

## ***Quick Response Request***

*Submitted by:* Association of Towns and Municipalities of Republic of Srpska

*Date:* September 2010

*Subject:* Collect laws and bylaws on communal and local public utility services in other NALAS countries.

*Background:* Currently in the Republic of Srpska these services are owned by the Republic. Local communities haven't had much input as far as management structure or the policy of the company. At the moment there have been talks about the transferring of the ownership to the municipalities so the association asked NALAS to collect appropriate laws in other countries so that they can proceed with the comparisons. ALVRS were primarily interested in the ownership of these services. Who is in charge of communal enterprises (i.e. water supply, solid waste removal, central heating, road cleaning)? What is the role of the central/local governments?

### **1. Summary of Results**

More than 10 relevant laws, excerpts and analysis were collected and sent to the applicant.

### **2. Analytical/Detailed Information**

#### **A) Moldova**

#### **The national legislation of the Republic of Moldova applied to offer the quick response:**

1. Law on communal public services № 1402/24.10.2002;
2. Law on local public administration № 436/28.12.2006;
3. Law on electricity № 124/23.12.2009;
4. Law on natural gas № 123/23.12.2009 ;
5. Law on drinking water № 272 of 10.02.1999;
6. Law on production and household solid waste № 1347 of 09.10.2997

#### **Description of current situation within Republic of Moldova**

The legislation of the Republic of Moldova is quite wide regarding communal services, but in the meantime not precise and not coordinated with the principles of local self-government, administrative decentralization and European Charter of Self-Government.

One has ascertained that over several years, in Republic of Moldova was created a practice of adopting normative and legislative acts targeting directly rights and interests of local authorities, without taking into consideration actual system of local public administration, specific and importance of delegated competence, correlation between competence and resources, as well as without prior consulting effectively local public authorities and their associative structures.

Below are provided the excerpts from profile legislation of the Republic of Moldova regarding communal services and corresponding competences of local and central authorities:

Art. 14 of Law on local public administration stipulates the basic competences of local councils. Starting from spheres of activity of authorities of local public administration of first level established within the art. 4 of Law on administrative decentralization, the council fulfills the following competences:

- Decides upon foundation of public institutions of local interest, organizes public services of communal housing, establishes the financial support in case of budgetary expenses, decides upon rules of ensuring cleaning in the community.
- Decides upon projection works, construction, maintenance and modernization of roads, bridges, housing under conditions of Law on housing, as well as upon entire economic, social and recreational infrastructure of local interest.
- Contributes, under conditions of law, to ensuring public order, adopts decisions regarding activity of municipal police, of firefighter department and formations of civil protection of local interest, proposes measures of improving their activity.
- Approves, under conditions of law, specific norms and tariffs for subordinated public institutions and public services of local interest, except for tariffs for public services of thermal energy supply, also approves working regime of commercial enterprises and public alimentation, regardless of the type of property and organizational legal form, as well as of physical persons practicing commerce.

Art. 29 of Law on local public administration stipulate that starting from spheres of activity of authorities of local public administration of first level established within the art. 4 (1) of Law on administrative decentralization, the mayor fulfills, within the administrated territory, the following basic attributions:

- Proposes local council the organizing scheme and conditions for provision of public services of communal housing, undertakes measures for well functioning of corresponding services of communal housing.

## **Electricity**

Art. 6 of Law on electricity stipulates the competence of authorities of local public administration, which provide, upon request, permits on building electro energetic system objects, including power stations, according to legislation.

Authorities of local public administration are responsible for development of projects on distribution electric networks building with local destination on basis of connection notices issued by operators of distribution networks and according to urban plans and landscaping plans, present these projects to operators of distribution networks.

Authorities of local public administration examine the problem on land allocation for electro energetic system objects, abiding the procedure stipulated by legislation.

Art. 7 of Law on electricity stipulates the attributions of National Energy Regulatory Agency of Moldova. The market of electricity is regulated by National Energy Regulatory Agency of Moldova (hereinafter referred to as Agency)

The Agency is a regulatory central public authority, has a status of legal entity and is not subordinated to any other public or private authority, except for cases stipulated by legislation. In order to execute this law, the Agency collaborates with ministries and with other specialized bodies of central public administration, with regulatory authorities, with local public administration authorities, with civil society.

The Agency is the main and most important institution developing and establishing tariffs, norms and procedures for electricity.

The idea is that the state structures deal with energy tariffs and fee collection for energy expenses of taxpayers.

## Natural gas

Art. 6 of Law on natural gas stipulates the competence of the authorities of local public administration, which approve the construction of objects of natural gas system at local level, providing, upon request, permits on building objects of natural gases system, including direct gas pipes, according to legislation.

Authorities of local public administration are responsible for development of projects on distribution gas networks building with local destination on basis of connection notices issued by operators of distribution networks and according to urban plans and landscaping plans, present these projects to operators of distribution networks.

Authorities of local public administration examine the problem on land allocation for gas system objects, abiding the procedure stipulated by legislation.

Central Government and the regulatory Agency establish the tariffs for gas. The fees for the amount of gas spent by the consumers are made contribution to the state budget only. The budget of local public authorities does not receive or has no theoretical neither practical involvement within gas supply and tariff process.

The Gas is provided in Moldova by Mold-Russian joint stock company "Moldova gas", which according to situation on 01.01.2009, is exploiting around 180 km of gas pipelines and pipe-embanchment, 92 stations of gas distribution, 5 compressor stations, 1 station gas measuring and other accessories which form the country's system of gas transportation.

## Water supply

Art. 3 of Law on drinking water establishes the attributions of Government regarding water supply:

- a) development and promotion of state policy regarding drinking water supply;
- b) development, approval, financing and accomplishment of state programs regarding development of centralized systems of drinking water supply;
- c) promotion of an unique technical-scientific policy, formation of a normative and methodological database within regulation of drinking water quality, projection, construction and exploitation of drinking water sources;
- d) establishment of tasks and rights of central specialized authorities and of local public administration authorities within drinking water supply;
- e) exercises state control on abiding the existing standards and norms regarding drinking water;
- f) establishment of certification procedure and issuance of licenses within drinking water supply;
- g) establishment of basic principles of price policy regarding drinking water supply;
- h) international cooperation in this field.

(2) Attributions of specialized central authorities and of local public administration authorities within drinking water supply are:

- a) coordination of enterprises activity which are exploiting centralized and non centralized systems of drinking water supply;
- b) development, approval and financing of programs and measures regarding functioning, modernization and development of drinking water supply systems;
- c) establishment of sanitary protection areas for drinking water sources and control on accomplishment of measures on water protection;
- d) establishment of metering and accounting of drinking water consumption distributed through water supply systems on basis of programs elaborated by public administration authorities;

- e) approval of limits and regime of distribution of drinking water from centralized systems by enterprises and organizations;
- f) decision making on temporary prohibition of using drinking water or of exploitation of drinking water supply systems within exceptional conditions;

### **Solid waste removal**

Municipal enterprise „ Regia Autosalubritate” is a self-managing enterprise which activates within Genral housing-communal Department of Chisinau municipality.

Municipal enterprise „Regia Autosalubritate” activates on basis of enterprise charter, adopted by decision of Chisinau municipal council, registered at State Registration Chamber of Informational Technologies State Department Î.M. Regia Autosalubritate activează în baza statutului întreprinderii, aprobat prin decizia Consiliului municipal Chişinău, înregistrat la Camera Înregistrării de Stat a Departamentului Tehnologii Informaţionale nr. Nr.105014955 of 04.10.2001.

Basic activity of the enterprise:

- Collecting and transporting solid waste
- processing and burial of waste at municipal landfill.

Additional activity – maintenance of planning objectives (from the budget):

- public restrooms
- municipal clock.

Sectors and subdivisions:

- Administrative unit
- Exploitation service
- Technical service
- Household service
- Transshipment waste station
- Municipal landfill
- Public restrooms.

„Regia Autosalubritate” provides services of collecting and transportation of solid waste to municipal landfill.

„Regia Autosalubritate” is a municipal enterprise that is operating only in capital of Chisinau. In other towns, villages, communes, the Townhouses are the ones dealing with solid waste evacuation. Unfortunately they do not have the necessary technique and facilities so it is a rather difficult task, taking into consideration that there are no financial sources in local budgets for this activity.

Art. 3 of Law on production and household solid waste stipulates the attributions of the Government:

- a) organizes elaboration and approves the State Program on valorification of production and household solid waste, ensures its accomplishment;
- b) coordinates on the line of solid waste management the activity of ministries, departments and other subordinated authorities;

- c) adopts decisions on affecting land in order to design the polygons for storage, processing and burial and destruction of solid waste;
- e) establishes limits of storage (burial) of solid waste;
- f) approves the Regulation on providing permits for development of activity on management of solid waste and establishes the tax amount for permits issuance for economic agents;
- g) in case if local public administration authorities do not agree, takes final decisions on placement of national importance objectives on neutralizing, processing, storage or burial of solid waste, under condition of respecting the ecologic norms and other requirements of social nature;
- h) is in charge of international domain cooperation.

Art. 4 of Law on production and household solid waste stipulates the attributions of central authority in charge of natural resources management and protection of environment:

- a) performs state control on abiding of legislation on solid waste management by physical persons and legal entities;
- b) issues and withdraws permits for solid waste management activity;
- c) performs expertise of ecological programs, schemes, transportation projects, storage, processing, neutralization, restoration, utilization, burial and destruction of solid waste;
- d) restrains or ceases activity of economic agents when they operate breaking the law ;
- e) elaborates and presents to the Government proposals on tax amount for solid waste storage;
- f) approves, commonly with Ministry of Health and Civil Protection and Exceptional Situations Service of the Ministry of Internal Affairs, the list of dangerous solid waste;
- f<sup>1</sup>) approves the Regulation on solid waste management, taking into account organization of their collection, storage and processing;
- g) controls and evaluates, jointly with Ministry of Health the ecologic situation in the Republic of Moldova, from the point of view of solid waste management and informs population upon this evaluation;
- h) coordinates projects of construction and reconstruction of economic and social objectives;
- i) collaborates with similar state institutions from other countries, performs the study, synthesis and propagation of international experience, controls compulsory fulfillment of obligations of the Republic of Moldova according to international agreements on solid waste management.

Art. 5 of Law on production and household solid waste stipulates the attributions of Ministry of Health:

- a) performs sanitary-epidemiological supervision on formation, transportation, storage, neutralization, utilization, burial and destruction of solid waste, makes decisions on prevention of sanitary legislation breach;
- b) establishes the toxicity degree of solid waste, elaborates Classification of toxic waste and methods of determining the degree of toxicity;
- c) coordinates decisions on affecting lands for storage and neutralization of dangerous waste;
- d) presents notices on admissibility and sanitary-hygienic conditions of utilization of products made of waste or with their use;
- e) coordinates, under the aspect of abiding the sanitary-epidemiological requirements, project documentation on construction or reconstruction of enterprises and other objectives generators of waste;

Art. 6 of Law on production and household solid waste stipulates the attributions of authorities of local public administration:

- a) ensure execution on all subordinated territories of legislation on waste management;

- b) develop coordination and economic-organizational regulation of activities of physical persons and legal entities, on subordinated territories, regarding waste management in order to trace and reinsert them at maximum possible within economic circuit;
- c) adopt, jointly with territorial authorities for environment protection and health, decisions on affecting land for waste storage and construction (extension) of objectives designed for their processing and neutralization, performs control on waste destruction and repair of damage caused to the environment by production and household waste;
- d) merge financial resources of physical persons and legal entities situated on subordinated territories, of ecologic funds and budgets of territorial-administrative units for financing the construction of new objective, extension and reconstruction of existing objectives for processing, neutralization and destruction of waste;
- e) leads systematic evidence on formation, storage and processing of waste on the subordinated territory;
- f) organize collection and evacuation of solid waste, as well as of those coming from small producers, affecting the places for their storage;
- g) prepare and maintains records on waste storage places;
- h) take necessary measures for liquidation of unauthorized and uncontrolled dumps;

In order to increase the effectiveness of sanitation works, it is necessary elaborate a legal act that would stipulate the necessity of contract signing for physical persons and legal entities on solid waste removal. Also it is necessary to revise the modality of payment for these services by private proprietors, for example, it is possible to establish a specific tax for sanitation, which shall be paid once with the property tax.

## **B) Croatia**

### **Provision of communal services is regulated by:**

Law on Utility Services (Zakon o komunalnom gospodarstvu)  
Official Gazette of the Republic of Croatia, NN 26/2003

<http://narodne-novine.nn.hr/default.aspx>

Law on Water, NN 153/2009.

Law on Local and Regional Self-government, NN 33/2001

Waste Act, NN 178/2004

In Croatia local community and local self-government is responsible for provision of following services:

1. water supply
2. sewage and wastewater treatment
3. gas supply
4. central heating supply
5. public transportation of passengers
6. public cleaning service
7. municipal waste disposal

8. maintenance of public areas
9. maintenance of unclassified roads
10. open markets
11. maintenance of cemeteries and crematoria, conducting of burials
12. maintenance of chimneys
13. public lightning

The ownership of these services was previously transferred from the state to the municipalities and they are now in charge of them completely.

To help local communities to create the acceptable prices for the services according to market prices and to monitor the activities, the Government lately encourages establishing of councils for every domain and with specific representatives and experts. The councils are in close connection to so called state regulatory agencies which supervise the general financial relations and proportions.

Local communities usually establish companies which perform the tasks, one or more of them. In Zagreb there is one holding company (called Holding!!) which takes care of all above mentioned activities. If local government is not capable of organising the service (being too small or having insufficient budget), it has the right to merge certain activity with neighbouring municipality as inter-municipal cooperation). If there is not a lot of work to be done in very small communities, a member of local council can be in charge. Also it is possible to give a concession to a private person or company, one or more, to provide certain service.

Additionally important laws:

Law on Water, NN 153/2009 (Zakon o vodama)

Law on Local and Regional Self-government, NN 33/2001 (Zakon o lokalnoj i područnoj (regionalnoj) samoupravi)

Waste Act, NN 178/2004 (Zakon o otpadu)

### **C) Albania**

In Albania, all the rights and responsibilities of the local government units in the area of public service are set forth in Law Nr. 8652, dt.31.07.2001" On the organization and functioning of the local government".

Thus, pursuant to the organic law, communes and municipalities have full administrative, servicing, investment and regulatory competencies for their functions. The communes and municipalities, carry out their competencies in full respect of the national and regional policies. On these functions, the central government can impose specific national standards and norms, in order to protect the national interest. Anyway, these standards and norms, can not, in any case, encroach or restrict the autonomy of communes and municipalities on matters of local interest. When communes or municipalities do not possess the necessary funds or means to meet the national standards and norms, central government gives them the necessary support.

With regard to the functions of the local government units in the area of public service, the rights and responsibilities attributed to them for the protection of the community interest, pursuant to **Article 10**, below please find them listed in their textual order :

Competencies on infrastructure and public services:

- a) potable water supply;
- b) functioning of the canalling and sewage, alluvial canals;
- c) building, rehabilitation and maintenance of local roads, sidewalks and public squares;
- ç) public lighting;
- d) public transport;
- dh) cemetery administration and funeral service;
- e) decoration service;
- ë) administration of parks, gardens and green areas;
- f) waste management;
- g) town planning, land management and housing as defined by law.

**D) Kosovo**

Municipalities have full and exclusive powers, insofar as they concern the local interest and they are responsible in provision and maintenance of public services and utilities, including:

- a) water supply,
- b) sewers and
- c) drains,
- d) sewage treatment,
- e) waste management,
- f) local roads,
- g) local transport,
- h) and local heating schemes;

**Provision of communal services is regulated by:**

- a) Law on Local Self-government Law No. 03/L-040
  - b) The Waste Law No. 02/L-30 [http://www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=123&Itemid=28](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=123&Itemid=28)
  - c) Kosovo Water Law No.2004/24 [http://www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=97&Itemid=28](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=97&Itemid=28)
- and
- d) all other related regulations and laws can be found at [www.gazetazyrtare.com](http://www.gazetazyrtare.com)

---

**1. Waste Management:**

Competent authorities for waste management include:

- a). Ministry.
- b). Municipalities.



**The Ministry** shall conduct the following activities:

- a. Compile of the Strategic Plan;
- b. Issue licenses for waste management and keeps records on registers;
- c. Approve local plans for waste management;
- d. Establishes and maintain the database, public register and information system for waste management;

**The municipalities'** task is to:

- a) Compile local plans for waste management;
- b) Compile six month report on waste management and submit it to the Ministry, on the first quarter of the following year;
- c) Regulate, implement and organize municipality waste management in their territory;
- d) Take part in issuing decisions for building waste management facilities;
- e) Accomplish any other tasks envisaged under this Law, and other Acts for waste management.

#### **E) Montenegro**

Communal services provision is regulated by the Law on Communal Services Provision ("Official Gazette of the Republic of Montenegro", No. 12/95), the Waste Management Law ("Official Gazette of the Republic of Montenegro", No. 80/05 and "Official Gazette of Montenegro", No. 73/08), Water Law and Law on Local Self-Government.

By these laws, municipality is fully responsible for provision of following services:

1. water supply (it can be provided by municipalities or by neighborhood districts in rural areas),
2. treatment and drainage of sewerage water,
3. heat supply,
4. public transportation of passengers in towns and other settlements;
5. purity maintenance in towns and other settlements,
6. development and maintenance of parks, public green and recreation areas;
7. maintenance of streets, traffic and other public areas in towns and other settlements and public lightening, as well as construction, maintenance and use of local roads,
8. construction, manage and use of landfills for communal waste;
9. construction, maintenance and use of bridges, public buildings and regulation and maintenance of riverbeds;
10. maintenance of graveyards and burial;
11. chimneys maintenance, maintenance of public toilets, maintenance of public bathrooms, dog-pounds, public parking, maintenance of markets and provision of services in them.

Attached is on local language:

- Law on Communal Services Provision;
- Waste Management Law;
- Extract from the Water Law;
- Extract from the Law on Local Self-Government.

## **F) Romania**

Law 51/2006 on public utility community services

Public utility community services = all utility and general public interest activities undertaken at commune, municipality, city or county level under the leadership, coordination and accountability of the local public authority administration in order to meet the requirements of local communities.

Operators of a public utility community services can be:

- Local governments or one of their own structure with legal personality;
- Community development associations;
- Companies created by the local authorities or by the community development associations, with the social capital of the administrative-territorial units;
- Companies with private or mixed social capital;

Local governments have exclusive jurisdiction on the following aspects:

- the establishment, organization, coordination, monitoring and control on the functioning of the public utility services

2

Romanian Association of Communes

21 Nicolae Bălcescu bld., 4 floor, room 420, sector 1,

postal code 010044, București

Tel/fax: 021-311.99.69, e-mail: [acor@acor.ro](mailto:acor@acor.ro), web: [www.acor.ro](http://www.acor.ro)

- the creation, development, modernization, management and operation of public or private goods of the administrative-territorial units related to public utilities systems.

Central government assures the employment of general policy on public utility services in accordance with Government Program and with the objectives of Social-Economic National Development Plan by:

- approving and updating the national Strategy on public utility services
- guiding local governments in creating, organizing and efficiently managing the public utility services
- offering governmental guarantees in order to obtain internal and external funding for the development of technical infrastructure
- offering money transfers from state budget in order to develop the technical Infrastructure

G)