

How to combine the implementations  
of the Protocol on Water and Health  
and of *the EU*  
*Acquis communautaire*

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## States most interested in the issue

- Number of Parties to the Protocol to date:  
21
  - of which 13 are EU Member States
- Number of non-Party Signatories to date:  
15
  - of which 11 are EU Member States
- European Union is neither party nor signatory

## A rather prevalent misbelief:

- *The Protocol on Water and Health does not offer any additional values and achievements over the Acquis;*
- *The Protocol is only bringing about an awkward administrative burden*
- *The Protocol therefore need not be concluded by the European Commission*
- **My intention is to prove the contrary**

# A tribute to Professor Attila Tanzi

*Many of my arguments are explicitly or implicitly taken from his treatise titled*

A comparative legal analysis of the 1999 Protocol on Water and Health and EU water law and policy

# European Community – a sketch

- A supranational multi-state legal-administrative formation of consensus based nature
- Takes over a part of the sovereignty of its Member States in exchange for economic, social and environmental benefits
- Imposes binding and enforceable legal obligations on the MS
- Results orientation with less concern of the process leading to it.

# Obvious advantages of EU

- Economic assistance
- Enormous amount of support to less developed states and social sectors in need
- Chance to recourse to derogations
- Principle of subsidiarity

# The Protocol on Water and Health – a sketch

- An instrument of international law
- Also of legally binding nature
- No strong means of enforcement are exercised
- Implementation facilitated via guidance, assistance, advice and conviction
- Process orientation enables meantime corrections

# The Relationship of Protocol and the European Community?



together or apart ?



# Subject matters with clear advantage at the Protocol

- Enclosed bathing waters
- Coverage by community water supplies and equitable access
- Sanitation in remote/scarcely populated areas
- Water related diseases
- Coordination between authorities
- Health aspects in EIA

# The case of enclosed bathing waters

- Covered by the Protocol in
  - Art 3 (e)
  - Art 4. 2 (d) and 6
  - Art 6. 2 (k)
- Covered by a number of the Protocol's basic principles:
  - intergenerational equity;
  - sustainable combination of different values;
  - access to information and public participation;
  - equitable access to water.

# The case of drinking water supply to all

Issues vaguely or not at all addressed  
by the European law and policy:

- quantitative coverage
- equitable access
- the interests of the vulnerable

Recent development: WHO – EU  
cooperation on the field of small  
water supplies bringing in the  
Protocol principles

# The case of water related diseases

Not covered by the European law and weakly addressed by major European policy instruments

Example for illustration: Miskolc waterborne outbreak of about 3600 cases with the management in full compliance with all European provisions

# The case of surveillance and early warning of water related diseases

- Largely missing from the European instruments are:
  - legal system addressing the issue
  - competent institutional structure
  - living coordination in the structure
  - application of performance indicators

# The case of missing health relevant arrangements from other EU law

- The Water Framework Directive
- The European EIA law
- The overall coordination across different EU obligations with health implications

Example on the missing coordination:  
flaws of a national drinking water  
amendment scheme –

missing correct priorities

flawed economical efficiency

socially inconsiderate development

# The case of extension of the European Community

- Protocol based development may be the best choice for future associate states to prepare for the accession.
- Benefits of concomitant compliance with the provisions of both systems are supposed to have been illustrated

**Protocol on  
Water and Health**



**Acquis  
Communautaire**

- Thank you for the kind  
attention

