



REGIONAL MECHANISMS OF INTERNATIONAL LEGAL REGULATION IN THE USE AND PROTECTION OF TRANSBOUNDARY WATERCOURSES

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<https://doi.org/10.5281/zenodo.14762443>

ARTICLE INFO

Received: 24th January 2025
Accepted: 28th January 2025
Online: 29th January 2025

KEYWORDS

Transboundary watercourses, international legal regulation, regional cooperation, UNECE, Helsinki Convention, water resource protection, institutional mechanisms, sustainable development, environmental security.

ABSTRACT

The article explores regional mechanisms for international legal regulation of the use and protection of transboundary watercourses. It examines examples of the operation of joint water management bodies, their institutional structure, and efficiency. Particular focus is given to the environmental conventions of the UNECE, including the Helsinki Convention, and their role in fostering international cooperation in water management. Key principles and practical approaches that promote rational use and protection of transboundary watercourses are identified. The article concludes on the need to strengthen cooperation at regional and global levels for sustainable water resource management.

In the context of global environmental challenges and the growing scarcity of water resources, regional cooperation among states is imperative to ensure effective and sustainable management of shared resources. Currently, issues related to the legal regulation, use, and protection of transboundary watercourses have become particularly relevant. In this regard, it is essential to examine international treaties, institutions, and mechanisms established to ensure the sustainable management of water resources in various regions of the world, including Southeast Asia, Africa, Latin America, and Europe.

Considering that the 1997 UN Watercourses Convention (UNWC) was developed as a "framework" agreement and the ratification process by states has been prolonged, a number of international organizations have developed regional international agreements on the use and protection of transboundary watercourses from pollution, taking into account the specific characteristics of particular geographic areas.

Cooperation in the use and protection of transboundary watercourses is primarily carried out at the regional level.

As N.A. Sokolova rightly notes, regional cooperation in this area is implemented through joint bodies established based on multilateral international agreements¹. The most common model of cooperation is based on the basin criterion for their formation.

¹ Соколова Н.А. Международно-правовые аспекты управления в сфере охраны окружающей среды. Автореф. дис. ... канд. юрид. наук: 12.00.10. - М., 2010. - 46 с.



In Southeast Asia, under the 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin, the governments of Cambodia, Laos, Thailand, and Vietnam established the Mekong River Commission.²

Meanwhile, China, which contributes 16% of the Mekong's water flow, and Myanmar, as upstream countries, do not participate in the agreement but are dialogue partners. One of the Commission's³ primary objectives is to promote and coordinate sustainable water resource management through the implementation of various programs, conducting scientific and expert activities, and providing recommendations for member states⁴.

Organizationally, the Commission consists of three bodies: the **Council**, which serves as the highest body and determines policies for coordinating joint activities and projects for sustainable development, use, and protection of the Mekong River Basin's water resources; the **Joint Committee**, which implements the Council's decisions and oversees the Secretariat's activities; and the **Secretariat**, which performs technical and administrative functions under the leadership of the Chief Executive Officer. At the national level, the implementation of the Commission's programs is coordinated by national Mekong committees, which also serve as a link between the Commission's Secretariat and the relevant ministries of the member states. Notably, the Mekong River Commission exemplifies how regional cooperation can be structured based on a basin-centric approach. Similarly, in Africa, the Niger Basin Authority,⁵ the Permanent Okavango River Basin Water Commission,⁶ and the Senegal River Development Organisation⁷ follows a similar model of joint water management, emphasizing coordinated policies for the sustainable use of shared water resources. These joint bodies and their institutional structures were established under multilateral international agreements. For example, the organs of the Niger Basin Authority (Article 5 of the Convention) include the **Summit of Heads of State and Government**, the **Council of**

² Agreement on the cooperation for the sustainable development of the Mekong river basin (Chieng Rai, Thailand 5 April 1995). // <http://www.mrcmekong.org/assets/Publications/policies/agreement- Apr95.pdf>

³ При Комиссии действует группа «наблюдателей», в число которых входят международные организации: Всемирный банк, Азиатский банк развития, ПРООН, ЭСКАТО, WWF. Группа доноров- партнеров по развитию: азиатские и европейские страны, ЕС, Австралия, Новая Зеландия и США.

⁴ Деятельность Комиссии разделена по конкретным целевым программам: сельскохозяйственная и ирригационная программа, по реагированию в условиях засух, по защите окружающей среды, рыболовству, речному судоходству, реагированию в условиях наводнений и уменьшению их негативных последствий, экологически устойчивой гидроэнергетике, инициатива по адаптации к изменению климата. В 2011 г. была принята The Integrated Water and Related Resources Managementbased Mekong river Basin Development Strategy with Strategic plan for 2011-2015 (Hua Hin, Thailand, 5 April 2010). - URL: http://www.mrcmekong.org/assets/Publications/_strategies-workprog/BDP-Strategic-Plan-2011.pdf

⁵ Convention révisée portant création de l'autorité du Bassin du Niger (N'Djamena, le 29 octobre 1987). - URL: <http://www.fao.org/docrep/W7414B/w7414b0e.htm>. Участниками являются: Бенин, Буркина-Фасо, Камерун, Кот-д'Ивуар, Гвинея, Мали, Нигер, Нигерия, Чад.

⁶ Agreement between the governments of the Republic of Angola, the Republic of Botswana, and the Republic of Namibia on the establishment of a permanent Okavango river basin water commission (OKACOM) (Windhoek, 16 October 1994). - URL: http://www.okacom.org/_okacom-resources/key-documents/documents/1994-agreement-between-the-governments-of-the-republic-of- angola-the-republic-of-botswana-and-the-republic-of-namibia-on-the-establishment-of-a-permanent- okavango-river-basin-water-commission-okacom-agreement/view

⁷ Convention portant création de l'organisation pour la mise en valeur du Fleuve Sénégal (Nouakchott, le 11 mars 1972)- URL: <http://www.fao.org/docrep/W7414B/w7414b08.htm>. Участниками Конвенции являются Мали, Мавритания, Сенегал. В 2006 году к Организации присоединилась Гвинея.



Ministers, the **Technical Expert Committee**, and the **Executive Committee**. Such bodies collectively work to ensure cooperation in water resource management and the implementation of joint programs that promote sustainability and prevent transboundary environmental challenges as the other organisations above mentioned.

Regional cooperation in the use and protection of transboundary watercourses in Latin America is also based on the basin principle, particularly within the framework of the **Amazon Cooperation Treaty Organization (ACTO)** and the **Intergovernmental Coordinating Committee for the La Plata River Basin**⁸. It is noteworthy that the states that initially signed the **Amazon Cooperation Treaty**⁹, aimed at promoting joint actions for the harmonious development of the Amazon River Basin's resources (Article 5), did not initially foresee the creation of a joint body. However, over time, they recognized the necessity of establishing one. To strengthen and develop cooperation under the Treaty, the **Amazon Cooperation Treaty Organization** with a permanent Secretariat was established in 1998¹⁰.

Thus, it can be concluded that the primary format of regional cooperation is the establishment of joint bodies with a well-developed system of institutional mechanisms. The foundation of their activities is determined by the geographical and historical context of their formation, as well as the mandate granted to the body by the member states in accordance with a regional international agreement¹¹.

The **United Nations Economic Commission for Europe (UNECE)** holds a prominent place among the institutional mechanisms of the United Nations in the field of water resources. Established in 1947 by ECOSOC, UNECE's purpose is to promote the development of economic cooperation among its member states. As of September 11, 2014, 56 countries worldwide, including the Central Asian states, are members of UNECE. The Republic of Uzbekistan has been a member of UNECE since July 30, 1993.

As an international regional organization, UNECE operates in many spheres of public life, particularly in the areas of environmental protection and sustainable energy. One of its environmental objectives is the establishment of a legislative framework for the rational use and protection of transboundary natural resources. In line with this objective, UNECE has developed five environmental conventions, four of which specifically regulate various legal relationships in the field of water use: The **1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes**¹², The **1991 Convention on**

⁸ Treaty of the River Plate Basin (Brasilia, 23 April 1969). - URL: http://www.internationalwaterlaw.org/documents/regionaldocs/La_Plata-1969.pdf Участниками являются Аргентина, Боливия, Бразилия, Парагвай, Уругвай. Официальный сайт организации www.cicplata.org

⁹ Treaty for Amazonian cooperation (Brasilia, 3 July 1978) [Электронный ресурс]. - URL: http://www.internationalwaterlaw.org/documents/regionaldocs/amazonian_cooperation.html Участниками являются Боливия, Бразилия, Колумбия, Эквадор, Гайана, Перу, Суринам и Венесуэла.

¹⁰ Protocol of Amendment for the Creation of the Organization of the Amazon Cooperation Treaty (OTCA) (Caracas, 14 December 1998). - URL: <https://www.oas.org/dsd/Events/english/> PastEvents/Salvador_Bahia/Documents/Amazonannexes.pdf Вступил в силу 02.08.2002 г.

¹¹ Руководство по интегрированному управлению водными ресурсами в трансграничных бассейнах рек, озер и водоносных горизонтов. - GWP/INBO, март 2012. - URL: http://www.gwp.org/PageFiles/76433/INBO_Handbook2_Rus.pdf, С. 37.

¹² Конвенция по охране и использованию трансграничных водотоков и международных озер (Хельсинки, 17 марта 1992 г.) https://www.un.org/ru/documents/decl_conv/conventions/watercourses_lakes.shtml



Environmental Impact Assessment in a Transboundary Context¹³, The 1992 Convention on the Transboundary Effects of Industrial Accidents, The 1998 Convention on Access to Information¹⁴, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (hereinafter referred to as the Aarhus Convention). Additionally, two protocols supplement these conventions: The **Protocol on Water and Health** to the 1992 Convention on Transboundary Watercourses, The **Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters**, adopted in 2003

These conventions and protocols provide frameworks for cooperation and dispute resolution in managing transboundary watercourses. It appears that the significance of the global scope of UNECE instruments lies in providing a legal foundation for more effective transboundary water cooperation. This model has proven its effectiveness, as many major river and lake basins are shared between UNECE member states and non-member states.

By their nature, these conventions are framework agreements that establish general principles, obligations, and minimum standards for the participating states. States are expected to specify these standards further through additional protocols or through agreements related to specific transboundary watercourses. As M.A. Ryazanova rightly points out, the development of a "framework" regime through the adoption of protocols has become a well-established practice in situations where more specific actions are required to achieve the regime's objectives or to address new challenges¹⁵. Four protocols have been adopted for the four aforementioned conventions. For instance, under the Aarhus Convention, this led to the adoption of the Protocol on Pollutant Release and Transfer Registers (PRTR), which obliges participating states to create national registries of pollutant releases and transfers. These registries are intended both to prevent and reduce environmental pollution and to expand public access to information.

It is also worth noting that the establishment of institutional mechanisms, such as meetings/conferences of the parties, presidiums, secretariats, working groups, expert groups, and task forces, is another common feature of UNECE conventions. These mechanisms support the parties in complying with their provisions. For example, the tasks of the conferences of the parties under several conventions (e.g., Article 11 of the Espoo Convention, Article 17 of the Helsinki Convention, and Article 10 of the Aarhus Convention) include reviewing the progress of their implementation to enhance capacity and provide necessary assistance. The parties also participate in the work of working groups and other subsidiary bodies, such as task forces and expert groups, established by the meetings of the parties. This

¹³ Конвенция об оценке воздействия на окружающую среду в трансграничном контексте (Эспо, 25 февраля 1991 г.)

[https://nrm.uz/contentf?doc=162201_konvenciya_ob_ocenke_vozdeystviya_na_okrujayushchuyu_sredu_v_transgranichnom_kontekste_\(espo_25_fevralya_1991_g_\)&products=1_vse_zakonodatelstvo_uzbekistana](https://nrm.uz/contentf?doc=162201_konvenciya_ob_ocenke_vozdeystviya_na_okrujayushchuyu_sredu_v_transgranichnom_kontekste_(espo_25_fevralya_1991_g_)&products=1_vse_zakonodatelstvo_uzbekistana).

¹⁴ Конвенция о доступе к информации, участии общественности в процессе принятия решений и доступе к правосудию по вопросам, касающимся окружающей среды (Орхус, 25 июня 1998 г.)

https://www.un.org/ru/documents/decl_conv/conventions/orhus.shtml

¹⁵ Рязанова, М.А. Европейское сотрудничество в области использования и охраны от загрязнения трансграничных водотоков. // Международное публичное и частное право. - М.: Юрист.- 2015.- № 2 (83). - С. 25-29.



institutional structure assists the parties primarily through the exchange of experience, the development of guiding tools and recommendations.

The well-functioning institutional mechanisms of the **Helsinki Convention** play an important role in strengthening the protection of watercourses at both the national and transboundary levels. These mechanisms include the **Meeting of the Parties**, the **Bureau**, the **Secretariat**, the **Legal Board**, **Working Group on Monitoring and Assessment** as well as **Working Group on Integrated Water Resources Management**. In 2012, the **Implementation Committee** was added to these structures¹⁶.

The Implementation Committee facilitates the practical application of the Convention by addressing issues related to its implementation, preventing disputes, and assisting parties in their efforts to comply with the Convention¹⁷.

Thus, based on the above, we have arrived at the following conclusions:

1. **Environmental conventions of UNECE** provide a framework for international legal cooperation in water resource management. This framework enables the establishment of principles and standards essential for effective transboundary water governance.
2. The **institutional mechanisms** of these conventions encourage regional and subregional cooperation, including the exchange of experience and information, technical assistance, and support for implementation. In this context, cooperation is a prerequisite for the sustainable use of transboundary watercourses. Over the 30 years since the adoption of the **Helsinki Convention**, which serves as a central instrument for transboundary water cooperation, numerous bilateral and multilateral international agreements in this area have been developed based on its provisions¹⁸.
3. Through the implementation of UNECE environmental conventions, ongoing cooperation among states is achieved to meet agreed-upon goals. This cooperation, supported by institutional mechanisms, ultimately contributes to findcompromise solutions at both the international and national levels.

¹⁶ Учрежден Решением VI/1 шестой сессии Совещания Сторон Конвенции по охране и использованию трансграничных водотоков и международных озер Оказание поддержки осуществлению и соблюдению, ECE/MP.WAT/37/Add.2 - URL:

http://www.unece.org/fileadmin/DAM/env/water/mop_6_Rome/Official_documents/ECE_MP.WAT_2012_L4_r.pdf

¹⁷ Разработанные в рамках Совета по правовым вопросам документы (на седьмом, восьмом и девятом совещаниях (Женева, 15-16 апреля 2010 года, 24-25 февраля 2011 года и 1-2 сентября 2011 года, соответственно) определяют, что в состав Комитета входят девять членов (по три от каждого географического региона), которые выполняют свои функции в личном качестве и со всей объективностью в наилучших интересах Конвенции. Этот аспект вызвал наибольшее число дискуссий в рамках Совета по правовым вопросам, поскольку одним из возможных вариантов формирования Комитета предполагалось участие представителей всех Сторон Конвенции. При этом следует отметить, что существующий опыт функционирования аналогичных Комитетов по содействию осуществлению исходит из участия ограниченного круга членов. В частности, в состав таких комитетов входят восемь (Конвенция Эспо) или девять (Орхусская конвенция, Протокол по проблемам воды и здоровья) членов. Принимая во внимание, что орган будет также выполнять функции согласительной процедуры, предпочтение было отдано нечетному числу членов.

¹⁸ К таким субрегиональным соглашениям относятся, например, Convention on Cooperation for the Protection and Sustainable use of the Danube River (Sofia, 29 June 1994). - URL: <http://www.icpdr.org/main/icpdr/danube-river-protection-convention> и Конвенция по защите Рейна (Берн, 12 апреля 1999 г.). - URL: http://berg-bendery.org/water_agree/rhine.pdf (дата обращения - 15.08.2024).