



Methodology

Legal Country Mapping for the Rights to Safe Drinking Water and Sanitation and the link with the Right to a Healthy Environment

Costa Rica

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WHITE & CASE

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INTRODUCTION

This analysis follows the mapping methodology used by Human Right 2 Water to assess the integration of the human rights to water and sanitation (HRWS) into law and policy at national level. It has been adapted and extended to give voice to the human right to a clean, safe¹, healthy and sustainable environment (HRHE), with the aim of assessing the combined advantages of recognising both these sets of human rights.

It draws upon the criteria and principles that were originally laid out in General Comment No.15² for the human right to water and sanitation, with further elaboration of the right to sanitation after it was recognised as a separate human right in 2015. Alongside this and noting that the HRHE was also recognised as a human right by the General Assembly in July 2022³, we have compared the main principles of the HRHE as related to water. For this analysis, we draw upon the Framework Principles from the paper published by the Special Rapporteur on Human Rights and the Environment from 2018⁴, Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment⁵, and the paper titled 'Human Rights Depend on Safe and Sufficient Water', 2021⁶.

In addition to the principles of a human rights-based approach⁷, there are the normative criteria of the human rights to water and sanitation which are specific to the realisation of these rights. The substantive elements of the HRHE, as referenced in the Good Practices⁸ paper mentioned above, are also considered here, where they are linked to water, specifically element 4 on the access to safe water and adequate sanitation. Given the significant advances in the design and measurement of national indicators for the supply of clean and safe drinking water and sanitation through the Joint Monitoring Programme⁹, General Comment No.15 has been augmented, especially on the topic of sanitation, which was recognised as a separate right in 2015. For the purposes of this analysis, the criteria have been maintained as the five elements of the human rights to water and sanitation, and there are additional questions relating to specific environmental aspects that support these rights.

For reference, Annex 2 collates the two sets of human rights principles, looking at how they relate under each category.

¹ Note that the word 'safe' has been included in several places, including the title of the Special Rapporteur, and the framework principles, but not in the latest UNGA resolution.

² General Comment No. 15 on the Right to Water, was adopted in November 2002, by the Committee on Economic, Social and Cultural Rights and then explicitly recognized on 28 July 2010, through [Resolution 64/292](#), the United Nations General Assembly

³ The human right to a clean, healthy and sustainable environment, July 2022 (A/76/L.75)

⁴ Framework Principles from the paper published by the Special Rapporteur to the Healthy Environment from 2018, ARC/37/59

⁵ Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

⁶ 'Human Rights Depend on Safe and Sufficient Water', 2021, HRC/26/48

⁷ The elements of the HRBA are Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality.

⁸ Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

⁹ JMP, WHO and UNICEF data found at www.washdata.org

Overview of national water governance for Costa Rica

General Legislation

	Supreme Law	Constitution
1.A.1	State Organization	Unitary
1.A.2	Relationship between International and National Law	Monist
1.A.3	Name of Institution possessing regulation-making authority	Regulatory Authority for Public Services
1.A.5	Popular consultation as part of governing/legislative process	Yes
1.A.8	Member of a regional integration organization	Yes
5.C.1	Independent National Human Rights Institution (NHRI)	Yes

Water Governance

3.A.1	Right to Water mentioned in Constitution	Yes
3.A.2	Right to Sanitation mentioned in Constitution	No
3.A.3	Right to a clean and healthy Environment in Constitution	Yes
3.A.4	A water code or a law specific to water resources	Yes
3.A.5	National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
1.A.8	International institution for Transboundary Water Resources	Yes
3.C.7	Priorities in the allocation of water for different uses?	Yes

Benchmark Scores¹⁰

Section	Elements included in law	Score
4.A	Availability and Accessibility	
4.B	Quality and Safety	
4.C	Water Pollution Control	
4.D	Affordability	
4.E	Acceptability	
4.F	Non-Discrimination, Equality, Universal Access	
4.G	Right to Information, transparency	
4.H	Public Participation	
4.I	Accountability, remedies and complaints procedures	
4.J	Sustainability	
	TOTAL	

KEY

	Mostly included
	More than half
	Partially included
	Few references

¹⁰ Score up to 10 allowed for each element, with a score of 10 suggesting that all relevant laws are fully included, zero suggests there are no laws to fit this criterion, and scores on a scale of 1-10 represent the degree of inclusion of pertinent laws (double click to activate excel sheet for calculation).

CHAPTER 1. WATER GOVERNANCE OVERVIEW

A- Preliminary questions:

1. **What type of State is the country? (e.g. Federal, Unitary, etc)**

[Unitary presidential constitutional republic.¹¹]

2. **Is there any division of government powers? If yes, please elaborate on their functions.**

[Yes – government powers are distributed between three independent branches: executive (led by a president and its two vice presidents), judiciary (the Supreme Court being its most senior court) and legislative (unicameral/one chamber). In terms of checks and balances, Costa Rica has a Supreme Electoral Tribunal, which supervises elections. It therefore has the same rank and independence as the three branches of government.¹²]

3. **Which institutions and levels of government have legislative powers?**

[Politically and administratively, the country is divided into seven provinces, which are subdivided into 81 canton/municipalities, which are in turn divided into 470 districts.]

4. **Who has the power to ratify treaties?**

[According to Article 140 of the Constitution, powers and duties to enter into agreements, public treaties and concordats, are held jointly by the President and the appropriate Cabinet Minister.¹³]

5. **Is there popular consultation as part of governing/legislative process?**

[Costa Rica has several tools for citizen participation.¹⁴ From a national level, Costa Rica appears to have a popular consultation as part of its governing process. Its “2030 National Development Goals” was published in 2013 by the Ministry of National Planning and Economic Policy (“MIDEPLAN”) with the support of the UNDP, presents a long-term view for the country and its sustainable development goals, was built upon a public consultation process¹⁵ and has a monitoring and evaluation framework incorporated.¹⁶ In June 2020, Costa Rica presented its second voluntary national review on the implementation of its 2030 Agenda, which involved public consultation.¹⁷ MIDEPLAN created an online platform¹⁸ as part of its open government initiatives and citizens may also express their opinion to the Legislative Assembly online¹⁹. From a local level, municipalities offer various instruments of citizen participation such as the plebiscite, the referendum, the town hall, public hearings.]

6. **Has the country established one or several basin management agencies? Is it autonomous?**

[According to Art 121.14(a) of the Constitution, public waters within the national territory cannot be permanently removed from state ownership.²⁰ The following are generally responsible for water

¹¹ OECD Country Profile, 2016 <https://www.oecd.org/regional/regionaldevelopment/profile-Costa-Rica.pdf>

¹² OECD Governance Evaluation Accession, 2021 <https://www.oecd.org/governance/costa-rica-public-governance-evaluation-accession-review.pdf>

¹³ Constitution of the Republic of Costa Rica, University of Minnesota Human Rights Library, Accessed October 2022 <http://hrlibrary.umn.edu/research/costarica-constitution.html>

¹⁴ <https://www.latinno.net/en/country/costa-rica/>

¹⁵ See paragraph 1.1.1 National Consultation post-2015, Costa Rica: A Shared Vision of Sustainability, 2017 https://ods.cr/sites/default/files/documentos/informepaisods_costa_rica-ingles.pdf

¹⁶ <https://www.oecd.org/governance/costa-rica-public-governance-evaluation-accession-review.pdf>

¹⁷

https://sustainabledevelopment.un.org/content/documents/26894second_voluntary_national_review_sdg_costa_rica.pdf

¹⁸ <https://sites.google.com/expedientesmideplan.go.cr/portal-de-percepcion/inicio>

¹⁹ <http://www.asamblea.go.cr/ca/SitePages/Participe%20y%20consulte.aspx>

²⁰ <http://www.conamai.go.cr/images/libros/pdf/026.pdf> (PDF page 42)

resources in Costa Rica²¹: (i) Ministry of the Environment and Energy (MINAE) including its department of Water and Sea^{22,23} (responsible for control and management of national water resources); (ii) Ministry of Health (MINSALUD) (responsible for water including pollution control); (iii) Ministry of Agriculture and its department, the National Groundwater, Irrigation and Drainage Service (SENARA)^{24,25} (responsible for soil conservation and groundwater management); and (iv) National Institute of Aqueducts and Sewers (AyA)²⁶ (Costa Rica's public water and sewage utility agency is responsible for supply of drinking water and sanitation).

7. Does the country have transboundary water resources?

[Yes: San Juan River (Nicaragua), Sixaola River Basin (Panama); Maritime boundaries with Nicaragua to the north and Panama to the south.]

8. Where transboundary water resources exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?

[Yes: the Sixaola river basin, shared by Costa Rica and Panama, activities implemented by the Binational Commission of the Sixaola River Basin²⁷ (the "Commission") in accordance with an agreement between Costa Rica and Panama²⁸ on Transboundary Development.²⁹]

B- The country is member of a regional integration organisation?

1. Which countries form part of this organisation?

[Costa Rica and Panama]

2. Are the decisions of the organisation legally binding for the members?

[A transboundary governance mechanism has been created and implemented between Costa Rica and Panama (established Legal Framework, multi-actor and multi-sectoral transboundary participation model.³⁰)]

3. What is the mandate of the organisation?

[The Commission is between Costa Rica and Panama and it oversees the integrated development of the basin (environmentally, socially, economically and politically). One of its initiatives on integrated management of transboundary water resources aims to: *strengthen transboundary multi-stakeholder action in the Sixaola River Basin shared by Costa Rica and Panama to restore river ecosystems, reduce pollution from agricultural production and reduce the risks of hydro-meteorological disasters.*³¹]

4. Does the regional organisation have the authority to regulate or make decisions which affect water, sanitation and a healthy environment? Are there any mechanisms for enforcement?

[The representatives in this Commission are the institutional representatives at national level. Such representatives can convey the agreements, projects, and other decisions taken in the territory to the higher authorities at the national level so that all

²¹

https://www.undp.org/sites/g/files/zskgke326/files/migration/cr/undp_cr_6373-Prod-oc-IWRM-Sixaola-for-resubm-04052021_21.pdf

²² <https://minae.go.cr/>

²³ <https://da.go.cr/>

²⁴ <https://www.oecd.org/costarica/oecd-water-policies-country-note-costa-rica.pdf>

²⁵ <https://www.senara.or.cr/>

²⁶ <https://www.aya.go.cr/SitePages/Principal.aspx>

²⁷ https://unece.org/sites/default/files/2022-04/Global_network_overview_pilot%20projects_progress_Apr2022_final_ENGL_update_0_0.pdf

²⁸ <https://www.iucn.org/news/m%C3%A9xico->

<am%C3%A9rica-central-y-el-caribe/201708/transboundary-coordination-moves-forward-sixaola-river-basin>

²⁹

https://www.undp.org/sites/g/files/zskgke326/files/migration/cr/undp_cr_6373-Prod-oc-IWRM-Sixaola-for-resubm-04052021_21.pdf

³⁰ https://unece.org/sites/default/files/2022-04/Global_network_overview_pilot%20projects_progress_Apr2022_final_ENGL_update_0_0.pdf

³¹ https://unece.org/sites/default/files/2022-04/Global_network_overview_pilot%20projects_progress_Apr2022_final_ENGL_update_0_0.pdf

necessary measures related to the Basin can be taken.³² From a funding perspective, its integrated management of transboundary water resources is being financed by three international stakeholders: the Global Environment Facility (GEF) and administered by the United Nations Development Program (UNDP) and the Organisation for Tropical Studies (ORT)]

C- Water governance and administration:

1. What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?

- a. **At national/federal level?** [Ministry of the Environment and Energy (MINAE) including its department of Water and Sea^{33,34} (responsible for control and management of national water resources); Ministry of Health (MINSALUD) is the governing agency that oversees the water sector for Costa Rica]
- b. **At the intermediate level (state, river basin, other)** [Other (international): Binational Commission of the Sixaola River Basin.³⁵]
- c. **At the local level?** [Rural aqueduct associations (ASADAS)³⁶ are local cooperatives that provide accessible

clean drinking water to local communities.]

2. Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation and a healthy environment?

[National Institute of Aqueducts and Sewers (AyA)³⁷ (responsible for supply of drinking water and sanitation); Ministry of Health (responsible for water pollution control); (iii) Ministry of Agriculture and its department, the National Groundwater, Irrigation and Drainage Service (SENARA)³⁸ (responsible for hydrogeological research, irrigation and drainage, and flood protection³⁹)]

3. Which national government agency is responsible for the environment? What are its responsibilities with respect to water?

[Ministry of the Environment and Energy (MINAE) including its department of Water and Sea^{40,41} (responsible for control and management of national water resources)]

4. Which national government agency is responsible for drinking water? What are its responsibilities?

[National Institute of Aqueducts and Sewers (AyA)⁴² (responsible for supply of drinking water and sanitation)]

5. Which national government agency is responsible for sanitation? What are its responsibilities?

[National Institute of Aqueducts and Sewers (AyA)⁴³ (responsible for supply of drinking water and sanitation); Ministry of Health (responsible for water pollution control)]

CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

³² https://unece.org/sites/default/files/2022-04/Global_network_overview_pilot%20projects_progress_Apr2022_final_ENGL_update_0_0.pdf

³³ <https://minae.go.cr/>

³⁴ <https://da.go.cr/>

³⁵ https://unece.org/sites/default/files/2022-04/Global_network_overview_pilot%20projects_progress_Apr2022_final_ENGL_update_0_0.pdf

³⁶ <https://www.thegef.org/newsroom/feature-stories/providing-access-clean-water-despite->

[climate-change-and-covid-19](#)

³⁷ <https://www.aya.go.cr/SitePages/Principal.aspx>

³⁸ <https://www.senara.or.cr/>

³⁹ <https://www.oecd.org/costarica/oecd-water-policies-country-note-costa-rica.pdf>

⁴⁰ <https://minae.go.cr/>

⁴¹ <https://da.go.cr/>

⁴² <https://www.aya.go.cr/SitePages/Principal.aspx>

⁴³ <https://www.aya.go.cr/SitePages/Principal.aspx>

1. What international or regional treaties has the country ratified? Please insert the date of the signature/ratification/accession.
2. What declaration or reservation has the country entered to these instruments?

A. Regional Multilateral/Bilateral Treaties

Table 1. Regional multilateral and bilateral treaties

Instruments	Participating States	Entry into force
Inter-American Treaty of Reciprocal Assistance (Rio Treaty) (B-29)	Argentina, Bahamas, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Trinidad & Tobago, United States, Uruguay, Venezuela	20/11/1948
Economic Agreement of Bogota	Costa Rica, Honduras, Panama	09/07/1948

Charter of the Organization of American States	Antigua and Barbuda, Argentina, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, The Bahamas, Trinidad and Tobago, United States of America, Uruguay, Venezuela	10/30/1948
America Treaty on Pacific Settlement	Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay	04/27/1949
Agreement on Privileges and Immunities of the Organization of American States	Bolivia, Brazil, Chile, Costa Rica, Cuba, Ecuador, Haiti, Honduras, Peru	17/10/1949

Convention on the Protection of the Archeological, Historical, and Artistic Heritage of the American Nations (Convention of San Salvador)	Argentina, Bolivia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Peru	14/05/1980
Convention on Cooperation for the Suppression of Illicit Maritime and Air Trafficking of Narcotic Drugs and Psychotropic Substances in the Caribbean Area	Antigua and Barbuda, Bahamas, Barbados, Belize, Costa Rica, Cuba, Dominica, El Salvador, United States of America, France, Great Britain, Guatemala, French Guiana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Countries, Netherlands, Dominican Republic, Saint Lucia , Serbia, Trinidad and Tobago, Venezuela	18/09/2008

B. International Treaties

Table 2. International binding instruments

Instruments	Signature	Ratification
Charter of the United Nations	15/10/1945	07/11/1945

Instruments	Signature	Ratification
Convention on the Privileges and Immunities of the United Nations	N/A	26/10/1949 (Accession)
Vienna Convention on Diplomatic Relations	18/04/1961	09/11/1964
Vienna Convention on Consular Relations	24/04/1963	29/12/1966
Convention on the Rights of the Child	20/11/1989	21/08/1990
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25/05/2000	24/01/2003
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25/05/2000	09/04/2002
Optional Protocol to the Convention on the Rights of the Child on a communications procedure	19/12/2011	14/01/2014
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	15/12/1989	05/06/1998
Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean	24/07/1992	15/03/1996
Convention on the Rights of Persons with Disabilities	13/12/2006	30/03/2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities	13/12/2006	01/10/2008
International Convention for the Protection of All Persons from Enforced Disappearance	20/12/2006	16/02/2012
International Convention on the Elimination of All Forms of Racial Discrimination	07/03/1966	16/01/1967
International Covenant on Economic, Social and Cultural Rights	16/12/1966	29/11/1968
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	10/12/2008	23/09/2014
International Covenant on Civil and Political Rights	16/12/1966	29/11/1968
Optional Protocol to the International Covenant on Civil and Political Rights	16/12/1966	29/11/1968

Instruments	Signature	Ratification
United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	20/12/1988	08/02/1991
Constitution of the United Nations Industrial Development Organization	08/04/1979	26/10/1987
International Convention for the Suppression of Terrorist Bombings	15/12/1997	20/09/2001
Rome Statute of the International Criminal Court	17/07/1998	07/10/1998
Amendment to article 8 of the Rome Statute of the International Criminal Court	10/06/2010	05/02/2015
United Nations Convention against Transnational Organized Crime	15/11/2000	24/07/2003
United Nations Convention against Corruption	31/10/2003	21/03/2007
Convention on the High Seas	29/04/1958	16/02/1972
Convention on the Continental Shelf	29/04/1958	16/02/1972
United Nations Convention on the Law of the Sea	10/12/1982	21/09/1992
Convention on the Recognition and Enforcement of Foreign Arbitral Awards	10/06/1958	26/10/1987
Vienna Convention on the Law of Treaties	23/05/1969	22/11/1996
Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction	03/09/1992	31/05/1996
Treaty on the Prohibition of Nuclear Weapons	20/09/2017	05/07/2018
Arms Trade Treaty	02/04/2013	25/09/2013
Minamata Convention on Mercury	10/10/2013	19/01/2017
Paris Agreement [Framework Convention on Climate Change]	22/04/2016	13/10/2016
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	17/09/1999	13/08/2009
Convention on the Conservation of Migratory Species of Wild Animals	23/04/2007	01/09/2007 (Accession)
Stockholm Convention on Persistent Organic Pollutants	16/04/2002	16/02/2007

Instruments	Signature	Ratification
Cartagena Protocol on Biosafety to the Convention on Biological Diversity	24/05/2000	06/02/2007
International Treaty on Plant Genetic Resources for Food and Agriculture	14/11/2006	12/02/2007
Kyoto Protocol [Framework Convention on Climate Change]	27/04/1998	09/08/2002
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	15/10/1994	05/01/1998
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	N/A	07/03/1995
Convention on Biological Diversity	13/06/1992	26/08/1994
United Nations Framework Convention on Climate Change	13/06/1992	26/08/1994
Vienna Convention for the Protection of the Ozone Layer	N/A	30/07/1991 (Accession)
Montreal Protocol on Substances that Deplete the Ozone Layer	N/A	30/07/1991 (Accession)
Convention on International Trade in Endangered Species of Wild Fauna and Flora	30/06/1975	28/09/1975
Escazu Agreement [Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matter in Latin America and the Caribbean]	27/09/2018	Not ratified yet

C. Regional

Table 3. Most relevant ILO conventions

Instruments	Ratification
ILO Forced Labour Convention, No. 29 (1930)	02/06/1960
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	02/06/1960
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	02/06/1960
Equal Remuneration Convention, 1951 (No. 100)	02/06/1960

Instruments	Ratification
Abolition of Forced Labour Convention, 1957 (No. 105)	04/05/1959
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	01/03/1962
Minimum Age Convention, 1973 (No. 138)	11/06/1976
Worst Forms of Child Labour Convention, 1999 (No. 182)	10/09/2001

Table 4. Regional instruments

Instruments	Signature	Ratification
American Convention on Human Rights "Pact of San José, Costa Rica"	11/22/1969	03/02/1970
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights "Protocol of San Salvador"	11/17/1988	16/11/1999
Inter-American Convention on Facilitation of International Waterborne Transportation	06/07/1963	01/12/1970

CHAPTER 3: DOMESTIC LEGISLATION ON WATER

A. Water law

1. Is the right to water mentioned in the Constitution?

Yes. In 2020, the Costa Rican Legislative Assembly approved a constitutional reform incorporating the human right to water in Article 50 of the Constitution.⁴⁴

[Article 50 of the Constitution](#) states, "Every person has the basic and undeniable human right of access to drinking water as a good that is essential for life. Water is a good of the Nation, crucial in protecting this human right. Its use, protection, sustainability, conservation and management will be governed by the provisions of the law that will be created for these purposes and the supply of drinking water for consumption by individuals and populations will be a priority" [English translation].⁴⁵

⁴⁴ <https://menafn.com/1100300154/Costa-Rica-Decrees-a-Law-that-Designates-Water-as-a-Basic-Human-Right>.

⁴⁵ [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

2. Is the right to sanitation mentioned in the Constitution?

No. However, Article 50 of the Constitution mentions the "management" of water.⁴⁶

3. Does the Constitution otherwise reference water and sanitation?

For the right to water, see (A)(1) above. There are no references to sanitation in the Constitution.⁴⁷

4. Is there a water code or a law specific to water resources? Please specify.

Yes. The Water Law (Law No. 276 of 1946) serves as the primary legal framework for the management and use of water resources in Costa Rica. The Costa Rican Government,

⁴⁶ [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

⁴⁷ [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

by granting concessions, regulates individual and corporate use of public water resources (Arts. 18-29) according to the principle that, should there be water scarcity, water for domestic consumption is to be given the utmost priority over other possible uses (Arts. 140-142).⁴⁸ The Water Law also includes provisions on the protection of water (Arts. 154-146) and the regulation of water infrastructure (Arts. 99-103).⁴⁹

While there have been recent legislative proposals to enact a new “Water Law” that replaces the current 1946 law (as amended in 1959, 1972, and 1974), the proposals have not come to fruition.⁵⁰

Laws and regulations relevant to the protection and sustainable use of water resources include:

- The Potable Water Law (Law No. 1634 of 1953) and its Amendments (Law No. 7593 of 1996 and Law No. 2726 of 1961);
- The General Health Law (Law No. 5395 of 1973, Arts. 264-277);
- The General Environment Law (Law No. 7574 of 1995, Arts. 50-52 and 64-67);
- The Law Establishing the Costa Rican Institute of Aqueducts and Sewers (Law No. 2726 of 1961);
- The Regulation on the Quality of Potable Water (Decree No. 32.327-S of 2005); and

- The Regulation for the Evaluation and Classification of the Quality of Surface Water Bodies (Decree No. 33.903-MINAE-S of 2007).⁵¹

5. Is there national strategy / policy, action plan or similar document on water? Does it include the management of wastewater and sanitation?

National strategies concerning the management and use of water resources, as well as sanitation, are spread out over various documents, including but not limited to:

- The Jorge Manuel Dengo Obregón National Development Plan 2006-2010⁵²;
- Decree No. 30480-MINAE of 2002⁵³;
- Strategy for Integrated Water Resources Management in Costa Rica of 2005;⁵⁴
- Decree No. 33953-S-MINAE of 2007⁵⁵;
- National Integrated Water Resources Management Plan (PNIWRM) of 2008⁵⁶;
- National Water Policy of 2009⁵⁷;
- Water Agenda (ADA) of 2013⁵⁸;
- The national programme for the adequate management of wastewater in Costa Rica for the period 2009-2015⁵⁹;
- The Policy for the Organization and Strengthening of Community

⁴⁸ <https://www2.ohchr.org;http://www.pgrweb.go.cr/scij>.

⁴⁹ <https://books.google.com>.

⁵⁰ <https://www.utrechtlawreview.org>.

⁵¹ <https://www2.ohchr.org;https://books.google.com>.

⁵² <https://www.informea.org/en/literature/plan-nacional-de-desarrollo-%E2%80%9Cjorge-manuel-dengo-obreg%C3%B3n%E2%80%9D-2006-2010>.

⁵³ <https://www.informea.org/en/legislation/decreto-n%C2%BA-30480minae-principios-que-regir%C3%A1n-la-pol%C3%ADtica-nacional-en-materia-de-gesti%C3%B3n>.

⁵⁴ <https://catalogosiidca.csuca.org/Record/CR.UNA01>

000078465.

⁵⁵ <https://leap.unep.org/countries/cr/national-legislation/decreto-no-33953sminae-reglamento-de-implementacion-y-desarrollo>.

⁵⁶ https://da.go.cr/wp-content/uploads/2018/05/Plan_Nacional_Gestion_Integrada_Recursos_Hidrico.pdf.

⁵⁷ <https://da.go.cr/wp-content/uploads/2018/05/Pol%C3%ADtica-H%C3%ADrica-Nacional.pdf>.

⁵⁸ https://da.go.cr/wp-content/uploads/2018/05/Agenda_del_Agua.pdf.

⁵⁹ <https://www.bvs.sa.cr/AMBIENTE/textos/ambiente39.pdf>.

Management of Drinking Water and Sanitation Services of 2015⁶⁰;

- Joint Strategy – The National System of Conservation Areas (SINAC), The National Forest Finance Fund (FONAFIFO) and the Water Authority (DA) – to increase revenues from the Water Harvesting Facility and improve investments in the watersheds that generate the resources of 2016⁶¹;
- National Wastewater Sanitation Policy (2016-2045) of 2016⁶²;
- National Drinking Water Policy (2017-2030) of 2017⁶³; and
- National Wetlands Policy of 2017.⁶⁴

6. Are there any other major regulations, decrees, orders, circulars, or similar official documents (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation?

The following decrees, among others⁶⁵, address rights to water and sanitation:

- Decree No. 30480-MINAE of 2002⁶⁶, and
- Decree No. 33953-S-MINAE of 2007.⁶⁷

There are other regulations that seek to ensure the safe treatment and disposal of wastewater, including:

- A regulation on the management of sludge from septic tanks (Decree No. 21297-S of 1992)⁶⁸;
- A regulation on the dumping and reuse of wastewater (Decree No. 26042-S-MINAE of 1997)⁶⁹;
- A regulation on the approval and operation of wastewater treatment systems (Decree No. 31545-S-MINAE, revised in 2005)⁷⁰; and
- A regulation creating the environmental tax for dumping polluting substances in water (Decree No. 34431-MINAE-S of 2008).⁷¹

There are approximately 120 laws and decrees that empower an entity to carry out a function associated with water management. For the sake of completeness, a comprehensive list of regulations, decrees, laws, and resolutions related to water in Costa Rica can be found [here](#).

B. Environmental law

1. Is the right to a healthy environment mentioned in the Constitution?

Yes. [Article 50 of the Constitution](#) states, "All persons have the right to a healthy and

⁶⁰ <https://dspaceaya.igniteonline.la/handle/aya/284>.

⁶¹ https://da.go.cr/wp-content/uploads/2016/05/Estrategia-canon-aprovechamiento_2016.pdf.

⁶² <https://www.aya.go.cr/Noticias/Documents/Politica%20Nacional%20de%20Saneamiento%20en%20Aguas%20Residuales%20marzo%202017.pdf>.

⁶³ https://www.aya.go.cr/transparenciainst/acceso_informacion/marconormativo/pol%C3%ADtica%20nacional%20de%20agua%20potable.pdf.

⁶⁴ <https://da.go.cr/wp-content/uploads/2018/05/1-POLITICA-NACIONAL-DE-HUMEDALES-2017-2030.pdf>.

⁶⁵ <https://aresep.go.cr/recurso-hidrico/normativa>.

⁶⁶ [https://www.informea.org/en/legislation/decreto-n%C2%BA-30480minae-principios-que-regir%C3%A1n-la-pol%C3%ADtica-nacional-en-](https://www.informea.org/en/legislation/decreto-n%C2%BA-30480minae-principios-que-regir%C3%A1n-la-pol%C3%ADtica-nacional-en-materia-de-gesti%C3%B3n)

[materia-de-gesti%C3%B3n](#).

⁶⁷ <https://leap.unep.org/countries/cr/national-legislation/decreto-no-33953sminae-reglamento-de-implementacion-y-desarrollo>.

⁶⁸ <https://leap.unep.org/countries/cr/national-legislation/decreto-no-21297-s-reglamento-para-el-manejo-de-lodos-procedentes>.

⁶⁹ <http://www.mag.go.cr/legislacion/1997/de-26042.pdf>.

⁷⁰ <https://canapep.com/wp-content/uploads/2015/12/Decreto-N%C2%BA-31545-S-MINAE-de-Reglamento-de-aprobaci%C3%B3n-y-operaci%C3%B3n-de-sistemas-de-tratamiento-de-aguas-residuales..pdf>.

⁷¹ <https://www.informea.org/en/legislation/decreto-n%C2%BA-34431minaes-reglamento-del-canon-ambiental-por-vertidos>.

ecologically balanced environment. For that, they are legitimated to denounce the acts that infringe this right and to claim reparation for the damage caused. The State will guarantee, will defend and will preserve this right. The Law will determine the responsibilities and corresponding sanctions” [English translation].⁷²

2. Does the Constitution otherwise reference a safe, clean and healthy environment?

See (B)(1) above.

There are other constitutional provisions relevant to environmental protection. [Article 21 of the Constitution](#) recognizes the right to life, while [Article 89](#) provides that a cultural aim of the country is to “protect the natural beauties” [English translation].⁷³

3. Is there an environmental code that references water?

The 1995 Organic Law on the Environment,⁷⁴ the 1998 Biodiversity Law,⁷⁵ and the 1973 General Health Law⁷⁶—which make up Costa Rica’s main environmental legislation—all reference water.

4. Is there a national strategy, policy, action plan or similar document on the environment?

The national strategy on the environment, which also references water, is included in the following documents, among others:

- National Plan of Development and Public Investments for 2019-22⁷⁷;
- National Water Policy of 2009⁷⁸;
- National Biodiversity Policy (2015-30)⁷⁹; and
- National Policy on Comprehensive Waste Management (2010-21)⁸⁰.

5. Are there any other major regulations, decrees, orders, circulation or similar documents related to the right to a healthy environment (such as resource consents, public domain occupation etc)?

Aside from those environmental laws mentioned in (B)(3), there is the 1996 Forestry Act No. 7575 that generally applies to protected areas.⁸¹

C. Extraction and/or use of water

1. Does the legislation regulate the right to abstract water? (Surface, groundwater etc.)?

Yes. Ground and surface waters are publicly owned.⁸² Legislation regulating the right to abstract water includes:

- Water Law No. 276 of 1942;
- Executive Decree No. 35884-MINAET 2010 (Drilling Regulations for Subsurface Exploration and Exploitation of Groundwater);
- Law No. 6877 of 1983 (From Creation Of Groundwater, Irrigation and Drainage National Service (SENARA));

⁷² [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

⁷³ [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

⁷⁴ [C-0001q 950410 Environment Law 7554 dated 4 October 1995 EnSp.pdf \(worldbank.org\)](#).

⁷⁵ [Ley N° 7788 de Biodiversidad \(ucr.ac.cr\)](#).

⁷⁶ [siteal costa rica 0684.pdf \(unesco.org\)](#).

⁷⁷ [2019-2022 Bicentennial National Development and Public Investment Plan for Costa Rica | Regional Observatory on Planning for Development \(cepal.org\)](#).

⁷⁸ <https://da.go.cr/wp-content/uploads/2018/05/Pol%C3%ADtica-H%C3%ADrica-Nacional.pdf>.

⁷⁹ [Política Nacional de Biodiversidad 2015-2030. Decreto Ejecutivo No. 39118-MINAE \(mideplan.go.cr\)](#).

⁸⁰ [Política-nacional-para-la-gestión-integral-de-residuos-2010-2021.pdf \(residuoselectronicosal.org\)](#).

⁸¹ [Ley N° 7575 - Ley Forestal. | UNEP Law and Environment Assistance Platform](#).

⁸² [Water-Resources-Allocation-Costa-Rica.pdf \(oecd.org\)](#).

- Law No. 2726 of 1961 (Constitution of Costa Rican Institute of Aqueducts and Sewers); and
- Environmental Act No. 7554.⁸³

2. Does the legislation distinguish between the extraction of drinking water and water for other uses?

Yes. See C(1).

3. Is the right to use water connected to land ownership?

Yes. Water concessions are linked with property titles.⁸⁴ See also Art. 4 of the Water Law No. 276 ("They are waters of private domain and belong to the owner of the land" [English translation]).

4. Are permits/licenses required for water use (e.g. domestic, agricultural, industrial)?

Yes. Water abstraction permits (concessions) are required, such that any natural or legal person, whether public or private, must obtain a concession for surface water or groundwater uptake. MINAE is the agency in charge of granting the permits.⁸⁵

5. Can permits/licenses be suspended? Under what circumstances?

Yes. Arts. 98-99 of the Organic Environment Law No. 7554 sets out a range of protective measures and administrative sanctions that public authorities can apply, including issuing warnings and rescinding permits.⁸⁶

6. Can water abstraction licenses be transferred? Is transferability subject to restrictions?

Trading or transferring entitlements is not possible.⁸⁷

7. Are there priorities in the allocation of water for different uses?

Yes, as follows: (1) domestic, (2) energy production, (3) industrial, and (4) agricultural.⁸⁸

8. Are there any regulations for monitoring the volume of water extracted from groundwater?

The National Service for Groundwater, Irrigation and Drainage (SENARA) conducts studies to assess the potential production of aquifers, and gives permits to use groundwater resources, stating the maximum amount of water that can be extracted annually. The decisions of SENARA "concerning the perforation of wells and the exploitation, maintenance and protection of groundwater resources are final and must be respected."⁸⁹

9. Are there any restrictions for releasing contaminants/pesticides/fertilisers/farm animal effluent/industrial waste or other pollutants to rivers, lakes, seas, or groundwater?

Saltwater intrusion, interference between wells or other bodies of water, and filtration/contamination studies must be conducted if a drill site is less than a kilometer from the coast, and when a drill site is located within 100 meters from water, including wells, creeks, and rivers.

⁸³ [Water Well Concessions | Well Permit Regulations - Pura Vida Drilling.](#)

⁸⁴ [Water-Resources-Allocation-Costa-Rica.pdf \(oecd.org\).](#)

⁸⁵ [pdf \(oecd.org\).](#)

⁸⁶ [Water Well Concessions | Well Permit Regulations](#)

[- Pura Vida Drilling.](#)

⁸⁷ [Water-Resources-Allocation-Costa-Rica.pdf \(oecd.org\).](#)

⁸⁸ [Water-Resources-Allocation-Costa-Rica.pdf \(oecd.org\).](#)

⁸⁹ [Microsoft Word - 0914363.doc \(ohchr.org\).](#)

Groundwater wells have an automatic 40-meter permanent setback radius.⁹⁰

CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6 TARGETS⁹¹ including elements of the Human Right to a Healthy Environment

A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

1. What laws or regulations ensure that a minimum essential level of water is available to all?

[Revised Article 50 of the Political Constitution states to drinking water is a basic human right in Costa Rica.⁹²

Legal definition of ownership of water resources: Ground and surface waters are publicly owned. Priority classes are as follows: (i) domestic; (ii) energy production; (iii) industrial; (iv) agriculture⁹³.]

2. What are the standards/policies on the amount of water to be made available?

[Water concessions are linked with property titles. In the case of collective entitlements, the Ministry of Energy and Environment grants a concession to each Society of Water Users according to the Water Law No. 276. These societies have the authority to decide internally the form of water distribution amongst their members through agreements of its general assembly of members, or through its own regulation if any.⁹⁴]

3. In cases where water is not available on premises, what mechanisms are in place to

ensure collection times do not exceed 30 minutes including wait times and queuing?

Not found.

4. Does the law ensure continuous supply of water for all? [Revised Article 50 of the Political Constitution states that access to portable water is a basic human right in Costa Rica.⁹⁵

5. In instances where water availability is not continuous, what measures are implemented?

[NGO support for emergency relief as a result of flooding.^{96 97}]

6. How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed rural areas?

[The urban / rural division is the highest indicator of having piped water, with 99% of urban households with piped water (to the home or the land). In contrast, only 88% of rural homes have piped water (to the home or land).⁹⁸ Around 15,000 people work voluntarily in communal aqueduct associations to ensure access to potable

⁹⁰ [Water Well Concessions | Well Permit Regulations - Pura Vida Drilling.](#)

⁹¹ See Table of the Targets and Indicators of SDG 6 page 9

⁹² <https://menafn.com/1100300154/Costa-Rica-Decrees-a-Law-that-Designates-Water-as-a-Basic-Human-Right>

⁹³ <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

⁹⁴ <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

⁹⁵

<https://www.constituteproject.org/constitution/Costa-Rica-2020?lang=en>

⁹⁶ <https://reliefweb.int/report/costa-rica/costa-rica-red-cross-scales-emergency-relief-heavy-flooding-leaves-more-500000>

⁹⁷ <https://cadena.ngo/en/missions/drinking-water-in-limon-cadena-costa-rica/>

⁹⁸ [https://www.olasdata.org/en/costa-rica/#:~:text=Water%20access&text=The%20urban%20%2F%20rural%20division%20is,to%20the%20home%20or%20land\).](https://www.olasdata.org/en/costa-rica/#:~:text=Water%20access&text=The%20urban%20%2F%20rural%20division%20is,to%20the%20home%20or%20land).)

water for about 30% of the rural and peri-urban population. Community water management is one of the country's greatest strengths, ensuring 97.8% coverage of indoor water.⁹⁹]

7. Does the law/policy prioritize water for domestic uses over other uses?

[The right of common use for domestic uses including firefighting, when direct access to water from rivers is possible without using infrastructure or river diversion, according to The Water Law No. 276. In addition, ICE (for water exploitation for hydropower) and AYA (for water supply for human use and drainage) have a concession granted by the Legislative Assembly, in accordance with Law No. 449 and Law No. 2726 respectively. These concessions are annotated in the Register of Concessions.¹⁰⁰]

8. What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?

[“Exceptional” circumstances: only under certain technical and legal conditions that prove the need for temporary or permanent redistribution of waters and their associated rights as determined by The Ministry of Environment and Energy¹⁰¹.]

9. What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?

[Under those “exceptional” conditions, the rights granted by water concessions can be modified according to the Article 37 of Chapter VII of the Water Law No. 276. Any change in the water concession must be

backed by technical studies that must be notified to the affected concessionaires. In such cases, the General Law of the Public Administration No. 6227 provides appropriate legal remedies for the affected individuals by granting due process.¹⁰² Stakeholders are not involved in this process. The proceedings for appeal, annulment and revision are set out in the General Law of Public Administration No. 6227 of 2nd May 1978.¹⁰³]

10. Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?

[Yes: cooperation with non-governmental organisations such as delivering safe water and sanitation to schools.¹⁰⁴

In addition financial support from the Central American Bank of Economic Integration (“CABEI”)¹⁰⁵¹⁰⁶:

- the Costa Rican Potable Water Supply Program involves 40 projects on a national level to improve potable water quality to Costa Ricans;
- CABEI and the Germany's national development bank, KfW Bank to support a project aimed to Reduce Unaccounted Water and Optimize Energy Efficiency]

11. Does law/policy provide guidance on: The number of water outlets?

[This information is not readily available online.]

12. The safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available

⁹⁹ <https://www.thegef.org/newsroom/feature-stories/providing-access-clean-water-despite-climate-change-and-covid-19>

¹⁰⁰ <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

¹⁰¹ <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

¹⁰² <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

¹⁰³ <https://www.oecd.org/costarica/Water-Resources-Allocation-Costa-Rica.pdf>

[Resources-Allocation-Costa-Rica.pdf](#)

¹⁰⁴ <https://reliefweb.int/report/costa-rica/improving-access-safe-water-and-sanitation-costa-rican-schools>

¹⁰⁵ <https://www.bcie.org/en/news-and-media/news/article/costa-rica-improves-water-sanitation-with-cabei-support>

¹⁰⁶ <https://www.bcie.org/en/news-and-media/news/article/cabei-and-aya-in-costa-rica-sign-loan-for-us-1546-million>

within a certain distance from a school or household)? [

This information is not readily available online.]]

13. **Technical safety of water outlets or sanitation facilities (e.g., law requiring that certain standards are applied in the construction of those facilities or of buildings)?**

[Procurement may play a role in ensuring safe drinking water in Costa Rica. For example, Costa Rica invested in non-toxic, safe and reliable storage tanks to hold potable water for communities.¹⁰⁷]

14. **Are there any standards that protect healthy natural water bodies to guarantee sustainable sources of water for drinking or other household uses?**

[Key pollutants from the agricultural sector include pesticides and fertilisers. As such, initiatives to mitigate such wastewater run-offs that may pollute natural water bodies, Costa Rica have laws and policies to manage water use including for agricultural use.¹⁰⁸]

15. **Do groundwater sources and aquifers have an allocation of water volume protected from extraction to ensure long term sustainability?**

The National Service for Groundwater, Irrigation and Drainage (SENARA) conducts studies to assess the potential production of aquifers, and gives permits to use groundwater resources, stating the maximum amount of water that can be extracted annually. The decisions of SENARA “concerning the perforation of wells and the exploitation, maintenance and protection of groundwater resources are final and must be respected.”¹⁰⁹

16. **Is there any provision in the law/policy for the availability and accessibility of clean and healthy environmental spaces in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**

[Article 50 of the Constitution states that that State shall be responsible to procure the greatest well-being to all its inhabitants (including adequate distribution of wealth) and all persons shall have the right to a healthy and ecologically balanced environment.¹¹⁰]

17. **Is there any provision in the law/policy for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**

[Costa Rica is implementing pilot projects in conjunction with the UN to improve access to water and sanitation facilities including with the United Nations Office for Project Services to improve water and sanitation at schools.¹¹¹¹¹²]

B. Quality and safety (SDG 6.1, 6.2, 6.3)

1. **Are there parameters of quality and safety for drinking water established under law?**

Yes, Art. 8 of [Decree No. 38924-s—the Regulation on the Quality of Drinking Water](#)—provides for mandatory chemical and microbiological standards for water to be drinkable. It also provides for five levels of control carried out by relevant stakeholders including the Ministry of Health and water operators.

2. **Is monitoring of drinking water quality or wastewater required by law/policy? If so, which actor is required to monitor it and how often (according to the law/policy)?**

¹⁰⁷ <https://www.cectank.com/costa-rica-drinking-water-project/>

¹⁰⁸ <https://www.oecd.org/costarica/oecd-water-policies-country-note-costa-rica.pdf>

¹⁰⁹ Microsoft Word - 0914363.doc (ohchr.org).

¹¹⁰

<https://www.constituteproject.org/constitution/Cost>

[a Rica 2020?lang=en](#)

¹¹¹ <https://reliefweb.int/report/costa-rica/improving-access-safe-water-and-sanitation-costa-rican-schools>

¹¹² <https://www.unops.org/news-and-stories/news/improving-access-to-safe-water-and-sanitation-in-costa-rican-schools>

Under article 268 of the [General Health law](#), the Ministry of Health is the governing agency that oversees the water sector in Costa Rica.

Annex 2 of the [Regulation on Quality of Drinking Water](#) sets forth the frequency of monitoring activities, which varies depending on a municipality's population density. It ranges from monthly controls in municipalities with more than 500,000 people to semi-annual controls in municipalities with less than 5,000 people. The requisite sampling is conducted in water supply sources and distribution water systems.

3. Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become contaminated?

The Costa Rica's National Service of Underground Water, Irrigation and Drainage (SENARA), the government department responsible for managing and protecting the country's water resource, issued the "[Acuerdo 3303 SENARA](#)" also known as the "Poas Matrix" that sets forth the criteria to define land uses depending on the exposure of groundwater aquifers to contamination in all the cantons across the country.

4. Do laws/regulations include guidance on the safe construction of water and sanitation infrastructure (e.g. to ensure no contact with excreta, ventilation, respect construction guidelines)?

[Regulation 39887-S](#) of the Ministry of Environment and Energy provides for the guidelines on the safe construction of water and sanitation infrastructure (Articles 4-14).

Further, Article 15 of the regulation defines the requirements that sanitation infrastructure must comply to be approved by the Ministry of Health. Any natural or legal person may build, remodel, extend, modify, relocate or operate a flat

construction waste-water treatment system, so long as the approval is granted ([Article 16](#)).

5. Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?

Yes, [Regulation 33601 on discharge and wastewater treatment](#) establishes that each generator—i.e., a natural or legal person responsible for the reuse of wastewater or discharge into a receiving body or sanitary sewer—must treat its wastewater to avoid harm to the environment and human health.

The regulation manages wastewater treatment systems and the protocol for reusing wastewater (Article 27). Further, Articles 62 prohibits the discharge of storm-water to both sanitary sewer and the sewerage system. Article 63, in turn, prohibits the discharge of sludge from wastewater treatment systems, water treatment systems and septic tanks to water bodies and sanitary sewer systems.

[Regulation 39887-S](#) of the Ministry of Environment and Energy establishes the parameters for the approval of adequate wastewater treatment systems (Article 4).

6. Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)?

See answer to questions 4 and 5 above.

C. Water pollution control (SDG 6.3, 6.6)

1. Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?

[Law 8839 of 2010](#), the Integrated Waste Management Law, governs the integral management of waste and the efficient use of resources, through the planning and execution of regulatory, operational, financial, administrative and educational actions, environmental and health monitoring and evaluation strategies.

Under its Article 7, the Ministry of Health is in charge of the waste management, policymaking, monitoring, evaluation and control of waste disposal activities.

2. Is there legislation which regulates the contamination of groundwater? How is it addressed in practice?

Article 32 of the [Water Law](#) states that when there is a risk of pollution of either surface water or groundwater, the Executive Power, through the AyA (Aqueducts and Sewers Institute of Costa Rica) must take measures to remove that risk.

As to protecting groundwater from contamination, the Costa Rica's National Service of Underground Water, Irrigation and Drainage (SENARA) issued the "[Acuerdo 3303 SENARA](#)"—also known as the "Poas Matrix"—that sets forth the criteria to define land uses depending on the exposure of groundwater aquifers to contamination in all the cantons across the country.

In practice, the Poas Matrix contains the levels of vulnerability that groundwater bodies can withstand depending on the productive activity intended to be carried out in adjoining areas.

3. Do laws/regulations provide constraints on the levels of nitrates and phosphates that are released into groundwater through agricultural land use?

Concerning agricultural land use, the [Poax Matrix](#) establishes that: (i) when the levels of vulnerability to aquifers are extreme, no agricultural activity is allowed, (ii) when the

levels of vulnerability are high, medium or low, agricultural activities are allowed so long as very low toxicity, persistence and mobility agrochemicals are used. A soil management plan is required in accordance with [Decree 23214-MAIG-MIRENEM](#). River tributaries should be adequately managed and treated. Additionally, the agricultural activity must have a certificate of good environmental practices.

4. Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?

[Decree 42128 –MINAE-S](#) deals with wastewater discharge and reuse regulation. It establishes the maximum limits of that wastewater produced by generators must observe to be discharged into the sewage system. "It contemplates wastewater generated by human household activities (toilets, showers, bathroom, and kitchen sinks, laundry water, etc.), as well as any other activity" ([Wastewater Discharge and Reuse Regulation in Costa Rica: An Opportunity for Improvement](#)).

[Decree 42128 –MINAE-S](#) sets the standards based on concentration and include differentiated COD (Chemical Oxygen Demand), BOD (Biological Oxygen Demand) and TSS (Total Suspended Solids) values according to wastewater characteristics.

[Article 18](#) states as follows: "all natural or legal persons, public or private, who use bodies of water to introduce, transport and dispose discharges that may cause changes in physical, chemical or biological quality of water, will require a discharge permit issued by the Ministry of Environment and Energy in accordance with the provisions of this regulations. The permit for discharges will be a prerequisite for the operation of the permit for the location of the wastewater treatment system, in order to obtain the Health

Operating Permit of the Veterinary Operating Certificate. Any person, who discharges without the permit, will be subject to administrative, civil and criminal prosecution. Sanctions provided in the legislation in force will apply and no exemption from paying the corresponding fee will apply.”

5. Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?

Article 22 of [Decree 42128-MINAE-S](#) lists the events that may trigger the revocation of the discharge permit, namely:

- (a) Falsehood of the information submitted to the granting entity occurs. This, without prejudice to the corresponding criminal proceedings.
- (b) Non-payment of the environmental for discharge during two consecutive quarters occurs. This includes the corresponding interests.
- (c) The generator ceases to operate by order of the competent authority.
- (d) Any of the conditions under which the permit was granted, no longer exist, vary or are not fulfilled.

Concerning compensation payable due to termination / revocation, Article 22 of [Decree 42128-MINAE-S](#) does not provide for any payment after one of the events of revocation occurs. It does provide though, that due process shall be followed throughout the procedure of discharge permits revocation.

6. Are instances of pollution of water sources subject to penalties / fines? Which institution is in charge of the administration of the penalties?

As previously mentioned, Article 18 of [Decree 42128-MINAE-S](#) deals with sanctions related to pollution of water sources. These sanctions apply to any person who discharges without the appropriate permit, and will be subject to administrative, civil and criminal procedures. Sanctions provided in the legislation in force will apply and no exemption from paying the corresponding fee will apply.

Per article 14 of [Decree 42128-MINAE-S](#), the Ministry of Environment and Energy, through the Water Department, is the competent authority entrusted with the administration, application and collection of the environmental fee for discharges.

D. Affordability (SDG 6.1)

1. How does law/policy address affordability of water supply and sanitation services?

Not found.

2. What mechanisms must be established by law/policy to ensure affordability of water and sanitation services?

Not found.

3. How are tariffs established and what is the process for updating these tariffs?

[In the case of water supply for human consumption, there are different legal interpretations on the approval and establishment of tariff rates. The method of calculating municipal rates for these services does not have a defined format and each municipality has autonomy to prepare a calculation according to its needs.]

4. Does the tariff vary depending on the regions/circumstances?

[Tariffs are set based on short-term cash flow needs rather than on the real economic costs of service provision.]

5. Which actors are responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?

[Water tariffs are approved by the regulatory agency ARESEP (*Autoridad Reguladora de los*

Servicios Públicos) and instituted by AyA (*Instituto Costarricense de Acueductos y Alcantarillados*), Costa Rica's water and sewage agency. ARESEP was created by Law No. 7593 of 1996 which was later complemented by Law No. 8660 of 2008.]

6. **Is disconnection from water supply and sanitation services for non-payment allowed? What procedures must be followed in such cases prior to disconnecting the supply and service? Are there any further consequences (other than shutoffs) for bill non-payment?**

[Water services are provided exclusively by AyA and water bills are delivered to homes monthly. Failure to pay water bills will result in services being suspended/disconnected within three days of the payment due date. Fees are then charged for reconnection.]

E. Acceptability (SDG 6.1, SDG 6.2)

1. **Is there provision in the law or contracts with service providers that relate to the need to take into account cultural and social dimensions of acceptability (e.g. colour or odour of water, or the positioning of a facility)?**

While Article 215 of the Water Law (Law No. 276 of 1946), for instance, obligates all public water concessionaires "not to alter or change, without prior authorization of the Ministry of the Environment and Energy" certain factors, cultural and social dimensions of acceptability are not included.¹¹³

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g., in workplaces, but also in the design of shared sanitation facilities for certain communities)?**

This information is not readily available online.

3. **Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

According to Article 60 of the Law on the 1995 Organic Law of the Environment, it is the responsibility of the municipalities to prevent and control pollution of the environment, giving priority to the establishment and operation of adequate water supply services for human consumption, the sanitary disposal of excreta, wastewater and stormwater; waste collection and management; and air and sonic pollution control.¹¹⁴

F. Non-discrimination, equality, and universal access (SDG 6.1, 6.2)

1. **Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?**

[Costa Rica is a signatory to the UN Resolution [X] which recognises that the human right to safe drinking water entitles everyone, without discrimination to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic and secure.]

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

[The Resilience questionnaire states that all supply and sanitation operators have protocols for each of the activities that the service involves.]

3. **Are there any legal measures to protect the rights of those who are most vulnerable to,**

¹¹³ Ley Nº 276 - Ley de Aguas. Texto Consolidado. | UNEP Law and Environment Assistance Platform.

¹¹⁴ C-0001q 950410 Environment Law 7554 dated 4 October 1995 EnSp.pdf (worldbank.org).

or at particular risk from, environmental harm, taking into account their needs, risks and capacities?

[AyA has been involved in conducting two consultancies in relation to access and quality to public water supply and sanitation, one for vulnerable communities and one for indigenous communities.]

4. **Is there any legal recognition for women in the empowerment, leadership, decision-making and full, equal and meaningful participation of women and girls, and the role that women play as managers, leaders and defenders of natural resources and agents of change in safeguarding the environment and water resources?**

Not found.

G. Right to information, Transparency (SDG 6.b)

1. **Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

Article 30 of the Political Constitution of Costa Rica guarantees the fundamental right of access to public information in the following terms: “it is guaranteed free access to administrative departments for information purposes on matters of public interest. This does not apply to State secrets”.

In the context of the Inter-American Human Rights System, the human right of access to public information is widely protected through various instruments. Primarily, Article 13 of the American Convention on Human Rights and the Principles on the Right of Access to Information of the Organization of American States ([Resolution CJI/RES. 147 of August 7, 2008](#)).

Towards the end of April 2022, the

Legislative Assembly of Costa Rica passed a [general law](#) on access to public information and transparency.

2. **Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

Article 7 of [Executive Decree No. 40200 of 2017](#) states: “the cost of reproduction of the requested public information shall be borne by the applicant, to whom the said circumstance shall be communicated. Such costs may not exceed the cost of reproduction and shipping, if necessary. The Officer-in-Charge will endeavour to minimize the costs.

3. **Are there any exceptions with regard to who or what type of water and environment related information held by public authorities can be accessed?**

Article 9 of [Executive Decree No. 40200 of 2017](#) states:

“When the requested public information is covered by any regulatory exception and the requested information is partially or totally denied, the official responsible must explain in writing the reason for their action along with the proper legal foundation”.

Article 8 of the [general law](#) on access to public information and transparency recently passed by the Legislative Assembly of Costa Rica, establishes the limits on the right of access to public information. Among others: information regarded as State Secret, (fundamental rights are excluded from the declaration of State secrecy), personal data in accordance with the provision of Law 8968, information whose disclosure risks life or safety, the prevention, investigation and punishment of criminal or administrative offenses.

On June 5, 2020, by [Law No. 9849](#), the Legislative Assembly of the Republic of Costa

Rica added to Article 50 of the Political Constitution the following paragraph:

“Every person has the basic and indispensable human right to access drinking water as an essential good for life. Water is a good of the nation, indispensable to protect such a human life. Its use, protection, sustainability, conservation and exploitation shall be governed by the law that will be created for these purposes and priority shall be given to the supply of drinking water for the consumption of people and populations.”

Since access to drinking water is a fundamental right, it is excluded from the declaration of State secrecy and therefore, it is not covered by the exceptions of the right of access to public information.

4. **Which institutions are required by law/policy to make information on water public? Does it reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of certain circumstances, etc.)?**

The Political Constitution of Costa Rica plays a key role with respect to information on water. As previously mentioned, Article 50 states that access to drinking water is a fundamental right, at the same time, article 27 provides that “the freedom of petition, either individually or collectively, is guaranteed before any public official or official entity, as well as a prompt resolution”. Therefore, public officials or public entities shall publicize any information related to water.

Article 46 of the [Political Constitution of Costa Rica](#) also provides that: “consumers and users have the right to the protection of their health, environment, security and

economic interests: to receive adequate and truthful information: to the freedom of choice and fair treatment”.

5. **Are there requirements in relation to the language, locations, format, timing and means used for providing water and environment related information to the public? What mechanisms are in place to ensure information is made available to all including to minorities?**

No specific provisions for minorities. However, given that the right of access to information is a fundamental right, it shall always be subject to judicial protection by means of a remedy of *amparo* established by article 29 of the [Law on Constitutional Jurisdiction](#), in connection to Articles 30 and 48 of [the Political Constitution of Costa Rica](#). The *amparo* is available without prejudice to any other actions deemed appropriate by the applicant and especially in the following scenarios: (i) failure to provide the information within the time limit, and (ii) when the information provided by the public entities is ambiguous or partial, without justification and constitutes a denial of response.

6. **Are there any mechanisms to ensure that education on the importance of a healthy environment is included in school curricula, and that the link is made with sustainable drinking water supplies?**

The [Aqueduct and Sewer Institute of Costa Rica](#) implemented some educational programs for teachers and students at preschool, elementary and high school for learning purposes “within a pedagogical process in order to promote an approach to generate greater awareness, responsibility and value of the water resource, improve consumption and a new culture of water value”.

7. **Are there any legal provisions requiring certain authorities to educate the**

population on water related issues?

Although, not necessarily legal provisions, the [National Wastewater Sanitation Policy 2016-2045 of Costa Rica](#), section 5.2.5 provides for that the participation of citizens is paramount for environmental protection purposes.

Furthermore, Article 6 of the [Environmental Law](#) of Costa Rica establishes that “the State and the municipalities shall the active and organized participation of their constituents in the decision making process and actions aimed at protecting the environment”.

8. Are there any requirements in relation to access to information in contracts with water and sanitation operators?

See answer to questions 1 to 5 above.

H. Public participation (SDG 6.5.1, 6.b)

1. Is there a law/policy which addresses public participation?

Yes. Article 2(a) of the [Environmental Law of Costa Rica](#) provides that the State and the individuals must participate in the sustainable preservation of the environment, described as a common heritage of all the inhabitants of Costa Rica”.

Article 1 of [Law 8861](#) similarly provides that “people living in the Republic have the right to participate actively and consciously, in the decision-making process whose purpose is to protect and improve the environment. The State, municipalities and other public institutions have the duty to guarantee this right and to promote its effective enforcement.”

2. What are the criteria listed in the law/policy in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?

Article 7 of the [Environmental Law of Costa Rica](#) provides for the formation of “Regional Environmental Councils” under the umbrella of the Ministry of Environment and Energy. The Councils are decentralized, regional bodies, created with the participation of civil society for the analysis, discussion and control of environmental activities, programs and projects. These councils shall promote—through activities, programs and projects—citizen participation in the analysis and discussion of environmental policies affecting the corresponding regions.

For projects that may have an environmental impact, Article 22 of the [Environmental Law of Costa Rica](#) provides that “persons, natural or legal, public or private, shall have the right to be heard by the National Environmental Technical Secretariat at any stage of the evaluation process and at the operational stage of the work or project. The comments of interested parties will be included in the file and assessed for the final report. Within five working days following receipt of an environmental impact assessment, the National Environmental Technical Secretariat shall send an extract of it to the municipalities in whose jurisdiction the work, activity or project will be carried out. It will also give extensive publicity, by the mass media, to the list of studies submitted for consideration”.

Consistently, Article 58 of the [General Regulation on Environmental Impact Assessment Proceedings](#) allows the participation of communities in public hearings related to projects that require environmental assessment.

3. Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the applicable services are delivered?

No information found on specific obligations under contracts between governmental authorities and operators. Nonetheless, Article 22 of the [Environmental Law of Costa Rica](#) permits public participation in feasibility stages and even during the operational phase of projects that may cause environmental impact.

4. **Is the establishment of an IWRM mechanism including regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?**

Costa Rica has undertaken the [Sixaola River Binational Watershed IWRM program](#) to improve the water management in the Sixaola River Basin shared with Panama. Under that program, the Ministry of Environment and Energy (MINAEC) and the Ministry of National Planning and Economic Policy (MIDEPLAN) of Costa Rica, and the Ministry of Economy and Finance (MEF), and the Ministry of Environment (MIAMBIENTE) of Panama, will invest more than \$4.3 million over four years to improve the governance of the Basin and water management.

[The Sixaola project](#) includes a wide range of protected areas and will make possible to use water, soil and natural resources in the watershed, without putting natural resources at risk.

Lastly, this project has funding from the Global Environment Facility and executed by the Organization for Tropical Studies.

I. Sustainability (SDG 6.4, 6.5, 6.6)

1. **How does legislation/policy ensure that water and sanitation services are delivered in an improved and sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations?**

Costa Rica has recently updated its constitution to enshrine accessible drinking water as a basic human right and that all persons have the right to a healthy and ecologically balanced environment under Article 50.¹¹⁵

Costa Rica also has its Law for Integrated Water Resources Management that aims to increase cooperation and incorporation of innovative mechanisms for water efficiency, wastewater management, climate change mitigation and conservation of the natural ecosystem.¹¹⁶

2. **How does legislation/policy ensure that water and sanitation services are delivered in a sustainable manner to rural and deprived urban areas?**

Water services in Costa Rica are provided exclusively by AyA. The Rural Works Department of AyA is responsible for providing support to water and sanitation associations in rural communities. Both public service and sustainability efforts are enshrined in law: Constitution and Water Law.

3. **How does the legislation/policy ensure that delivery of water and sanitation services are delivered?**

This information is not readily available online.

¹¹⁵

<https://www.constituteproject.org/constitution/Costa Rica 2020?lang=en>.

¹¹⁶

<https://www.gefcrow.org/index.php/participating-countries/costa-rica>

J. Accountability / Remedies and complaint procedures

1. **Are there remedies provided by law/regulations to file complaints or other ways of accessing justice in reference to water, sanitation and a healthy environment? Who may file them? Are the decisions appealable?**

[Article 50 of the Costa Rican Constitution](#) provides that every person is “entitled to denounce any acts that may infringe the said right and claim redress for the damage caused” with respect to the right to “a healthy and ecologically balanced environment.”¹¹⁷

The 1995 Organic Law on the Environment established the Environmental Administrative Tribunal, which has “exclusive jurisdiction over cases concerning alleged violations of environmental legislation or the legislation on the protection of natural resources (including the General Health Law and the Water Law) caused by any act or omission of a public or private entity.” The decisions of the Tribunal cannot be appealed.¹¹⁸

2. **Are there possibilities for financial assistance for legal counsel in cases concerning water, sanitation and a healthy environment?**

This information is not readily available online.

3. **Who monitors water & sanitation service providers?**

Pursuant to the General Health Law (Law No. 5395 of 1973), the Ministry of Health monitors the effective implementation of

regulatory measures on water quality by water suppliers.¹¹⁹

Additionally, the Regulatory Authority for Public Services (ARESEP) implements technical regulations designed to ensure the efficiency and quality of services provided by the water operators, while also monitoring compliance with regulations via technical inspections.¹²⁰

The Ombudsman’s Office (Defensoría de los habitantes) has “the general responsibility of investigating, either on own initiative or at the request of a party, complaints concerning alleged human rights violations by public authorities through administrative acts or omissions in the exercise of administrative functions,” which include complaints concerning water and sanitation.¹²¹

4. **Is there a possibility to appeal against decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**

There appears to be the possibility to appeal if the complaint is brought in national courts (e.g., the Constitutional Court) and the complaint pertains to the protection of fundamental rights in the Constitution or in international human rights treaties signed and in force in Costa Rica.¹²² However, the decisions of the Environmental Administrative Tribunal are not appealable.¹²³

5. **Are there any protective mechanisms to ensure that there is a safe and enabling environment in which individuals, groups**

¹¹⁷ [Costa Rica 1949 \(rev. 2020\) Constitution - Constitute \(constituteproject.org\)](#).

¹¹⁸ [Microsoft Word - 0914363.doc \(ohchr.org\)](#).

¹¹⁹ [Microsoft Word - 0914363.doc \(ohchr.org\)](#).

¹²⁰ [Microsoft Word - 0914363.doc \(ohchr.org\)](#).

¹²¹ [Microsoft Word - 0914363.doc \(ohchr.org\)](#).

¹²² [Constitutional Court orders AyA to take over water management in Santa Ana of Nicoya due to irregularities in the ASADA \(vozdeguanacaste.com\)](#).

¹²³ [Microsoft Word - 0914363.doc \(ohchr.org\)](#).

and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence?

This information is not readily available online.

6. **Is there any legislation to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters?**

Article 19 of the Universal Declaration of Human Rights and Article 13 of the American Convention on Human Rights recognizes the right to freedom of thought and expression.¹²⁴

Under these international conventions, protection is also afforded to human rights defenders to assemble peacefully and to disseminate information about human rights and draw attention to whether they are observed in practice.¹²⁵

CHAPTER 5. JUDICIARY SYSTEM

A. Preliminary questions

1. **What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?**

Costa Rica has a monist system which depends on a strictly hierarchical order and in which the norms of domestic law are subordinate to those of international law. Regarding treaties on international human rights, Article 7 of the Political Constitution of Costa Rica states as follows: “public treaties and international instruments duly approved by the Legislative Assembly, upon their enactment, will have prevalence over domestic law”.

2. **What is the hierarchical structure of the legal system?**

Under Article 6 of [the Public Administration Law](#), the hierarchical structure of the legal system is as follows:

- (a) Political Constitution
- (b) International treaties and norms of the Central American Community

- (c) Laws and other acts having the value of law
- (d) Decrees of the Executive Power regulating laws
- (e) The other regulations of the Executive, the Bylaws and the regulations of decentralized bodies
- (f) Other rules subordinate to central and decentralized regulations.

3. **Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?**

Costa Rica signed the American Convention on Human Rights “Pact of San Jose” on November 22, 1969 and ratified it on March 2, 1970. Moreover, Costa Rica is one of the States that has accepted the Contentious Jurisdiction of the Inter-American Court of Human Rights.

B. Remedies and complaint procedures/accountability

4. **Are there remedies provided by law to file complaints or other ways of accessing justice in reference to water and sanitation**

¹²⁴ A-HRC-25-53-Add1 fr.doc (live.com).

¹²⁵ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote

and Protect Universally Recognized Human Rights and Fundamental Freedoms, arts. 5, 6 and 8.

and a healthy environment? Who may file them? Are the decisions appealable?

This is a twofold answer:

At the local level, access to drinking water is a fundamental right and every citizen has the right to turn to national courts through an *amparo* action (article 48 of the [Political Constitution of Costa Rica](#), and article 29 of the [Law on Constitutional Jurisdiction](#)). Decisions at the local level, regarding fundamental rights are appealable.

At the international level, citizens can turn to human rights bodies in the region. Namely, the Office of the United Nations High Commissioner for Human Rights (it has a field office in Costa Rica) or to the Inter-American Commission on Human Rights

5. Are such complaint procedures required to be provided in conformity with human rights principles (such as non-discrimination, equity)?

Yes. Legal procedures in Costa Rica and decisions rendered by both administrative and judicial bodies shall be in accordance with the Political Constitution and the International Treaties to which Costa Rica is a party.

6. Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation or access to a healthy environment?

In Costa Rica, there is no obligation at the legal or constitutional level to provide financial aid for legal assistance in cases concerning water. Nonetheless, Article 41 of the [Political Constitution](#) states: "Everyone shall be entitled to receive reparation for injury or damage caused to themselves or to their property or moral interests, through recourse to the laws. Justice shall be prompt, effective, not denied, and in strict accordance with the laws".

The Public Defender of Costa Rica is a subsidiary body of the Administration of Justice, within the judiciary. The institution's legal rules are set out in the [Law on Judiciary Power](#). Public Defenders provide free representation in criminal and family matters for Costa Rican citizens who lack financial resources to hire a private lawyer.

7. Who monitors the administrative level bodies and/or service providers?

As mentioned in the regulation chapter of this report, the institutions in charge of regulating and overseeing the provision of public services are:

- (a) [The Public Utilities Regulatory Authority \(ARESEP\)](#)
- (b) The Ministry of Energy, Environment and Telecommunications
- (c) The Ministry of Health and;
- (d) The Institute of Aqueducts and Sewers

Notably, the Public Utilities Regulatory Authority is the superior body when it comes to regulation of public utilities (including water) in Costa Rica. This public body oversees water service providers and is in charge of, among others, setting and approving tariffs.

8. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?

Article 9 of Law 7593 establishes that service providers are private or public legal persons that obtain a permit or concession to provide public services. In line with this regime, there is no appeal against the decisions of service providers. Nonetheless, the Regulatory Authority shall process, [investigate and resolve](#), in accordance with the administrative procedures established in the General Law on Public Administration, any complaint regarding the provision of public services regulated by law. Public

service providers and public institutions are required to provide the Regulatory Authority with the necessary collaboration to fulfill this function ([article 27 of Law 7593](#)).

Decisions rendered by the Regulatory Authority are subject to appeal at the administrative level as explained in the following answer.

9. What remedies are available at an administrative level?

The decisions issued by the Regulatory Authority –as a public body- are subject in the first instance to an action by the affected person before the Intendant of the Regulatory Authority. In case the decision is not in favour of the applicant, it then can raise an action, against the same decision, before the board of directors of the [Regulatory Authority](#).

10. Who monitors these administrative level bodies?

See answer 7 above. In any case, the Regulatory Authority must act within the limits set forth by the Political Constitution and the corresponding laws and regulations.

11. Are such administrative bodies legally independent entities according to the law?

Yes. Article 57(a) (1) of [Law 7593](#) states that one of the main duties of the regulatory authority is to ensure its independence, effectiveness and credibility.

12. Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social or cultural rights?

Courts in Costa Rica may rule on economic, social and cultural rights as they are established in the Political Constitution and in various international treaties to which Costa is a party.

13. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to water, sanitation and a healthy environment? Is there any existing case law?

The Costa Rica's Judicial Branch is made up of the Supreme Court, Appellate courts and Trial Courts, which administer justice. Both, Trial and Appellate Courts have administrative law chambers. For its part, the Supreme Court has a chamber (Sala Primera) that has jurisdiction over all civil and administrative matters (including water, sanitation and environmental issues).

[The Administrative Procedural Code](#) sets forth the administrative procedures that must be adhered to by the Costa Rican government and the Court procedures to be followed to review administrative decisions.

More than specific case law, when it comes to environmental matters Costa Rican courts have addressed landmark cases related to:

- Water use concessions in Monteverde, Nimboyores, Sardinal, Barva de Heredia.
- Conflicts over the supply of drinking water to population
- Illegal groundwater extraction
- Invasion of wetlands and mangroves by agricultural and other activities in the region of Cano Negro, Terraba-Sierpe and Caletas.

14. Provide a brief overview of the judicial procedure involving a human rights violation case.

The Costa Rican Constitution has two primary functions: (i) to establish the government and the scope of its powers and (ii) to recognize the fundamental human rights of individuals and the constitutional procedure to enforce them.

A violation of human rights in Costa Rica, amounts to a violation of constitutional fundamental rights. The principle of constitutional supremacy is essentially materialized when *habeas corpus* o *amparo* remedies are raised.

The *habeas corpus* derives from Article 48 of the Constitution, which guarantees personal liberty and humane treatment. This implies that no one, without just cause, may be deprived of the freedom to move, remain in, enter, or leave the country. Any individual may file a writ of habeas corpus without the assistance of a legal advisor or attorney. It may also be filed on one's own behalf or on behalf of another person.

The *amparo* remedy also derives from Article 48 of the Constitution which affirms the right of all people to use this remedy to maintain or reinstate enjoyment of other rights (except that of personal liberty protected by habeas corpus), set forth in the Constitution. One does not require the assistance of an attorney to file a *writ of amparo*. The distinguishing feature of this remedy is that it can be filed among private parties, as long as one holds a position of superiority.

15. Is there a Constitutional /Supreme Court? Are cases heard as the last appeal or may cases be referred directly?

The Supreme Court of Justice is the highest court of the judiciary. Nonetheless, there is also a Constitutional Court in Costa Rica.

The chambers of the Supreme Court hear of cassation cases previously resolved by Courts of Appeals. Whereas the Constitutional Court is in charge of protecting and preserving the principle of constitutional supremacy whereby no rule, treaty, regulation, or law within our legal order may be contrary to the Constitution, likewise it has jurisdiction over matters than involve the Political Constitution and the violation of constitutional rights.

16. Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies (with reference to water, sanitation and the environment)?

Article 1 of the [Law on Constitutional Jurisdiction](#) and Article 48 of the [Political Constitution](#) fully integrate international treaties on human rights into Costa Rican legislation. Thus, all authorities and domestic courts shall apply and take into consideration the provisions of the international treaties on human rights to which Costa Rica is party when issuing their rulings.

It is crucial to mention that Article 7 of the [Political Constitution](#) expressly provides that international treaties duly approved by the congress shall have upon their ratification, higher authority than domestic laws.

17. Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?

Article 1 of the [Political Constitution](#) establishes that Costa Rica is a democratic, free, independent, multi-ethnic and multicultural republic. Consistent with this constitutional principle, Article 6 of [Law 9593 of 2008 on access to justice for indigenous peoples of Costa Rica](#) provides for in favor of indigenous communities the right to have an interpreter and translator paid by the State. The judiciary shall facilitate, at no cost, the assistance of interpreters and translators in all proceeding involving an indigenous person who requires this assistance and cannot cover the costs. Interpreters of the same gender shall assist indigenous women.

18. Have domestic courts applied (or referenced) recommendations of national

human rights institutions?

Yes. [The United Nations Special Rapporteur on the rights of indigenous peoples of 2022](#) highlighted the efforts of Costa Rica by saying: “During my visit, I was able to analyse the progress made following the implementation of some of the recommendations proposed by my predecessor during his visit in 2011. I have also considered the recommendations issued by treaty bodies and other international and regional human rights mechanisms. I would like to highlight Costa Rica’s commitment to implementing the recommendations, and I am confident that the recommendations in my report to the Human Rights Council in September 2022 will constitute a road map for the incoming government, allowing for continuity of the efforts made to date by the current administration”.

Further, it stressed that: “At the international level, Costa Rica has played a crucial role in the protection and promotion of human rights and continues to play a role in the development of international environmental policy. An example of this is Costa Rica's role in the core group proposing the recent resolution adopted at the Human Rights Council on the human right to a safe, clean, healthy and sustainable environment”.

Much of the work of the government of Costa Rica in recent years, using recommendations of human rights institutions has concerned environmental issues, including the constitutional right to a healthy and ecologically balanced environment.

C. National human rights institutions**1. Is there an independent national human rights institution?**

[La Defensoria de los Habitantes (DHR) or the

Office of the Ombudsman of the Republic of Costa Rica.]

2. Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social and cultural rights?

Yes.

3. Is the national human rights institution authorized to receive and adjudicate complaints of violations of human rights to water, sanitation and a healthy environment?

The Defensoria de los Habitantes can receive complaints but it is not entitled to adjudicate.

4. Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?

[The scope of the DHR’s action is the public sector. It has no competence to intervene in matters between private subjects.]

5. What type of remedies does the national human rights institution have the authority to impose?

[This information is not readily available online.]

6. Is the institution allowed to initiate investigations/hearings?

[Yes.]

7. Does the national human rights institution have the authority to monitor how remedies for violations of rights to water, sanitation and a healthy environment are implemented by governmental authorities, service providers or other agencies/entities?**8. Yes, the Defensoria de los Habitantes monitors and has held water services providers accountable to address and solve problems related to access to drinking water.**

D. Regulation

1. Is there a water regulator established by law?

The institutions in charge of regulating and overseeing the provision of public services are:

- (e) [The Public Utilities Regulatory Authority \(ARESEP\)](#)
- (f) The Ministry of Energy, Environment and Telecommunications
- (g) The Ministry of Health and;
- (h) The Institute of Aqueducts and Sewers

2. Is the water regulator an independent entity?

Yes, Article 57 of [Law 7593](#), provides that one of the main functions of the regulatory authority is to ensure the independence, effectiveness and credibility of the Regulatory Authority and its organs, as well as to carry out the necessary to strengthen them”.

3. What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?

According to Article 5 (C) of [Law 7593](#), the regulator shall fix prices and tariffs: in addition, it shall ensure compliance with the standards of quality, quantity, reliability, continuity, opportunity and adequate performance. These prerogatives of the regulator apply with respect to the provision of the aqueduct and sewerage service, including drinking water, collection,

treatment and disposal of sewage and storm water, as well as installation, operation and maintenance of the hydrant service.

As per Article 6 of [Law 7693](#), the regulator’s responsibilities are the following:

- (a) To regulate and audit public service providers financially and technically as well as to verify the correct handling of the factors that affect the costs of the service.
- (b) To carry out technical inspections of the properties, plants and equipment intended to provide the public service.
- (c) To ensure compliance by regulated companies with tax obligations, payments of social charges and compliance with labor law.
- (d) To fix rates and prices in accordance with technical studies.
- (e) To address complaints and resolve any issues that fall within the scope of its competence.
- (f) Any other obligation stated in the corresponding legislation.

ANNEX 1: TARGETS AND INDICATORS OF SDG 6

TARGET	INDICATOR (CUSTODIAN AGENCIES)
6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all	6.1.1 Proportion of population using safely managed drinking water services (World Health Organization (WHO)/United Nations Children's Fund (UNICEF))
6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations	6.2.1a Proportion of population using safely managed sanitation services (WHO/UNICEF) 6.2.1b Proportion of population using a handwashing facility with soap and water available (WHO/UNICEF)
6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally	6.3.1 Proportion of wastewater safely treated (WHO/United Nations Human Settlements Programme (UN-Habitat)/United Nations Statistics Division (UNSD)) 6.3.2 Proportion of bodies of water with good ambient water quality (United Nations Environment Programme/UNSD)
6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity	6.4.1 Change in water-use efficiency over time (Food and Agriculture Organization of the United Nations (FAO)) 6.4.2 Level of water stress: freshwater withdrawal as a proportion of available freshwater resources (FAO)
6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate	6.5.1 Degree of integrated water resources management implementation (0–100) (United Nations Environment Programme) 6.5.2 Proportion of transboundary basin area with an operational arrangement for water cooperation (United Nations Educational, Scientific and Cultural Organization (UNESCO)/United Nations Economic Commission for Europe (UNECE))
6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes	6.6.1 Change in the extent of water-related ecosystems over time (United Nations Environment Programme/Ramsar Convention)
6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies	6.a.1 Amount of water- and sanitation-related official development assistance that is part of a government-coordinated spending plan (WHO/United Nations Environment Programme/Organization for Economic Co-operation and Development (OECD))
6.b Support and strengthen the participation of local communities in improving water and sanitation management	6.b.1 Proportion of local administrative units with established and operational policies and procedures for participation of local communities in water and sanitation management (WHO/United Nations Environment Programme/OECD)

Source: Sustainable Development Goal 6 - Synthesis Report on Water and Sanitation (2018), Table 1

ANNEX 2: The human rights to water and sanitation and the right to a healthy environment compared

Table 1: Comparison of the human rights principles

Principles of the Human Right to a Healthy Environment (from Framework Principles)	Principles of the Human Rights to Water and Sanitation (from General Comment No.15)
Human Rights	
Principle 1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.	<p>GC 1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.</p> <p>GC 20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.</p>
Sustainable environment	
Principle 2. States should respect, protect and fulfil human rights in order to ensure <u>a safe, clean, healthy and sustainable environment</u>	<p><i>Respect:</i> GC 21: The obligation to <i>respect</i> requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; <u>unlawfully diminishing or polluting water</u>, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.</p> <p><i>Protect:</i> GC 23. The obligation to <i>protect</i> requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the</p>

	<p>necessary and effective legislative and other measures to restrain, <u>for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.</u></p> <p><i>Fulfill:</i> GC26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. ... and facilitating improved and <u>sustainable access to water, particularly in rural and deprived urban areas.</u></p> <p>GC.11. The manner of the realization of the right to water must also be <u>sustainable, ensuring that the right can be realized for present and future generations.</u></p>
Non-Discrimination	
Principle 3. States should <u>prohibit discrimination</u> and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.	GC. 15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and <u>to prevent any discrimination</u> on internationally prohibited grounds in the provision of water and water services.
Safety and freedom of expression	
Principle 4. States should provide <u>a safe and enabling environment</u> in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence	GC, 44,b Violations of the obligation to protect follow from the failure of a State to <u>take all necessary measures to safeguard persons</u> within their jurisdiction from infringements of the right to water by third parties.
Principle 5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.	

Public Awareness and education	
Principle 6. States should provide for <u>education and public awareness on environmental matters.</u>	<p>GC, 25. The obligation to fulfil can be disaggregated into the obligations to facilitate, promote and provide. The obligation to promote obliges the State party to take steps to ensure that there is <u>appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.</u></p> <p>Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to “To ensure that <u>all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation.</u>”</p>
Access to Information	
Principle 7. States should provide <u>public access to environmental information</u> by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.	GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. <u>Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</u>
Accountability	
Principle 8. To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.	56. Before any action that interferes with an individual's right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed

	<p>actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies</p> <p>GC 24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment.</p>
Public Participation	
<p>Principle 9. States should provide for and facilitate <u>public participation in decision-making related to the environment</u> and take the views of the public into account in the decision-making process.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. <u>The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water.</u> Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</p>
Remedies	
<p>Principle 10. States should provide for <u>access to effective remedies for violations</u> of human rights and domestic laws relating to the environment</p>	<p>55. Any persons or groups who have been denied their right to water should have <u>access to effective judicial or other appropriate remedies</u> at both national and international levels</p>
Standards and Indicators	
<p>Principle 11. States should establish and maintain <u>substantive environmental standards</u> that are non-discriminatory,</p>	<p>53. To assist the monitoring process, <u>right to water indicators should be identified in the national water strategies or plans of action.</u> The</p>

non-retrogressive and otherwise respect, protect and fulfil human rights.	indicators should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1, and 12. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control.
Violations	
Principle 12. States should ensure the effective enforcement of their environmental standards against public and private actors.	GC 55. All victims of violations of the right to water should be <u>entitled to adequate reparation</u> , including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.
International Cooperation	
Principle 13. States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.	GC 30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the right to water. GC 38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations indicated in paragraph 37 above.
Non-Discrimination	
Principle 14. States should take additional measures to <u>protect the rights of those who are most vulnerable to, or at particular risk from, environmental</u>	16. Whereas the right to water applies to everyone, States parties should give <u>special attention to those individuals and groups who have traditionally faced difficulties in exercising</u>

<p><u>harm</u>, taking into account their needs, risks and capacities.</p>	<p><u>this right</u>, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees.</p>
<p>Principle 15. States should ensure that they <u>comply with their obligations to indigenous peoples</u> and members of traditional communities, including by:</p> <ol style="list-style-type: none"> Recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used. Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources. Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories, and resources. (d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories, or resources. 	<p>GC 7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No.12 (1999)). Attention should be given to <u>ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology</u>. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is <u>adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples</u>.</p> <p>GC 16 (d) 16... In particular, States parties should take steps to ensure that:</p> <p>...(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status; (d) <u>Indigenous peoples’ access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;</u> (e) Nomadic and traveler communities have access to adequate water at traditional and designated halting sites; (f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in</p>

	<p>camps or in urban and rural areas. Refugees and asylum-seekers should be granted the right to water on the same conditions as granted to nationals;</p>
Sustainability	
<p>Principle 16. States should respect, protect and fulfil human rights in the actions they take to <u>address environmental challenges and pursue sustainable development.</u></p>	<p>11. The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of <u>the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.</u></p> <p>26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; <u>and facilitating improved and sustainable access to water,</u> particularly in rural and deprived urban areas.</p>