



# Assemblée générale

Distr. générale  
2 juillet 2012  
Français  
Original: anglais

## Conseil des droits de l'homme

### Vingt et unième session

Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme,  
civils, politiques, économiques, sociaux et culturels,  
y compris le droit au développement**

## **Rapport de la Rapporteuse spéciale sur le droit à l'eau potable et à l'assainissement, Catarina de Albuquerque**

### **Additif**

### **Mission en Uruguay (du 13 au 17 février 2012)\***

#### *Résumé*

Du 13 au 17 février 2012, la Rapporteuse spéciale sur le droit à l'eau potable et à l'assainissement a effectué une mission officielle en Uruguay pour évaluer la réalisation des droits à l'eau et à l'assainissement.

Dans le présent rapport, la Rapporteuse spéciale présente dans les grandes lignes les cadres juridiques et institutionnels nationaux et internationaux relatifs à l'application des droits à l'eau et à l'assainissement en Uruguay. Elle livre ensuite une évaluation générale de la jouissance de ces droits, examinant en particulier les questions relatives à l'accessibilité sur les plans physique et financier et mettant tout particulièrement l'accent sur les groupes les plus vulnérables. Elle se penche également sur l'application des droits dans les institutions publiques, notamment dans le centre de détention pour mineurs de Colonia Berro. Elle fait également part de préoccupations quant aux répercussions que pourraient avoir des projets d'investissement de grande envergure sur la quantité et la qualité de l'eau. Elle souligne qu'il importe de surveiller l'application de ces droits en garantissant l'obligation de rendre des comptes et l'accès à des voies de recours efficaces. Enfin, elle formule des recommandations à l'intention du Gouvernement concernant l'application des droits à l'eau et à l'assainissement.

\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit, joint en annexe, est distribué dans la langue originale et en espagnol seulement.

## Annexe

[English and Spanish only]

### **Report of the Special Rapporteur on the human right to safe drinking water and sanitation on her mission to Uruguay (13 to 17 February 2012)**

#### Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–9	3
II. Legal and institutional frameworks.....	10–30	5
A. Legal framework .....	10–18	5
B. Institutional framework .....	19–30	7
III. The rights to water and sanitation .....	31–51	10
A. Accessibility .....	31–37	10
B. Affordability .....	38–40	12
C. Vulnerable groups .....	41–51	13
IV. Large-scale investment projects.....	52–55	16
V. Conclusions and recommendations.....	56–57	17

## I. Introduction

1. From 13 to 17 February 2012, the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, conducted a mission to Uruguay. The purpose of the mission was to assess the way in which the State implements the rights to water and sanitation.

2. The mandate holder would like to thank the Government of Uruguay for the invitation and the excellent cooperation demonstrated before, during and after the mission. The Special Rapporteur was honoured to be received by the Minister for Foreign Affairs, the Minister for Social Development, the Minister for Public Health, the Minister for Housing, Land Management and Environment, the Minister for Livestock, Agriculture and Fisheries and the Minister for Education and Culture. She also met with technical representatives of some of the aforementioned ministries. Meetings were also held with representatives of the National Parliament, the Regulatory Authority for Energy and Water Services (Unidad Reguladora de Servicios de Energía y Agua, URSEA), service providers such as the State Sanitary Works (Obras Sanitarias del Estado, OSE) and the Municipality of Montevideo, United Nations agencies and funds, cooperation agencies and non-governmental organizations, as well as with academics. The Special Rapporteur thanks the United Nations Country Team and the Resident Coordinator for their support to the mission. She was particularly grateful to meet with individuals who face challenges in their access to water and sanitation and thanks them for their openness and frankness in the dialogue with her.

3. The Special Rapporteur visited informal settlements in Montevideo, such as Malvín Norte, Casavalle, Borro and Casabo. She also visited other locations in the country, such as the regions of Maldonado and Canelones, as well as a wastewater treatment plant in Ciudad de la Costa and a drinking-water plant in Maldonado. During the visit, the Special Rapporteur also assessed the situation of the rights to water and sanitation of children in the Colonia Berro juvenile detention centre.

4. The key themes of the visit were the accessibility and affordability of water and sanitation for personal and domestic uses in all spheres of life. These included an analysis of homeless people, as well as people in detention centres, informal settlements and/or rural areas. The Special Rapporteur also devoted attention to possible impacts of large-investment projects on water quantity and quality for present and future generations. Another theme was the importance of monitoring the implementation of the rights to water and sanitation, as well as accountability and access to effective remedies for cases of violations of these rights.

5. The population of Uruguay—over 3 million inhabitants—is mainly urban. Metropolitan Montevideo accounts for almost half of the country's population, with about 1.6 million inhabitants. Despite financial difficulties in the late 1990s and early 2000s, economic growth in Uruguay averaged 8.5 per cent in 2010.<sup>1</sup> The country is on track to meet the Millennium Development Goals.<sup>2</sup> Since the economic crisis that hit the country in 2002, poverty and extreme poverty have been reduced. Poverty figures dropped from 29.6 per cent in 2004 to 12.6 per cent in 2010, and extreme poverty was also reduced, from 4.6

---

<sup>1</sup> World Bank, "GDP growth (annual %)", available from <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/1W-UY?display=default>.

<sup>2</sup> Economic Commission for Latin America and the Caribbean (ECLAC), Millennium Development Goals: Country Profiles – Uruguay, available from [http://interwd.cepal.org/perfil\\_ODM/perfil\\_pais.asp?pais=URY&id\\_idioma=2](http://interwd.cepal.org/perfil_ODM/perfil_pais.asp?pais=URY&id_idioma=2).

per cent in 2004 to 1.1 per cent in 2010.<sup>3</sup> Net enrolment ratio in primary education was 99.5 per cent in 2009. Regarding maternal health, the proportion of births attended by skilled health personnel was already 99.6 per cent in 1999.<sup>4</sup>

6. In terms of water supply and sanitation, the latest data indicate that 98.1 per cent of the population in urban areas has access to water, the rate for the city of Montevideo being 99.6 per cent. In other locations with 5,000 inhabitants or more, the rate was 97.8 per cent, while in small locations it was 94.2 per cent.<sup>5</sup> In urban areas, the percentage of households with access to a sewage system was 59.3 per cent (but not all are connected); the remaining 40.7 per cent have access to sanitation through other means, such as cesspools or septic tanks. Sanitation coverage through a sewage system is broader in the city of Montevideo (85.7 per cent) than in areas with 5,000 or more inhabitants (46.9 per cent) or in smaller urban areas (21.8 per cent).<sup>6</sup>

7. Uruguay has one of the highest rates of access to safe drinking water in Latin America and the Caribbean and has also achieved considerable rates of access to sanitation. In Uruguay, a sewage system has traditionally been perceived as the ideal (if not the sole) solution as regards assuring access to sanitation. Despite the good results achieved in terms of use of improved sanitation facilities,<sup>7</sup> a considerable part of the population is still not connected to the sewage system. The latest legal developments have recognized alternative forms of sanitation, however there remains an implementation gap, and the Special Rapporteur still encountered a perception that a sewage system is the ideal form of sanitation.

8. The legal framework regulating access to water and sanitation in the country is advanced. However, the existence of policy gaps hinders its implementation. The institutions in charge of monitoring and controlling compliance of this legal framework, namely, the National Water Directorate (Dirección Nacional de Aguas–DINAGUA), the National Environment Directorate (Dirección Nacional de Medio Ambiente–DINAMA) and URSEA do not have the human and financial resources necessary to implement their mandates, for instance, to ensure independent assessments of activities that can impair the enjoyment of the rights to water and sanitation.

9. Despite achievements in ensuring access to water and sanitation for the population as a whole, some sectors of the society remain left behind. The poorest in the country, people living in informal settlements, the homeless and people under the custody of the State, especially children and adolescents deprived of their liberty, still face several challenges regarding access to or the quality or affordability of services, impairing their enjoyment of these fundamental rights.

<sup>3</sup> Uruguay, Ministry of Social Development, *Reporte Social 2011: Principales Características del Uruguay Social* (2012), pp. 37-39.

<sup>4</sup> ECLAC, Millennium Development Goals.

<sup>5</sup> Uruguay, Instituto Nacional de Estadística, *Principales resultados 2010: Encuesta Continua de Hogares*, p. 27. Available from [www.ine.gub.uy/biblioteca/Encuesta%20Continua%20de%20Hogares/Publicaci%C3%B3n%20Principales%20Resultados%202010.pdf](http://www.ine.gub.uy/biblioteca/Encuesta%20Continua%20de%20Hogares/Publicaci%C3%B3n%20Principales%20Resultados%202010.pdf).

<sup>6</sup> *Ibid.*, p. 29.

<sup>7</sup> See WHO/UNICEF, Joint Monitoring Programme for Water Supply and Sanitation. The number of people in Uruguay using improved sanitation facilities increased from 3,199,000 in the year 2000 to 3,366,000 in 2010. Available from [www.wssinfo.org/data-estimates/table/](http://www.wssinfo.org/data-estimates/table/).

## II. Legal and institutional frameworks

### A. Legal framework

#### 1. International obligations

10. Uruguay has ratified most core international human rights instruments.<sup>8</sup> It has started the process for ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. In the Inter-American System, Uruguay is party to the American Convention on Human Rights and to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). These treaties do not make explicit reference to the human rights to water and sanitation,<sup>9</sup> however, it is a precondition for the effective exercise of a number of other human rights, including the right to life, the prohibition of torture and other forms of cruel, inhuman or degrading treatment, the right to an adequate standard of living, the right to health, the right to education, the right to adequate housing and the right to food.

11. The human right to safe drinking water and sanitation derives from the right to an adequate standard of living, which is protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the International Covenant on Economic, Social and Cultural Rights. In 2010, this right was also recognized by the General Assembly, in its resolution 64/292, which enjoyed the support of Uruguay, and by the Human Rights Council, in its resolution 15/9, which was adopted without a vote. The Special Rapporteur welcomes the support of Uruguay for the adoption of such ground-breaking resolutions.

12. Eight years before the adoption of the above-mentioned resolutions, the Committee on Economic, Social and Cultural Rights had defined the legal basis of the right to water as “entitl[ing] everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking and personal and domestic hygienic requirements”.<sup>10</sup>

13. The same Committee also reaffirmed that “since sanitation is fundamental for human survival and to enabling humans to lead a life in dignity ... the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in article 11 of the International Covenant on Economic, Social and Cultural Rights”.<sup>11</sup> The Committee has further asserted that States must ensure that everyone, without discrimination, has

<sup>8</sup> The International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>9</sup> Some explicit references to safe drinking water and sanitation are found in article 14 of the Convention on the Elimination of All Forms of Discrimination against Women and article 24 of the Convention on the Rights of the Child.

<sup>10</sup> General comment No. 15 (2002) on the right to water, para. 2.

<sup>11</sup> Statement on the right to sanitation (E/C.12/2010/1), para. 7.

physical and affordable access to sanitation, “in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity”.<sup>12</sup>

14. The rights to water and sanitation must be progressively realized to the maximum of available resources, meaning that a State must take concrete and targeted steps towards ensuring universal access to water and sanitation, prioritizing the poor and most vulnerable. Any retrogressive measure is presumed to be a violation of those human rights unless fully justified by the State.<sup>13</sup> There must be opportunities for meaningful participation in decision-making, as well as transparency and access to information, and accountability mechanisms must be established to address cases in which these rights are violated.

15. Ratification of a human rights treaty and its incorporation into national law are not enough to ensure a practical implementation of international human rights law; the State must also review its domestic legislation in order to harmonize it with the treaties that have been ratified. The practical implementation of international human rights law is also related to knowledge and awareness-raising among legal professionals; it is therefore important to implement training programmes on human rights for legal professionals, on international human rights law in general, but especially on economic, social and cultural rights, such as the rights to water and sanitation.

## 2. National legal framework

16. Uruguay was the first country in the world to recognize the rights to safe drinking water and sanitation at the domestic level. The 1967 Constitution of Uruguay was amended in 2004 to recognize that access to safe drinking water and to sanitation constitute fundamental human rights.<sup>14</sup> The Constitution also determines that the national policy on water and sanitation should afford priority to the provision of safe drinking water to the population (art. 47, para. 1 (c)) and that social grounds must prevail over economic grounds (art. 47, para. 1 (d)). The same article also establishes that civil society must participate at all levels of planning and control of water resources (art. 47, para. 1 (b)); and that those services will be provided exclusively and directly by State legal entities (art. 47, para. 3). The Special Rapporteur notes with satisfaction that the Constitution provides a sound legal basis for guiding public action to comply with the obligations on the human rights to water and sanitation. Furthermore, the Special Rapporteur notes the important role civil society played in promoting the referendum towards achieving this legal recognition. In the 2004 referendum, 64.61 per cent of the population voted for the recognition of water and sanitation as human rights and for their exclusive provision by the State.<sup>15</sup>

17. The National Water Policy (Law No. 18.610 of 2009) establishes the basis for a national water law, which should build on concepts such as sustainability, integrated and decentralized management of water resources, efficiency in the use of resources, and social participation, among others. The National Water Policy provides for the creation of the National Water, Environment and Land Council (Consejo Nacional de Agua, Ambiente y Territorio), as part of the Ministry of Housing, Land Management and Environment, with the aim of developing a national water resources management plan and a comprehensive

<sup>12</sup> Ibid., para. 8.

<sup>13</sup> Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties obligations, para. 9.

<sup>14</sup> Article 47 states, inter alia:

“El agua es un recurso natural esencial para la vida.

“El acceso al agua potable y el acceso al saneamiento, constituyen derechos humanos fundamentales.”

<sup>15</sup> Corte Electoral, Estadísticas por Lema (2004), available from [www.corteelectoral.gub.uy/nacionales20041031/SSPConsulta.asp?TipoCons=P&Acto=20041031&Org=42&Dpto=&Escrut=D&Circ=V&CantPorc=C&Lema=56&Cargo=2](http://www.corteelectoral.gub.uy/nacionales20041031/SSPConsulta.asp?TipoCons=P&Acto=20041031&Org=42&Dpto=&Escrut=D&Circ=V&CantPorc=C&Lema=56&Cargo=2).

national plan for safe drinking water and sanitation. The Policy also creates regional water resource councils to discuss issues relating to water, such as promoting the development of regional water plans, as well as establishing watershed or aquifer commissions aimed at providing sustainability for the management of water resources at the local level and at managing possible problems relating to water uses, ensuring a broad representation of local actors with an active presence in the area concerned.

18. In regard to sanitation, the Law on mandatory connection to the sewage system (Law No. 18.840 of 2011) was recently adopted with the objective of connecting the households that are not connected to the sewage system. This law requires house owners and potential house buyers to connect their houses, within a one-year period, to the sewage system, when a sewage pipe is nearby. For those who do not have a sewage system close to their houses, a two-year period will be granted, starting from the installation of such sewage system by the State (art. 4). Failure to comply with this rule will be punished with fines until the connection to the sewage pipe is made (arts. 6 and 7). This law also determines that OSE or the Municipality of Montevideo might grant subsidies to the most vulnerable persons, provided that the Government ensures the adoption of the necessary regulations (art. 8, second paragraph); those regulations have not yet been adopted, impairing access by the most vulnerable to this service.

## **B. Institutional framework**

19. The Ministry of Housing, Land Management and Environment is the authority responsible for formulating the national policy on water and sanitation. The Ministry carries out this function through DINAGUA, which oversees and regulates activities relating to water, regardless of its use. Furthermore, the Directorate grants permits for building dams, reservoirs and cesspools, and is responsible for the inventory of the country's water resources. It also grants permits for digging water wells—both to individuals and companies. In her meeting with the Director of DINAGUA, the Special Rapporteur was informed that the Directorate does not charge fees foreseen in the law for granting permits to exploit water, not even when the permits are given to companies and regardless of the use given to such resource. She was surprised to learn this, as DINAGUA has complained about a general lack of financial and human resources to perform the tasks assigned to it, especially regarding oversight and monitoring.

20. Decree No. 78 of 2010 on universal access to sanitation<sup>16</sup> establishes that DINAGUA is in charge of defining criteria for the identification of acceptable types of sanitation systems, and is also mandated to offer guidance to the municipalities in line with the national plan for drinking water and sanitation. DINAGUA is currently analysing alternative sanitation systems to be used in Uruguay. It is vital that it finalize this work so as to enable those without access to a sewer system in the country to have access to acceptable alternatives that comply with the normative content of the right to sanitation.

21. Despite an increase in human resources through a project financed by the Inter-American Development Bank and the Spanish Cooperation Fund for Water and Sanitation in Latin America and the Caribbean, the current capacity of DINAGUA does not match its powers, especially in relation to oversight and monitoring. The project objectives are numerous, including the elaboration of the national plan for water resources; more human resources would be required in order to achieve them.

---

<sup>16</sup> Reglamentación de la ley de política nacional de aguas en lo referente a la universalidad en el acceso a saneamiento. Available from [http://archivo.presidencia.gub.uy/\\_web/decretos/2010/02/16%20.pdf](http://archivo.presidencia.gub.uy/_web/decretos/2010/02/16%20.pdf).

22. DINAMA is part of the Ministry of Housing, Land Management and Environment. It was created in 1990 and has the mandate of developing, implementing, monitoring and evaluating plans to measure and assess the quality of environmental resources, such as water and air, as well as ecosystems, including protected and coastal areas. DINAMA is also mandated to assess environmental impact studies when companies wish to obtain licences for forestry, mining, agriculture or cattle breeding operations. However, according to the law, these studies are undertaken by the companies applying for the licence themselves. DINAMA then analyses the studies and considers them as the basis on which to issue the required licence. The Government itself has acknowledged<sup>17</sup> that the limited human resource capacities of DINAMA do not match its needs, and the growing number of requests (up 29 per cent in 2011) hinders its capacity to analyse the environmental impact studies.

23. The Ministry of Livestock, Agriculture and Fisheries is responsible mainly for formulating and managing public policies relating to agriculture, agribusiness, livestock and fishing, and preserving renewable natural resources. Despite the economic importance of these commercial activities to the country, the Minister acknowledged their possible negative impacts. Hence, the Ministry is currently funding environmental impact studies to identify potential negative impacts that the existing afforested areas may have on the environment or people's health, or that could endanger the enjoyment of the human right to water for present and future generations, with a view to minimizing such impacts. The results of these studies will help to inform how the Ministry should pursue its mandate of granting licences for afforestation. The Special Rapporteur welcomes the commission of such studies; however, she notes that environmental impact studies on other activities, for example the use of irrigation or the building of dams and their present and future impact on the right to water, should also be undertaken.

24. The Ministry of Social Development is responsible for social policies; it implements programmes on social protection and provides information and advice on available programmes, particularly those relating to people living in poverty or extreme poverty. In terms of the realization of the right to water, the Ministry has the specific mandate to ascertain people's eligibility for the social water tariff, which is then applied by OSE. The Ministry also identifies households or individuals that are eligible for other social programmes. An example of such a programme was the National Plan for Social Emergency Assistance (Plan de Atención Nacional a la Emergencia Social, PANES), which was implemented between 2005 and 2007 to provide solutions to families in the country who were living in poverty and extreme poverty. According to a briefing note by the World Bank, if the cash transfer programme (Ingreso Ciudadano), the main component of PANES, had not been implemented, both extreme poverty and poverty would have increased. The extreme poverty rate would likely have increased by 50 per cent in 2006, from 2.87 per cent to 4.27 per cent, and the poverty rate in 2006 would have been around 27.8 per cent, instead of 27.4 per cent.<sup>18</sup>

25. OSE is the State company, created in 1952 by the Government through Law No. 11.907, responsible for supplying safe drinking water in Uruguay and sewerage services outside Montevideo. OSE is a decentralized company, independent but administratively part of the executive branch.

<sup>17</sup> Marcelo Bustamante, "Dinama está desbordada", *La República* (Montevideo), 17 February 2012. Available from [www.diariolarepublica.net/2012/02/muslera-dinama-esta-desbordada/](http://www.diariolarepublica.net/2012/02/muslera-dinama-esta-desbordada/).

<sup>18</sup> William Reuben, Marisa Miodosky and Eri Watanabe, "Building on experience: improving social protection in Uruguay and the plan for social equity", En breve, World Bank briefing note No. 132, July 2008. Available from [http://siteresources.worldbank.org/INTENBREVE/Newsletters/21948414/Jul08\\_132\\_UY\\_CCT\\_EN\\_Rev2.pdf](http://siteresources.worldbank.org/INTENBREVE/Newsletters/21948414/Jul08_132_UY_CCT_EN_Rev2.pdf).



26. In article 2 of Law No. 11.907, the Government established the tasks of OSE, which include the provision of sewerage services for the entire country with the exception of the Department of Montevideo (art. 2 (b)). However, recognizing the need for a more encompassing definition of sanitation, the President of the republic passed Decree No. 78 of 2010 on universal access to sanitation, which defines sanitation in a broad sense, making it clear that different models of sanitation should be available and tailored to each context, in order to achieve universal access throughout the country. Article 6 of the decree also establishes that OSE is responsible for ensuring the treatment of waste water and excreta in the entire country, except in the Department of Montevideo.<sup>19</sup>

27. The mandate holder has defined sanitation, from a human rights perspective, as “a system for the collection, transport, treatment and disposal or reuse of human excreta and associated hygiene” (A/HRC/12/24, para. 63). A broader definition allows for the appropriate use of alternative models of sanitation and their incorporation into a comprehensive sanitation system, thus increasing access to and the quality of the services. It is vital to recognize that sanitation goes beyond access to the sewerage system. Furthermore, it is also crucial that alternatives to sewage comply with the normative content of the right to sanitation, by ensuring accessibility, availability, affordability, quality and cultural acceptability.

28. Sanitation services are provided by different actors. The Municipality of Montevideo is in charge of supplying sanitation services for the country’s metropolitan region. Municipalities (*intendencias*) are responsible for providing sanitation services in accordance with Law No. 9.515 of 1935 on Municipalities. In accordance with Law No. 18.308 of 2008 on Land Management and Sustainable Development, sewage outlets must be connected to the local city system or to an alternate system that has passed a technical assessment carried out by the Ministry.

29. Uruguay also has a regulatory authority (URSEA) to oversee the water and sanitation sector and to protect the users of those services. However, the current capacities of URSEA are limited and do not meet its needs. Also, its monitoring capacities are limited to controlling the quality of the water provided by OSE and the treatment of wastewater produced through the sewage system; it has no competence over the treatment of the sludge extracted by vacuum trucks<sup>20</sup>, which must be deposited in treatment plants. Furthermore, due to resource limitations, URSEA monitors water quality only in areas having more than 1,500 inhabitants. Although it receives complaints from consumers, the institution is not properly staffed to follow up on such complaints and to ensure compliance by OSE. The population in general is not aware of the role of URSEA in defending their rights and does not make use of the existing mechanisms for the protection of their rights. The Special Rapporteur also expressed concern about the institution’s independence for two reasons. First, its members are directly appointed by the political parties. Second, since its budget depends on allocations from Congress, it may restrain its assessment and limit potential calls for action or changes. Furthermore, the Special Rapporteur was informed that URSEA functions as an appeal body after users have complained to the service provider. Only if the service provider does not answer or gives an unsatisfactory answer do users have the option to complain to URSEA as an appeal body. However, the Special Rapporteur was informed of other countries where the regulator directly receives a copy of the users’ complaints to the provider, as well as of the provider’s responses, and takes the initiative to follow up on the complaints, without putting the burden of appeal on the user. It is clear that for URSEA to exercise such powers, it would have to increase its human resources capacities.

---

<sup>19</sup> See note 16 above.

<sup>20</sup> The term “vacuum trucks” is used here for the term “*barométricas*” as it is used in Uruguay.

30. Accountability and access to effective remedies are essential, as providers and the State must be held accountable for deteriorating services, unmet performance standards, unjustified tariff increases, inadequate social policies or other breaches. To ensure accountability, roles and responsibilities have to be clearly designated and made transparent. During her visit, the Special Rapporteur was informed that despite the adoption of Law No. 18.446 by the Parliament, which created the National Human Rights Institution (Institución Nacional de Derechos Humanos), political parties had not reached an agreement on the appointment of the Institution's members and its budget had not been approved by Congress. In May 2012, after her visit, the Special Rapporteur was informed that members had been appointed to the Institution. The Special Rapporteur welcomes this important development. The Institution is mandated to monitor trends affecting the respect, protection and promotion of human rights, as well as the living conditions of those persons who face poverty and extreme poverty. Its mandate includes advocacy for possible legal and policy changes to ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation. The Institution can also play an important role in easing access to judicial mechanisms, legal aid or other aspects of access to justice, in particular for those who are in a vulnerable situation. It can also follow up on the implementation of recommendations made to Uruguay by United Nations special procedures, including those contained in the present report.

### **III. The rights to water and sanitation**

#### **A. Accessibility**

31. In Uruguay, 93.4 per cent of the population has access to safe drinking water<sup>21</sup>—one of the highest levels of access in Latin America and the Caribbean. Universal access to safe drinking water is the main priority of the National Water Policy (art. 14).

32. The population that still lacks access to safe drinking water lives mostly in rural areas throughout the country. The Special Rapporteur was informed about the OSE programme to supply safe drinking water in disperse rural communities (Programa de Abastecimiento de Agua Potable a Pequeñas Comunidades Rurales), which focuses on local schools in particular. About 1,100 schools in rural areas in the country are without access to water services; under the programme, OSE prioritized 355 schools in the poorest areas of the country. OSE trains schoolteachers on measuring water quality, which should be reported daily. OSE technicians visit to monitor the school water services and water quality approximately every two weeks.

33. The Special Rapporteur was informed that, in 2010, only 47.12 per cent of the water was invoiced; 52.80 per cent was unaccounted for, and not charged.<sup>22</sup> Among some of the reasons why water is unaccounted for, OSE mentioned water leakages due to pipes that were in poor condition, but also illegal water connections. The Special Rapporteur was also informed that the price for sanitation services is based on the price paid for water, the sanitation fee corresponding to 60 per cent of the water bill. However, according to information received during the mission, the Municipality of Montevideo charges 100 per cent of the water expenses as the sanitation fee.

---

<sup>21</sup> Report on "Modernización de OSE y Rehabilitación de sus Sistemas Etapa APL2 – Indicadores de desempeño 2012", p. 2.

<sup>22</sup> OSE, "Agua no contabilizada". Available from [www.ose.com.uy/planestr/hfichaweb.aspx?GEU5](http://www.ose.com.uy/planestr/hfichaweb.aspx?GEU5).

34. Concerning sanitation, approximately 55.4 per cent of the households in the country have access to the sewerage system,<sup>23</sup> however this indicator may not be an accurate reflection of the percentage of households that are actually connected to the system. The Government aims at expanding the sewerage system to cover other parts of the country, in particular the largest urban agglomerations, such as Montevideo, Ciudad de la Costa and Maldonado-Punta del Este. The Municipality of Montevideo, through its Urban Sanitation Plan,<sup>24</sup> has expanded access to the sewage system to 91.92 per cent of the city's population. This plan is aimed at serving 95 per cent of the population in Montevideo and 100 per cent of the urban areas by 2020. At the same time, OSE aims at expanding the sewerage system to other departments of the country through the National Sanitation Plan.<sup>25</sup>

35. At least 40 per cent of the population does not have access to the sewage system;<sup>26</sup> most use septic tanks.<sup>27</sup> Decree No. 78 of 2010 on universal access to sanitation establishes, in its article 6, that OSE is responsible for ensuring the treatment of waste water and excreta. The Special Rapporteur was informed that OSE has started to purchase septic tank vacuum trucks, allowing municipalities to use them. During her visit, she was told that the trucks serving the municipalities are not sufficient to meet the demands. For instance, in the neighbourhood of Casabo, where approximately 100,000 people live, the vacuum trucks are available, but are broken down or out of service most of the time. Based on a preliminary calculation of the trucks' operating hours, taking into account the time needed to empty them, it would seem that their capacity remains significantly below the neighbourhoods' needs. The Special Rapporteur was informed that, for this reason, some families pay for a more expensive private service, while others have to empty the septic tanks themselves by hand because they cannot afford such costs. It was also reported that sometimes septic tanks do not get emptied properly and the waste simply leaches into the soil.

36. Furthermore, in Barrio el Borro, in Casavalle, where approximately 1,500 persons live, the Special Rapporteur met with people who did not have access to sanitation inside their houses or in their immediate vicinity. As a consequence, individuals were forced to either defecate in the open or to rely on the sanitation services of relatives or neighbours. In this settlement, those who had a toilet and a septic tank explained that once the septic tanks got full, they had to empty them by hand and with absolutely no protection gear. This situation does not respect the normative content of the human right to sanitation (quality- and safety-related aspects). As the Special Rapporteur has underscored in the past, sanitation facilities must be hygienically safe to use, which means that they must effectively prevent human, animal and insect contact with human excreta. Furthermore, manual emptying of pit latrines is unsafe, a source of disease, posing a significant threat to people's health, and culturally unacceptable in many places, leading to the stigmatization of those burdened with this task; mechanized alternatives that effectively prevent direct contact with human excreta should be used (A/HRC/12/24, paras. 72-74). Moreover, the manual emptying of septic tanks might amount to degrading and inhuman treatment.

37. During her visit, the Special Rapporteur learned about the Movement Towards the Eradication of Unhealthy Rural Housing, (Movimiento de Erradicación de la Vivienda Insalubre Rural, MEVIR), a programme for implementing a system aimed at ensuring

<sup>23</sup> Data provided by URSEA during the mission. Calculations were based on information from the 2012 Encuesta Continua de Hogares.

<sup>24</sup> Municipality of Montevideo, Plan de Saneamiento Urbano IV. Available from <http://www.montevideo.gub.uy/ciudadania/desarrollo-ambiental/saneamiento/psu-iv/plan-de-saneamiento-urbano-iv>.

<sup>25</sup> OSE, Plan de Saneamiento del Interior. Available from [http://www.ose.com.uy/s\\_plan\\_interior.html](http://www.ose.com.uy/s_plan_interior.html).

<sup>26</sup> Uruguay, *Principales resultados* (note 5 above), p. 29.

<sup>27</sup> Uruguay, *Objetivos de Desarrollo del Milenio* (Montevideo, 2009), p. 93. Available from [www.undp.org.uy/docs/mdg/odm7.pdf](http://www.undp.org.uy/docs/mdg/odm7.pdf).

access to adequate housing in rural areas. Created in 1967 (Law No. 13.640), MEVIR not only assists with the construction or restoration of housing, but also provides communities with necessary infrastructure, such as water, sanitation and electricity services. It also supports alternative sanitation systems. While the State funds 70 per cent of the implementation costs, beneficiaries cover the remaining expenses. Beneficiaries must contribute 96 hours of work per month during the construction or renovation of the house. According to information received, it usually takes 25 years to fully finance the project, depending on the situation of the family. The Special Rapporteur was pleased to learn that special arrangements are foreseen, for example for single mothers to benefit from day care while they work on the project.

## **B. Affordability**

38. The normative content of the rights to water and sanitation includes the dimension of affordability. The Committee on Economic, Social and Cultural Rights has stated that “water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights”.<sup>28</sup> The provision of services includes the construction and maintenance of facilities, the treatment of water and the disposal of faecal matter. Affordability does not necessarily require services to be provided free of charge; however, when people are unable, for reasons beyond their control, to gain access to sanitation or water through their own means, the State has to find solutions for ensuring this access.<sup>29</sup>

39. The Special Rapporteur was pleased to learn that in Uruguay a social tariff is applied for households that are connected to the formal water provider but that face difficulties in paying for such services. The social tariff is applicable for people benefiting from social programmes, for regularized settlements and for households identified as being in a position of socioeconomic vulnerability. This allows for a consumption of 15 m<sup>3</sup> of water per month per household, for the price of 70.92 Uruguayan pesos (about US\$ 3.50). In small villages throughout the country, the social tariff is managed with the participation of the community and is even lower (59.10 pesos per 15 m<sup>3</sup>). Besides the social tariff, all households consuming less than 15 m<sup>3</sup> per month (which represents approximately 120 litres per person per day for a family of four), also benefit from a subsidized tariff. Finally, Uruguay also provides water free of charge in informal settlements in the country, which are not formally connected to OSE systems.

40. During her visit to Barrio Casabo, an informal settlement in Montevideo, the Special Rapporteur was informed that some families were expecting to be connected to water and sanitation shortly, as their houses in the settlement were due to be regularized. However, some families expressed their concern that the services might not be affordable to them, because many of them are in the informal labour sector, and that even if they were eligible for the social tariff, the costs would still be too high. The families with whom the Special Rapporteur met said that their financial situation was such that they would not be able to cover their basic needs, including water and sanitation. For this reason, they might be forced to choose among different basic needs, for example giving priority to food, medicine, housing and clothing. This situation might lead some people to stop paying their water bills; in turn, their water and sanitation services may be cut by the service provider and they may resort to connecting themselves illegally to the water network. The Special

---

<sup>28</sup> General comment No. 15, para. 12 (c)(ii).

<sup>29</sup> Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation (A/HRC/15/31/Add.1), paras. 34-36.

Rapporteur is concerned about the future affordability of water and sanitation services for persons who will soon be connected to the water and sewage networks and whose monthly income is barely sufficient to cover basic daily needs. These circumstances might impair these people's access to water and sanitation.

## C. Vulnerable groups

### 1. People living in informal settlements

41. One of the immediate effects of the economic crisis in Uruguay between 1999 and 2002 was an increase in the number of irregular settlements,<sup>30</sup> particularly in Montevideo.<sup>31</sup> Some studies have revealed that increased land prices and high levels of unemployment or informal employment, among other causes, contributed to the increase in informal settlements, which are growing by about 10 per cent annually.<sup>32</sup> This has led to a concentration of poverty, spatial segregation and social exclusion. About 11 per cent of the population in Montevideo lives in informal settlements, and the same situation is faced by 3 per cent of the population elsewhere in the country. Overall, 6 per cent of the population—195,772 people—live in informal settlements.<sup>33</sup>

42. The Government has deployed efforts to adopt programmes allowing people living in irregular settlements to have access to basic services such as sanitation and water. One of these is the Neighbourhood Improvement Programme (Programa de Mejoramiento de Barrios, PMB, formerly known as the Programa de Integración de Asentamientos Irregulares, PIAI). It provides basic infrastructure services, such as building or expanding supply networks for safe drinking water, sanitation systems, storm drains, among others; regularizes settlements; and grants titles of ownership to the residents. The programme also provides families with materials to improve sanitary conditions when needed. Furthermore, it relocates people to other houses, within or outside the settlement, under the following circumstances: regularization of the status of the settlement; pollution of the land and/or air; total or partial flooding; when the dwelling has no sanitation services; or when the house is located in a public area. The PMB can operate in the 51 per cent of existing informal settlements of the country considered “eligible settlements”<sup>34</sup> and has so far intervened in 112 irregular settlements, reaching 62,000 people. There are about 70,000 people living in eligible informal settlements where the PMB has not yet been implemented. During her visit, the Special Rapporteur was informed that the programme is targeted at the most vulnerable, based on criteria established through a preliminary social analysis.<sup>35</sup> She observed that only those who are selected for assistance under the PMB receive information about the specific projects that will improve their houses or part of their infrastructure, while the remaining neighbouring households do not understand why they cannot benefit from the programme as well. The Special Rapporteur is concerned about the potential negative aspects of not providing information to the entire neighbourhood.

<sup>30</sup> For the State's definition of an irregular settlement, see Uruguay, “Programa de Mejoramiento de Barrios” (2011), p. 8. Available from [www.piai.gub.uy/adjweb/doc/novadj52.PDF](http://www.piai.gub.uy/adjweb/doc/novadj52.PDF).

<sup>31</sup> Uruguay, *Objetivos* (note 27 above), p. 105.

<sup>32</sup> See, for example, Andrea Francisco Pollero, “Vivienda productiva urbana. Limitaciones y potencialidades físico-especiales para su desarrollo en asentamientos irregulares”, p. 1. Available from [www.farq.edu.uy/upv/Materiales%20mayo05/vivienda%20productiva%20urbana.PDF](http://www.farq.edu.uy/upv/Materiales%20mayo05/vivienda%20productiva%20urbana.PDF).

<sup>33</sup> National Statistics Institute (INE) and the Programme for the Integration of Irregular Settlements (PIAI), “Relevamiento de asentamientos irregulares, 2005-2006”, p. 4. Available from [www.ine.gub.uy/piai3/PIAI.pdf](http://www.ine.gub.uy/piai3/PIAI.pdf).

<sup>34</sup> Information submitted by PMB-PIAI to the Special Rapporteur during the mission.

<sup>35</sup> *Ibid.*

43. The Special Rapporteur also visited Barrio Aquiles Lanza in Malvín Norte (Montevideo), an informal settlement where 280 families live. The settlement was built on private property and is affected by lead contamination. In this settlement, water has to be collected from a single water standpipe located at one extreme of the settlement. Living conditions, including intra-domiciliary access to water and sanitation, cannot be improved. In situations where a settlement occupies private property, the law forbids the installation of household water connections; the only option is the provision of a standpipe at the limits of the settlement, which becomes the only water source for the entire community. The Special Rapporteur was informed that Law No. 18.308 of 2008, in its article 65, allows for the regularization of the right of possession or use of private lands where families have been living without the consent of the owner for at least five years.<sup>36</sup> Since the period of five years is considered to have begun at the moment the Law entered into force, there will hopefully soon be cases where tenure is regularized and access to water and sanitation is improved.

44. In accordance with the normative content of the right to water defined in general comment No. 15 of the Committee on Economic, Social and Cultural Rights, the right to water applies to everyone. No household should be denied the right to water on the grounds of their housing or land status (para. 16 (c)). The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. In the case of Malvín Norte, one standpipe is clearly not enough to allow 280 families to enjoy their human right to water, in particular during winter, when they need to heat the water for personal use and to wash themselves.

45. In Malvín Norte access to sanitation was also very poor or non-existent, with residents resorting to defecating and urinating in latrines connected to septic tanks that were not in the best condition or simply using pots that were emptied into an open sewer in the neighbourhood. These solutions clearly do not meet the conditions of safety, quality or dignity.<sup>37</sup>

## 2. Homeless people

46. According to information provided to the Special Rapporteur, there were approximately 1,800 people living in the streets in Uruguay, primarily in Montevideo. During her mission, the Special Rapporteur noted that there are not many public facilities that provide people who live in the streets with continuous access to water and sanitation. The Special Rapporteur was also informed that it is common practice for people living in the streets to use the toilet in local bars and restaurants, this access not corresponding to a right granted to homeless people, rather depending on the goodwill of the bar or restaurant owner. Homeless people have access to shelters during the night, where they can use water and sanitation facilities. However, shelters are open only during night hours, and due to the lack of other public installations for water and sanitation in the city, homeless people are left with no access to safe drinking water and sanitation on a continuous basis. States must ensure that everyone has physical and economic access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and

<sup>36</sup> Article 65: “Aquellas personas cuyo núcleo familiar no supere el nivel de pobreza en sus ingresos y que, no siendo propietarias de inmuebles, sean poseedoras de un predio, no público ni fiscal, con aptitud para ser urbanizado de acuerdo con el instrumento de ordenamiento territorial aplicable, destinado a su vivienda y la de su núcleo familiar durante un período de cinco años, podrán solicitar a la Sede Judicial competente se declare la adquisición del dominio sobre el mismo por el modo de prescripción. La posesión deberá ser ininterrumpida y con ánimo de dueño, pública y no resistida por el propietario.”

<sup>37</sup> See E/C.12/2010/1 and A/HRC/12/24.

ensures dignity, without discrimination (A/HRC/12/24, para. 63). The same applies for safe drinking water.<sup>38</sup>

### 3. State-run institutions: the case of Colonia Berro

47. States have the primary obligation to create an environment conducive to the realization of human rights, including the rights to water and sanitation for all without discrimination. In the case of State-run institutions, the legal obligations upon the State go beyond creating the conditions aimed at enabling people to exercise these human rights, and also oblige the State to ensure the fulfilment of these rights, for example for persons in detention.

48. In 2009, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, upon his mission to Uruguay, called attention to the conditions of detention in many facilities (see A/HRC/13/39/Add.2). In 2011, he issued a follow-up assessment, considering progress in implementing the conclusions and recommendations contained in his reports (A/HRC/19/61/Add.3). He noted with appreciation the establishment in Uruguay of three new centres for children and the qualitative improvement in nutrition, and urged the Government to continue taking steps aimed at improving the conditions of detention (ibid., pp. 511 ff).

49. According to one civil society organization active in Uruguay, many facilities face problems with sanitation, ventilation, temperature, lighting, shortages of beds and insufficient access to food and potable water.<sup>39</sup> Thus, the Special Rapporteur on the human right to water and sanitation decided to follow up this matter and examine the conditions of detention of juveniles in relation to access to water, sanitation and hygiene at the Colonia Berro juvenile detention centre, run by the Institute for Children and Adolescents (Instituto del Niño y Adolescente del Uruguay, INAU). According to information received from INAU, 252 children and adolescents aged 15 to 19 years were in detention at the time of the visit, even though the Colonia Berro has the capacity for only 161 children and adolescents. The Special Rapporteur visited two units of Colonia Berro.

50. In one building, where children and adolescents were held in a semi-open regime, there were no complaints about access to water or sanitation. The rooms were open and the children and adolescents could circulate freely inside the building and in the building's courtyard, thus having free access to water and toilets. In the second building visited, the conditions of security were much stricter and the children and adolescents were locked in their rooms for 22 hours a day; they were allowed to go to the courtyard for one hour in the morning and one hour in the afternoon. There was an average of six children and adolescents per room, and the space available was clearly insufficient. Their access to the toilets was limited to obtaining authorization from the guards and passing two security controls, making the process long and impairing access to sanitation. The physical and hygiene conditions of the toilets were poor, and clearly did not meet human rights standards.

51. The issue of children's rights to water and sanitation in detention facilities, such as in the case of Colonia Berro, is critical, as children in detention are under the direct responsibility of the State. Both rights are elements of the right to the highest attainable standard of physical and mental health as provided for in the Convention on the Rights of the Child (art. 24, para. 2 (c) and (e)). Due to its importance, the rights to water and

<sup>38</sup> Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 12.

<sup>39</sup> See Servicio Paz y Justicia, *Derechos Humanos en el Uruguay: Informe 2010* (Montevideo, 2010).

sanitation of juveniles deprived of their liberty has also been explicitly recognized by the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.<sup>40</sup>

#### IV. Large-scale investment projects

52. As mentioned in paragraph 15 above, article 47, paragraph 1 (d), of the Constitution of Uruguay stipulates that the national policy on water and sanitation will be based on supplying safe drinking water to people, clarifying that social grounds must prevail over economic ones, as recognized by international human rights law. Montevideo and its suburban areas, with approximately 60 per cent of the country's population, are supplied with safe drinking water from the reservoir formed by the Aguas Corrientes dam, located on the Santa Lucía river. The main cities in the country are supplied by surface water, while small and medium-sized cities are supplied by groundwater.

53. According to one study carried out in 2004, about 600,000 hectares of land in Uruguay (4 per cent of the surface of the country) was being used for agriculture. A large proportion of the total amount of water used in the country was devoted to monocultures, such as rice or soybean.<sup>41</sup> Furthermore, the number of water points for irrigation has increased considerably during recent years, as has the number of reservoirs.<sup>42</sup> As regards afforestation, some sources estimate that as many as 600,000 hectares may have been planted with eucalyptus and pine; concerns regarding the impact of this afforestation on water availability have been raised in some studies. These figures showed the increasing interest in exporting eucalyptus, pine and soybean. The Special Rapporteur was informed about the case in Cerro Alegre, Department of Soriano, where a few years after eucalyptus plantations were established, all farmers' water wells dried up and the level of the river substantially decreased. Similar situations occurred in Paraje Pence, Department of Soriano; Algorta, Department of Río Negro; and Tranqueras, Department of Rivera.

54. The Special Rapporteur was also made aware during her visit that some livestock agribusinesses and large-scale projects were having negative impacts on water resources. Agrochemicals or faecal waste, mostly from pigs or cows, were discharged directly into water sources and were affecting the quality of the water, increasing the risks of various diseases. When it rains, the effluents leach into the ground or carry faecal matter to rivers, mobilizing the pollutants and mixing them with water polluting the rivers. According to information received, this was the situation in the Santa Lucía river basin—the main source of safe drinking water for people in the metropolitan area of Montevideo—due to dairy farms in San José and Canelones. In most cases, wells are also polluted, as the effluents penetrate the water table. The Municipality of Florida in the Department of Florida analysed water quality, and concluded that only 2 per cent of the wells were free of faecal coliforms. There is evidence that polluted water in rural areas is costly, not only in

<sup>40</sup> General Assembly resolution 45/113: "Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner" (para. 34); "Clean drinking water should be available to every juvenile at any time" (para. 37).

<sup>41</sup> Ana Domínguez, "La gestión sustentable del agua en Uruguay" (2004), p. 7. See also Marcel Achkar, Ana Domínguez and Fernando Pesce, "Principales transformaciones territoriales en el Uruguay rural contemporáneo", *Pampa: Revista Interuniversitaria de Estudios Territoriales*, No. 2 (2006), p. 219. Available from [http://bibliotecavirtual.unl.edu.ar:8180/publicaciones/bitstream/1/65/1/pampa\\_a2\\_n2\\_p219-242.pdf](http://bibliotecavirtual.unl.edu.ar:8180/publicaciones/bitstream/1/65/1/pampa_a2_n2_p219-242.pdf); Marcel Achkar and others, "Hacia un Uruguay sustentable: gestión integrada de cuencas hidrográficas" (2004), p. 25. Available from <http://www.ffose.org.uy/global/downloads/uruguaysustentable.pdf>.

<sup>42</sup> See Domínguez, "La gestión"; Achkar, Domínguez and Pesce, "Principales transformaciones"; and Achkar and others, "Hacia un Uruguay sustentable".



economic terms, but also in health terms. The Special Rapporteur received information and testimonies that in some areas, water is excessively chlorinated, possibly to counter the pollution. As a consequence, people who can afford other options do not drink tap water.

55. The Special Rapporteur emphasizes to the Government of Uruguay that States must ensure the realization of the right to water, in a sustainable manner and without discrimination, for present and future generations.<sup>43</sup> Taking into account that large-scale investment projects may impinge upon water availability, the State must take steps to prevent negative impacts, starting with the analysis of the impacts of such economic activities. The Government must consider the adoption of the national plan on water resources, including the assessment and verification of the availability of safe drinking water in the country. The Special Rapporteur also notes the need to carry out environmental impact studies to verify that specific economic activities do not affect people's human rights to safe drinking water and sanitation. She notes that, currently, environmental impact studies are carried out by private companies and not by an independent actor; she urges the Government to ensure that DINAMA is allocated sufficient human and financial resources to independently monitor and assess the content and conclusions of such environmental impact studies. The Special Rapporteur also calls on the State to consider the creation of watershed or aquifer commissions. These commissions could benefit from active civil society participation, including in the discussion of issues and the development of regional plans, as it is stipulated in the National Water Policy.

## V. Conclusions and recommendations

56. **The Special Rapporteur concludes that Uruguay has made important efforts in ensuring access to safe drinking water and sanitation for its population. The rates of access in the country prove that State-owned companies can successfully promote the realization of the rights to water and sanitation. Nevertheless, more efforts are needed in order to reach certain groups that continue to be excluded, especially the most vulnerable. The State has demonstrated its willingness to tackle most challenges in order to progressively realize the human rights to water and sanitation, however some challenges remain. In this regard, the Special Rapporteur reminds the Government of Uruguay that acts of omission may amount to violations of human rights, including the failure to take appropriate steps towards the full realization of everyone's right to water and sanitation. States are obliged to fulfil human rights as they relate to water and sanitation by moving as expeditiously and effectively as possible towards ensuring access to safe, affordable and acceptable water and sanitation for all, in conditions of dignity.**

57. **Therefore, the mandate holder recommends that the State:**

(a) **Ensure the enjoyment of the rights to water and sanitation in all spheres of life, including for people living in the street or in informal or rural settlements, as well as in all public places, including juvenile detention centres. The Special Rapporteur highlights the concluding observations adopted by the Committee on Economic, Social and Cultural Rights on the third and fourth periodic report of Uruguay, in which the Committee called upon the State to strengthen its efforts to facilitate access to adequate housing and the provision of adequate sanitation services (E/C.12/URY/CO/3-4, paras. 20, 21 and 22);**

<sup>43</sup> Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 11.

(b) Fully guarantee the recognition of economic, social and cultural rights in domestic law, including by ensuring that these rights are justiciable in national courts, and provide training on these rights for members of legal professions;

(c) Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(d) Ensure that the National Human Rights Institution receive adequate human and financial resources. While welcoming recent steps in establishing the institution, namely the appointment of its members, the Special Rapporteur calls for this institution to fulfil its mandate, in particular to monitor the enjoyment of all human rights in Uruguay, including economic, social and cultural rights, and to receive individual complaints;

(e) Evaluate the extent to which people living in poverty face challenges in relation to the affordability of water and sanitation services, ensuring adequate dialogue with them and increasing coordination among various stakeholders. The Government should work in coordination with civil society organizations and donor agencies, if needed, towards the creation of a comprehensive social protection strategy that goes beyond the current social safety net approach, focusing on an adequate standard of living and favourable conditions at work;

(f) Adopt a comprehensive national plan on water and sanitation that guarantees the rights to water and sanitation to all people in Uruguay by:

(i) Clearly designating the responsibilities of different actors at all levels, with a view to ensuring the effective implementation of the legislation and policies relating to water and sanitation and avoiding duplication of responsibilities and conflicting powers;

(ii) Allocating sufficient human and financial resources to those institutions accordingly. This is particularly urgent in institutions, such as the National Water Directorate (DINAGUA) or the National Environment Directorate (DINAMA), that do not have sufficient human and financial resources to carry out their mandate, which prevents them from discharging their functions effectively;

(iii) Ensuring the meaningful participation of civil society in its design, implementation and control;

(iv) Guaranteeing a special focus on sanitation, seeking appropriate solutions that ensure universal access and in compliance with the content of the Constitution (art. 47) and Decree No. 78 of 2010. It is urgent that DINAGUA define the criteria to determine which types of sanitation systems must be provided in locations where a sewage system is not the best solution, while at the same time informing municipalities and service providers about standards for supplying such services;

(g) Ensure that large-scale investment projects do not cause negative impacts on the quantity and quality of water for personal and domestic uses. The Special Rapporteur urges the adoption of the national plan on water resources, with a particular focus on monitoring the impact of large-scale investment projects on water for personal and domestic uses, as well as on promoting the preservation and sustainable use of water resources and the adequate management and disposal of human excreta and wastewater;

**(h) Ensure that environmental impact assessment studies are undertaken and/or monitored by actors acting independently from the companies providing the services;**

**(i) Strengthen the competencies of the Regulatory Authority for Energy and Water Services (URSEA) allowing it to monitor water and sanitation quality, prices and access; to regulate service providers; to formulate and propose recommendations for the harmonization of the law with the content of the right to water and sanitation; and to raise awareness about its role.**

---