

Balancing different water uses in a transboundary basin

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I. The two normative pillars of the Helsinki Convention

- Article 2 para 1 : the no-harm rule
- Article 2 para 2 (c) : the equitable and reasonable utilization principle
- Customary origin of both principles
- Mutual supportiveness and absence of priority between them

II. The no-harm rule

- Its purpose : prevention, control and reduction of transboundary impact
- The rule applies both to upstream and downstream countries
- Only “significant” adverse effects are envisaged by the rule
- The no-harm rule as a flexible due diligence obligation

III. The equitable and reasonable utilization principle

- The principle is relevant for both water quality and water quantity issues
- Association with the sustainability principle : the prospective dimension of the equitable and reasonable use
- Riparian States should take into account all relevant factors to achieve a mutually beneficial and sustainable use
- An assessment of the status of transboundary waters is required

IV. The integrated approach

- Article 2 para 6 of the Convention provides for cooperation at the level of the catchment area of a transboundary watercourse
- The integrated approach takes into account the interaction between waters and the related ecosystems
- Interconnections between the regulation of water quantity and water quality
- In the context of the integrated approach, not only human activities but also natural phenomena have to be taken into account

V. The obligation to cooperate

- Cooperation between riparian States as one of the key elements of the Helsinki Convention
- Obligation to cooperate in good faith, even under difficult political circumstances
- Cooperation as a prerequisite for achieving an equitable and reasonable utilization of transboundary watercourses
- Various options available for cooperation to materialize (consultations, conclusion of relevant agreements etc.)