

The role of the Regulator to promote the Sustainability of Water Supply in Portugal



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INTRODUCTION

Water is considered one of the most important natural resources and according to its scarcity and cost, it necessary to implement a sustainable management of its use. One of the reasons for the unsustainable management of the sector in Portugal is the failure of the national Strategic Plan 2006-2013. It is no surprise that, either in relation to coverage ratios, or with respect to the quality of the water supplied, Portugal is meeting the goals set out by the government. The sustainability of the sector is another one, it's related to the way the sector is organized and managed. Regarding the reorganization of the sector with a concentration of operators (ending micro operators without technical and financial dimension), the vertical systems (from catchment to home delivery), the desired concentration ranges (in water supply and wastewater treatment), the use of partnerships between the State and the municipalities and a uniform tariff, nothing has been done and none of these aspects of the government objectives have been implemented. It is therefore necessary to create or strengthen the institutions that promote the protection of water resources. Among these institutions the Regulatory Authority and Waste Water Services (ERSAR) plays a central role, with a wide range of functions from defending the quality of the water services, its fair distribution, the sustainability of water resources, the respect of legal mechanisms, the training and information of and on the sector, to the financial and taxes instruments. As Gerlach and Franceys (2010:1229) refer: "the new regulators face the tremendous challenge of stimulating and supporting water service providers to improve their poor performance record, which affects the disproportionately lower income population" and "[...] regulators are required to balance politically potentially sensitive and conflicting efficiency and welfare objectives." The objective of this study is to deepen the knowledge of the framework and role of ERSAR powers, allowing make sustainable management of water supply systems in Portugal, after the high investments made in the sector in the last 20 years. These results will be obtained based on bibliographic research, application of a survey to different entities with competences in water services in European Union (Benchmarking) and application of a Interview to key actors (municipalities) in Setúbal District, in Portugal.

METHODS

The present research analyzes the role of the ERSAR since its recent foundation (Marques 2011) with a special focus on its regulatory dimension studying and comparing legal documents with other European regulators in terms of constitution, mandates, obligations and power. This study analyzes the powers of ERSAR, since its inception, which is recent, especially with the refers to Marques, R. (2011) and regulation's texts, authored by ERSAR, and then compares the methods of constitution, mandates and framework of duties and powers of other European regulators, a practice already common of Benchmarking.



Figure 1 – European Union



Figure 2 – District of Setúbal

For duties and powers of the regulator, with either binding decisions or recommendations, the authors apply a survey with a convenience sample directed to entities with competences in water services in the European Union. The response rate is over 50% (23 answers received out of 39 questionnaires sent, or 58,97%, and relative to 16 EU countries, or 59,26% of EU countries). A quantitative analysis of the data has been made with several results.

The authors also conducted 11 interviews to municipalities and special key actors involved in water supply in Portugal, collecting opinions on skills that could or should belong to ERSAR to better intervene in the sector and to give an even greater contribution to its sustainability.

The universe of data collection, particularly regarding Interviews, refers to what Bryman (2012: 37) calls "focus groups". Regarding the methodology for the collection and processing of data it is used qualitative content analysis, described by Bardin (2013). In the Figure 3 we present the characterization of Management Entities in the Setúbal District.

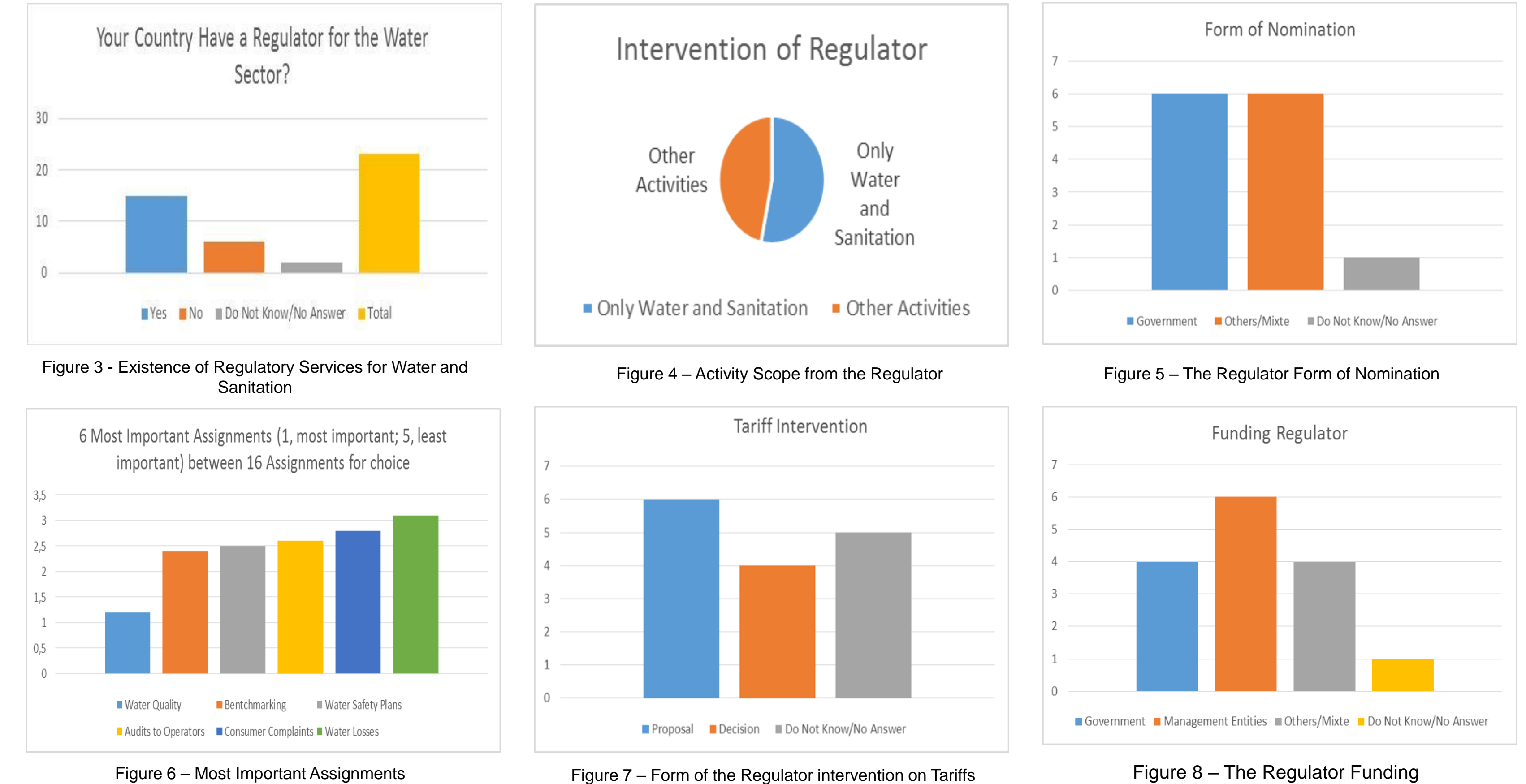
Table 2 - Summary of Interviews with ME of the Setúbal District

Characterization of Management Entities Interviewed						
Date of Interview	Municipality	Type of Management Entity	Inhabitants (2011 Census)	Area (square Kilometers)	Gender	Position in the Management Entity
18.03.2014	Alcacer do Sal	City's Internal Service	13.046	1.479,94	Female	City Concilor
19.03.2014	Alcochete	City's Internal Service	17.589	128,00	Male	City Concilor
13.03.2014	Almada	Municipal Services	174030	70,20	Male	City Concilor and President of Municipal Services
11.03.2014	Barreiro	City's Internal Service	78.764	36,39	Male	Mayor
11.03.2014	Moita	City's Internal Service	66.029	55,08	Male	City Concilor
13.03.2014	Montijo	Municipal Services	51.222	348,09	Male	Mayor and President of Municipal Services
17.03.2014	Palmela	City's Internal Service	62.805	462,87	Male	Mayor
17.03.2014	Santiago do Cacém	City's Internal Service	29.749	1.059,77	Male	Mayor
14.03.2014	Seixal	City's Internal Service	184.289	94,00	Male	City Concilor
17.03.2014	Sesimbra	City's Internal Service	49.500	195,01	Male	Mayor
11.03.2014	Setúbal	Concession to Private Company	121.185	170,57	Male	Chairman of the Company
	Grandola	City's Internal Service	14.826	825,94		
	Sines	City's Internal Service	14.014	202,70		
	District Totals		877.028	5.128,56		
	Municipalities Interviewed		848.188	4.099,92		
	% in Interviewed Municipalities		96,71%	79,94%		

Municipal Services - Management into the political Council responsibility but with a service with legal, financial and technical independence

RESULTS

The results of a part of our Survey are showing in the next 6 Figures.



According to the Interviews, the most important positions of the higher responsible for the Management Entities of Setúbal District are resumed in Table 2.

Table 2 - Summary of Interviews with ME of the Setúbal District

Questions	Alcacer do Sal	Alcochete	Almada	Barreiro	Moita	Montijo	Palmela	Santiago do Cacém	Seixal	Sesimbra	Setúbal
Existence of the Regulator and form of Regulation with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)	Position conciliar of the Regulator, with the Public Functionaries (Yes/No)
Consideration and use of essential services	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption	Yes, regularly used in the sector and consumption
The regulator should have powers to impose when production?	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production	Only on water quality and consumption production
Who should indicate the generating benefits of the regulator?	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)	The MEC of related Forces (Municipal Association of Professional Engineers, Council of the Municipality)
The regulator who is the sector and consumption?	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption	All attention in the sector and consumption
Who should finance the costs of the regulator?	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)	Through the MEC of related Forces (MEC of related Forces Budget)
Regulatory intervention should be in the Municipal Council? If so, how?	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory
Opinion on the role of the regulator.	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)	Complete Management (Autonomy)
The Regulator intervention should be in the Municipal Council? If so, how?	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory	Yes, but only an advisory

CONCLUSIONS

In the survey we can consider the following conclusions:
 ✓ The existence of a Regulator is not yet a widespread situation within the European Union, in particular with the exclusive dedication to water and sanitation services;
 ✓ Balance between the appointment of the Regulator by the government (Portuguese situation), or with mixed or alternative forms of appointment;
 ✓ Particular importance given to the intervention in Water Quality, and then but far away, in Benchmarking, Water Safety Plans, Consumer Complaints and Leaks;
 ✓ In tariffs, the dominant Regulator intervention is only at the recommendation level, unlike what happens in Portugal.
 ✓ Various forms of funding for the action of the Regulator, weighing slightly higher for funding through the Management Entities, which is also the situation in Portugal.

In the interviews we can consider the following conclusions:
 ✓ The vast majority of Management Entities agree with the existence of a Regulator;
 ✓ All Management Entities agree that the Regulator must have the power of imposition on the subject of Water Quality and in defending the Consumers Rights;
 ✓ All Management Entities interviewed believe that the other powers the Regulator should have are: teaching, training and intervention recommendation, being totally opposed to the intervention of the Regulator in tariff area;
 ✓ All respondents are against extending the powers of the Regulator, considering it as an interference with the independence of the Local Power or provisions at the contract level;
 ✓ All respondents with municipal powers, consider that recent changes in the context of Regulator assignments are being held as a preparation for the privatization of the sector, they oppose clearly to this possibility.

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