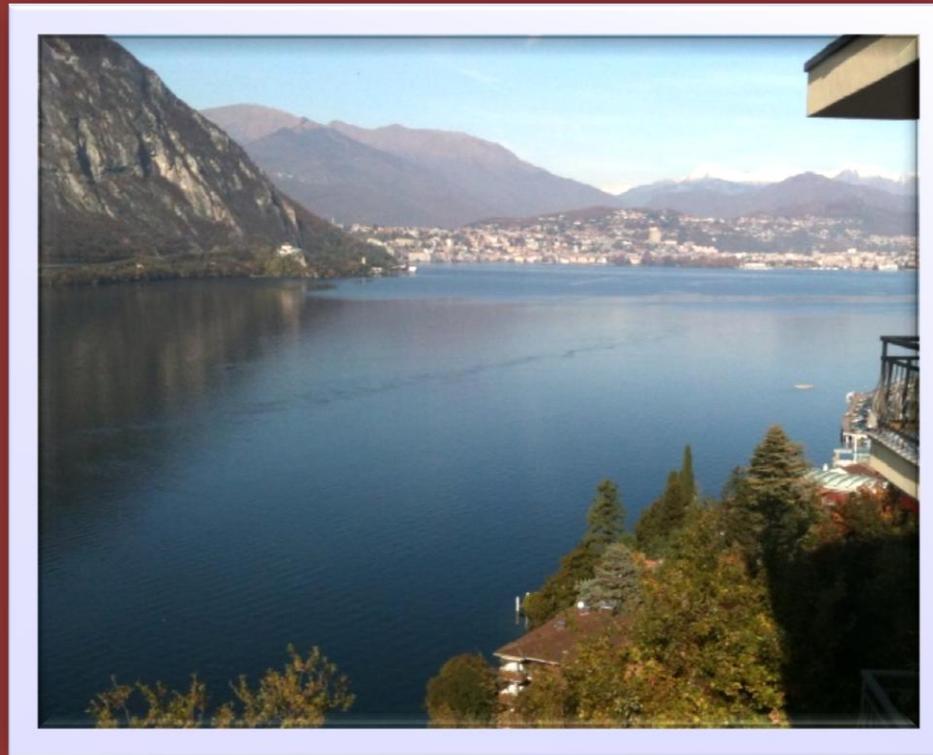


# COMPARING THE UNECE HELSINKI CONVENTION WITH THE UN NEW YORK CONVENTION ON INTERNATIONAL WATERCOURSE



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A framework for sharing ...

... less easily perceived where international law and cooperation are most needed ...



# Introducing a comparative analysis

- ✓ Under international customary law and under treaty law: compatibility;
- ✓ The guiding *harmonization principle*;
- ✓ The UNECE Convention as a MEA and the NYC as an instrument regulating competing interests over the use of international watercourses also addressing environmental concerns.

# Physical Scope

- ✓ The UNWC “watercourse system approach” and the UNECE “ecosystem approach”;
- ✓ Related and confined groundwater.

# Substantive Principles

- ✓ The compatible different approaches to the relationship between the no-harm rule and the equitable utilization principle: one complex normative setting of entangled principles.
- ✓ The due diligence nature of the rules in point.
- ✓ The UNECE Convention prevailing guidelines for the prevention of transboundary impact serving also for the determination of the equitable and reasonable utilization.
- ✓ The UNWC prevailing guidance for the application of the equitable utilization principle

# Cooperation

- ✓ The main difference between the two conventions
- ✓ The UNECE Convention institutional means for cooperation under Art. 9 UNWC.
- ✓ Articles 8(2) and 24 and the integration of cooperation with the substantive principles and procedural rules

# The applicability of the two conventions to states that are parties to both under treaty law

- ✓ On the premise of compatibility, Vienna Convention Arts. 30(3), 59(1)(b), most importantly Art. 31(3) referred to above.
- ✓ In relation to differing provisions between the *lex posterior* and *lex specialis* principles: compatibility clauses under Art. 9(1) UNECE Conv and Art. 3(1) UNWC.

# Concluding Remarks

- ✓ ...on the normative complementarity between the two Conventions
  
- ✓ ... of a policy nature:
  - a) the different normative slants of the two instruments as a premise
  - b) on the institutional support for the NY: a problem of normative and policy appropriateness
  - c) a pragmatic search for the happy medium between a global-regional approach and a regional-global approach in one blow: the gradual association of the UNECE the experience and operative capacity with the other UN Regional Commissions, with the support of other international institutions whose contribution may be relevant in the field.

**THANK YOU!**