

LEGAL INSTRUMENTS WITH AN INTERNATIONAL VOCATION THAT REGULATE THE CONTROL OF WATER SEDIMENTS

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Abstract

The human being has been since the creation in full process of knowledge, of satisfying human needs but also of wellness, which represented on the one hand a progress, and on the other hand, it represented a forced acceleration of his life on earth, a situation that has created an exhaustion of all that means environment, disturbing the natural balance of nature and contributing to a significant degradation of environmental factors: atmosphere, water and soil. Water, as an environmental factor, essential and indispensable for human existence for survival, knowledge, wellness and progress, has become, in time, an exhaustible resource for the human being and the activities undertaken by it. Under the strong effervescence of the pressure of exhaustion and degradation of water resources, by the deposition of dangerous substances and materials, the necessity of creating new forms of constraint directed against those who disturb the natural balance of water resources was realized. These new forms of constraint and prevention of depletion of water resources, have taken the form of legal instruments meant to solve the problems arising in the prevention, protection and mention of water quality, but which will determine a sustainable progress for the population and for present and future generations.

Keywords: water protection, environmental degradation, water degradation, legal norms.

JEL Classification: K32, K33

1. Introduction

The degradation of the environment is at this moment one of the most controversial problems facing humanity, in the situation where, since the advent of life on earth, the human factor through its need to know, to satisfy its needs, its well-being and its. The excessive desire for progress did nothing but bring serious consequences to the environment, largely depleting the environmental factors: atmosphere, water, and soil².

The environment can be observed that it has been degraded on the one hand, both by the negative effects of the underdevelopment of society and by the negative effects generated by the excessive progress desired by humanity, through its activities.

From the perspective of these negative effects, water, as an environmental factor, the essential component for human existence, “represents the fundamental resource for the essence of life in order to inflict and carry out all human activities, being used in food, agriculture, industry, services, urbanism and transport. Once regarded as an inexhaustible and renewable resource, water has become a depleting resource, an economic good, a commercial good necessary for the accomplishment and infracting of human activities in the context of satisfying human needs and ensuring the existence of mankind on earth. From the desire to satisfy human needs, to welfare, to accelerate life on earth and to progress, mankind has had an exaggerated use of technology and anthropic activities for industrial development that ultimately disrupted the balance of nature causing major damage environmental factors.”³

“In this the desire for progress, the man through his ability to capitalize on his experience, to continue to discover, to invent, to create, has proved apt and to transform the environment, being able to realize benefits but also incalculable damages, when this power it is used abusively, without reason, without human knowledge of nature, its laws and without strict observance of them”⁴.

“For a long time, ignoring the fact that the environment was transformed in a negative sense

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² Kiss Alexander, *International Environmental Law*, Paris, Pedone, 1989, p. 10 et seq.; Jans John, *European environmental law*, second revised edition, Europe law publishing, Groningen, 2000, p. 14.

³ Lidia-Lenuța Bălan, *General reflections on the legal protection of waters in Romania*, 6th SWS International Scientific Conference Art and Humanities 2019, Conference Proceedings, Volume 6, Issue 2, ISBN 978-619-7408-96-6, DOI:10.5593/SWS. ISCAH.2019.2, p. 38.

⁴ Corneliu Răuță, Stelian Cârstea, *Prevenirea și combaterea poluării solului*, Ceres Publishing House, Bucharest, 1983, p. 14.

as a result of the forced intervention, there were major damages, without precedent and without the possibility of remedying them. Over time, the world's population has experienced major increases, which in turn produce waste, residues and debris that contribute significantly to the development of pollution."⁵

Through these transformations that generate pollution, degradation and exhaustion, water has become an indispensable resource for life and society, which has led to a forced acceleration and awareness of world leaders, in the sense of creating and intensifying common concerns for the prevention, combating exhaustion and degradation of resources the water.

2. Legal instruments with an international vocation that regulate the control of water sediments

Under the strong effervescence of the pressure of exhaustion and degradation of water resources, by the deposition of dangerous substances and materials, the necessity of creating new forms of constraint directed against those who disturb the natural balance of water resources was realized. These new forms of constraint and prevention of depletion and degradation of water resources, have taken the form of legal instruments meant to solve the problems arising in the prevention, protection and mention of water quality, but which at the same time determine a sustainable progress for the world's population both for present and future generations.

"Amid these disturbances, but in full industrial and urban development and of a general state dominated by an exhaustion of natural factors in the process of globalization, the negative results generated on the waters have started to be realized worldwide. An occasion that determined a general influence and awareness of the human factor in the sense of the appearance in the international law of treaties, conventions concluded between the riparian states through which clear and precise legal instruments regarding the obligations of the states in the process of sustainable population development and society in general, in the prevention, protection and maintenance of the quality of water resources".⁶

"Even though the conventional international practice in the field of international water use and in general, the cooperation between states has evolved quite slowly, however, the increasing interest of the states in preventing and diminishing its pollution and its harmful effects, has manifested itself strongly in international organizations, governmental and non-governmental.

Institutional cooperation in this matter has been strengthened mainly by a series of actions taken by different international organizations with intergovernmental character, which have a plenary assembly that has no powers to elaborate and adopt aspects regarding water protection, from a structural point of view but that discusses the issues that fall within its competence. However, for exceptional cases, special bodies have been set up that can take binding decisions for Member States, such as: the UN Security Council, the Council for the Organization for Economic Cooperation and Development (OECD), UN specialized institutions, such as: UNESCO, The Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), the International Water Tribunal (IWT) and others whose concerns also concern the regulation of various aspects of international water pollution and protection.

The European Union had a special role in this regard, also developing general directives regulating recreational water, surface water, drinking water, etc.

Together with the European Union, the Institute of International Law has made a special contribution, establishing through a Resolution that "any alteration of the water and the discharge into the water of harmful substances is prohibited".⁷

An enumeration of the first forms of drafting of the legal instruments adopted in the matter is

⁵ Lidia Lenuta Balan, *Reflectarea legislatiei internationale si europene privind protectia atmosferei, apei si solului in legislatia din Romania. Protectia mediului in contextul prevenirii si combaterii poluarii*, Universitara Publishing House, Bucharest, 2014, p.13.

⁶ Lidia-Lenuta Bălan, *op. cit.*, 2019, p. 38.

⁷ Lidia Lenuta Balan, *op. cit.*, 2014, p. 55, 56.

found under the provisions of the Treaty concluded by the United States of America with the United Kingdom of Great Britain on the protection of the border waters between the United States of America and Canada, signed on the 11th. January 1909.

The year 1950 was the year in which the first treaty was concluded dedicated to regulating the control of continental water pollution. The protocol document was signed on April 8, 1950 by countries such as: Luxembourg, Belgium and France and contained provisions that regulated the need to establish tripartite commissions with a permanent role in monitoring the polluted continental waters.

Subsequently, other relevant documents were concluded, such as: Convention on the canalization of the Moselle River of October 27, 1956; Convention on the protection of the Rhine, concluded on April 29, 1963.

The 1950s were dedicated, as has been observed, to the fight against the pollution of the sea, so that in London, on May 12, 1954, the Convention for the prevention of sea pollution by hydrocarbons was adopted.

Subsequently, the International Law Association adopted the "Helsinki Rules" of 1966, which allocated a significant space to the regulations regarding the protection of the quality of water resources. Some provisions adopted on this occasion established that pollution is a form of change in the quality of water resources that generates a degrading transformation in the composition of water, a situation created by the intervention of the human or natural factor. Another regulation also referred to the use of the concept of "fair and rational use of an international drainage basin."

Thus, in any legislative framework, the international law of the protection of water resources is based on certain principles, appreciated and recognized as essential by the entire international community in this matter. Aspects that have determined an influence and an accelerated awareness of the world leaders, regarding the danger of deterioration and depletion of water resources in the sense of prioritizing it at national and international level in the field of humanitarian programs.

Established as a priority, for humanity, according to the "Helsinki Rules", water protection has become a concern for European leaders. Thus, in 1968, the European Community, through the Council of Europe, adopted the "European Water Charter" which contains a series of principles and provisions stating that: water knows no borders, water is not an inexhaustible resource, the resources of water belong to the whole of humanity, for which the protection and defense programs must be established and adopted in order to meet the needs of the human factor through the protection of the quality of water resources.

But the instrument of strength for the entire community of international environmental law was, "The UN Conference on the Environment in Stockholm, 1972, which although it does not explicitly provide for concrete measures for the protection of continental waters against any form of pollution, yet contains" among other things, in its provisions and five recommendations with an action plan aimed at intensifying international cooperation between states and the protection of continental waters against pollution. The conference established a general binding principle regarding the forms of pollution, such as: residues of toxic materials or other matter, the release of heat, as well as other concentrations which by their quantity, quality and content cannot be stopped by nature.

The UN Water Conference in Mar del Plata, (Argentina), 1977, discussed the efficient management of border water resources, in the context of international cooperation between states, allowing the start of programs and mechanisms for the rational management of water resources. the water.

The Final Document of the Vienna Meeting, adopted at the Conference for Security and Cooperation in Europe (CSCE) in 1989, provided for combating all forms of pollution for the protection of cross-border waters and forcing States Parties to make commitments regarding cooperation in order to elaborate. and the adoption of treaties and framework conventions in the field and the promotion of a mutual exchange of data and information regarding the existence of dangerous chemicals in the aquatic environment. "⁸

⁸ Lidia Lenuta Balan, *op. cit.*, 2014, p.58 -59.

Other legal instruments with universal vocation relevant to the sphere of regulating the protection of water resources, which have set forth a series of principles of prevention, degradation and combating the depletion of water resources by depositing polluting and degrading sediments to maintain water quality:

The UNESCO International Hydrological Program, which aimed to increase the contribution of hydrology as well as of other disciplines in the field of water resources protection, in the sense of adopting national programs with measures plans meant to contribute effectively to the sustainable development of water resources.

The draft European Convention, 1973, from Strasbourg, for the protection of international water courses directed against pollution, establishes and establishes as a fundamental obligation for all riparian states to the same international watercourse, cooperation in order to establish prevention programs and pollution limitation.

Through this document, it was intended that the protection of international watercourses should include a complex reflection of the notion of prevention of pollution of water resources in order to establish new general and special obligations to be applied to the states in order to maintain the quality of water resources and limit discharges of dangerous elements in the channels of international watercourses.

Other significant contributions to the field of regulating the protection of water resources also had the following conventions: Convention on the protection of the Rhine against chemical pollution by the use of hydrocarbons and chlorides, since 1985; Convention for the protection of the Tisza and its tributaries against pollution, since 1986;

Convention on the protection of transboundary watercourses and international lakes, adopted in Helsinki, in 1992. The document of the convention contains provisions that can regulate the efficient and sustainable protection of transboundary watercourses as well as international lakes. Also in the document has been established the obligation of the signatory countries to increase the efficiency and duration of national measures in order to prevent, defend and duration to make efficient and increase the management of environmental problems, as well as to solve the requirements in the field of transboundary surface and surface water protection. geothermal. Also during this event, provisions were also discussed and adopted to regulate the need to create a mandatory legislative framework that would include programs with national plans for prevention, control, and stopping of the elements that significantly contribute to the degradation of the aquatic environment from sources. stationary or movable.

Also, in accordance with the provisions set out in the text of the convention document, there are also aspects that can regulate the citizen's access to the information in the convention and obliges the parties to have all the necessary measures to ensure the prevention, monitoring and limitation of any impact of a cross-border nature. to generate directly or indirectly the transfer of pollution to another environment.

At the regional level, a very important instrument was the Convention for the Cooperation of the Protection and Sustainable Use of the Danube River. The document of the convention was signed in Sofia, in 1994, and set a series of objectives:

- sustainable and efficient management of water resources, their conservation and rational use;
- efficient management of hazards caused by the contribution of hazardous substances;
- adopting a system of prevention of ecological damage, reducing the impact of a transboundary nature;
- adoption of programs with plans of measures to make efficient the monitoring and evaluation of the damages.

The representatives of the states participating in the meeting have established a series of obligations that will contribute significantly to accelerating the joint collaborations of the aspects that follow the efficient and long-term management of the water resources in order to maintain, improve the environment, the qualitative protection of Danube water as well as the waters of its catchment area.

Another significant legal instrument for regulating the field of water resources protection is

the text of the Kyoto Ministerial Declaration of 2003, which contains provisions that follow two directions: the first direction is the one regarding sustainable development, and the second one direction, it aims to stop poverty and hunger by establishing the debt of the countries of use of the principle of subsidiarity, involvement and responsibility for the efficient and long-term management of water resources.

Among other legal instruments relevant to the field of water protection, we mention: The Strategy for the Danube Region, from 2011, the Strategic Action Plan on the Danube River Basin, adopted in Bucharest, in 2011, which includes provisions with action plans for their implementation at national level, as well as the Strategy for the Adriatic and Ionian Sea region, adopted in 2014.

3. Conclusions

As it has been observed, all these illustrated legal instruments with universal and regional vocation, have drawn up and established a generic framework for applying the rules and guiding principles for the signatory states in the process of harmonization and their transposition into national laws in the context violation and prevention of legal provisions in force to ensure and maintain water protection.

Through these legal instruments, a series of sanctions were applied in the event of major degradation to the safety of the environment, to the safety of the water which represented a coercive factor for the prevention and combating of the degradation and pollution of the aquatic environment, but without combating the phenomenon itself.

Unfortunately, though, over time, a number of legislative instruments have been drawn up and determined to play a role in preventing and combating water degradation, yet they have failed to influence and compel the damage generators to refrain from any act, fact or inaction not to degrade the aquatic environment, the environment and human health, through the actions and inactions they take.

Although the institution of water protection has been analyzed and debated in a number of legislation systems, however, water degradation and pollution has not been combated, but this phenomenon cannot be ignored and unsolved.

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