



# The Right to Water – An Interdisciplinary Analysis

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**Abstract:** Nowadays, mankind is faced with situations that lead public authorities to take decisions to protect the population, ensuring its right to water, but they must observe the legality and the rule of law, so as to achieve the necessary balance between the public interest and the interest of private individuals. Increasingly frequent extreme events around the globe are disrupting nature and affecting water and life on Earth: drought, vegetation fires, over-irrigation, floods, pollution or even war. The author estimates that the issue of water scarcity will be high on the agenda of all the world's governments and that solutions must be found at the international level to ensure drinking water for the population while limiting water wastage, measures that will urgently lead to the conservation of existing water resources. To avoid restricting daily water consumption, people need to behave more responsibly with water and value it. The objective of the paper is to analyze water from an interdisciplinary perspective, seen as a human right in international acts and to study the doctrine and applicable legislation in order to learn more about the regulation of the right to water. In this background, the theme is topical and has general practical applicability, of interest to everyone, people and authorities, in any geographical area of the Earth, because water has no nationality, and is consumed daily by everyone.

## 1. INTRODUCTION

The paper aims to analyze the right to water in the context of global warming, highlighting the current challenges for drinking water. Nowadays, climate change, which has led to irreversible changes for man and nature, is prompting public authorities to draw up public policy plans that include a firm guarantee of the right to water. The rule of law prevails in any constitutional state, in whatever field the authorities decide, as it is a social imperative. Due to the fact that drinking water is essential for life, all issues related to it must be permanently on the agenda of the public authorities. The purpose of the paper is to reveal as much knowledge as possible about the right to water in such a way that it becomes useful to researchers who want to be informed and to know about the existence of other countries facing water resource depletion.

The research questions to be answered in the paper are the following:

- 1) What are the main international legal acts governing the right to water?
- 2) What could be done to reduce water wastage?
- 3) What are the current problems and challenges faced by public authorities in Romania regarding water distribution?

The paper has a practical, interdisciplinary nature, starting from administrative law and highlighting useful information about the challenges in the water sector, based on public documents. For the practical part, we took into account the Releases of the National Institute of Statistics on water distribution in Romania over a chosen reference period of five years. Methodologically, through

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the way of structuring the information and the selection made, taking into account the criterion of relevance, the paper aims to carry out scientific research the results of which may inspire the scientific community to identify new ways of understanding water as a human right, through the experience revealed by the specialized literature of comparative law. In terms of the data collected, the paper is topical and important, and the subject is of public interest, as it combines different views of researchers from different continents and feels the pulse of the international legislation, revealing current legislation applicable to the right to water and the trends. Furthermore, this article may inspire legislators in different countries of the world to consider the constitutional regulation of the right to water and the development of best practices in this field, adapted to the needs of citizens today. Using specific legal research methods, the paper will emphasize the conclusion that it is in the public interest to protect water, so that it is imperative to observe the law, the decisions of the authorities and the responsibility for water wastage in general.

## 2. LITERATURE REVIEW - ACADEMIC DEBATES

The literature review on the right to water was carried out by accessing several databases, using the exploratory method and the computerized method, with sources in English or French. In general, the issue of the right to water has been perceived by the doctrine as interdisciplinary in nature. In this respect, some authors have argued that, given the interdisciplinary nature of this topic, the multi- and interdisciplinary nature of the research on this topic, intersecting with academic fields such as law, political science, health, engineering, sociology, environmental studies, and geography, to name a few, can make it challenging for scholars to “keep up” with the diverse array of trends and findings in extant literature (Faulkner et al., 2021). The number of works investigating the human right to water and sanitation has increased exponentially, with almost 75% of articles (...) published in the last decade (2010-2020) (Faulkner et al., 2021). Another author points out the types of debates in the literature that have taken place over time on the right to water. In spite its official recognition by the United Nations in 2010 (Fantini, 2019), the human right to water remains a contested notion as illustrated by three main debates: a.) the definition of its scope, content, and indicators to monitor its implementation; b.) the conceptual appropriateness and effectiveness of the human rights approach in countering water services privatization; c.) the call for decentering the western (...) individualistic approach of the human right to water.

Worldwide countries face challenges to restore and preserve water resources (Wuijts et al., 2021). Access to safe and affordable drinking water, sanitation and hygiene (WASH) for all is needed to safeguard human health, high on societal and political agendas (Anthonj et al., 2024). According to Di Marco (2023), the current global water crisis is seriously challenging water management, requiring an extensive sweeping adaptation for consumption and production patterns. Other studies look at the human right to water in terms of the quality standards that water must meet in order to be fit for human consumption. For example, availability and accessibility are some of the components that constitute a complete cycle of the right to water. Furthermore, it is stated that the water quality monitoring system (...) was established to prevent water pollution and control the total amount of major pollutants in China’s large water systems and to meet the environmental management needs of water pollution prevention and control across provincial boundaries (Qui et al., 2021).

There are also concerns about ensuring the right to water for the poor. In this respect, the right to water of the urban poor, especially the slum women, would be greatly impacted by the potential climate change (Kashem et al., 2023). In Latin America (Giuponni & Pazz, 2015), while water resources are plentiful (the region is estimated to have 35% of the world’s freshwater resources), a

significant percentage of the population has no access to safe water and sanitation (...). In Brazil, international instruments are an important source in the construction of the right to water by courts in other Latin American countries (Cortes & Cortes, 2021). The Brazilian Federal Supreme Court (...) has not issued any ruling establishing the right to water, but there is a legal mobilization aimed at doing so and using UN resolutions as a key argument (Cortes & Cortes, 2021). The authors build this study on the non-existence of an express regulation of the right to water in the Constitution. It is also considered that the constitutional adoption of the human right to water is conditioned by the existence of the rule of law and civil society participation (...), demographic and economic factors also matter, and require the attention of those who wish to promote the fulfillment of the right to water (Schiel et al., 2020).

### 3. SEVERAL NATIONAL LEGAL REFERENCES ON WATER QUALITY

Human rights are, broadly speaking, universal legal guarantees, regulated and protected at the international level through documents. Naturally, human rights are enshrined in the Fundamental Laws in any constitutional state where the rule of law is the basic pillar of the normative edifice. Furthermore, human rights are considered fundamental values of the European Union, indivisible and universal values of human dignity, freedom, equality and solidarity (Charter of Fundamental Rights of the European Union, 2012). Unlike the Slovenian Constitution, which expressly enshrines the right to drinking water, the Romanian Constitution does not provide for this, but at the national level, water is considered an exclusive object of public property, according to the law (Ștefan, 2023). From the documentation carried out, it appears that South Africa expressly regulates the right of everyone to have access to sufficient food and water [The Constitution of South Africa, art. 27 para. (1) letter b)].

The national legislation applicable to drinking water includes Government Ordinance no.7/2023 (Government of Romania, 2023) on the quality of water intended for human consumption. This recent normative act transposed the European legislation on the quality of water intended for human consumption. Then, Law no. 241/2006 on the water supply and sanitation service establishes the unitary legal framework for the establishment, organization, management, financing, operation, exploitation, monitoring and control of the regulated provision of public water supply and sewerage services to localities [art.1 para. (1)]. According to the law, the public water supply and sewerage service is part of the community public services of public interest [art. 1 para (3)]. Specialized literature has considered that public services are undoubtedly a pillar of society (Cliza, 2023). Furthermore, Water Law No. 107/1996 lays down clear obligations for the central public water authorities to prevent the deterioration of the surface water and groundwater bodies. Water in the public domain is entrusted for administration to “Apele Române” National Administration by the central public water authority [Water Law, art. 4 para. (2)]. Romania is part of the international Danube River Basin. Water management is carried out on the principle of human solidarity and common interest, through close collaboration and cooperation at all levels of public administration, water users, representatives of local communities and the population, in order to maximize social benefits [Water Law, art.6 para. (2)].

### 4. THE RIGHT TO WATER IN INTERNATIONAL INSTRUMENTS

This section will selectively introduce pieces of information on international documents governing the right to water. In the form of human rights (Tomescu, 2013), the fundamental rights of citizens, unlike other rights, are also enshrined in many international documents such as the Universal

Declaration of Human Rights and the two International Covenants on Human Rights of 1966 adopted by the UN General Assembly. According to public information, United Nations General Assembly Resolution 64/292 of 28 July 2010 recognizes the human right to safe drinking water and sanitation: which is essential for the full enjoyment of life and all human rights (United Nations, 2010). Access to safe drinking water and sanitation are internationally recognized human rights derived from the right to an adequate standard of living under art. 11 para. (1) of the International Covenant on Economic, Social and Cultural Rights (United Nations, 2010).

Chronologically speaking “*Right2Water*” is the first European citizens’ initiative to have met the requirements set out in the Regulation of the European Parliament and of the Council on the Citizens’ Initiative, formally presented to the Commission on 20 December 2013, after receiving the support of 1.6 million citizens (Ştefan, 2023). The right of children to enjoy water has been internationally recognized through the 1989 UN Convention on the Rights of the Child (United Nations, 1989). The States Parties recognize the *right of the child* to the enjoyment of the highest attainable standard of health and to benefit from medical and rehabilitation services. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures (...): c.) To combat disease and malnutrition (...), through, inter alia, (...) the *provision of adequate nutritious foods and clean drinking-water* (...) [art. 24 para. (2) letter c.]). According to Recommendation Rec (2001)14 (Council of Europe, 2001) of the Committee of Ministers to member states on the European Charter on Water Resources everyone has the right to a sufficient quantity of water for his or her basic needs (...). The European Parliament Resolution of 5 October 2022 on access to water as a human right – external dimension, reaffirms *the right to drinking water* and sanitation as a *human right*, both rights being complementary (...) and highlights the fact that the right to water is a fundamental precondition for the enjoyment of other rights, and as such must be guided by a logic grounded in the public interest, and common public and global goods (European Parliament, 2021).

Currently, the legal framework applicable to the topic under analysis indicates Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption, which develops the legal regime for water by describing the qualitative characteristics of water that make it drinkable (wholesome and clean). The Directive does not apply to natural mineral waters or waters which are medicinal products. Finally, we note that the United Nations General Assembly adopted the Resolution of November 25, 2016, proclaiming 2018-2028 as the International Decade for Action: “Water for Sustainable Development 2018-2028” (United Nations General Assembly, 2016).

## 5. CURRENT CHALLENGES IN PROVIDING DRINKING WATER TO PUBLIC AUTHORITIES

Along with other countries in the world, in the context of global warming, public authorities in Romania are also faced with difficult administrative decisions for the population, namely the potential restriction of access to water for a short period, with consumption taking place on a daily schedule. Therefore, this section analyzes the official situation on water distribution, based on the annual reporting of the National Institute of Statistics of Romania (hereinafter referred to as the “NIS”), the information being public (NIS, 2018-2022). A reference period of five years was chosen, namely 2018-2022, in order to be able to observe the current status and trends of drinking water supply in Romania. The motivation for choosing this documentation and compiling the statistics is based on the curiosity to know whether Romania is meeting the global goals set by



the 2030 Agenda for Sustainable Development (United Nations, 2015a). In this respect, Sustainable Development Goal No. 6 covers *Clean water and sanitation* - Ensuring the availability and sustainable management of water and sanitation for all (United Nations, 2015b). Only access to water is processed in the statistical table, in order to know how Romania ensures the right to water to its citizens, both at the normative level and at the practical, day-to-day level.

**Table 1.** Access to water in Romania

Year of NIS reporting	2018	2019	2020	2021	2022
Population connected to public water supply, (number of persons)	13,515,626	13,728,144	13,936,918	14,177,807	14,277,262
Population connected to the public water supply system in relation to the resident population of Romania, (%)	69.4%	70.9%	72.4%	74.1%	74.9%
Volume of distributed water (thousands of m <sup>3</sup> )	1,152,732.1	1,235,362.0	1,774,960.3	1,397,370.2	1,937,909
Water distribution to the population	44.9%	43.4%	33.8%	40.8%	31.7%
Water distribution to agriculture and fish farming	32.8%	35.8%	49.3%	42.0%	54.3 %
Water distribution to industry and construction	13.9%	13.3%	11.7%	11.0%	8.7%
Water distribution to other consumers	8.4%	7.5%	5.2%	6.2%	5.3%

**Source:** Own research

In 2018, 10,342,627 people were connected to the public water supply system in urban areas, representing 98.7% of the urban resident population and 3,172,999 people in rural areas, representing 35.3% of the country's rural resident population (NIS, 2018-2022). From a statistical and comparative point of view, with regard to the number of people connected to the public water supply system, it is clear that there is an increase from year to year. For example, the increase is evident, comparing 2018 when there were 13,515,626 people connected to the public water supply system with 2022 where 14,277,262 people were reported to be connected to the public water supply system. From this perspective, according to public information, it is noted that this increase was driven by “the connection of the population to the newly built water supply networks (NIS, 2018-2022). In 2020 there was a higher volume of water distributed than in previous years, namely 1,774,960.3 thousand m<sup>3</sup>. However, in 2020 the largest amount of water was not distributed to the population (33.8%) but to agriculture and fish farming (49.8%). The trend continues after the pandemic, with an increase in water consumption in agriculture and fish farming (42.0%) in 2021 compared to population consumption (40.8%). This trend of increasing consumption in agriculture and fish farming (54.3%) compared to population consumption (31.7%) continued in 2022.

## 6. FUTURE RESEARCH DIRECTIONS

The research results were limited by the impossibility of reviewing the specialized literature for a longer period, as the period 2019-2024 was considered, in order to bring the data closest to the present time. Therefore, the synthesis of knowledge in this area was limited in terms of time, although some relevant papers were considered. At the same time, the legislation included only one section, the national plan and several international documents, which cannot provide an overview of the overall normative framework on the right to water, and needs to be further developed. The analyzed topic is not exhausted, so we draw lines of future research that take into account an analysis of the Constitutions of all the countries of the world to reveal which of them have expressly regulated the right to water, given that only the Slovenian and South African Constitutions have been mentioned. The next step will be to document water management globally, in order to know whether the public or the private sector is involved in this area.

In relation to 2030 Agenda for Sustainable Development and to the International Decade for Action: “Water for Sustainable Development 2018-2028”, it is also important to monitor how countries are implementing international regulations, as it is important to know the level of connection to drinking water in other countries, not only in Romania. In this context, in future research, more detailed documentation will be carried out on potential restrictions on water consumption at the level of the states, caused by the effects of global warming, in order to be able to propose new regulatory guidelines to the legislator in this regard.

## 7. CONCLUSION

The research revealed information on the right to water from the perspective of the legislation, doctrine and applied plan. The research scope is considered to have been met, as the paper provides a synthesis of the current state of knowledge in the field and the research questions have been answered. Some conclusions that have emerged from the analysis are as follows. First, the paper provides a selective chronological overview of the domestic and international regulation of the right to water. It should be noted that on 28 July 2010, United Nations General Assembly Resolution 64/292 recognized the human right to drinking water and sanitation. Currently, Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption sets the quality criteria for drinking water. Romania has fulfilled its obligations to transpose the European legislation in this field, namely Government Ordinance no.7/2023 on the quality of water intended for human consumption, but the national legislation also consists of other normative acts, such as the Water Law.

With regard to what could be done to reduce water wastage as well as to identify the current problems and challenges faced by public authorities in Romania with regard to the state of water, statistical processing was carried out using NIS public releases. For the chosen reference period 2018-2022 four issues emerged:

- 1) the heatwave led to an increase in drought and a concomitant decrease in the flow of water in the reservoirs and this was evident in 2020 when the volume of water distributed was 1,397,370.2 thousand m<sup>3</sup> and in 2022, when the volume of water distributed increased to 1,937,909 thousand m<sup>3</sup>;
- 2) many localities are not connected to drinking water (yet);
- 3) there is a difference in water consumption between cities and villages. In villages the increase in consumption is also caused by the use of water for other purposes, such as agriculture;
- 4) as of 2020 water consumption in agriculture and fish farming increased compared to population.

Therefore, in order to avoid wasting water, people should use drinking water exclusively for personal consumption and not for other purposes. Furthermore, Compared to urban areas, in rural areas there is a tendency to waste water, with people using it for gardening, watering their yards, filling swimming pools, etc. Our country has not been unaffected by the effects of global warming either, a situation that is becoming increasingly alarming in terms of decreasing water resources, which is a real challenge for the authorities to ensure the right to water in these circumstances. Finally, although it cannot be said that mankind is currently in danger because there is water, however, the reduction of water reserves may soon jeopardize the exercise of the right to water by the population, so this situation can only be solved at institutional, normative level.

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