

# CP2D: Review and monitor existing contracts between service operators and consumers

REGULATORY FUNCTION: CONSUMER PROTECTION REGULATION		CP2D
<b>OBJECTIVE CP2</b> There are mechanisms to monitor and review information received about consumer protection rights	<b>ACTION CARD CP2D</b>  <h2>REVIEW AND MONITOR EXISTING CONTRACTS BETWEEN SERVICE OPERATORS AND CONSUMERS</h2>	
<b>COST:</b> Medium <b>FREQUENCY:</b> One time <b>TARGET GROUPS:</b> Regulators, consumers, service operators		
<b>DESCRIPTION</b> As much as information collected from consumers is important to regulators, its accuracy must be reviewed and monitored. This process is usually performed through regular or random annual audits, aimed to assess operators' compliance with ongoing service contracts. Following predefine inspection procedures, regulators approve, conduct, and report audits, aimed at meeting the above objectives. Regulators inspect operators' accounts and operations against their contractual rights and obligations.		
<b>EXPECTED OUTCOMES</b> <ul style="list-style-type: none"> <li>• Service operators are regularly audited.</li> <li>• Consumers rights and duties are secured as stipulated in their contract.</li> <li>• Regulator alerts either side in case of irregularity.</li> </ul>		
<b>EXAMPLE 1: PORTUGAL</b> Public water supply, urban wastewater management, and municipal waste management are public services essential to public health and well-being, the collective security of people and economic activities, and environment protection. In <b>Portugal</b> , these services must respect the principles of universal access, uninterrupted and high quality of service, and efficient and affordable prices as stipulated in consumer contracts. In turn, the Portuguese Water and Waste Services Regulation Authority (ERSAR) is mandated to undertake the following. <ul style="list-style-type: none"> <li>• Monitor the protection of water and waste sector users, always trying to avoid abuses resulting from exclusive rights, focusing on the control of the quality of services provided, and supervising the tariffs charged to the end-users.</li> <li>• Monitor equal and clear conditions in access to water and waste services, and the operation of these services. This principle also applies to all signed contracts.</li> <li>• Monitor the right to general information about the sector and about each operator.</li> </ul> ERSAR conducts a range of audits around the above objectives between April and June each year.		
<b>EXAMPLE 2: PARAGUAY</b> The General Law on the Regulatory and Tariff Framework for the Provision of Drinking Water and Sewerage Services in the Republic of Paraguay stipulates that the Sanitary Services Regulator (ERSSAN) shall ensure compliance with the aforementioned law and the obligations of providers on the basis of the information collected by the latter as well as that which is collected through general and special inspections conducted in the service provision area or in infringement areas. Such inspections may be performed by decision of ERSSAN or due to reports received from users, subscribers, providers or any third party. In a complementary fashion, the Infringements and Sanctions Regulation, which ERSSAN is in charge of regulating and enforcing, establishes the guidelines for inspections of providers which include the following: <ul style="list-style-type: none"> <li>• Objective. To verify, with particular attention to records and facilities, compliance with respective obligations and corroborate reports and indications of deviations or transgressions in which the provider may have incurred.</li> <li>• Opportunity. General inspections are scheduled and the provider is given thirty (30) days' advance notice. Special inspections are to be performed within ten (10) days of authorization by ERSSAN, and the provider is given no less than forty-eight (48) hours' notice. Exceptionally, special inspections may be performed without notice when the verification is deemed urgent by ERSSAN.</li> </ul>		

- Scope. Inspections may cover the following aspects:
  1. Execution of the Investment Plan
  2. Maintenance of affected assets
  3. Technical operation of the service
  4. Service quality according to various parameters
  5. Application of the tariff regulation
  6. Administrative and accounting management by the provider
  7. Work areas, so as to corroborate technical information on quality
  8. State of property and responsiveness
  9. Administrative practices and user service means
  10. Any other aspect that ERSSAN may consider justified

### EXAMPLE 3: PERU

The National Superintendency of Sanitation Services (SUNASS), the public regulator of Peru, has a general regulation on supervision, auditing and sanctions of service providers. The scope of its audits includes the following aspects:

- The provision of sanitation services and the monitoring and management of underground water bodies.
- The administration and use of resources from reserves and funds established by SUNASS.
- The governability and governance of providers.

With the aim of complying with this function, SUNASS establishes a specific procedure for conducting field audits of providers, which may include quality control tests or other actions to verify compliance with the obligations assumed by the providers. Such audits may be scheduled or performed without notice.

Once the field audit is complete, SUNASS prepares a report within a maximum of ninety business days, on the basis of which decisions are made depending on whether provider obligations are being complied with.

### LINKS

Portugal: ERSAR website: <https://www.ersar.pt/en/site-about-us/Pages/mission.aspx>

Paraguay: General Law and Infringements and Sanctions Regulation <https://erssan.gov.py/index.php/noticias-1/marco-legal>

Peru: Auditing and Sanctions General Regulation:

<https://www.sunass.gob.pe/wp-content/uploads/2021/12/Resol-067-2021-SUNASS-CD.pdf>

### INTERNAL CAPACITIES NEEDED AND THE ROLE OF PARTNERS

A range of administrative, legal and inspection skills are necessary to complete this action, which obliges regulators to build their internal capacity through training, often seeking support from other national institutions or development partners. Judicial institutions can for example, extend their expertise when developing monitoring guidelines. Development partners can also undertake training on how to establish implementation procedures. Regulators' staff must be trained on when to proceed with audits, what and how to inspect and analyse, and how to manage relationships with audited parties.