

**Water allocation in
the European Union:
the interaction
between UNECE, EU
water law and basin
treaties**

Gábor Baranyai



The curious absence of water allocation in the European Union

- Historically transboundary water allocation not an EU-wide political issue
- EU water law born within EU 12-15 (before the 2004 expansion)
- The largest and most complex basins well watered with modest temporal variations
 - Rhine
 - Meuse
 - Danube (upstream Alpine sections)
- No major changes in water use (population, agriculture, industry, energy, transport)
- One major exception: Spanish-Portuguese rivers
- Allocation matters seen as small scale bilateral issues (Lac Lanoux arbitration)
- Cooperation dominated by pollution and ecological questions

The interaction among the four layers of European water law and governance (1)

The UNECE level

- Basic principles in the Water Convention
- Equitable and reasonable utilization & no-harm rule
- Helpful in providing some framework, but too vague in the context of hard disputes
- Example of the Gabčíkovo-Nagymaros litigation: 20 years of unresolved dispute of water allocation
- Part of EU law!

The interaction among the four layers of European water law and governance (2)

European Union

- Major constitutional constraint: water quantity management under unanimity decision-making, European Parliament no co-legislator
- EU water law almost exclusively concerned with quality issues, water quantity addressed incidentally, water allocation completely lacking
- European Commission
 - High resistance against the issue – conflict potential, member state pressure
 - Downplaying/avoidance/undue pressure (“don’t open Pandora’s box”)
- Result: gross asymmetry between highly detailed transboundary planning and quality management requirements and the lack of cross-border quantity control

The interaction among the four layers of European water law and governance (3)

Basin treaties and commissions

- Rhine, Elbe, Meuse, Odra convention:
- No or superficial mention of quantity management (floods),
- Allocation omitted
- Danube Protection Convention: goes in some way to address national and basin wide water balance, but no rules for allocation
- Sava Framework Agreement: more comprehensive approach, moving beyond the one dimensional qualitative focus (“integrity of water regime”)

The interaction among the four layers of European water law and governance (4)

Bilateral water treaties

- Relatively high number of basic allocation rules or principles
- Most of them however too general to be practically applicable
- Several successful examples of confined management regimes (Lake Vuoksi, Lac Lanoux)
- One outstanding exception: 1998 Albufeira Convention
 - Detailed allocation mechanisms
 - Regularly revised allocation figures
 - Flexible regime adaptation to meteorological extremes

Evaluation and outlook

- High contrast with the rest of the world: one-sided focus on the environmental problems of NW Europe in the 1970s and 80s ossified in UNECE, EU law and basin treaties
- Transboundary cooperation dominated by EU law, especially by the Water Framework Directive - Hardly any institutionalised interaction among the various layers
- Allocation issues should be addressed at EU level, but strong political and legal constraints
- Europe has no experience in water allocation, except for the Iberian peninsula
- The intensification of climate change and river flow variability: the lack of clear rules and mechanisms likely to increase hydropolitical tensions (Rhine, lower Danube basin)

National University of Public Service

Faculty of Water Science

Institute of Sustainable Development
Studies

www.sustainability.uni-nke.hu

THANK YOU
FOR YOUR
ATTENTION!

