

ANNEX 1: Background to the legal framework

Belgrade Convention (<http://www.danubecom-intern.org>)

The *Convention regarding the Regime of Navigation on the Danube* signed in Belgrade on 18 August 1948 is the international legal instrument governing navigation on the Danube. The 'Belgrade Convention' is providing for free navigation on the Danube in accordance with the interests and sovereign rights of the Contracting Parties of the Convention, aiming thereby at strengthening the economic and cultural relations among themselves and with other nations.

According to the Convention, the 11 Member States Austria, Bulgaria, Croatia, Germany, Hungary, Moldova, Slovakia, Romania, Russia, Ukraine, Serbia undertake to maintain their sections of the Danube in a navigable condition for river-going and, on the appropriate sections, for sea-going vessels and to carry out the works necessary for the maintenance and improvement of navigation conditions and not to obstruct or hinder navigation on the navigable channels of the Danube.

The *Danube Commission* is located since 1954 in Budapest. It consists of the representatives of the Member States has been established to supervise the implementation of the Convention and to fulfil various other tasks aiming at ensuring adequate conditions for shipping on the Danube. It goes, historically speaking, back to the Paris Conferences of 1856 and 1921 which established for the first time an international regime to safeguard free navigation on the Danube.

The primary tasks entering the Commission's competence include:

- supervising the implementation of the Convention's provisions;
- preparing a general plan of the main works called for in the interest of navigation on the basis of proposals and projects presented by the Member States and the Special River Administrations and, likewise drawing up an evaluation of the costs of such works;
- consulting with, and making recommendations to the Member States in respect of the execution of the above mentioned works, with due consideration of the technical and economic interests, plans and possibilities of the respective States.

The Danube Commission is actively working in order to fulfil the *Declaration on European Inland Waterways and Transport* adopted by the Ministerial Conference on the most timely issues of European inland waterway transport (Budapest, September 11, 1991), as well as the *Declaration of the Rotterdam Conference on Accelerating Pan-European Co-operation Towards a Free and Strong Inland Waterway Transport* of 5-6 September, 2001.

Another relevant question in this context is the harmonization of technical prescriptions, rules and standards, as well as of legal provisions in force on the Danube, on the Rhine, within the European Union, and those adopted by the ECE UNO, with the aim of creating a uniform Pan-European system of inland navigation consisting of organizational structures that can meet present conditions.

Danube River Protection Convention (www.icpdr.org)

The *Convention on Co-operation for the Protection and Sustainable Use of the River Danube* (Danube River Protection Convention) forms the overall legal instrument for co-operation and transboundary water management in the Danube River Basin.

The Convention was signed on June 29 1994, in Sofia, Bulgaria, by eleven of the Danube Riparian States – Austria, Bulgaria, Croatia, the Czech Republic, Germany, Hungary, Moldova, Romania, Slovakia, Slovenia and Ukraine – and the European Community, and duly came into force in October 1998, when it was ratified by the ninth signatory.

The main objective of the Danube River Protection Convention (DRPC) is to ensure that surface waters and groundwater within the Danube River Basin are managed and used sustainably and equitably. This involves:

- the conservation, improvement and rational use of surface waters and groundwater

- preventive measures to control hazards originating from accidents involving floods, ice or hazardous substances
- measures to reduce the pollution loads entering the Black Sea from sources in the Danube River Basin.

The signatories to the DRPC have agreed to co-operate on fundamental water management issues by taking "all appropriate legal, administrative and technical measures to at least maintain and where possible improve the current water quality and environmental conditions of the Danube river and of the waters in its catchment area, and to prevent and reduce as far as possible adverse impacts and changes occurring or likely to be caused."

The *International Commission for the Protection of the Danube River* (ICPDR) is a transnational body, which has been established to implement the DRPC. The ICPDR is formally comprised by the Delegations of all Contracting Parties to the Danube River Protection Convention, but has also established a framework for other organisations to join.

Today national delegates, representatives from highest ministerial levels, technical experts, and members of the civil society and of the scientific community cooperate in the ICPDR to ensure the sustainable and equitable use of waters in the Danube River Basin.

Since its creation in 1998 the ICPDR has effectively promoted policy agreements and the setting of joint priorities and strategies for improving the state of the Danube and its tributaries.

This includes improving the tools used to manage environmental issues in the Danube basin, such as

- the Accident Emergency Warning System,
- the Trans-National Monitoring Network for water quality, and
- the information system for the Danube (Danubis).

The goals of the ICPDR are:

- Safeguarding the Danube's Water resources for future generation
- Naturally balanced waters free from excess nutrients
- No more risk from toxic chemicals
- Healthy and sustainable river systems
- Damage-free floods

The work of the ICPDR is supported by a Secretariat located in Vienna, Austria.

Framework Agreement on the Sava River Basin (<http://www.savacommission.org/index.php>)

The *Framework Agreement on the Sava River Basin* (FASRB) was signed by the riparian countries (Republic of Slovenia, Republic of Croatia, Bosnia and Herzegovina and the Federal Republic of Yugoslavia) in Kranjska Gora (Slovenia) on December 03 2002, after successful completion of negotiations run under the "umbrella" of the Stability Pact for South-eastern Europe.

The Agreement entered into force on December 29 2004. Accordingly, the *International Sava River Basin Commission* – the Sava Commission was constituted in June 2005 in Zagreb. The SC was established to implement the Framework Agreement, and to realize the mutually agreed goals:

- establishment of the international navigation regime on the Sava River and its navigable tributaries;
- establishment of the sustainable water management;
- undertaking measures for the prevention or restriction of danger, as well as the elimination of hazardous impacts of floods, ice, draught and accidents involving substances having negative impacts to waters.

The Agreement also defined the general principles on actions of the Parties, which would cooperate on the basis of sovereign equality, territorial integrity, joint benefit and good will, by mutual respect of the national laws, institutions and organizations, and by acting in accordance with the EU WFD.

The Agreement stipulates cooperation and exchange of data between the Parties in regard to the water regime of the Sava River, the navigation regime, regulations, organizational structures, and administrative and technical practice. It also envisages the necessary collaboration with international organizations (ICPDR, Danube Commission, UN/ECE, and EU institutions). The Parties will apply the principle of reasonable and fair utilization and division of the Sava River basin water resources in all actions. They will regulate all issues on enforcement of measures for ensuring the unified water regime, and elimination or reduction of trans-boundary impacts to waters of other parties by agreement.

Navigation on the Sava River is free for trade vessels of all states, which is identical to the regulation for the Danube navigation convention. The trade vessels will have a right to free entrance into ports on the part of the Sava River waterway from Sisak to its estuary into the Danube, as well as on all navigable parts of the Sava River tributaries. The Parties will undertake measures on maintenance of the waterways in their territory in the navigable state-of-condition, as well as to undertake measures on improvement of the navigation conditions, and will not prevent or cause any obstacles to navigation. The Parties will prepare joint plans for the water resources management upon proposal of the Sava Commission.

Functions of the Sava Commission are:

- adoption of decisions with aim to ensure the navigation safety, decisions on conditions for financing the construction of waterways and their maintenance, decisions on its work, budget and actions;
- adoption of recommendations on all other issues referring to implementation of the FASRB.

The Sava Commission established its Secretariat in Zagreb in January 2006.

Relevant EU Directives

The **EU Water Framework Directive 2000/60/EC (EU WFD)** is most significant regarding the protection of surface waters and groundwater. This includes a requirement for the development of the first river basin management plan for the entire Danube River Basin by 2009. This process, involving 13 Danube basin states including non-EU Member countries, is coordinated by the ICPDR. The first step - the compilation of the Danube Basin Analysis 2004 - has already been completed. By 2015 the main environmental objectives of the Directive have to be achieved, which are – amongst others - the *good ecological* and *good chemical status* for surface water bodies in general or the *good ecological potential* and *good chemical status* for the specific case of heavily modified and artificial water bodies. These objectives will be reached by the implementation of the programmes of measures, which inter alia address hydromorphological alterations caused by navigation. For more information, see: http://ec.europa.eu/environment/water/water-framework/index_en.html

The **1979 Birds Directive (79/409/EEC)** identified 181 endangered species and sub-species for which the Member States are required to designate Special Protection Areas (SPAs). See http://ec.europa.eu/comm/environment/nature_biodiversity/index_en.htm

The 1992 **Habitats Directive (92/43/EEC)** aims to protect wildlife species and their habitats. Each Member State is required to identify sites of European importance and to put in place a special management plan to protect them, combining long-term preservation with economic and social activities, as part of a sustainable development strategy. These sites, together with those of the Birds Directive, make up the Natura 2000 network - the cornerstone of EU nature protection policy. See http://ec.europa.eu/comm/environment/nature_biodiversity/index_en.htm

The "**SEA-directive**", **Directive 2001/42/EC** of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (strategic environmental assessment”).

The purpose of the SEA (“strategic environmental assessment”) Directive is to ensure that environmental consequences of certain plans and programmes are identified and assessed during their preparation and before their adoption. The public and all authorities concerned can give their opinion and all results are integrated and taken into account in the course of the planning procedure. SEA will contribute to more transparent planning by involving the public and integrating environmental considerations.

Further details on the Directive, on the Commission’s guidance on the implementation of Directive 2001/42/EC and on the EIA-directive (see below) are available on

<http://ec.europa.eu/comm/environment/eia/home.htm>

The “**EIA directive**”, **Directive 85/337/EEC** (environmental impact assessment) ensures that environmental consequences of projects are identified and assessed before authorisation is given. The EIA Directive outlines which project categories shall be made subject to an EIA, which procedure shall be followed and the content of the assessment.

Relevant International Environment Conventions

Bern Convention (http://www.coe.int/t/e/cultural_cooperation/environment/nature_and_biological_diversity/Nature_protection/index.asp#TopOfPage)

The *Convention on the conservation of European wildlife and natural habitats* adopted at Bern on 19 September 1979 came into force on June 1, 1982. It has been signed by the 39 member states of the Council of Europe, together with the European Union (Bosnia-Herzegovina is a non-signatory with observer status). The Convention is intended to promote cooperation between the signatory States in order to conserve wild flora and fauna and their natural habitats and to protect endangered migratory species.

States take appropriate legislative and administrative measures to protect the wild flora species specified in Appendix I (the Convention prohibits their deliberate picking, collecting, cutting or uprooting). Appropriate legislative and administrative measures must also be adopted to conserve the wild fauna species listed in Appendix II; among others it is prohibited to deliberately damage or destroy breeding or resting sites, or to deliberately disturb wild fauna, particularly during the period of breeding, rearing and hibernation. The Convention led in 1998 to the creation of the *Emerald Network of Areas of Special Conservation Interest* (ASCIs) throughout the territory of the parties, which operates alongside the EU *Natura 2000* programme, and represents its de facto extension to non-EU countries.

The Convention on Biological Diversity (<http://www.cbd.int>)

The *Convention on Biological Diversity* was signed in 1992; it has been ratified by 196 countries world wide –including the European Union as well as all Contracting Parties to the ICPDR (and Montenegro). The objective of the convention is to conserve biological diversity, secure the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

In April 2002, the Parties to the Convention committed themselves to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on Earth, known as the *2010 Biodiversity Target*. This target was subsequently endorsed by the World Summit on Sustainable

Development and the United Nations General Assembly and was incorporated as a new target under the Millennium Development Goals.

Ramsar Convention (<http://www.ramsar.org>)

The Convention on Wetlands, signed in Ramsar, Iran, in 1971 and in force since 1975, is an intergovernmental treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. It is the world's oldest international conservation treaty, with the aim of sustainable use of wetlands for mankind without disturbing the natural properties of the ecosystem.

There are presently 156 Contracting Parties to the Convention, with 1676 wetland sites, totalling 150 million hectares, designated for inclusion in the Ramsar List of Wetlands of International Importance. This List, commonly called *Ramsar sites*, not only recognise the world's most important wetlands, but are also an effective tool to help countries meet their goals of sustainability. About 80 wetlands of the Danube River Basin are included in the list of Ramsar sites.

Espoo Convention (<http://www.unece.org/env/eia/eia.htm>)

The *Convention on Environmental Impact Assessment in a Transboundary Context* is a UNECE convention signed in Espoo, Finland in 1991 that entered into force in 1997. It sets out the obligations of Parties to assess the environmental impact of certain activities at an early stage of planning. It also lays down the general obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries

The Protocol on *Strategic Environmental Assessment* (Kiev, 2003) will augment the Espoo Convention by ensuring that individual Parties integrate environmental assessment into their plans and programmes at the earliest stages – so helping to lay the groundwork for sustainable development. The Protocol also provides for extensive public participation in the governmental decision-making process.

World Heritage Convention (<http://whc.unesco.org/>)

The *Convention Concerning the Protection of World Cultural and Natural Heritage* was adopted by UNESCO in 1972 and since then ratified by 184 States Parties.

A UNESCO World Heritage Site is a specific site (such as a forest, mountain, lake, desert, monument, building, complex, or city) that has been nominated and confirmed for inclusion on the list maintained by the international World Heritage Programme administered by the UNESCO World Heritage Committee. As of 2007, a total of 851 cultural, natural, and mixed property sites are listed in 142 States Parties. Each World Heritage Site is the property of the country on whose territory the site is located, but the protection and conservation of these sites is a concern of all the World Heritage countries. One of the WHS in the Danube basin is the Danube delta.

Relevant International Navigation Agreements and Programmes

European Agreement on Main Inland Waterways of International Importance (AGN) (<http://www.unece.org/trans/conventn/agn.pdf>)

This agreement was adopted in 1996 in Geneva and entered into force in 1999; it is currently signed by 17 Parties and ratified by 13. The AGN aim is to determine unified technical and operational parameters for the construction, modernization, reconstruction and operation of waterways destined for international river transport.

The AGN establishes an internationally agreed European network of inland waterways and ports as well as uniform infrastructure and operational parameters to which they should conform. The geographical scope of the E waterways network, consisting of navigable rivers, canals and coastal

routes extends from the Atlantic to the Ural, connecting 37 countries and reaching beyond the European region. By acceding to the AGN, governments commit themselves to the development and construction of their inland waterways and ports of international importance in accordance with the uniform conditions agreed upon and within their investment programmes.

The Agreement underlines the importance of inland water transport which, in comparison with other modes of inland transport, presents economic and environmental advantages and may, therefore, contribute to reducing congestion, traffic accidents and negative environmental impacts in the pan-European transport system.

NAIADES

The European Commission's *Communication "NAIADES" on the promotion of inland waterway transport* includes an *Integrated Action Programme* for the development of this transport mode. The Action Programme focuses on five strategic and equally important areas, namely on the creation of favourable conditions for services and new markets, on the modernisation of the fleet, in particular its environmental performance, on jobs and skills, and on the promotion of Inland Waterway Transport as a successful business partner.

Part V of the Action Programme relates to the waterway infrastructure. It proposes *inter alia* that a European Development Plan for improvement and maintenance of waterway infrastructures and transshipment facilities should be initiated to make trans-European waterway transport more efficient while respecting environmental requirements. The Communication underlines that the development of waterway infrastructure should happen in a co-ordinated and integrated way, by fostering the mutual understanding of multi-purpose use of waterways and to reconcile environmental protection and sustainable mobility.

European Agreement Concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) (<http://www.unece.org/trans/conventn/agn.pdf>)

The ADN was established to ensure a high level of safety for the international carriage of dangerous goods by inland waterways; to contribute to environmental protection by preventing any pollution resulting from accidents or incidents during such carriage; and to facilitate international transport and trade.

Regulations annexed to the Agreement contain technical requirements for the international carriage of dangerous substances and articles in packages and in bulk on board inland navigation vessels and tank vessels, as well as uniform provisions concerning the construction and operation of such vessels. They also establish international requirements and procedures for inspections, issuance of certificates of approval, recognition of classification societies, monitoring, and training and examination of experts.

The ADN was adopted on 25 May 2000 in Geneva at a Diplomatic Conference organized jointly by the United Nations Economic Commission for Europe (UNECE) and the Central Commission for the Navigation on the Rhine (CCNR).

With six Contracting States thus far, including: Austria, Bulgaria, Hungary, Luxembourg, Netherlands and Russian Federation, the Agreement will enter into force once one more State has deposited its instrument of ratification, acceptance, approval or accession.

Pending the entry into force of ADN, the annexed Regulations are updated on a regular basis at a Joint UNECE/CCNR Meeting of Experts for recommended application through national legislation. The current version is from 2007.