The UNECE Water Convention: obligations and practical application

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The Water Convention

- Signed on 17 March 1992
- Entered into force on 6 October 1996
- Protocol on Water and Health adopted in 1999, entered into force in 2005
- Protocol on Civil Liability adopted in 2003
Status of ratification of the Convention

37 countries and the European Community

- Parties
- Countries in accession
- Non Parties
Amendment 2003

• Opening up the Convention to non-UNECE states
• Strong commitment to entry into force by 2012
Main obligations under the Convention

- Protection of transboundary waters by preventing, controlling and reducing transboundary impacts
- Reasonable and equitable use of transboundary waters
- Obligation to cooperate through agreements and joint institutions

=> Overall objective of sustainability
Step-by-step approach

- Due diligence nature of the obligation to prevent, control and reduce transboundary impacts
- “All appropriate measures” depend on potential risk involved, capacity of the country...
- Examples of measures contained in the Guide to Implementing the Convention
- Good practice to develop a national implementation plan
Holistic approach

- Transboundary impacts means significant adverse effect on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures, and socio-economic conditions.
- Surface and groundwaters, and links to the recipient seas.
- Catchments area concept => IWRM.
- “Significant” => acceptable threshold of harm.
Polluter pays principle Art. 2.5 (b)

- The costs of pollution prevention, control and reduction measures shall be borne by the polluter
- Double function of the PPP:
  - Avoid damage (preventive character)
  - Mitigation and recovery of damage, as well as financing measures of reinstatement
- Primarily domestic scope of application: regulates relationship inside the territory of a Party and not between Parties
- Not a legal basis for claims of compensation for transboundary damage between Parties
Two categories of obligations

- For all Parties => also benefit for national legislation
- For Riparian Parties
Provisions relating to Riparian Parties

- Cooperate on the basis of equality and reciprocity
- Conclude bilateral and multilateral agreements
- Establish joint bodies (e.g. river commissions)
- Consult and exchange of information
- Joint monitoring and assessment
- Elaborate joint objectives and concerted action programme for their shared waters