



International Environmental
Law Research Centre

THE RIGHT TO WATER IN ITALY

Chiara Armeni

IELRC BRIEFING PAPER
2008 - 01

This paper can be downloaded in PDF format from IELRC's website at
<http://www.ielrc.org/content/f0801.pdf>

TABLE OF CONTENTS

INTRODUCTION	1
SECTION I.	1
A. Overview of access to water and sanitation services in Italy	1
B. Water sector regulation and the right to water	2
1. Case law	2
2. Legislation	3
SECTION II.	6
A. The campaign of Italian civil society for the recognition of the human right to water	6
B. Institutional steps toward the recognition of the human right to water	7
C. Popular initiative for the re-publicisation of water resources governance in Italy	7
CONCLUSION	8

INTRODUCTION

In Italy, the water sector is characterised by a very complex and problematical situation. The main obstacles to an efficient and satisfactory management and regulation of water resources are the fragmentation of the legal competences and institutional responsibilities, the inefficiency in the management of the resource, the insufficient coordination between all the participants involved, and, sometimes, the lack of scientific knowledge.¹ This paper analyses this issue, focusing on the legislative regulation for drinking water, but also discussing recent measures taken towards the realisation of the right to water.

The paper is divided in two sections. Section I looks at current developments in water legislation at the national level. It underlines the most challenging aspects of the water sector reform, taking into account its features and contradictions. Section II illustrates recent improvements towards the recognition of the right to water as a fundamental human right in Italy. This section tackles the involvement of civil society, some institutional concerns and the latest achievements in the process of re-publicisation of water supply.

The purpose of this paper is to provide a general understanding of the relevant legislation in force in Italy concerning drinking water, as well as to show how the pressure of civil society towards the official recognition of the human right to water and the re-publicisation of the water sector seeks to fill a gap in the Italian water legislation.

SECTION I.

A. Overview of access to water and sanitation services in Italy

Access to water services in Italy shows some evident deficiencies. First of all, several Italian regions bear long periods of drought, especially during the summer. In the South, more than half of the population does not have sufficient drinking water available for at least a quarter of the year.² This critical condition is caused not only by a general water scarcity, but mainly by inefficient water resources management.

Overall, Italy withdraws the greatest quantity of water - drinking water and water for domestic uses - per person in Europe. In fact, the water consumption per day is on the average 280 liters per person.³ Laws and Decrees fix the quantity for water that has to be guaranteed to users for domestic consumption. In 1996, a national decree provided that individual water supply must not be lower than 150 litres/person/day.⁴ It was just the minimal amount required to 'ensure modern social and sanitary standards.'⁵ In 2005, this figure was raised and the notion of 'sufficient water supply' actually became between 200 and 280 litres/person/day.⁶

An additional problem is that the huge percentage of water lost through leakages in the waterworks is becoming an emergency in the making. Generally speaking, a water loss can appear in any part of the network, and this phenomenon is mainly due to structural flaws, obsolete infrastructure, inefficient maintenance of the network or deficiencies in management.⁷ Overall, all these factors lead to misleading calculations of the real amount of water

1 See A. Agapito Ludovici, N. Toniutti, A. De Sanctis, *Acque 2007- L'emergenza siamo noi 8* (WWF Dossier presented at the World Day for Water, 22 March 2007), available at http://www.wwf.it/UserFiles/File/WWF%20Cosa%20Facciamo/Acque/dossier_WWF_giornata_mondiale_acqua_2007.pdf.

2 Fifteen per cent of the Italian population (8 million people) receive less than the minimum standard of water supply (50 litres per person per day) during the driest months (June-September). See Data Green Cross Italia (2006), available at http://www.greencrossitalia.it/ita/acqua/risorse_acqua/i_numeri_acqua/bilancio_idrico_italia.htm.

3 See Legambiente, *L'emergenza idrica in Italia. Il libro bianco di Legambiente 22* (Rome, 3 May 2007).

4 See Decreto del Presidente del Consiglio dei Ministri, 4 March 1996, 'Disposizioni in materia di risorse idriche', *Gazzetta Ufficiale della Repubblica Italiana*, 14 March 1996, n. 62.

5 Autorità di Vigilanza sulle Risorse Idriche e i Rifiuti, *Relazione Annuale al Parlamento sullo Stato dei Servizi Idrici, Anno 2005* at 119 (Rome, July 2006) [hereafter Autorità di Vigilanza] (free translation by the author).

6 *Ibid.* at 44.

7 Specifically, losses can be categorised as real or apparent. Real losses can be physical losses, losses caused by wrong maintenance and use of the network, and losses from inefficiency in the distribution system. Conversely, apparent losses are represented by anomalies in authorised consumption without counters - such as fountains and hydrants - occasional deficient service due to breaking or incorrect drainage of tanks, unauthorised use and illegal connections.

wasted in the water networks. Water that is produced and then lost before it reaches users is called Non-Revenue Water (NRW).

In Italy, the Committee for the Control and Use of Water Resources (COVIRI)⁸ has estimated that around 40 per cent of the water in the aqueducts is lost because of an archaic and outdated infrastructure system.⁹ In 2003, in the Southern regions, water lost reached the peak of more than 50 per cent of water produced.¹⁰ As a result, several municipalities constantly have difficulties in guaranteeing regular water supply and often suffer interruptions in water services.¹¹ Today, Italy has enormous technical deficiencies in water infrastructure, suffering from lack of investment in modernising and maintaining it. All these factors suggest that the water crisis can only be overcome by adopting policies specifically oriented towards saving water and renovating infrastructure.¹²

B. Water sector regulation and the right to water

The substantial content of the human right to water is represented by ‘everyone’s entitlement to sufficient, safe, acceptable, physically accessible and affordable water for personal consumption and domestic uses’.¹³ According to the CESCR General Comment 15, this right emanates from the right to an adequate standard of living, the right to adequate housing and adequate food,¹⁴ and the right to the highest attainable standard of health.¹⁵ However, some scholars believe that the recognition of the right to water depends firstly on its inclusion into the national legislative body, as a duty of the State to provide citizens with sufficient drinking water and adequate sanitation facilities.¹⁶ Some European countries consider the recognition of this right as an implicit derivation from other constitutional rights,¹⁷ while others have explicitly incorporated it, but only at the level of inferior legislation.¹⁸ At present, Italian law does not recognise the right to water as an individual entitlement in any form, neither in its Constitution nor in any other legal instrument.

1. Case law

In 1996, the Italian Constitutional Court recognised that water has to be preserved against waste and pollution, taking into account its ‘character of fundamental right’.¹⁹ However, from that moment on, Italian jurisprudence has mainly considered water as an environmental priority rather than as a fundamental human right. In 2003, the Consiglio di Stato ruled that ‘[w]ater is to be considered as an essential component of the natural ecosystem that needs protection in a long-term perspective, with special attention to water resources fit to human consumption’.²⁰

8 Comitato di Vigilanza sulle Risorse Idriche.

9 See Autorità di Vigilanza, note 5 above at 16. The most alarming data is represented by Cosenza, with 70% of water wasted in the network. See A. Fiorillo et al., *Ecosistema urbano 2007 - Rapporto di Legambiente 2007* at 34 (2007), available at http://www.legambiente.eu/documenti/2006/0926_ecosistemaUrbano2007/ecosistemaUrbano2007.pdf.

10 See, Legambiente, *H2ZERO - L’acqua negata in Italia e nel mondo 15* (Rome, 4 June 2003).

11 In 2005, ISTAT confirmed that households claiming irregularity in water supply were 31% in the Italian islands; 20,2% in the South; 13,1% in the Centre; 7,8%; in the North- West and only 6,6% in the East. See ISTAT, *Rapporto Annuale. La situazione del paese nel 2005* at 377 (Roma, 2005).

12 According to the Decree n. 99/1997, water losses can be reduced by adopting two specific methods: installing modern capacity counters and monitoring pressure. See Decreto Ministeriale, 8 January 1997, n. 99, ‘Regolamento sui criteri e sul metodo in base ai quali valutare le perdite degli acquedotti e delle fognature’, *Gazzetta Ufficiale della Repubblica Italiana*, 18 April 1997 n. 90.

13 Committee on Economic Social and Cultural Rights, General Comment No. 15 (2002) *The Right to Water* (arts. 11 and 12 of the International Covenant on Economic Social and Cultural Rights), UN Doc. E/C.12/2002/11 (2002), para. 2.

14 Article 11(1), International Covenant on Economic Social and Cultural Rights, New York, 16 December 1966.

15 *Id.* Article 12(1).

16 See H. Smets, ‘Le droit à l’eau, un droit pour tous en Europe’, 37/2-3 *Env. L. & Pol’y* 223-231 (2007).

17 The right to water may derive from the right to a healthy environment (Greece, Belgium), the right to life or right to enjoy political social and cultural rights (Cataluña, Romania). See *Id.* at 16.

18 Spain, Finland, Sweden, United Kingdom have a greater focus on the right to access to water supply while Belgium, France, Portugal, Ukraine have a greater focus on the right of individual to drinking water.

19 Corte Costituzionale, Judgment, 10-19 July 1996, n. 259, in *Gazzetta Ufficiale della Repubblica Italiana*, 31 July 1996, n.31., para.3 (free translation by the author).

20 *Comune di Carrosio e Comune di Gavi v Presidente Consiglio dei Ministri, Regione Piemonte, Provincia di Alessandria e Cementir-Cementerie di Tirreno S.p.A.*, Consiglio di Stato, Sez. VI, Decision, 18 April 2003 n. 2085, para.4.3, at 3 (free translation by the author).

Despite its importance for the satisfaction of vital human needs, water is considered both as a fundamental resource as well as a part of the environmental heritage, but not as a human right. This is confirmed in a recent judgement of 2006, where the Consiglio di Stato recognised water as a 'primary good'.²¹

This means that water in Italy is still conceived as a commodity for the satisfaction of needs, rather than as an individual human right. This trend confirms that the Italian legal system considers access to water just as a political objective, called for the realisation of other, undisputed rights such as the right to have access to public services, the right to public health and the right to a healthy environment.

2. Legislation

a) Before 1994

The Italian water sector is largely fragmented and it is difficult to find a single outline of the legislation in force. Since the 1990's, Italy has been pushing for a 'new deal' for the privatisation of water services. This process began in 1994 with the approval of the Law N.36 (also known as Law Galli), which reorganised water service in Italy.²²

Up to this reform, municipalities were directly in charge of both water production and distribution. As a result, both the operation and distribution networks were highly fragmented.²³ The water sector was characterised by poor efficiency, lack of managerial good-practices and inadequate financial self-sufficiency because deficits were corrected through the general public budget. It also suffered a huge decline in investment, especially in the wastewater collection and treatment segments.²⁴

Water tariffs were particularly affected by this complex situation. In 1942, the Government established for the first time a block of water tariffs. Thereafter, the Parliament approved a new regulation appointing the Interdepartmental Committee on Prices (CIP) and the Provincial Committee on Prices (CPP) to elaborate specific guidelines for the coordination and regulation of prices.²⁵ This regulation did not take into account the principle of full cost-recovery and, as a consequence, did not cover management costs. Thus, considering that municipalities had to face both water management costs and also cover financial deficits with their own budgets, the overall budget for water investments was consequently very small. For that reason, the expansion and modernisation of the water sector were extremely difficult. After continuous updating of the regulation, the CIP finally enacted a reform encompassing all the components of the water tariff and applying a progressive water tariffication mechanism. In 1977, the application of the full cost-recovery principle in this sector caused an initial drop in prices because of the constant adaptation to inflation trends.²⁶ Nevertheless, by the end of the seventies, a great financial crisis in the public sector revealed the insignificance of the price-cap system. Subsequently, over the eighties, the Government tried to impose tariffs only applying a partial percentage of cost-recovery mechanism.

Before the reform of 1994, Law 183/1989 was mainly focused on combating water pollution and establishing fair quantity and quality standards for drinking water supply.²⁷ Those quality standards for water services were generally satisfactory in the North and the Centre of Italy, specifically in metropolitan areas, where the quality of services was overall acceptable both in the territorial distribution aspect and throughout all different phases of the production

21 *Cementir-Cementerie di Tirreno S.p.A. v Comune di Carrosio e Legambiente-Associazione Ambientalista Nazionale*, Consiglio di Stato, Sez. VI, 11 January-13 April 2006, n. 2001, para. 1 (free translation by the author).

22 Law 5 May 1994, n. 36 'Disposizioni in materia di risorse idriche', *Gazzetta Ufficiale della Repubblica Italiana*, 19 January 1994, n. 14 [hereafter Law Galli].

23 Before the Law Galli, almost 9,000 small operators worked in the Italian water sector and their dimensions did not constitute a sufficient basis for significant investments in technological renovation.

24 See U. Triulzi, *The Reform of the Italian Water Sector* (Paper presented at the Water Week 2004 - Session 3 entitled 'How to Engage with Public and Private Sectors in Urban WSS', organized by the World Bank, Washington D.C., 24 February 2004), available at http://siteresources.worldbank.org/EXTWSS/Resources/337301-1147283808455/2532553-1149773713946/Triulzi_ReformofItalianWaterSector.pdf.

25 See Decreto Legislativo, 19 October 1944, n. 347, Istituzione del Comitato Interministeriale e dei Comitati Provinciali per il coordinamento e la disciplina dei prezzi, *Gazzetta Ufficiale della Repubblica Italiana*, 5 December 1944, n. 90 - Serie Speciale.

26 See Decreto del Presidente della Repubblica, 24 July 1977, n.616, *Gazzetta Ufficiale della Repubblica Italiana*, 29 August 1977, n. 234.

27 Law 18 May 1989, n. 183, Norme per il riassetto organizzativo e la difesa del suolo, *Gazzetta Ufficiale della Repubblica Italiana*, 25 May 1989 n. 120, supplemento ordinario.

cycle (waterworks, sewerage and depuration processes). Conversely, they were not satisfactory in the South, and sometimes they constituted a risk for public health.

b) After 1994

In 1994, the Italian Parliament approved a water sector reform through the enactment of the Law Galli. This reform stressed two main aspects. Firstly, it consecrated the recognition of water as 'a public good and as a resource which must be protected and utilised according to criteria of solidarity'.²⁸ Secondly, the main goals of this reform were to reduce the fragmentation of the organisational framework by charging the operator with both drinking water production and distribution. This new centralised approach was achieved through the concession of the entire Integrated Water Service Management (IWSM). The reform created specific relevant areas for the operation of water services (drinking water, wastewater treatments, sewers, etc.) called Optimal Territorial Areas (OTAs), which were created following the river basins' geographical limits (territorial aggregation). Regional authorities had jurisdiction over these areas. The reform led to the centralisation of water management in comprehensive organs denominated Basin Authorities (vertical aggregation).

The COVIRI was also appointed as an independent public organ, and it had to report directly to the Italian Parliament on the state of the integrated operation of water services, including drinking water supply, sewage recollection and treatment. According to the Law Galli, public authorities were in charge of the planning and regulation, whereas specialised companies had to provide management and investment.

Overall, this reform implemented two principles. Firstly, water management had to aim to full-cost recovery by applying tariffs that can cover the overall costs of entrepreneurial risks. Secondly, water infrastructure management was put under the single control of the Basin Authority. This is particularly important because it means that the reform encompasses every phase of water services delivery, yet distinguishes between ownership and management of utilities. Hence, the law differentiates between owner (public administration) and administrator (specialised companies). There is the key idea that a private management of water utilities can bring more efficiency to water services operation, and that it could put a stop to the waste of water that the provision of water services by the public sector was causing.

The Italian water reform of 1994 distinguishes different levels of responsibility in water services provision. At the national level, the COVIRI is in charge of delivering a comprehensive supervision following governmental instructions. At the regional level (or 'basin level'), Regional and Basin Authorities are responsible for environmental regulation and the infrastructure planning for the basin areas under their jurisdiction. Indeed, taken as a whole, water services were transferred from a municipal to a regional level. The regions obtained general decision-making power in establishing Optimal Territorial Areas (OTAs) and in admitting private sector participation in them. Finally, at the municipal level (or 'sub-basin level'), municipalities keep ownership of infrastructure and appoint OTAs Authorities, which set up contracts and are in charge of economic regulation, performance monitoring and control the fulfilment of obligations.²⁹ OTAs Authorities have to share data and information with the COVIRI, whose authorities are appointed by the Government.

Some uncertainties on the real efficacy of this reform surfaced once a number of objectable points were noticed. For instance, the COVIRI is a ministerial organ lacking enforcement power and, thus, *de facto* dependent on political authority, even if strictly legally it is an independent body. In addition, OTAs Authorities' acts are supervised by the municipalities that appointed the OTA itself. As a result, there is a concrete risk of regulatory capture. Conflict of interests is also possible in case of public and mixed societies operate services, since municipalities become both controller and controlled. This complex structure provided four interrelated kinds of control: actual implementation of projects (process control), actual attainment of performance standards (outcome control), economic and financial control, actual water delivered and tariff structure applied to verify the average tariff (Revenue control).³⁰

According to the Law Galli the operation of water services could be public, mixed or private. As a result, privatisation was not compulsory, yet many municipalities have changed water services operation from the public to the private

²⁸ Article 1, Law Galli, note 22 above (free translation by the author).

²⁹ See Triulzi, note 24 above.

³⁰ *Id.*

sphere, transforming special public agencies in private companies or in consortia. Therefore, private participation has become essential in this new context. The public sector has maintained ownership of infrastructure, but it has had to grant decision-making power on the operation of services to the private sector, even in those scenarios where the latter only has a small participation. The reform has opened the water services market, especially to foreign water companies, interested in making good profits through the Italian water services privatisation process.

This reform aimed to achieve three main political objectives. In particular, it sought to solve coordination problems arising from the multiplicity of management policies, to eliminate the deficiencies of infrastructure, and to remove imbalances between current tariffs and costs of service. It also set some managerial targets, such as industrial consolidation, production efficiency, financial self-sufficiency and cost-effectiveness of all interventions.³¹

Nonetheless, several disadvantages came from this new structure. In fact, this law introduced privatisation to the Italian water sector, yet it caused some inconvenience in the implementation processes. For example, only a low number of OTAs have been established up to now, because coordination is difficult.

Even the tariffication mechanism reveals some drawbacks. In fact, considering that all costs of water service will be borne by users -including costs for renovation of infrastructure- water tariffs might soar. Furthermore, this tariff system leads to inefficiency because the private sector aims to make profits that are inherently incompatible with a policy of economising water - one of the fundamental goals set by European Institutions.³² On the contrary, companies try to provide incentives to increase water consumption.

Further, since the reform, drinking water tariffs have increased by twenty per cent in comparison with pre-existing prices and, most importantly, tariffs are not uniform within the country. This is due to several differences in the types of contracts that have been signed (concession to a private operator; public-private partnership, in-house provider, etc.), geographical characteristics (rain, dry soil, etc.), state of waterworks and amount of investment needed for their maintenance. Overall, after the reform, the affordability of water services for households decreased in comparison to the previous situation, and water tariffs are still unreasonable for low-income and poor families.³³ Finally, investment has also been reduced up to a third of the sums of the 1980's.

Generally speaking, the main problems that are arising from this reform in water services are: inefficiency in the control of the Authority over private companies; lack of public participation in the definition of standards of service delivery; dangerous formation of oligopolies in public services (not just in water services); and institutional weaknesses in the Italian regional agencies - which should have a better role, given their proximity to local communities and, consequently, to the needs of specific areas.³⁴ Furthermore, in comparison to the general privatisation of water services, the monitoring agencies of the state often lack know-how and technical expertise to perform an efficient democratic control.

In 2006, the Environmental Code repealed the Law Galli, but the main legal framework for water services in Italy is still based on substantial provisions of that law.³⁵ In fact, on the one hand, the Environmental Code has legally abolished this law, but, on the other hand, it has substantially re-written the main principles and structure of the Law Galli within its own text.

This code is extremely controversial and is still under revision at the Italian Parliament due to contradictions in its text, especially given the evident lack of coordination with European Directives and other national laws regulating public services.

31 *Id.*

32 See Directive 2000/60 of the European Parliament and of the Council Establishing a Framework for the Community Action in the Field of Water Policy, 23 October 2000, *O.J. L.* 327 (22 December 2000).

33 After the reform, the average expenditure for water services shifted from 0,70% to 0,84% of the average familiar income. Data related to the incidence of water tariffs on low-income families' budget moved from 1,27% to 1,54%. Considering data about relative poverty, the incidence of water tariffs on families' income shifts from 1,97% to 2,38%, whereas families in condition of absolute poverty were affected by the highest raise (from 2,81% up to 3,40%). See CO.VI.R.I., *Rapporto sullo Stato dei Servizi Idrici - Stato di Attuazione, Investimenti, Tariffe*, 78 (Rome, 2008).

34 See Triulzi, note 24 above.

35 Decreto Legislativo, 3 April 2006, n. 152, Norme in materia ambientale, *Gazzetta Ufficiale della Repubblica Italiana*, 14 April 2006, n. 88, supplemento ordinario n. 96.

SECTION II.

A. The campaign of Italian civil society for the recognition of the human right to water

Although the right to water is not officially recognised in Italy, significant pressure for its introduction in the national legal order has come from civil society. The mobilisation involves users' associations, non-governmental organisations, committees of citizens and syndicates. The Italian Committee for a World Water Contract was founded in 2000 and has become one of the most important groups in this movement. It is the Italian committee of the international movement founded in 1998 in Lisbon thanks to the initiative of the Lisbon Group of Mario Soares and Riccardo Petrella. This group launched the Water Manifesto, which is a fundamental benchmark for international groups lobbying for the right to water. The Water Manifesto laid down some basic principles:

- Water, as a source of life, is a public good that belongs to all the inhabitants of the Earth;
- The right to water is an inalienable individual and collective right;
- Water has to contribute to the strengthening of solidarity among peoples, countries, genders, and generations;
- Access to water necessarily occurs through partnerships;
- Water policy implies a high degree of democracy at a local, national, continental and world level.³⁶

The consequent proposals of this lobby group are to create a network of parliaments for water, to promote information and awareness, to mobilise campaigns and to establish a World Observatory for Water Rights.³⁷

In 2003, the Declaration of Rome, issued following a day of meetings promoted by the Italian Committee for World Water Contract and the city of Rome, set down six main goals. The most ambitious one was to give constitutional status to the right to water by including it in the Universal Declaration of Human Rights, the national constitution of every state, and the statutes of local authorities.

Over the same year, the first Alternative World Water Forum (FAME) was also held in Florence. Its main objectives were the recognition of the right to water as a human right and of water as a common good, the implementation of collective financing to improve access to water, and the promotion of democratic management of water at all levels.

Further, this Forum supported the view that water had to be excluded from trade and market principles, particularly from multilateral or bilateral trade agreements, but also from the influence of international financial institutions (such as the World Bank and IMF). Finally, participants requested a status for water on a global level, which could allow to take into account the whole water cycle, to prevent exclusive appropriation by anyone, to guarantee collective responsibility, and to ensure that its management and control is in the hands of a public authority with legitimate political power and under the rule of democracy.³⁸

Overall, in Italy there is a high number of associations, NGOs, and organisations working on this challenging topic. The most active are Legambiente, Green Cross Italia, WWF Italia, and Attac Italia. They are all organised in a unique movement called Forum Italiano per i Movimenti dell'Acqua, which was created thanks to the public mobilisation witnessed in 2002-2003.

³⁶ See R. Petrella, *The Water Manifesto: Arguments for a World Water Contract* (London & New York: Zed Books, 2001).

³⁷ At present, their most important campaign is called 'Water is Equal for all'.

³⁸ See First People World Water Forum, Final Declaration – For a Different Water Policy: Proposal and Commitments (Florence, March 2003), available at http://www.contrattoacqua.it/public/up//documenti_PDF/traduzioni/firenze2003/Florence2003_en.pdf.

B. Institutional steps toward the recognition of the human right to water

Even if the Parliament has not yet addressed the claims of the Italian civil society, something has at least changed from an institutional perspective. On 22 May 2007, the Italian Government withdrew its support of the Public-Private Infrastructure Advisory Facility (PPIAF), which is part of the World's Bank's initiatives, encouraging the privatisation of water services. The PPIAF provides developing countries with technical assistance for improving public infrastructure through the participation of the private sector. The Vice Minister of the Italian Foreign Affairs, Patrizia Sentinelli, announced this decision during the International Civil Society Forum 'Stop Privatisation'. 'I hope', she said, 'that this political signal will (...) reopen the international debate, (...) and I hope that most of you will be open to support a broader objective such as agreeing on a universal declaration of water as a human right within the framework of the United Nations'.³⁹

Campaigners, NGOs and trade unions have celebrated this new position because they firmly believe that PPIAF's aid funds consultancy programmes undermine the rights of the poor to decide how to run their public services. Italy is the second country to formally withdraw from PPIAF, after Norway.⁴⁰

C. Popular initiative for the re-publicisation of water resources governance in Italy

Today, a new point of view on the right to water is surfacing in Italy. A recent popular initiative submitted to the Italian Parliament aims for the re-publicisation of water services and the recognition of a right to water that is legally enforceable before courts. This initiative was promoted in 2005 by the Forum Italiano per i Movimenti dell'Acqua during the II National Meeting in Florence,⁴¹ and it has been signed so far by 406.626 Italian citizens. The text lays down several principles for a sound water resources management, with special regard to promoting universal access to drinking water.

Its explicit goal is to support public and participative governance of the whole water integrated cycle, for guaranteeing sustainable utilisation of water resources (Art.1). The project for a law explicitly recognises 'availability and individual or collective access to drinking water as inalienable and inviolable rights of the human being' (Art.2), and it gives special consideration to information and public consultation on water issues (Art.3). According to this proposal, ownership of the integral network of water services is public. Indeed, it sets down the inalienability of water utilities, perpetual ownership by the State, prohibition of separation between management and supply of water services, and compulsory concession of the whole service to public organs (Art.5). The latter provision can be considered the cornerstone for the re-publicisation of water services.

Moreover, the proposal forbids the acquisition of shares of the public company in charge of the operation of water services (Art.6). In that perspective, the new text builds up a transition regulation from private to public through the termination of private concessions, the transformation of all mixed companies into new public companies, and, if a concession of a public company had already occurred, its transformation into a public agency.

Finally, the proponents claim the principle of democratic governance of water services, aiming at implementing public participation in decision-making processes related to water (Art.10). A National Fund for International Solidarity, in charge of promoting access to drinking water for all, is also recommended in the project.

It is also important to highlight that, on 25 October 2007, the Senate approved, within the financial law, Art. 26 – *ter*, which suspends privatisation of water services in Italy. At present, this popular initiative is still to be debated at the Chamber of Deputies.

Overall, Italian civil society has had significant accomplishments. This initiative is a positive outcome of several years of activity and represents an outstanding opportunity towards the official recognition of the right to water as a fundamental human right in the Italian legal order.

³⁹ This statement is available at <http://www.wdm.org.uk/resources/responses/water/italywithdrawfromppiaf22052007>.

⁴⁰ Norway withdrew support to PPIAF on February 2007.

⁴¹ For more information, visit <http://www.acquabenecomune.org>.

CONCLUSION

In Italy, the legal framework for water services is fragmented and inadequate. Unfortunately, the main reform of 1994 did not provide an efficient solution to the service problems caused by drought, unequal distribution of resources, and inequality in access to water supply for citizens. Disjointed accountability and incoherent systems of control represent the main negative aspects of this law. Pressure towards privatisation may be considered a further violation of the right to water as a fundamental human right.

Even if the Italian Parliament has not recognised yet the right to water, civil society organisations are very active and dynamic in this field through campaigns and advocacy initiatives. Concrete achievements in this sense have been obtained at an institutional level both during the recent International Civil Society Forum 'Stop Privatisation', as well as through the new popular initiative for a law re-publicising water services.

The Italian Parliament started discussing this significant project in January 2008. It is significant for two reasons. Firstly, because it is a popular initiative showing that citizens are concerned by water issues. Secondly, because it proves that the current water services provision in Italy is not able to overcome economic interests and different political views so that it takes into account the uncontested demand for the implementation of the human right to water.

www.ielrc.org