

Progressive development of international groundwater law : awareness and cooperation

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These last years have seen a clear development in the field of international groundwater law. At the global level, the UN International Law Commission had embarked in 2002 on the topic of shared natural resources which included transboundary groundwaters. The result is the adoption six years later at second reading of a full set of draft articles on the law of transboundary aquifers. At a regional level, the UNECE Water Convention (1992), and the EU Water Framework Directive (WFD) (2000) had already fostered cooperation among States on transboundary waters (including transboundary groundwaters), and set series of principles in order to achieve sustainable management and proper protection of the transboundary groundwater resource. Some of the principles of these instruments are customary rules of international water law adapted to transboundary aquifers, and already developed in past instruments such as the Un Watercourse Convention (1997) or the Helsinki Rules (non-binding). Other principles inspired by the vulnerable nature of aquifers compared to surface waters as well as the will of ensuring them adequate protection have found their way in these international instruments. The EU WFD is a specific text, and its objective is to reach “good status of water” in 2015. In the case of transboundary waters lying in part in the territory of the EU and in part outside of this territory it aims at reaching the application of its provisions.

Other regions of the world have also seen some developments even if not so advanced. It is true that only few agreements on a transboundary aquifers have been signed, and in Africa there are some examples. At the same time, there is an increasing awareness on the need of legal rules for the management of transboundary aquifers. After years of total nonexistence, the legal component is now finding its way in projects related to transboundary aquifers, and is integrated as a main issue. A great achievement in this sense is the second phase of the ISARM Americas related to the legal and institutional aspects of transboundary aquifers.

Such emergences translate a will for cooperation, and a search for proper tools and guidelines. This can be achieved by establishing a mutli-disciplinary approach to the management of water resources in general and to transboundary aquifers in particular.