommended to eliminate the differentiation between service providers operating at a rayon/ municipality /city level and, accordingly, at a village/community level. Moreover, there are examples when the villages or communities of the country¹⁷ exceed by much the number of inhabitants of some "cities". After the examination of the legislation and experience of Romania, including in the discussions with the ANRSC representatives during the workshop organized by KFW on 21 March 2023 for the relevant authorities of the Republic of Moldova, the need to subject all

¹⁴ <https://www.anre.md/alimentare-cu-apa-si-canalizare-3-321>

¹⁵ <https://www.anre.md/alimentare-cu-apa-si-canalizare-3-321>

¹⁷ For example Congaz and Copceac in Găgăuzia TAU, Cărpineni, Hîncești district, Costești, Ialoveni district, etc.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>the water supply and sewerage public service at the level of a village/commune provided with centralized water supply and sewerage systems shall be subject to the procedure of regulation, licensing, tariff approval in the same conditions as the service providers supplying/rendering the water supply and sewerage public service at a raion, municipiu and city level”.</p> <p>It is to mention that the list of the 44 above mentioned licenses service providers includes also ÎM „Apă-Canal Măgdăcești” of Măgdăcești village, Criuleni district. <u>According to the current normative framework (art. 7, para. (5) of the Law 303/2013)) and to the current practice</u>, in rural settlements only the service providers managing both water supply and sewerage networks may be subjected to the licensing procedure. This approach raises many questions, as in case of the service providers operating at a rayon, city and municipiu level such condition is not imposed. Moreover, in the conditions when the Law no. 303/2013 provides in article 3, para. (4) that in the rural settlements where it is possible to organize, as the case may be, only the public water supply service, on the condition of ensuring the collection of wastewater through individual systems, the mandatory requirement for the operators to provide as well the sewerage service and to mandatorily operate centralized sewerage and wastewater treatment systems to be subjected to licensing is not justified.</p> <p>According to the current system, formally (de jure), the observance of the provisions of the Law no. 303/2013 and of NAER regulations is mandatory for all service providers and LPAs rendering the public water supply and sewerage service, provided both at a rayon, municipality, city level, and at the level of a village/commune. Although in practice, due to the lack of a mechanism to regulate/control the rural service providers, the way of observance of the provisions of Law 303/2013 and NAER regulations is not efficiently supervised and multiple examples of their infringement have</p>			<p>the WSS service providers to the procedure of licensing and regulation was confirmed, independently on their size (number of users), area, type of capital, etc. Thus, taking into consideration the above stated, it is recommended to eliminate the differentiation of operators depending on the type of TAU in which they are rendering WSS services and to subject all the service providers to the procedure of licensing and regulation by NAER (or by other specialized agency created especially for the regulation of all communal services). Taking into consideration the large number of very small service providers (fragmentation) some transitional stages could be provided. For example, the service providers could be classified into categories, depending on the number of users/served inhabitants, independently on the type of settlement (urban/rural) in which they operate. For example, all WSS service providers servicing 2500 and more users would be subjected to the regulation/licensing procedure by NAER, with the offering of a 2 years’ transition period in which the LPAs and service providers should ensure the conformity with the new requirements or delegate the service to a licensed service provider.</p> <ul style="list-style-type: none"> • If no solutions could be identified by which the regulation of the WSS service providers (eventually SWM service providers, as well) of rural areas is also taken by NAER, it would be fit to examine the experience of other

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>been noticed during the preparation of the barometer and on other occasions¹⁶.</p> <p>The lack of a mechanism to regulate, license and control the activity of service providers in rural areas as well, as described above, creates challenges for the development of the sector. Especially the following consequences may be mentioned:</p> <ul style="list-style-type: none"> - Lack of progress in the process of regionalizing the WSS eservices (a considerable share of service providers wish to keep the status-quo for the detriment of the water quality and user health, environment protection, etc. for political reasons, economic interests, etc.). The imposition of similar regulations and requirements for all service providers would decrease those motivations. For example, some mayor wrongly compares the tariff for the water supply service rendered in the current conditions, when they actually supply non-drinking water, with the cost/tariffs of some future regionalized services supplied at completely different quality standards. Thus, the interpretable provisions on the regulation and licensing by NAER of the small service providers from rural areas create impediments in the process of public services regionalization. More specifically, a large share of LPAs from villages/commune, by creating their own MEs, use the opportunity that a strong regulatory framework is missing and taking into consideration the autonomy granted to LPAs, refuse to delegate the services to a licensed operator or to participate in ongoing regionalization projects. All these in the conditions when in these ATUs many provisions and requirements relating to the way of organization and quality of rendered services – especially water quality and safety – are not observed; - although the provisions of Law no. 303/2013, in particular art. 20 „Technological water supply”, para. (3) stipulate that „any connection or interconnection of the technological water supply networks with the 			<p>countries in which national regulation authorities have been created, responsible for all communal services, which would mean considering the transfer of duties currently fulfilled by NAER to such agency (see the example of the National Authority for the Regulation of Public Utility Communal Services of Romania¹⁸). Still, such decision should be preceded by an impact analysis of such decisions, with the assessment of the risks of delaying the development of WSS sector and other communal services as a whole.</p> <ul style="list-style-type: none"> • Development and maintenance of an Informational Management System, in which all service providers, independently on their dimension, should be obliged to register and annually upload reports/information on the fulfillment of the performance indicators in accordance with the provisions of Decision no. 356 from 27.09.2019 of the National Agency for Energy Regulation on the approval of the Framework regulations on the performance indicators of the public water supply and sewerage service // Official Monitor no. 352-359 from 29.11.2019.

¹⁶ For example, the continued use of the Water Users Associations for the management of the WSS service, although it is not anymore included in the forms provided by law 303/2013, random tariff approval without taking into consideration the NAER methodology, cross-funding among various types of communal services rendered by the same service provider, etc.

¹⁸ <https://www.anrsc.ro/>

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>drinking water supply networks and/or with the artesian well networks”, a large portion of rural service providers are supplying untreated water to the population of the settlements, with the exceeding of admissible normatives (supplying in fact technological water) through the networks the destination of which is to supply drinking water to the population.</p> <ul style="list-style-type: none"> - “cross-funding” of various types of public communal services; - Non-observance of the tariff calculation methodology, etc. <p>Another important aspect is that, as no monitoring of the activity of all service providers in the WSS domain is performed, none of the state institutions has information on the number (not to speak about certain performance indicators) of service providers rendering water supply and sewerage services in the Republic of Moldova (there is no database or list of all WSS service providers, including those from villages/communities, for instance).</p>			
Licensing of WSS service providers	<p>According to the Law 303/2013, the licensing of WSS service providers is done by NAER. As mentioned above, NAER licenses only large service providers (rendering services at a raion, municipiu and city level) and does not involve in the activity of small service providers (rural level), although para. (5) of art. 7 of the Law 303/2013 stipulates several provisions in this regard, which have not been excluded during the last amendment of the law (in 2018). On the other hand, some LPA representatives have mentioned that the requirements and criteria for licensing WSS service providers are not realistic and are excessive for WSS service providers from rural areas. Nevertheless, the analysis of the licensing conditions provided in para. (3) of art. 32 of the Law 303 reveals that these do not include any excessive requirements, as they include quite minimal aspects for a good operation of a legal person and service provider managing a vital public service, including the related infrastructure.¹⁹</p>			<ul style="list-style-type: none"> • Clarification of the duties of NAER in relation to the service providers rendering services in villages /communities provided with centralized water supply, sewerage and wastewater treatment systems, as currently the provisions of para. (5) art. 7 of the law are not implemented (see more detailed proposals above). • Amendment/completion of the Law no. 303/2013 with provisions by which to exclude the inequalities regarding the licensing or urban and rural serviced providers, and to extend the licensing process on all WSS service providers, or, as a transition stage, before

¹⁹ To obtain a license, the legal persons should:

a) be registered in the Republic of Moldova;

b) submit a financial statement for the previous year – in case of an operating legal person, or a bank statement – in case of initiating the entrepreneurial activity;

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
				obtaining more progress in the regionalization of WSS services and service providers - licensing could be imposed from a certain number of beneficiaries/served population (for example, from 2500-3000 beneficiaries).
Control in the field of WSS (exercised by NAER and other agencies and public institutions)	<p>The control of WSS service providers and services is regulated by the Law 303/2013 and by the Law 131/2012 on the governmental control of entrepreneurial activity (the annex to the law 131/2012 includes NAER in the list of authorities applying such law, at the extent at which this is not contrary to the provisions of the laws on the control activity and their supervision).</p> <p>Art. 9 of the Law 303/2013 mentions in a vague (generic) way the authorities having the right to exercise governmental control on WSS services but does not list in a clear/specific way the supervision/control bodies and the assigned competence. Only art. 9¹ stipulates in more detail the right, procedure and type of control done by NAER.</p> <p>An interesting phenomenon noticed is the fragmentation of competences and narrow focus of various authorities and agencies, and the whole image and approach is missing. For example, NAER does not take in any way into consideration the quality of supplied water, mentioned that this aspect is the competence and responsibility of the LPAs, service providers and NAPH, and the presumption when the licensing, tariff regulation, etc. take place is that the supplied water is drinking water and of a good quality.</p> <p>From another point of view, the above-mentioned informational system will be useful for MIRD, NAER, other authorities and agencies with supervision, control duties, LPAs, population during the performance of control,</p>			<ul style="list-style-type: none"> • Examining the opportunity of listing specifically the name of the supervisory and control bodies and of a more detailed definition of the control domains. • A more detailed/deep mapping of the control/supervisory bodies and types of performed control to exclude the overlapping of control domains. • Examining the opportunity to include the management delegation contracts in the list of requirements for licensing or identifying another mechanism to ensure the existence of a delegation contract and annexes to it according to the legal requirements, which would be periodically updated.

c) submit the list of assets from the public or private domain of the territorial administrative unit relating to the public water supply and sewerage service, which are managed and operated by them, in case of service providers rendering the water supply and sewerage service;

d) submit documents confirming that they have qualified staff necessary for the activity, for which the license is requested;

e) submit the technical endorsement for registration confirming the methodological provision of the water consumption records.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>planning, development and implementation of national and local/regional policies, etc.</p> <p>Another finding is also the fact that the existence and contents of the management delegation contract for WSS services is not part of the control/regulation of the activity of service providers. According to the regulatory body, this aspect is the responsibility of LPA and service provider. At the same time, the contents of the contract, such as the inclusion of the royalty, is highly relevant.</p>			
Permits	<p>The environmental permit for special use of water for the purpose of water supply is issued by the Environmental Agency, in accordance with Law 160/2011 and Law on waters 272/2011. At the same time, according to Law 303/2013, the WSS service providers shall be subject to licensing, which is also a permit. Accordingly, the WSS service provider should hold two permits: the License and the Permit for special use of water (for water intake and for wastewater disposal). The examination of para. (3) of article 32 of Law 303 shows that the list of conditions necessary to be fulfilled by WSS service provider to obtain a license does not include the condition of holding an environmental permit for the special use of water. This could be an additional mechanism to ensure the holding of an environmental permit for the special use of water by the service providers. During the discussion with certain LPA representatives and WSS service providers, the very difficult procedure with a lot of impediments of obtaining the environmental permit for special use of water was mentioned (including some operations relating to land delimitation, lack of adequate infrastructure, etc.).</p>			<ul style="list-style-type: none"> ● Including in the list of conditions necessary to be fulfilled by WSS service providers to obtain a license, stipulated in para. (3) of article 33 of the Law 303, the condition of presenting the environmental permit for the special use of water (or the automatic obtaining of information from the relevant IT systems, not necessarily its presentation by the license applicant). ● The informational management system could also be used for the management of information relating to environmental permits for special use of water.

Dimension 2. Normatives, standards and performance indicators

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>Construction normatives, quality standards and technical parameters (sanitary, bacteriological, chemical for drinking water, for discharged wastewater, etc.) for the provision of the service</p>	<p>Yet in the period preceding the first edition of the Barometer, new construction normatives have been adopted and partly replaced old soviet SNiPs and GOSTs (NCM G.03.01:2017 for Low-capacity communal wastewater treatment plants; NCM G.03.02:2015 for External sewerage networks and installations; Regulation on the main principles in design and construction of external water supply systems of small localities with a consumption less than 200 m³/day).</p> <p>Nevertheless, the current regulations and normatives do not offer solutions for certain specific problems faced by the rural communities, such as the status of and requirements for septic tanks or low capacity epuration stations. In conditions of financial austerity and high costs of the classic centralized systems of sewerage and wastewater treatment, as well as due to the specific conditions not allowing the operation of such systems at their to optimal parameters in most rural communities (low density of users per network km, low wastewater volume discharged, topographic properties, long pumping distances, etc.), regulating and encouraging the use of septic tanks would be a temporary/transition solution much better than the current situation when wastewater is infiltrated directly in the soil.</p> <p>At the same time, although the central specialized public authority annually develops the Thematic plan for the development of normative documents in constructions, the fulfillment of these tasks is impossible taking into consideration the following aspects:</p> <p>a. Law no. 181/2014 on public finances and fiscal responsibility, by its art. 66 „Commitment management”, was forbidding till 29.12.2022, when a series of amendments has been introduced, the signing of multiannual contracts for the purchase of goods and services by budgetary authorities/institutions. Consequently, in the period of the last 3-4 years, due to the existence of such legal norm, the profiling CPA could not start tender procedures to select the companies that would develop</p>			<ul style="list-style-type: none"> ● Improving the decision-making process and detailed examination of the requests of central public authorities and profiling associations in the process of development of the annual thematic plans for the development of normatives. ● Development of a normative document for the construction, maintenance of septic tanks (or in a separate normative document for small wastewater discharge (sewerage) systems in rural communities²⁰). ● Development of the Instructions on the disinfection of drinking water and of treated wastewater, washing and disinfecting water reservoirs and water pipes – this document would serve as a regulating framework for the process of disinfection of the drinking water, wastewater, and sludge deposit, washing and disinfection of water reservoirs, installations, and pipelines. ● Development of a remuneration mechanism for the member of Technical Committees, which would incentivize and increase of the accountability of their activity and will raise the efficiency of member participation and the quality of developed documents. ● Development and approval of amendments to GD no. 950/2013 for the approval of the Regulations on the requirements for collection,

²⁰ A concept note has been development within the EUWI + project regarding the development of a separate normative document for small wastewater discharge (sewerage) systems in the Republic of Moldova.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>normative documents in constructions, as the signing of multiannual contracts in this regard was forbidden, but the development of such a document lasts for at least 18 months, depending on its complexity.</p> <p>b. The members of the profiling Technical Committees created within the CPA do not receive salary and are doing voluntary work, for which reason the process of convening the meetings and examination of documents submitted for discussions is a long one.</p> <p>Within the project „Security of water supply and sanitation in Moldova“, implemented with the financial support of the World Bank, the following actions have been already planned and initiated to solve the aspects relating to the construction/installation of septic tanks:</p> <p>a. Development of a market research to examine the types of septic tanks available on the market, costs of construction or installation or prefabricated septic tanks, performance indicators in comparison with the provisions of GD no. 950/2013 for the approval of the Regulations on the requirements for collection, eputation and discharge of wastewater in the sewerage system and/or outlets for urban settlements.</p> <p>b. Development of the draft GD on the approval of the criteria for permit, construction, registration, control, operation and maintenance of the corresponding individual systems of wastewater collection/discharge.</p> <p>c. Initiation of the process of amendment of GD no. 950/2013 for the approval of the Regulations on the requirements for collection, eputation and discharge of wastewater in the sewerage system and/or outlets for urban settlements, so as it forbids aby form of discharge of wastewater in the soil, even if they have passed the first stage of eputation, which in principle forbids the construction and operation of septic tanks for individual households.</p>			<p>eputation and discharge of wastewater in the sewerage system and/or outlets for urban settlements, so as to make possible the construction and operation of individual systems of wastewater collection/discharge, with the observance of certain conditions and rules provided in the legislation.</p> <ul style="list-style-type: none"> • Development and approval of the draft GD on the approval of the criteria for permit, construction, registration, control, operation and maintenance of the corresponding individual systems of wastewater collection/discharge.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>d. The regulations have been development on organizing a call for project proposals for the selection of a locality in which a pilot project on the construction/installation of septic tanks will be implemented.</p> <p>Regarding the standards for water quality, the law 182/2019 on the quality of drinking water is not distinguishing between LPA I and LPA II, which may create confusions regarding the holder of the competence or obligation to act (see for instance article 8, para 1; article 9, para 4; article 10, para 7; article 13, para. 1).</p> <p>There are no changes in comparison with the situation described in the first and second editions of the Barometer.</p>	Yellow	Red	<ul style="list-style-type: none"> The provision of this normative act should be adjusted to clearly distinguish between the role of LPA I and of LPA II.
Performance indicators for the service provision in WSS field	<p>The framework performance indicators were approved at national level by NAER. No specific problems and gaps relating to such framework indicators were identified currently, except for the fact that those are reported on paper only by the licensed service providers, and the small/rural service providers are not obliged to submit such reports, which creates uncertainties relating to the quality of services rendered to the population. Still, the comparative examination of the list of performance indicators included in the framework regulations of the WSS service approved by ANRSC²¹ could be useful to overtake some indicators relating to economic-financial, investment performance, water losses, etc. It would be also useful to differentiate a separate category of guaranteed performance indicators. Not least, it would be fit to use in the future the performance indicators as a criterion to establish the degree of profitability of the serviced provider, for those with a better performance – a higher rate of profitability (profit), for those with law performance indicators – the profitability rate could also be lower. Or, currently, the profitability rate is established in the amount of 5% of the expenses of the service provider for the provision of the corresponding service, determined according to the Tariff Calculation Methodology, which does not encourage wither the performance in service rendering or the decrease of expenses (or lower expenses = lower profit).</p>	Yellow	Yellow	<ul style="list-style-type: none"> Strengthening the capacities of LPAs to monitor the fulfilment by the service providers of the performance indicators included in the contracts on delegating the service management. Examining the comparative practice and revision of the Decision no. 356 from 27.09.2019 of the national Agency for Energy regulation on the approval of the Framework regulations on the performance indicators of the public water supply and sanitation service // Official Monitor no. 352-359 from 29.11.2019 for the completion of the lost of performance indicators. Likewise, examining the opportunity of using performance indicators when establishing the profitability rate or introduction of another similar mechanism to incentivize the performance in rendering WSS services.

²¹ <https://www.anrsc.ro/wp-content/uploads/2021/12/Ordinul-Presedintelui-ANRSC-nr.-88-din-2007-pentru-aprobarea-Regulamentului-cadru-al-serviciului-de-alimentare-cu-apa-si-de-canalizare.docx>

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>As mentioned above, Within the project „Security of water supply and sanitation in Moldova”, on the basis of an agreement to be signed with NAER, the development of an Informational Management System is planned, based on the performance indicators approved by Decision no. 356 from 27.09.2019 of NAER on the approval of the Framework regulations on the performance indicators of the public water supply and sewerage service // Official Monitor no. 352-359 from 29.11.2019. The goal of this IMS would be to simplify the procedure of submitting the reports on the attainment of performance indicators not only for licensed service providers, but by registration in the IMS of the small/rural service providers, including with the obligation to submit reports on the attainment of performance indicators.</p>			<ul style="list-style-type: none"> • Development and maintenance of an Informational Management System, in which all service providers, independently on their dimension, would be obliged to upload annually reports/information on the attainment of performance indicators in accordance with the provisions of Decision no. 356 from 27.09.2019 of the National Agency for Energy Regulation on the approval of the Framework regulations on the performance indicators of the public water supply and sewerage service // Official Monitor no. 352-359 from 29.11.2019.
<p>Normatives regulating the operational activity of the service providers</p>	<p>A series of normatives are necessary and have to be developed in order to bring clarity and increase the efficiency of activity of the service providers rendering public communal services, they are planned, but till now MIRD has not accepted such initiatives., and in a project implemented by the Ministry of Environment, funded by SDC and ADA, no bids were presented as a result of the call for proposals made in the process of launching a tender for contracting a company to develop such normative documents.</p>			<ul style="list-style-type: none"> • Development and approval of a series of additional norms (see Annex 3). For this, it is necessary to identify the necessary financial resources, verify the topicality and eventual completion of the terms of reference, specifications and advertising notice for the relaunching of the procurement procedure.

Dimension 3. Financing and tariffs

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>Methodology for calculation and approval of tariffs for WSS services</p>	<p>Several reasonings, discussions and proposals included in the sections dedicated to the regulation and licensing of activity of the service providers in WSS field are relevant and applicable also for this section and will not be repeated. We remind the wishes of certain mayors and WSS service providers from rural areas, who mentioned in the previous editions as a problem the lack of possibility to request an endorsement from NAER relating to tariff calculation or even to totally delegate this competence to the national regulator. Still, these issues will be automatically solved if the above proposals on the elimination from the law of the differentiation of service providers depending on urban/rural areas are accepted/implemented.</p> <p>In this edition, the discussions with LPA representatives and service providers emphasized several global and systemic issues on the regulation of tariffs for WSS services. As it is found in the recent report of the Court of Accounts on the implementation of the National WSS Strategy, the economic-financial conditions of many WSS service providers, including from among the 44 licensed and regulated by NAER, is concerning, some of them are in process of bankruptcy. Some interlocutors mentioned the major problems faced by them after taking loans from international financial institutions, which they are not able to repay because they don't manage to include the royalty in the tariff, which should represent the source to establish the development fund and repay the contracted loans. The founders (LPAs) of the service providers are forced to offer support in form of subsidies/state aid to avoid the bankruptcy of the service providers. Another major issue mentioned in the discussions with LPAs/service providers is the approach towards the volume of water not generating income (technological consumption and loss). It seems that the current methodology does not fully account for the technical condition of the infrastructure and chronic lack of investments. In this sense, the approach to such issues in the practice and legislation of Romania is relevant. Thus, according to art. 36, para. (6) of the law on WSS services of Romania, <i>during the grounding of prices and tariffs, the service providers could request a share</i></p>			<ul style="list-style-type: none"> • Global, systemic analysis of the approach on the way of tariff regulation, support to LPAs and service providers in the fulfillment of their own duties, including at the level of policies developed and implemented by the central public authority responsible by the field, not only at NAER level (which implements the existing normative framework). • Impact analysis of the law no. 303/2013, under parliamentary control, including of the amendments from 2018, to better understand the nature of the issues relating to royalty, development fund and of the reasons making such provisions non-operational. • Offering to LPAs/service providers the necessary support to be able to include the royalty in the tariff structure (some representatives of LPAs/service providers mentioned difficulties in fulfilling the necessary conditions for the inclusion of royalty in the management delegation contract and, accordingly, in the tariff calculation – some aspects relating to delimitation, assessment, balance, etc.) • Revision of the methodology of determination the losses and technological consumptions for tariff determination purposes to make it more flexible and open for considering the technical condition of the used infrastructure systems.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>corresponding to the losses <i>justified by the technical condition of the water supply and sewerage systems.</i>²² Accordingly, this idea is found both in the law on public utility communal services, and in the tariff calculation methodology of Romania: losses justified by the technical condition of the water supply and sewerage systems. While we fully recognize the need to counteract the bad management by the service providers, such as the lack of reaction and very late remediation of some failures (in this sense the non-inclusion of losses in the tariff is justified, if they are due obviously to bad management), we still consider that a more flexible approach should be taken and the bad condition of the technical infrastructure in most localities in the country should be taken into account, as well as some losses which are not easy to reveal and remediate (thefts, slow infiltrations in soil in case of historical networks, non-payments, etc.). We mention that at the beginning of 2023, NAER announced the start of procedure for the amendments of the Regulations on establishing and approving, for the purpose of tariff determination, of the technological consumption and water losses in the public water supply systems (approved by the Decision of the Management Board of NAER no. 180/2016 from 10.06.2016) and invited the interested parties to send proposals.</p> <p>A very important aspect which requires a serious approach is the tariff component for gathering the resources necessary for capital investments. The current approach is its inclusion by the costs of amortization/royalty of the existing/built infrastructure, with the observance of a long series of conditions (inclusion in the investment plans endorsed by NAER, not to be from donations/projects, etc.) It's just that this approach represents a vicious circle, as in the absence of an infrastructure which may be amortized / on which royalty may be calculated, no substantial resources may be</p>			<p>Examination of the experience of other countries in this field, including of Romania.</p> <ul style="list-style-type: none"> • Examination of the opportunities to include the development share in the tariff structure (they need to be reflected in law no. 303/2013, consequently they may be approached in the process of preparation of the draft amendment to the law). • Examination of the opportunity to include the social solidarity fund in the tariff structure (same as the previous paragraph – in the context of amending the law in this field).

²² [LAW 241 22/06/2006 - Legislative portal \(just.ro\)](http://www.just.ro). Article 36, para. (6) stipulates: „During the grounding of prices and tariffs, the service providers may request a share corresponding to the losses justified by the technical condition of the water supply and sewerage systems. The level of such share shall be approved by the deliberative authority of the territorial administrative unit or, as the case may be, by the general meeting of the intercommunal development association **based on the water balance**. In case of new water supply systems, the level of water losses shall be established by the territorial administrative units or, as the case may be, by the intercommunal development associations, based on the project data and existing technical normatives. In the recent amendment to the tariff calculation methodology of ANRSC, the procedure and requirements for the inclusion of water losses justified by the technical condition of networks is presented in detail - <https://www.anrsc.ro/wp-content/uploads/2022/05/Ordinul-presedintelui-ANRSC-nr.-323-din-2022.docx> (see art. 7 in new redaction).

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>gathered in the development fund for the performance of such investments. The investment projects may not be infinitely performed only from projects with external funding and from the state/local budget (as shown also by the experience of Romania, shared by the representatives of ANRSC and experts present during the above-mentioned meeting from 21 March 2023). Some of these funds should come from tariffs (as allowed by the affordability rate). Thus, it is imperious to return to the discussions and proposals to include it in the tariff composition, as it is also in Romania. It is necessary to provide for the possibility of gathering these resources, which could be mandatorily used only for infrastructure development, replacements, etc., through the development fund. Of course, certain conditionalities, criteria and specific procedures will be necessary (for example, the last amendments approved by ANRSC do not allow the introduction of the development share by the regional service providers and economic entities operating private WSS systems).</p> <p>The last idea which could be examined in the context of possible future revision of the legislation in this field and of the regulations for the calculation of tariff for WSS services. In Romania, for example, the involved LPAs or, as the case may be, the IDAs, take social protection measures for the unfavored categories of users, to ensure the affordability of all household users, including by the approval and inclusion in the structure of the price/tariff of the solidarity fund, at the level of maximum 1% of the amount of operating expenses, if the affordability rate for an average household on the entire operating area is between 2.5 and 3 % inclusively, and mandatorily 1%, if it exceeds 3% [...]. The amounts collected by service providers, corresponding to the solidarity fund, are gathered in a separate account and used exclusively for the purpose for which it has been created, accordingly, for offering monthly aids to the beneficiary population, with the endorsement of the involved territorial administrative unit /intercommunal development association, as the case may be.²³ Taking into account the austerity of local budget and the need to protect some vulnerable layers of population, it would be useful to examine the</p>			

²³ For more details see the provisions of art. 7 of the Methodology of establishing, adjusting or modifying the prices/tariffs for the public water supply and sewerage services of Romania in the most recent redaction.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>opportunities of providing for the possibility of introducing a solidarity fund and its reflection in the tariff structure.</p> <p>An interesting experience which deserves to be used is also the recent reform performed in Romania which passes from tariff regulation based on the accounting of acceptable costs and produced volumes to an economic tariff regulation – see the Methodology of tariff adjustment of the prices/tariffs for the public water supply and sewerage services, based in the tariff strategy related to the business plan.²⁴</p> <p>Some LPA representatives mentioned the fact that the current methodology for tariffs calculations is not adapted for small WSS operators from rural areas. A more thorough analysis of the issue reveals that the actually the lack of qualified staff is one of the main reasons for the difficulty in applying the methodology, and not the fact that the activity of service providers operating at a village/community level may not be framed within the current calculation methodology. The issue is also worsened by the fact that the service providers operating in villages/communities are not part of the branch associations (AMAC) and do not benefit from support and training at the same extent as the larger service providers. Within CALM, a service has been created to support these service providers (SOMAS)²⁵, consequently, the same option should be used more effectively by small service providers, including in relation to capacity building (trainings) or specifically when support is needed regarding tariff calculation.</p> <p>An aspect that could incentivize service regionalization would be the creation of mechanisms to motivate the local public authorities to associate in rendering the services, including the introduction of some funding conditions in this regard (giving priority to regionalization projects).</p>	<p>Yellow</p>	<p>Red</p>	<ul style="list-style-type: none"> • Training the relevant staff of the service providers and LPAs from villages/communities; • Appealing to support associations and specialized support services (i.e., AMAC or SOMAS); • Development of a methodological note (guidelines) on the application of the calculation methodology. • Contracting consultancy services (the development of a list of experts with contact data would be beneficial); • Development of incentivizing or coercive mechanisms for the local authorities and service providers (for example, obligation to obtain a license and regulate tariff for all service providers/TAUs) to initiate/advance the processes of regionalization of the service providers of public water supply and sewerage services.

²⁴ <https://www.anrsc.ro/wp-content/uploads/2022/04/Ordinul-Presedintelui-ANRSC-nr.-230-din-30.03.2022-1.docx>

²⁵ CALM Service to Support Small Water Supply and Sewerage Service Providers

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Taxation of WSS operators, payments and tariffs collected	<p>The communal services, including WSS provided to the population are exempted from VAT (article 103, para. 16 of the Fiscal Code of RM). However, the municipal enterprises/service providers pay 20% VAT for the goods and services that they purchase (raw materials, disinfectants, equipment, etc.).</p> <p>At the end of 2022, amendments were made to the Fiscal Code²⁶, the water supply and sewerage services for the objectives with housing destination were transferred from article 103 (exemption from VAT without deduction right) to article 104 (exemption from VAT with the right of deduction).</p>			<ul style="list-style-type: none"> Examination of the opportunity to apply the exemption from VAT for the WSS operators or at least the decrease of the VAT rate for the purchased goods and services (for ex. from 20% to 8%).
Funding the investments in WSS infrastructure	<p>The first edition of the Barometer noted that there was no mechanism (fund) established at national level, to cover/help to cover LPA contributions within major investment projects. In the meantime, the National Fund for Regional and Local Development was created, which, among other things, offers the possibility to cover the cofounding costs of the LPAs in projects with external funding, currently 13 such projects are already implemented from the sources of NFRLD, selected within the first call for project proposals within the "European village" program.</p>			<ul style="list-style-type: none"> Increasing LPA's capacities in project management (including in writing project proposals).
Amortization of assets	<p>The Law 303/2013 stipulates in its article 13¹, para (11) that the value of the royalty should not be less than the amortization of the concessional assets relating to the WSS service. Such provision has been introduced in 2019 by the Law no. 322 from 30.11.2018 for the amendment of the Law no. 303/2013, and its purpose is to ensure the financial sustainability of the WSS service providers, including by means of gathering the necessary financial resources for the repayment of loans and for making investments in infrastructure. Although generally this provision is necessary for a good operation of WSS services, the impact that such provision may have on tariff affordability should be considered and necessary mechanisms to ensure the access of vulnerable people to this service should be in place.</p>			<ul style="list-style-type: none"> Evaluation of the impact of establishing a royalty that would totally cover the amortization of concessional goods on tariff affordability and, as the case may be, taking the necessary actions to ensure that the service is accessible to the vulnerable population as well. Identification and implementation of a mechanism to accelerate the process of signing the management delegation contracts for WSS services and inclusion of royalty in such contracts.

²⁶ https://www.legis.md/cautare/getResults?doc_id=134829&lang=ro

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>Moreover, according to the information presented by the representatives of WSS service providers, with the introduction of the provision in article 13¹ through the Law 322 from 2018, a very difficult situation arose when the calculation of the depreciation (and its inclusion in the tariff) is not possible anymore, because royalty should be provided and paid, which would be used for this purpose (covering the amortization costs). But on the other hand, of all the 44 license holders, only four have established the royalty value in the management delegation contract, while the others either have management delegation contracts without including the royalty, or do not have management delegation contract. This situation is currently a vicious circle which, according to the representatives of the WSS service providers, will lead to the degradation of infrastructure and decrease of capacities of the service providers. Some details on the issues and suggestions relating to royalty and development funds have been mentioned in the previous sections.</p> <p>Some interviewed LPA representatives justified the fact that no royalty has been established in the management delegation contract concluded with the service provider by the fact that according to the Law 246/2017 they decided, at the distribution of the net profit of the municipal enterprise, to allocate a part of it to the local budget. Nevertheless, it is to mention that according to article 36¹, para. (5) of the law 303, these are two different sources of the development fund, while the allocation into the local budget of the LPA based on the law 246/2017 allows spending such money for other domains as well, they do not have a target destination as in the case of the development fund.</p>			<ul style="list-style-type: none"> • Approach of this issue by the working group for the amendment of the law 303 to identify possible legislative solutions (for instance, if royalty is not provided, activation of a reserve mechanism to solve the bottleneck).

Dimension 4. Property management

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Registration of objects/goods belonging to WSS systems	<p>In 2014, the Government of RM approved the Concept of the automated informational system "Register of technical-municipal infrastructure objects" (ROITE)²⁷, and in 2017 the Parliament approved the law on the Register of technical-municipal infrastructure objects²⁸. Currently the Public Services Agency (PSA) is in the process of selecting the developer for the development of the platform (informational system) necessary for the operationalization of the register. Consequently, currently the technical-municipal infrastructure objects are not subject to registration (property right and other real rights). Besides the registration of a property right, a major issue relating to the non-registration of the technical-municipal infrastructure objects is also the non-registration and lack of information about the protection areas of sch objects and interdictions/burdens involved. According to the ROITE concept, the owners of the lands do not know about the burdens imposed by the legislation in the protection areas of such objects, for this reason conflicts arise between the owners of the lands and the owners of the technical-municipal infrastructure objects. It is to mention that previously, in the absence of clarity in this domain, some technical-municipal infrastructure goods/objects were registered in the register of real estate, but this practice is incorrect and has been stopped, as such objects are not real estate objects.</p> <p>In the period subjected to analysis in this edition of the barometer, a series of amendments to certain normative acts have been initiated or even approved (such as law no. 290/2022 amending/adjusting Laws no. 28/2016, no. 163/2010, or the draft law amending several relevant laws, among which the law on waste, water supply and sewerage, etc.). The goal of these amendments is to create the necessary normative framework to ensure the operation or ROITE and the subjection to registration of OITE.</p>			<ul style="list-style-type: none"> • Implementation of the necessary activities to operationalize the register of technical-municipal infrastructure objects (selecting the developer, testing, launching); • Informational campaign for LPAs with the launching of the register;

²⁷ Government Decision no. 133 from 24.02.2014 // Official Monitor no. 53-59 from 07.03.2014

²⁸ Law no. 150 from 14.07.2017 // Official Monitor no. 277-278 from 04.08.2017

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>There is no clear mechanism at a normative level to delineate and register the assets that are part of the technical-municipal infrastructure belonging to WSS systems (OITE).</p> <p>According to PSA, this operation is preliminary to the registration of such objects in the Register and involves the development and application of inventory lists by the concerned public authorities (LPAs of various levels, CPAs), eventually accompanied by the transmission into property (GD 901/2015).</p> <p>In 2022 the draft GD has been developed on the amendment and completion of GD no. 63/2019 (Regulations on the way of delimitation of the real estate in public property) and no. 80/2019 (State Program for the delimitation of real estate objects, including lands in public property, for 2019–2023), the goal of which is to regulate the procedure of delimitation of OITE, public property provided by Law no. 29/2018 on the delimitation of public property.</p>			<ul style="list-style-type: none"> • Support (methodical, training, informational) in the development of the inventory lists of the technical-municipal infrastructure objects by the concerned authorities. • Finalization and approval of the amendments to the normative acts (GDs no. 63/2019 and no.80/2019) to specify the specific procedures of delimitation of OITE.
	<p>There is no clear and effective mechanism of transmitting into the property of LPAs the goods and infrastructure obtained from grants / projects implemented by associations, NGOs and other authorities (not directly by LPAs) or built by natural/legal persons on the lands in public property (see art. 19 para (4) of the law 303/2013).</p> <p>A specific situation proving the revealed gap is the fact that there are fruit growing partnerships in the suburbs of municipalities, where infrastructure systems have been built on public lands and LPAs have not taken such lands in their administration/property. The service providers in municipalities extend the number of service beneficiaries without establishing the mechanism of handing over the infrastructure systems.</p> <p>Moreover, the situation is even more unclear after the provision "<i>free of charge at the balance</i>" contained in para (4) art. 19 of the law 303/2013 has been declared unconstitutional.</p> <p>Consequently, it is necessary to either adjust the provisions of GD 901/2015, with the identification of the correct procedure of transmitting</p>			<ul style="list-style-type: none"> • It is necessary to develop a simplified mechanism for the transmission of infrastructure systems, eventually by completing GD 901/2015 and other relevant normative documents. • The development of guidelines and of a methodological note would also be useful.

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>the investment costs to LPA, or to develop a separate normative document regulating a simplified procedure, as it has been done in the case of the projects implemented from the sources of the National Fund for Regional Development or of the foreign partners, but implemented through the mechanism specific to regional development (GD 1235/2016).</p>			
	<p>Article 4, para. (2) of the law 1402 stipulates that „public communal service systems, including the related lands, as they are of public use, interest or utility, belong, by their nature or according to the law, to the public domain of the administrative-territorial units“. At the same time, art. 2 of the law defines the notion of public communal service systems as a set of construction, technological installations, functional equipment and specific amenities by which the administration, maintaining in good operating conditions and efficiency of all the component of the housing-communal domain is ensured. Although the purpose of these provisions is a noble one, to protect such goods (as the goods of the public domain are unalienable, unattachable and imprescriptible), in practice these provisions create some difficulties. Especially during the performance of certain projects with external funding, it is necessary to transmit into the property of the LPA even some more “insignificant” equipment, without the possibility of transmitting them directly into the property of the service provider. In the case of intercommunal service providers, this is a serious limitation, as some equipment must be divided in shares among several LPAs. On the other hand, many service providers hold into property equipment purchased by them because of the activity.</p>			<ul style="list-style-type: none"> • In the context of revising the law 1402, analysis of the situation and clarification, which technical-municipal infrastructure objects and which parts of the public communal service system are assigned to the public domain – all of them or only the most essential ones (like the wastewater treatment plants, networks, major equipment, etc.)
<p>Evaluation of goods related to the WSS systems</p>	<p>There is no methodology for the evaluation of the objects belonging to the WSS system (technical-municipal infrastructure objects).</p> <p>This is an urgent need, as in the absence of primary accounting documents and other necessary documents, it is difficult to evaluate and register the property right, especially in the context when a wide regionalization process is proposed, which would mean the delegation of the right to manage the service and the infrastructure related to it. This</p>			<ul style="list-style-type: none"> • Development of a methodology to evaluate the goods (OITE) belonging to the WSS system; • Offering methodological support to LPAs and to WSS service providers for the performance of the process of evaluation of goods.

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	operation is also important in the context of transmitting the goods into the management of service providers and establishing the royalty.			
Tools for storage and evidence of datasets regarding the objects belonging to WSS systems	<p>The law on the principles of urbanization and territorial arrangement²⁹ stipulates in articles 62-65 the creation and keeping of the functional urban cadaster, and subsequently the Government has approved the Regulations on the creation and keeping of the functional urban cadaster (GD 1300/2001). This functional urban cadaster should have become the informational basis for the keeping of the data regarding the technical-municipal objects (for instance, positioning, diameters, materials, state, capacities, stock-taking, etc. – see p. 3.4 and 3.5 of the above regulations). For various reasons, the functional urban cadaster has not been created and does not represent a functional system. The law stipulates that LPAs shall ensure, from the funds of the local budgets, the creation and keeping of the functional urban cadaster for the territories managed by them. Nevertheless, according to the regulations, the responsible entities for the creation of the functional urban cadaster shall be: at a national level – the central public authority in the sphere of urbanization and territorial arrangement, at a regional and local level – the local public authorities (local bodies or architecture and urbanization). Among the main reasons explaining the non-creation of the functional urban cadaster, the lack of financial resources and qualified staff in the LPAs, the lack of guidance and initiative from the central specialized bodies, etc. may be mentioned.</p> <p>Nevertheless, with the support of various projects, some platforms/tools have been piloted, comprising certain datasets (for instance, gislocal.md developed by ANRF with the support of the My Community project implemented by IREX and funded by USAID), but these by far do not include all the datasets provided by GD 1300/2001.</p>			<ul style="list-style-type: none"> • Development of a study for the determination of the situation in the sphere of the functional urban cadaster, confirming the need for the tool in the light of other existing instruments/platforms, determination of the responsible central institutions, eventually development of a national program/roadmap for the creation of the system.
	The legal and regulatory framework does not define the conditions and the parameters for the datasets to be submitted in digital form. There is also a lack of a mechanism for accountability and penalization for not			<ul style="list-style-type: none"> • Preparation of a draft law to include the requirement/obligation to establish and maintain a digital tool for the storage of the

²⁹ Law no. 835 from 17.05.1996 // Official Monitor no. 1-2 from 02.01.1997

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	submitting at all or in an appropriate format the datasets regarding the objects belonging to WSS systems and for the failure to comply with the conditions for keeping and archiving of the datasets concerning the object belonging to WSS systems.			datasets regarding the objects belonging to WSS systems, as well as the requirement to submit the datasets in digital form when new objects are put into operation.
Keeping records of infrastructure objects from WSS systems	<p>Keeping the records of the objects belonging to WSS systems should be ensured by the owner of the goods or by the service provider to which the management of the service and related infrastructure has been delegated.³⁰ The law 1402/2002 stipulates in article 5, para. (1) that the public communal service systems with the related lands shall be inventoried and the records on them shall be kept in the real-municipal cadasters organized at the level of the administrative-territorial units according to the law, with a view to identifying, registering, and representing on maps and cadastral plans, as well as in the urbanization and territorial arrangement documentation.</p> <p>No specific issues have been identified regarding the normative framework for keeping the records on the assets related to communal services, but in practice not all LPAs fulfill this function efficiently. On the other hand, when LPA concludes the contract of service management delegation with the service provider, the inventory of movable and real estate in public or private property of the administrative-territorial units related to the rendered service is mandatorily attached. There are difficulties in establishing royalty, the roots of which are inclusively in the records of such assets. The problems related to establishing royalty have been mentioned in the previous sections.</p> <p>The keeping of records on the infrastructure objects within the public communal service systems is also related to the issue of the functional urban cadaster described above, but it may take place in other forms, as well, including in specialized software or simple lists/tables (Word, Excel, etc.).</p>			<ul style="list-style-type: none"> See the recommendations above regarding the functional urban cadaster as a tool for keeping records on the infrastructure objects within the communal service (technical-municipal) systems, as well as the recommendations on the challenges relating to establishing the royalty (its inclusion in the tariff).

³⁰ The accounting records of the goods (assets) is an economic-financial function and should not be mistaken for the registration of the property right on such goods.

Dimension 5. Intermunicipal cooperation

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Overall legal framework on the intermunicipal cooperation in general and in WSS field	There is no special law on intermunicipal cooperation, but in February 2023 a new law on IDAs has been approved, this being one of the possible forms of intermunicipal cooperation. Moreover, there are several specific provisions relating to intermunicipal cooperation in the Law on local public administration and in the Law on public communal services. Likewise, at the level of the central public administration there is no institution with a clear mandate in developing policies and legislation in the field of intermunicipal cooperation under general and transversal aspect (each ministry approaches tangentially this aspect from the point of view of the domains managed by it).			<ul style="list-style-type: none"> • Development and promotion of the necessary secondary normative framework for the implementation on the law on IDAs, including the framework statute. • Offering the methodological and informational support for the dissemination of the law on IDAs among the LPAs and support of some pilot IDAs to show success examples.
Legal forms for institutionalizing the IMC	The recent changes of the civil code have excluded the legal form of union of legal persons that was used by some territorial administrative units to establish IMCs (as, for example, the waste management association in the South Development Region) or national associations (CALM). Still, the approval of the law on IDAs at the beginning of 2023 has mostly solved this problem (in relation to intermunicipal development, but not in relation to the form of organization of national associations of LPAs).			<ul style="list-style-type: none"> • See the recommendations above. • Clarification of the organizational legal form for the national associations of LPAs.
	The approval of the new law on state and municipal enterprises and the subsequent practices makes impossible to register municipal enterprises with more than one founder, this was the main legal/institutional form used by LPAs to initiate IMCs.			<ul style="list-style-type: none"> • Amendment of the law on state and municipal enterprises to offer several LPAs the possibility to jointly create an IMC (municipal enterprise with several founders) as it was before the law has been approved, based on the former template regulation on municipal enterprises.
Incentives for IMCs	The current normative framework and financial/fiscal system does not provide for any incentives for IMCs. Nevertheless, the creation of the Fund for regional and local development is a positive evolution, as both for regional development and for local development projects a certain score is given for the intermunicipal projects.			<ul style="list-style-type: none"> • Examination of the opportunity to create mechanisms giving incentives to IMCs, such as priority during calls for projects financed from national funds, possible tax facilities, etc.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Mechanisms to ensure the sustainability of IMC projects	Many IMC initiatives funded by donors or from national funds fail after a short period or may not be fulfilled (for example, the local council (at the instigation of mayors, sometimes) refuses to participate in projects for the regionalization of the WSS service, even if it supplies water of an unsatisfactory quality, or demand the termination of the cooperation agreement after a certain period of time, etc.).			<ul style="list-style-type: none"> • Identification of measures to monitor the IMC projects funded from national funds and by the development partners, making participating LPAs accountable to ensure the sustainability of such projects.

II. GAPS, CONFLICTS AND CONSTRAINTS IDENTIFIED IN THE NORMATIVE FRAMEWORK RELATING TO SOLID WASTE MANAGEMENT (SWM)

Dimension 1. Overall legal and institutional framework

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>Legal and regulatory framework in the field of SWM (overview)</p>	<p>The organization and rendering of SWM service is not regulated by a special law.</p> <p>The law 209/2016 on waste is focused on measures necessary for the protection of the environment and public health by preventing or reducing the adverse effects of waste generation and management and by reducing the overall effects of the use of resources and increasing the efficiency of their use, <u>but it is not regulating in details the organization, functioning, administration of the SWM public service.</u></p> <p>In 2022, the Ministry of Environment, through the National Project Implementation Office in the Field of Environment, within the GIZ funded project "Improvement of the legal and institutional framework for the management of certain waste flow in the Republic of Moldova" developed the draft law on managing the solid waste management services, and the promotion of the draft law for approval is planned for 2023.</p> <p>The draft law is in the process of finalization and has not been yet published and subjected to public consultations.</p>			<ul style="list-style-type: none"> ● It is necessary to amend/complete the Law 1402/2002 regulating, as a framework law, the basic principles for the organization of communal services. ● It is important to promote for approval the new law, which would regulate the organization and operation of SWM services. It is important that the new law approaches and provides grounds for the following aspects: <ul style="list-style-type: none"> ✓ Tariff calculation. ✓ Identification of the regulatory institution and creation of the normative framework to license and regulate the service providers; ✓ Organization and operation of the SWM service providers; ✓ Providing legislative regulations for the transmission of the land in public property (landfills, transfer stations) into the economic management of the serviced providers. ✓ Ensuring the right of direct transmission of the SWM service management to a service provider created by public entities, as, in accordance with the current norms of Law 1402/2002, the transmission of the SWM service management shall be done only by a tender according to art. 21, para. (2) „Delegation of management of the public

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
				<p>communal services to service providers shall be done in conditions of transparency. By public tender organized according to the law. In the case of water supply and sewerage service providers created by the local public administration or by central specialized authorities, with majoritarian public share capital, the delegation of service management may be directly assigned to them. It is necessary to institute a similar exception for SWM services as well.</p>
	<p>Article 11 of the Law 209/2016 on waste is not specifying and not distinguishing between different levels of local public administration.</p> <p>In 2022, the Ministry of Environment developed a draft new law for the amendment of the provisions of Law 209/2016, but no provisions were included to delimit the role and responsibilities of LPA I and II.</p>			<ul style="list-style-type: none"> • Revision of article 11 of the law on waste, with concrete specification of the competences of LPA 1 and LPA 2 (if the latter have any competences in this domain).
	<p>Currently the law provides an exception form the rule of delegating by tender the management of communal services only for the water supply and sewerage service, in case of service providers will fully public capital, in which case the delegation may take place directly to such service providers. For the public waste management service such an exception is not provided. In the context of creating regional service providers in the waste management regions created according to the national strategy on waste management, it is of utmost need to ensure a similar exception for these service providers (which will be with fully public capital). As the funding programs performed with the support of EBRD and EBI envisage a wide program to strengthen the capacities of the service provider, it is necessary that the service provider is known and that there is stability and surety regarding the service provider, but its selection as a result of a tender would make this impossible and would bring even more risks.</p>			<ul style="list-style-type: none"> • Approving the new law on the creation and management of the public SWM service and amending the law 1402/2002 (art. 21, para. (2)) to ensure the possibility of direct delegation (without a tender) of the waste management service to the regional service providers created in the waste management regions established according to the national strategy. The exception shall also be included in the special law on the waste management service, which shall be developed. It is important namely to ensure the exception only for these regional service providers, not for the small service providers created by each LPA in part, in order to encourage and to have an additional tool to

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
				incentivize LPAs to become a part of the system created in the waste management regions.
	Article 9, point c) of the Law 1515/1993 on environment protection mentions that the raion authorities jointly with local authorities for environment are supervising and coordinating the activity of town halls (LPA1) [...] in the field of storage and processing of production and household waste. This provision is not fully in line with the provisions of the article 6 of the Law 436/2006 that stipulates that there are no relations of subordination between the public authorities of first and second level of local public administration.			<ul style="list-style-type: none"> According to the legislative provisions, if there are several laws with the same force, the provisions of the last law/amendments approved shall apply. Still, to have a better coherence of the normative framework, it is necessary to adjust such provisions to take into account art. 6 of the law 436/2006.
	A major gap identified in the current normative framework is the lack of efficient legislative and institutional solutions for the problem of the inhabitants refusing to conclude contracts for the waste removal service. The representatives of LPAs have reported multiple situations when the inhabitants refuse to sign such contracts grounding this by the fact that they do not produce waste, bury it, etc. and they don't have what to pay for. Taking into consideration the comparative practice of other countries that have introduced mechanisms automating the signing of waste removal contracts (there is no option not to sign a contract), tackling this issue and an eventual adjustment of the normative framework are imperative.			<ul style="list-style-type: none"> It is necessary to amend the law no. 209 and eventually the law no. 1402 and to include provisions stipulating that when there is a communal service provided (water supply, sewerage or SWM) the population should conclude waste removal contracts, otherwise penalties shall be apply for causing damage to the environment.
National institutional framework in the field of SWM	<p>As a result of separating the two ministries from the previous MARDE, the domain of waste management has been assigned to the Ministry of Environment, both under the aspect of infrastructure and under the aspect of policies and normative framework in the given field.</p> <p>Unlike the WSS field, article 9 of the law on waste 209/2016 expressly stipulates the competent authority entrusted with competences and responsibilities regarding the waste management regime. Still, the law has not yet been 2021, the law still mentions MARDE and not the Ministry of Environment. On the other hand, as in the case of WSS, the Regulation on the organization and operation of the Ministry of</p>			<ul style="list-style-type: none"> Adjustment of article 9 of the law 209/2016 and of the regulations of the ministry (GD 145/2021) to clearly establish the quality of institution of the central public administration responsible for the policies in the field of waste management, including the public communal service of waste management.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	Environment approved by GD 145/2021 ³¹ does not expressly stipulate SWM among the domains in which the ministry shall fulfill certain functions (see p. 6). The Regulations still mention in the structure of the central body of the ministry the Directorate for policies in the management of chemical waste and substances.			
National regulator	<p>Even though there is no institution entrusted to regulate the given public services as such, as in the case of WSS, in 2019 certain functions of national regulatory authority in the SWM field were attributed to National Agency for Environment (issue of the environmental permit). According to the discussions with the relevant authorities, the draft law on the public waste management services shall institute a regulatory agency in this domain, as well (and most probably these functions shall be also taken by NAER, and in case of refusal, the need to create a separate agency regulating communal services will become even more stringent).</p> <p>It is to mention, though, that the approval of the new draft law for the regulation of activity of the service providers and identification, at a national level, of an institution with regulatory functions becomes more and more urgent in the perspective of creating regional operators to manage SWM services, according to the institutional concept described within the "Solid waste in Moldova" project funded with the support of EBI and EBRD.</p>			<ul style="list-style-type: none"> • The need to identify the institution responsible for the regulation is relatively urgent, and its absence creates confusion and the lack of a single national framework for the development of some standards to ensure an efficient management, and it creates divergences regarding: <ul style="list-style-type: none"> – Quality standards. – Evaluation of service quality. – Lack of procedures to license the service providers. – Lack of a clear tariff calculation framework which shall contribute to ensuring the sustainability and quality of services. • Creating the normative framework for the licensing and regulation of service providers;
Licensing or authorization of the SWM activities	<p>The Law on the regulation by authorization of the entrepreneurial activity no. 160/2011, foresees the following requirements:</p> <ul style="list-style-type: none"> – a license for the collection, storage, processing, marketing and export of waste and scrap of non-ferrous metals, used batteries and accumulators, including in a processed form (issued by the Public Services Agency); – Environmental permit for waste management (issued by the National Agency for Environment). 			<ul style="list-style-type: none"> • The lack of a regulatory institution represents in fact, for the moment, one of the most acute problems affecting the quality of rendered services and the sustainability of investments. It is necessary to identify the institution that could undertake such functions.

³¹ Government Decision no. 145 from 25.08.2021 // Official Monitor no. 206-208 from 01.09.2021

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>Still, an institution which would perform the actual regulation of the activity of service providers in the SWM field, including by licensing them, is not yet identified. In the discussions with the Ministry of Environment it was mentioned that there is no sure vision on the need to license the service providers, as they should obtain an environmental permit, which is a more complex permissive document, and which is still issued to exclude/decrease the negative impact of the waste on environment (see article 26 of the Law no. 209/2016 on waste)³². Nevertheless, the opinion of the authors of this Barometer is that the licensing of operators as legal persons performing activities in the fields of public interests has another objective and would comprise other requirements, not overlapping those from the environmental permit. Moreover, the licensing would be a preliminary step towards tariff regulation, as currently the methodology of calculation of tariffs for SWM services, approved by a GD, is of a recommendation nature for LPAs.</p>			

Dimension 2. Normatives, standards and performance indicators

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Construction normatives and quality standards for the provision of the SWM service	<p>At national level there are specialized regulations for the management of specific types of waste (medical, electrical, and electronic devices, batteries and accumulators, dangerous waste, etc.), but there are no quality standards for municipal/household waste.</p> <p>At the same time, in the period after the development of the second edition of the Barometer, the Ministry of Environment managed to promote for approval the following normative acts:</p> <ul style="list-style-type: none"> – On used oils (GD 731 from 26.10.2022); – On used tires (GD 610 from 01.09.2022); 			<ul style="list-style-type: none"> • It is necessary to approve the following regulations (or framework regulations): <ul style="list-style-type: none"> – On the organization and functioning of SWM services (it is at an initial stage); – On depositing (it is at an initial stage); – Construction normative for the design of landfills

³² https://www.legis.md/cautare/getResults?doc_id=135894&lang=ro

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>– On scrap vehicles (approved at the Government Meeting from 28.02.2023, but not yet published as of the date of preparing this report).</p> <p>Currently we see that there are no standards and normatives for landfills. Although in the process of developing the first edition of the Barometer, the authority competent in the sphere of constructions mentioned that, till the end of 2022, the construction normatives for the construction of regional polygons/landfills for municipal waste shall be developed, this didn't happen. But in 2022, the development of the Methodic-organizational normative "Development – design of landfills" was included in the Thematic Plan and the public procurement procedure has been launched in this regard.³³ The main reasons and challenges impeding the performance of necessary actions for the development of such normatives are described/listed in the previous chapter, WSS service.</p>	Green	Yellow	<ul style="list-style-type: none"> It is necessary and urgent to develop the construction normatives for the regional waste polygons (landfills) and transfer stations, especially in the context of the investment processes for the implementation of investment projects in the sphere of waste funded from the financing agreements concluded with the European Bank for Investments and European Bank for Reconstruction and Development.
Performance indicators for the service provision in SWM field	The framework performance indicators for SWM service are not developed and approved at national level.	Yellow	Yellow	<ul style="list-style-type: none"> In the waste field, the institution that would ensure licensing / regulation and control of the companies rendering public communal services in the field of waste is not identified, these functions are uncertainly distributed within various normative acts.

³³ https://midr.gov.md/files/shares/Plan_de_achizi_ii_n_domeniul_constructiilor_2022_semnat.pdf

Dimension 3. Financing and tariffs

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Methodology of tariff calculation and approval for SWM services	<p>During 2022, the Ministry of Environment has finalized and promoted the tariff calculation methodology for some public services of municipal waste management, which was approved by GD no. 881/2022. As mentioned above, the new methodology is of a recommendation nature for LPAs, as the Government is not entrusted with the competence to approve mandatory acts for local authorities, as there are no subordination relations between them. Paragraph 4 of the GD recommends to LPAs to approve tariffs for the public services of municipal waste management in accordance with the Tariff Calculation Methodology for some public services of municipal waste management.</p> <p>It is to mention that the methodology applies only to tariff calculation, not to the calculation of local fees, but some LPAs have chosen to fund the waste removal services through local waste removal fees, due to the difficulties and refusal of the inhabitants to sign service rendering contracts for waste removal.</p>			<p>The action was done during 2022. It is still convenient to revise the approaches, with the possibility of creating or entrusting the duties of a regulatory authority in the SWM field to NAER or to a new/other regulating agency/authority, and the approval of the calculation methodology by it, as well as to ensure the observance of the methodology in the process of regulation and supervision/control of the activity of service providers. This could be very critical also in the process of project implementation in the waste management regions funded by international financial institutions.</p>
Taxation of SWM operators, collected payments and tariffs	<p>The communal services, including SWM, are exempted from VAT (article 103, para. 16 of the Fiscal Code of RM). At the same time, the municipal enterprises/operators have to pay VAT (20 %) for the purchased goods and services (raw material, disinfectants, equipment, etc.).</p>			<ul style="list-style-type: none"> Examination of the opportunity to apply the exemption from VAT for SWM operators or at least to decrease the VAT rate for the purchased goods and services (for ex., from 20 % to 8%).
	<p>A specific situation is noticed when the SWM service is rendered on the basis of a local sanitation tax, not on the basis of individual contracts signed with the beneficiaries – article 103, para 16 of the Fiscal Code of Moldova provides the exemption from VAT only for the services rendered to the population, while in this format the service renderer does not sign a contract with the population and LPAs and the services do not benefit from the exemption.</p>			<ul style="list-style-type: none"> Amendment of art. 103, para 16 of the Fiscal Code to expressly provide the situation when the services are rendered on the basis of a local sanitation tax and, consequently, no contracts are concluded with the household beneficiaries. Likewise, stipulating these services in art. 104 of the fiscal code (exception with deduction right) similarly to WSS services is convenient.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Funding the investments in SWM infrastructure	<p>There is no mechanism (fund) established at national level, to cover/help to cover LPA contributions within major investment projects, as in the WSS case.</p> <p>The only source of funding the projects in the SWM area is the National Ecologic Fund, which, nevertheless, due to some delayed procedures of finishing the feasibility studies for 5 of the 8 waste management regions (2,3,4,6,7), had a decreased funding of the projects in this field.</p> <p>However, it is to mention that currently the National Ecologic Fund does not have mechanisms of co-funding the projects funded from external sources, which has to be adjusted, taking into consideration that the SWM field is not eligible for funding from the sources of the National Fund for Regional and Local Development.</p>			<ul style="list-style-type: none"> • Strengthen the capacities of LPAs in project management (including in writing project proposals); • Ensure support for the LPAs from the sources of the National Ecologic Fund for the co-funding of projects funded from external sources.

Dimension 4. Description of the situation. Property management

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
<p>Registration of objects/goods belonging to SWM systems</p>	<p>In 2014, the Government of RM approved the Concept of the automated informational system "Register of technical-municipal infrastructure objects" (ROITE)³⁴, and in 2017 the Parliament approved the law on the Register of technical-municipal infrastructure objects³⁵. Currently the Public Services Agency (PSA) is in the process of selecting the developer for the development of the platform (informational system) necessary for the operationalization of the register. Consequently, currently the technical-municipal infrastructure objects are not subject to registration (property right and other real rights). Besides the registration of a property right, a major issue relating to the non-registration of the technical-municipal infrastructure objects is also the non-registration and lack of information about the protection areas of sch objects and interdictions/burdens involved. According to the ROITE concept, the owners of the lands do not know about the burdens imposed by the legislation in the protection areas of such objects, for this reason conflicts arise between the owners of the lands and the owners of the technical-municipal infrastructure objects. It is to mention that previously, in the absence of clarity in this domain, some technical-municipal infrastructure goods/objects were registered in the register of real estate, but this practice is incorrect and has been stopped, as such objects are not real estate objects.</p> <p>In the period subjected to analysis in this edition of the barometer, a series of amendments to certain normative acts have been initiated or even approved (such as law no. 290/2022 amending/adjusting Laws no. 28/2016, no. 163/2010, or the draft law amending several relevant laws, among which the law on waste, water supply and sewerage, etc.). The goal of these amendments is to create the necessary normative framework to ensure the operation or ROITE and the subjection to registration of OITE.</p>			<ul style="list-style-type: none"> • Implementation of the necessary activities to operationalize the register of technical-municipal infrastructure objects (selecting the developer, testing, launching) • Informational campaign for LPAs with the launching of the register;

³⁴ Government Decision no. 133 from 24.02.2014 // Official Monitor no. 53-59 from 07.03.2014

³⁵ Law no. 150 from 14.07.2017 // Official Monitor no. 277-278 from 04.08.2017

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>There is no clear mechanism at a normative level to delineate and register the assets (OITE) that are part of the technical-municipal infrastructure belonging to SWM systems.</p> <p>According to PSA, this operation is preliminary to the registration of such objects in the Register and involves the development and application of inventory lists by the concerned public authorities (LPAs of various levels, CPAs), eventually accompanied by the transmission into property (GD 901/2015) .</p> <p>In 2022 the draft GD has been developed on the amendment and completion of GD no. 63/2019 (Regulations on the way of delimitation of the real estate in public property) and no. 80/2019 (State Program for the delimitation of real estate objects, including lands in public property, for 2019–2023), the goal of which is to regulate the procedure of delimitation of OITE, public property provided by Law no. 29/2018 on the delimitation of public property.</p>			<ul style="list-style-type: none"> • Support (methodical, training, informational) in the development of the inventory lists of the technical-municipal infrastructure objects by the concerned authorities. • Finalization and approval of the amendments to the normative acts (GDs no. 63/2019 and no.80/2019) to specify the specific procedures of delimitation of OITE.
	<p>There is no clear and effective mechanism of transmitting into the property of LPAs the goods and infrastructure obtained from grants / projects implemented by associations, NGOs and other authorities (not directly by LPAs) or built by natural/legal persons on the lands in public property. Consequently, it is necessary to either adjust the provisions of GD 901/2015, with the identification of the correct procedure of transmitting the investment costs to LPA, or to develop a separate normative document regulating a simplified procedure, as it has been done in the case of the projects implemented from the sources of the National Fund for Regional Development or of the foreign partners, but implemented through the mechanism specific to regional development (HG 1235/2016).</p>			<ul style="list-style-type: none"> • It is necessary to develop a simplified mechanism for the transmission of infrastructure systems, eventually by completing GD 901/2015 and other relevant normative documents. • The development of guidelines and of a methodological note would also be useful.
Evaluation of goods related to the SWM systems	<p>There is no methodology for the evaluation of the objects belonging to the SWM system (technical-municipal infrastructure objects).</p> <p>This is an urgent need, as in the absence of primary accounting documents and other necessary documents, it is difficult to evaluate and register the property right, especially in the context when a wide</p>			<ul style="list-style-type: none"> • Development of a methodology to evaluate the goods belonging to the SWM system; • Offering methodological support to LPAs and to SWM service providers for the performance of the process of evaluation of goods.

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	regionalization process is proposed, which would mean the delegation of the right to manage the service and the infrastructure related to it. This operation is also important in the context of transmitting the goods into the management of service providers and establishing the royalty.			
Tools for storage and evidence of datasets regarding the objects belonging to SWM systems	<p>The law on the principles of urbanization and territorial arrangement³⁶ stipulates in articles 62-65 the creation and keeping of the functional urban cadaster, and subsequently the Government has approved the Regulations on the creation and keeping of the functional urban cadaster (GD 1300/2001). This functional urban cadaster should have become the informational basis for the keeping of the data regarding the technical-municipal objects (for instance, positioning, diameters, materials, state, capacities, stock-taking, etc. – see p. 3.4 and 3.5 of the above regulations). For various reasons, the functional urban cadaster has not been created and does not represent a functional system. The law stipulates that LPAs shall ensure, from the funds of the local budgets, the creation and keeping of the functional urban cadaster for the territories managed by them. Nevertheless, according to the regulations, the responsible entities for the creation of the functional urban cadaster shall be: at a national level – the central public authority in the sphere of urbanization and territorial arrangement, at a regional and local level – the local public authorities (local bodies or architecture and urbanization). Among the main reasons explaining the non-creation of the functional urban cadaster, the lack of financial resources and qualified staff in the LPAs, the lack of guidance and initiative from the central specialized bodies, etc. may be mentioned.</p> <p>Nevertheless, with the support of various projects, some platforms/tools have been piloted, comprising certain datasets (for instance, gislocal.md developed by ANRF with the support of the My Community project implemented by IREX and funded by USAID), but these by far do not include all the datasets provided by GD 1300/2001.</p>			<ul style="list-style-type: none"> • Development of a study for the determination of the situation in the sphere of the functional urban cadaster, confirming the need for the tool in the light of other existing instruments/platforms, determination of the responsible central institutions, eventually development of a national program/roadmap for the creation of the system.

³⁶ Law no. 835 from 17.05.1996 // Official Monitor no. 1-2 from 02.01.1997

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	<p>The legal and regulatory framework does not define the conditions and the parameters for the datasets to be submitted in digital form. There is also a lack of a mechanism for accountability and penalization for not submitting at all or in an appropriate format the datasets regarding the objects belonging to SWM systems and for the failure to comply with the conditions for keeping and archiving of the datasets concerning the object belonging to SWM systems.</p>			<ul style="list-style-type: none"> Preparation of a draft law to include the requirement/obligation to establish and maintain a digital tool for the storage of the datasets regarding the objects belonging to SWM systems, as well as the requirement to submit the datasets in digital form when new objects are put into operation.
<p>Keeping records of infrastructure objects from SWM systems</p>	<p>Keeping the records of the objects belonging to SWM systems should be ensured by the owner of the goods or by the service provider to which the management of the service and related infrastructure has been delegated.³⁷ The law 1402/2002 stipulates in article 5, para. (1) that the public communal service systems with the related lands shall be inventoried and the records on them shall be kept in the real-municipal cadasters organized at the level of the administrative-territorial units according to the law, with a view to identifying, registering and representing on maps and cadastral plans, as well as in the urbanization and territorial arrangement documentation.</p> <p>No specific issues have been identified regarding the normative framework for keeping the records on the assets related to communal services, but in practice not all LPAs fulfill this function efficiently. On the other hand, when LPA concludes the contract of service management delegation with the service provider, the inventory of movable and real estate in public or private property of the administrative-territorial units related to the rendered service is mandatorily attached. There are difficulties in establishing the royalty, the roots of which are inclusively in the records of such assets. The problems related to establishing the royalty have been mentioned in the previous sections.</p> <p>The keeping of records on the infrastructure objects within the public communal service systems is also related to the issue of the functional urban cadaster described above, but it may take place in other forms, as</p>			<ul style="list-style-type: none"> See the recommendations above regarding the functional urban cadaster as a tool for keeping records on the infrastructure objects within the communal service (technical-municipal) systems, as well as the recommendations on the challenges relating to establishing the royalty (its inclusion in the tariff).

³⁷ The accounting records of the goods (assets) is an economic-financial function and should not be mistaken for the registration of the property right on such goods.

Dimensions	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	well, including in specialized software or simple lists/tables (Word, Excel, etc.).			
Requirements to establish the development fund by the SWM service providers	As different from the WSS field, the legislation does not provide for the establishment of a development fund for the SWM field. Moreover, the funds collected on the account of the waste collection tax do not have a special destination and could be used by the LPAs for other purposes than funding the SWM.			<ul style="list-style-type: none"> Inclusion of the development fund in the draft law on the public waste management service which is in process of development under the auspices of the Ministry of Environment.

Dimension 5. Intermunicipal cooperation

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
Overall legal framework on the intermunicipal cooperation in general and in SWM field	There is no special law on intermunicipal cooperation, but in February 2023 a new law on IDAs has been approved, this being one of the possible forms of intermunicipal cooperation. Moreover, there are several specific provisions relating to intermunicipal cooperation in the Law on local public administration and in the Law on public communal services. Likewise, at the level of the central public administration there is no institution with a clear mandate in developing policies and legislation in the field of intermunicipal cooperation under general and transversal aspect (each ministry approaches tangentially this aspect from the point of view of the domains managed by it).			<ul style="list-style-type: none"> Development and promotion of the necessary secondary normative framework for the implementation on the law on IDAs, including the framework statute. Offering the methodological and informational support for the dissemination of the law on IDAs among the LPAs and support of some pilot IDAs to show success examples.
Legal forms for institutionalizing the IMC	The recent changes of the civil code have excluded the legal form of union of legal persons that was used by some territorial administrative units to establish IMCs (as, for example, the waste management association in the South Development Region) or national associations (CALM). Still, the approval of the law on IDAs at the beginning of 2023 has mostly solved this problem (in relation to intermunicipal development, but not in relation to the form of organization of national associations of LPAs).			<ul style="list-style-type: none"> See the recommendations above. Clarification of the organizational legal form for the national associations of LPAs.

Dimension	Description of the situation. Identified issues and gaps	Trend	Urgency	Necessary/recommended actions
	The approval of the new law on state and municipal enterprises and the subsequent practices makes impossible to register municipal enterprises with more than one founder, this was the main legal/institutional form used by LPAs to initiate IMCs.	Yellow	Red	<ul style="list-style-type: none"> Amendment of the law on state and municipal enterprises to offer several LPAs the possibility to jointly create an IMC (municipal enterprise with several founders) as it was before the law has been approved, on the basis of the former template regulation on municipal enterprises.
Incentives for IMCs	The current normative framework and financial/fiscal system does not provide for any incentives for IMCs. Nevertheless, the creation of the Fund for regional and local development is a positive evolution, as both for regional development and for local development projects a certain score is given for the intermunicipal projects.	Green	Yellow	<ul style="list-style-type: none"> Examination of the opportunity to create mechanisms giving incentives to IMCs, such as priority during calls for projects financed from national funds, possible tax facilities, etc.
Mechanisms to ensure the sustainability of IMC projects	Many IMC initiatives funded by donors or from national funds fail after a short period (for example, the local council refuses to accept the waste from other partner localities, termination of the cooperation agreement etc.).	Yellow	Red	<ul style="list-style-type: none"> Identification of measures to monitor the IMC projects funded from national funds and by the development partners, making participating LPAs accountable to ensure the sustainability of such projects.

ANNEXES

Annex 1. Laws, normative acts, and regulations in the WSS field relevant for the creation, organization, administration, control and monitoring of WSS service provision

A. Laws

- Law on water supply and sanitation no. 303 from 31.12.2013 // Official Monitor no. 60-65 from 14.03.2014;
- Law on local public administration no. 436 from 28.12.2006 // Official Monitor no. 32-35 from 09.03.2007;
- Law on administrative decentralization no. 435 from 28.12.2006 // Official Monitor no. 29-31 from 02.03.2007;
- Law on communal public services no. 1402 from 24.10.2002 // Official Monitor no. 14-17 from 07.02/2003;
- Law on the quality of the drinking water no. 182 from 19.12.2019 // Official Monitor no. 1-2 from 03.01.2020;
- Law on water no. 272 from 23.12.2011 // Official Monitor no. 81 from 26.04.2012;
- Law on housing no. 75 from 30.04.2015 // Official Monitor no. 131-138 from 29.05.2015;
- Law on condominium in the housing stock no. 913 from 30.03.2000 // Official Monitor no. 130-132 from 19.10.2000;
- Law on the Register of technical-utility infrastructure objectives no. 150 from 14.07.2014 // Official Monitor no. 277-288 from 04-08-2014;
- Law on procurement in the energy, water, transport and postal services sectors no. 74 from 21.05.2020 // Official Monitor no. 153-158 from 26.06.2020;
- Law on the regulation by authorization of the entrepreneurial activity no. 160 from 22.07.2011 // Official Monitor no. 170-175 from 14.10.2011.

B. Government's Decisions

- Government's Decision no. 199 from the 20th of March 2014 on the approval of the Water Supply and Sanitation Strategy (2014-2030) (amended by GD 442 from 01.07.2020)
- Government's Decision no. 191 from 19.02.2002 on the for the approval of the Regulation on the manner of provision and payment for housing, communal and non-communal services for the housing stock, metering of apartments and the conditions for their disconnection from / reconnection to heating and water supply systems // Official Monitor no. 29-31 from 28.02.2002;
- Government's Decision no. 506 from 01.11.2019 for approving the Framework Procedure for the organization, execution and award of contracts for the delegation of the management of the water supply and sewerage public service // Official Monitor no. 346-351 from 22.11.2019;
- Government's Decision no. 950 from 25.11.2013 for the approval of the Regulation on requirements for collection, treatment and discharge of wastewater in the sewerage and/or emission system for urban and rural localities // Official Monitor no. 284-289 from 06.12.2013;
- Government's Decision no. 1466 from 30.12.2016 for the approval of the Sanitary Regulation on small drinking water supply systems // Official Monitor no. 60-66 from 24.02.2017;
- Sanitary norms on the quality of drinking water (annex no. 2 to GD no. 934 of 2007) – currently the draft DG is being developed on the Sanitary Regulations on the supervision and monitoring of the quality of drinking water (by the Ministry of Health)
- Government's Decision no. 802 from the 09th of October 2013 for the approval of the Regulation on the conditions of discharge of wastewater in water bodies. (<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=350109>)
- Government's Decision no. 894 from the 12th of November 2013 for the approval of the Regulations on the organization and operation of the one stop shop in the sphere of environmental permits for special use of water. (<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=350368>).

C. Regulatory Acts

Decisions of the National Agency for Energy Regulation

- Decision no. 286 from 17.10.2018 of the National Agency for Energy Regulation on the approval of the Regulation on the procedures for submitting and examining licensees' applications for regulated prices and tariffs // Official Monitor no. 430-439 from 17.10.2018;
- Decision no. 355 from 27.09.2019 of the National Agency for Energy Regulation on the approval of the Framework Regulation for the organization and operation of the water supply and sewerage public service // Official Monitor no. 352-359 from 29.11.2019
- Decision no. 356 from 27.09.2019 of the National Agency for Energy Regulation for the approval of the Framework Regulation on performance indicators for the water supply and sewerage public service // Official Monitor no. 352-359 from 29.11.2019;
- Decision no. 357 from 27.09.2019 of the National Agency for Energy Regulation for the approval of the Regulation on principles of investments in the water supply and sewerage sector // Official Monitor no. 352-359 from 29.11.2019;
- Decision no. 358 from 27.09.2019 of the National Agency for Energy Regulation on the approval of the Framework Specifications of the water public supply and sewerage service // Official Monitor no. 352-359 from 29.11.2019;
- Decision no. 359 from 27.09.2019 of the National Agency for Energy Regulation on the approval of the Framework Contract for the provision of the public water supply and sewerage service // Official Monitor no. 352-359 from 29.11.2019;
- Decision no. 489 from 20.12.2019 of the National Agency for Energy Regulation on the approval of the methodology for the calculation, approval and application of tariffs for water supply, sewerage and waste water treatment public services // Official Monitor no. 55-61 from 21.02.2020;
- Decision no. 180 from 10.06.2016 of the National Agency for Energy Regulation on the approval of the Regulation on the calculation and proving, for the purpose of determining tariffs, of the technological consumption and water losses in public water supply systems // Official Monitor no. 206-214 from 15.07.2016;
- Decision no. 270 from 16.12.2015 of the National Agency for Energy Regulation on the approval of the Methodology on the approval and application of tariffs for auxiliary services provided to consumers by operators of the public water supply and sewerage service // Official Monitor no. 55-58 from 16.12.2015.

Construction standards and normatives

- NCM G.03.01:2017 for Low-capacity communal wastewater treatment plants adopted by the Order no. 382 from 19.12.2017 of the Ministry of Economy and Infrastructure.
- NCM G.03.02:2015 for External sewerage networks and installations adopted by the Order 56 from 25.04.2016 of the Ministry of Regional Development and Construction.
- Regulation on the basic principles of design and construction of external water supply systems of small localities with a consumption less than 200 m³/day adopted by the Order no. 179 from 04.04.2018 of the Ministry of Economy and Infrastructure.
- Code of Practices G.03.08: 2020 introducing new permanent norms for the design and construction of small water supply systems (less than 200 m³/day) in the Republic of Moldova (adopted by the Order no. 162 from the 01st of September 2020 of the Ministry of Economy and Infrastructure).
- SniP 2.04.02-84* Water supply. External networks and installations.
- NCM G.03.03:2015 (MCH 4.01-02) "Interior installations of water supply and sewerage", adopted by the order no. 124 from 18.11.2015 of the Ministry of Regional Development and Construction (Official Monitor 2015, no. 317-323, art. 2267);
- NCM G.03.01-2012 Low-capacity communal wastewater treatment plants, adopted by the order no. 48 from 15.04.2013 of the Ministry of Regional Development and Construction (Official Monitor, 2013, no. 104-108, art. 584);
- CP D.01.06-2012 Determination of the admissible limits of harmful substances in the superficial debits (flows) for the conditions of the Republic of Moldova;
- CP G.03.01-2006 Design and mounting of the pipelines of interior cold and hot water supply systems using polymer covered steel pipes;

- CP G.03.02-2006 Design and mounting of the pipelines of water supply and sewerage systems made of polymeric materials;
- CP G.03.03-2011 Design and mounting of the underground water supply pipelines of plastic pipes with glass fiber;
- CP G.03.04-2011 Design, mounting and operation of interior sewerage systems of polypropylene pipes;
- CP G.03.05-2011 Design and mounting of interior water supply and heating systems of buildings made of copper pipes;
- CP G.03.06-2011 Design and mounting of underground sewerage pipeline of pipes made of plastic materials and reinforced with glass fiber;
- CP G.03.07:2016. System of natural biologic epuration of communal wastewater in filters planted with macrophytes (phytofilters);
- CP G.04.11.-2013 Methodology of calculation of the heat losses, unregistered volume of hot water, hot water losses in the communal systems of household hot water supply.
- SNiP 3.05.04-85 External water supply and sewerage networks and installations. Rules of performance and acceptance of works;
- SNiP 3.05.05-84 Technological equipment and technological pipelines;
- Manual on the design of installations for underground water intake (to SNiP 2.04.02-84);
- Manual on the design of installations for water cleaning and treatment (to SNiP 2.04.02-84*);
- Manual on the determination of the wall thickness of steel pipes, choice of trademarks, groups and categories of steel for external water supply and sewerage networks (to SNiP 2.04.02-84 and SNiP 2.04.03-85);
- SNiP 2.03.11-85 Protection of construction structures from corrosion;
- SN 456-73 Norms for allocation of lands for main water supply lines and sewerage collectors.

Annex 2. Laws, normative acts, and regulations in the SWM field relevant for the creation, organization, administration, control and monitoring of SWM service provision

A. Laws:

- Law on waste no. 209 from 29.07.2016 // Official Monitor no. 459-471 from 23.12.2016
- Law on local public administration no. 436 from 28.12.2006 // Official Monitor no. 32-35 from 09.03.2007;
- Law on administrative decentralization no. 435 from 28.12.2006 // Official Monitor no. 29-31 from 02.03.2007;
- Law on communal public services no. 1402 from 24.10.2002 // Official Monitor no. 14-17 from 07.02/2003;
- Law on environment protection no. 1515 from 16.06.1993 // Official Monitor no. 10 from 30.10.1993;
- Law on housing no. 75 from 30.04.2015 // Official Monitor no. 131-138 from 29.05.2015;
- Law on condominium in the housing stock no. 913 from 30.03.2000 // Official Monitor no. 130-132 from 19.10.2000;
- Law on the Register of technical-utility infrastructure objectives no. 150 from 14.07.2014 // Official Monitor no. 277-288 from 04-08-2014;
- Law on the regulation by authorization of the entrepreneurial activity no. 160 from 22.07.2011 // Official Monitor no. 170-175 from 14.10.2011.

B. Government's Decisions

- Government's Decision no. 191 from 19.02.2002 on the for the approval of the Regulation on the manner of provision and payment for housing, communal and non-communal services for the housing stock, metering of apartments and the conditions for their disconnection from / reconnection to heating and water supply systems // Official Monitor no. 29-31 from 28.02.2002;
- Government's Decision no. 212 from 07.03.2018 on for the approval of the Regulation on waste electrical and electronic equipment // Official Monitor no. 95-104 from 23.03.2018;
- Government's Decision no. 682 from 11.07.2018 on the approval of the Concept of the Automated Information System "Waste Management" // Official Monitor no. 267-275 from 20.07.2018

- Government's Decision no. 561 from 31.07.2020 on the approval of the Packaging and Packaging Waste Regulation // Official Monitor no. 212-220 from 21.08.2020
- Government's Decision no. 696 from 11.07.2018 on for the approval of the Sanitary Regulation on the management of waste resulting from medical activity // Official Monitor no. 295-308 from 10.08.2018
- Government's Decision no. 637 from 27.05.2003 on the control of cross-border transportation of waste and their disposal // Official Monitor no. 99 from 06.06.2003;
- Government's Decision no. 99 from 30.01.2018 for the approval of waste list // Official Monitor no. 33-39 from 02.02.2018
- Government's Decision no. 501 from 29.05.2018 on the for the approval of the Instruction on the keeping of records and the transmission of data and information on waste and its management // Official Monitor no. 176-180 from 01.06.2018;
- Government's Decision no. 586 from 31.07.2020 for the approval of the Regulation on the management of batteries and accumulators and waste batteries and accumulators // Official Monitor no. 221-225 from 28.08.2020;
- Government's Decision no. 881 from 14.12.2022 for the approval of the Methodology for tariff calculation for some public services of municipal waste management;
- Government's Decision no. 731 from 26.10.2022 for the approval of the Regulations on managing used oils;
- Government's Decision no. 610 from 01.09.2022 for the approval of the Regulations on managing used tires;
- Government's Decision on the approval of the Regulations on managing scrap vehicles (approved during Government's meeting from 28.02.2023, but not published yet as of the date of developing this report).

C. Regulatory Acts

- Normative document CP A.09.04-2014 "Construction and demolition waste management" approved by the order no. 107 from 28.07.2014 of the Ministry of Regional Development and Construction // Official Monitor no. 249-255 from 22.08.2014.

Annex 3. Normative documents regulating the operational activity of the service providers in WSS that must be developed and approved.

- Timeframes for technical maintenance and repairs of water supply and sewerage systems:
 - Part I. Water supply and sewerage systems and installations.
 - Part II. Electrical power supply networks, electrical equipment, measurement and control devices, tools for automation and auxiliary works
- These timeframes shall be used to regulate the work of employees, to determine the workmanship involved for specific tasks, to calculate the norms of staff and to establish standardized procedures, to prepare calculations and to estimate the planned maintenance and repairs of the equipment.
- Timeframes for the liquidation of damages in utilities and equipment – they will establish norms of interventions in case of failures.
- Normative for the use of materials for the maintenance and repairs of water supply and wastewater systems – the norms shall be recommended for planning the materials, for the calculation of materials, for the organization of tenders and signing contracts with companies supplying materials.
- Recommended timeframes, norms for the maintenance and rehabilitation of non-centralized water supply sources (wells, water basins) – the norms shall regulate the activities of workers, determine the complexity of performed works, plan the number of staff, and establish the standard to be applied for the rehabilitation of water sources.
- Instructions for the creation of stocks of spare parts, materials, and equipment for the replacement of damaged equipment and restoration of the supply and water and of the sewerage systems – the instructions establish the way of configuration, use and maintenance of the inventories of materials and equipment for the performance of urgent works of rehabilitation and increase of efficiency in the operation of water supply and sewerage systems.
- Norms for spare parts, materials and equipment for repair works at water supply and sewerage companies.
- Rules on labor safety in the operation of the water supply and sewerage systems in the Republic of Moldova – the rules should establish basic labor safety requirements for the employees involved in the operation of the water supply and sewerage systems, and are common to all the organizations with various forms of property and legal-organizational form.
- Norms on the number of employees for the water supply and sewerage companies – the norms shall be used to establish the standard tasks and to plan the necessary number of employees in the water supply and sewerage companies.