
GLOBALIZATION AND WATER RESOURCES MANAGEMENT: THE CHANGING VALUE OF WATER

AUGUST 6-8 AWRA/IWLRI-UNIVERSITY OF DUNDEE INTERNATIONAL SPECIALTY CONFERENCE 2001

FEDERAL REPUBLIC OF YUGOSLAVIA: PROSPECTIVE CHANGE IN THE WATER MANAGEMENT SYSTEM

Dr. Slavko Bogdanovic*

ABSTRACT: Former Yugoslavia, i.e. Socialist Federal Republic of Yugoslavia (SFRY) had been an active participant in creation and development of international law and signatory of a great number of international treaties that have been dealing with transboundary water resources management. After dissolution of the SFRY, new countries, arisen in its territory, have continued to implement these treaties and conclude new ones, including themselves in that way in the process of the modern International Water Law and Environmental Law development.

Federal Republic of Yugoslavia (FRY) has stood far aside from these processes. The article contains a short review of important elements, significant for the current state of things in the field of water management, seen from the FRY standpoint (meaning both the levels of the Federation and the Republics), and an inventory of the opened issues waiting to be settled by new political forces, in the following period of approximation to current East and Central European transitional trends toward market economy and democracy. This paper will review the international law regime of transboundary water resources of the Socialistic Federal Republic of Yugoslavia (SFRY), as well as the main features of the current water management system and the subsequent changes (as a result of the dissolution of the SFRY). The following is a broad review of the present state of things in the water management systems of Serbia and Montenegro, two constituent elements of the Federal Republic of Yugoslavia (FRY), the on-going public criticism of the system, and the author's views relating to the obvious need for change.

KEY TERMS: Yugoslavia; water management; international water law; transition.

INTRODUCTORY NOTES

Former Yugoslavia (*i.e.* SFRY) was an active participant in the creation and development of international law and signatory to a number of international treaties relating to transboundary water resources management. These treaties were fundamental to the development of peaceful co-operations between neighbouring states concerning shared water resources. It can be said that such co-operation existed between Hungary and Romania, where the Legal regime development use (including the fishery in the state boundary waters), flood control and water protection of the SFRY transboundary water resources, was established by a number of bilateral and multilateral treaties. Bilateral treaties were signed with Albania (1956), Austria (1954), Bulgaria (1958 and 1962), Greece (1959), Italy (1974 and 1978), Hungary (1955), Romania (1955, 1964, 1967, 1976,1987). The multilateral Convention on the Danube Navigation Regime has been signed (1948), as has a multilateral agreement related to fishery in the Danube waters (1958), and another concerning the River Tisza and its tributaries protection against pollution (1986, though unfortunately never implemented).

Water management systems, based on almost 200 years of experience, especially in Vojvodina, Croatia and Bosnia and Herzegovina, was developed at a level comparable to the similar systems in most developed European

* Secretary of the Yugoslav Association for Water Law; Ilije Ognjanovica 4, 21000 Novi Sad, FR of Yugoslavia;
Tel./Fax: +381 21 27 453; E-mail: slavkob@EUnet.yu

countries. Self-management, as a fundamental principle of social relations, was a fertile soil for the further development of an advanced water management system. This, by its nature, comprised involvement of all interested subjects/groups in the planning and decision-making process, and in designing the frameworks of designated territorial units based on the natural *i.e.* hydrological, features.

With the disintegration of the social system -- socialist self-management system -- during the 1980^s and at the start of the 1990^s, the self-management mechanism in the water management system disintegrated as well. Gradually, through the change of water law legislation, a totally new water management system was introduced, in the space of only a few years. From one very decentralized system, developed on the logical hydrographic units, it came to be a much more strict centralized system, built according to the model of a state-centralized system (as was the case in Stalin's era). The State Water Management Company "Srbijavode", which is the key institutional body of water management system in Serbia, today presents a unique model of infrastructure anachronism.

In Montenegro the situation is quite different. Despite the fact that the water management system of Montenegro is centralized as well, and fully incorporated in the Governmental structure, there is no institutional constructions like "Srbijavode" in Serbia. A small number of experts inside the Government (*i.e.* the Ministry for Agriculture, Forestry and water Management) execute all the tasks referring to the management of waters. These experts support the setting up an independent public institution, independent in the sense of a high level of independence from the Government and a high level of influence of the public on its work, responsible for water management in Montenegro, which also provides the possibility for introducing in the system specialized operative bodies (responsible for certain areas). All of which was recently highlighted at the Miodrag, Radunovic, Kriticki osvrt na organizaciju vodoprivredne delatnosti u Republici Crnoj Gori; Regional Conference on Water Law LEGAL ASPECTS OF SUSTAINABLE WATER RESOURCES MANAGEMENT (Teslic, B&H, 14—18 May, 2001); Collected Papers, pp. 333—339.

After the dissolution of the SFRJ, the states originally in its territory, continued to apply some of the previously signed international treaties on transboundary water resources in their co-operation with neighboring countries of Former Yugoslavia, and also began to include new ones. Some of the new States are signatories of the multilateral water conventions signed during the 1990^s. The Federal Republic of Yugoslavia (Serbia and Montenegro) has stood some distance away from these processes and activities, not only due to the long lasting sanctions imposed by the international community, but also due to the isolationist politics intentionally designed and implemented by the ruling regime.

INHERITANCE

The inherited water management system left by the former regime to the new democratic Government, elected at the end 2000, can be briefly described as follows:

- Serbia and Montenegro do not have modern water management systems that meet the needs of society and the market economy.
- The FR of Yugoslavia does not have regulated relations concerning shared water resources with her new neighbours—Bosnia and Herzegovina and the Republic of Croatia. It should be pointed out that by now there has been several initiatives for the signing of bilateral water treaties, undoubtedly in the interest of both countries. The Republic of Croatia has brought up the issue three times to date, always proposing to sign a bilateral water treaty (1998, 2000, and 2001), but such an initiative has not yet been supported by the other side *i.e.* FRY.
- The FR of Yugoslavia did not support the initiatives of Hungary and Romania in regard to the revision of existing or signing new water treaties.
- The FR of Yugoslavia is out of the contemporary development of international water resources law. FRY is neither included in the multilateral regional conventions, nor did she take part in the voting on the UN Convention on the Law of Non-Navigational Uses of Watercourses. In November 2000, the new Minister of the FRY foreign affairs Mr. Goran Svilanovic, sent to the Minister of foreign affairs of Romania, Mr. Petre Roman, the letter expressing the intention of the

FRY to accede to the Convention for the Protection and Sustainable Use of the Danube River. An act of accession has not yet adopted by the FRY.

CRITICISM

The water management system developed during the 1990^s, after the dissolution of the SFRJ, particularly in Serbia, has been criticized by professionals in relation to many different aspects. A synthesis of that criticism was expressed by the Yugoslav Association for Water Law in its *Declaration on Water Management in Serbia*, Dated December 8, 2000, issued to help and support new political powers in Serbia to fulfill their pre-elections promises i.e. that when once in power, the totalitarian Milosevic's system will be dismantled. The Declaration contains a review of features of the existing water management system based on the Water Act (1991). In particular it notes that the water management in Serbia, since January 1, 1992, has been under the exclusive control of the central authorities of Serbia, without any influence on its operations of the provinces, municipalities, water users or any other social subject. The establishment of the State Water Management Company "Srbijavode" has introduced this total centralization of the water management in the country. Certain forms of de-concentration (so called Water Management Centers in the territory of Serbia) have been set up, aiming to avoid the necessary decentralization of the system, and to create a simulacrum of the balances approach to the water management in all the territory.

According to the Declaration, the whole system of water management has actually been controlled by two people (the General manager of the "Srbijavode" and the Assistant Minister for Agriculture, Forestry and Water Management in the Government of Serbia). Having the institutional system of water management of the country in the hands of just two people has not been recorded since the beginning of the organized approach to the management of waters in Serbia, and not in the last 200 years in Vojvodina (northern autonomous province of Serbia). The lack of transparency in discharging public tasks in this field can be easily seen—the general public and water users do not have any influence at all on the planning process, nor any insight in the spending of the revenues collected from water fees. The public has not been informed either about incomes from water fees annually collected in Serbia, Vojvodina and municipalities nor about the spending for planned purposes. Due to this practice there is a lack of public accountability in the system, and responsibility for realization of plans and spending public funds collected for water management purposes.

PROPOSALS FOR ACTION

Having regard to the situation as just portrayed, the Yugoslav Association for Water Law suggested a parallel, twofold remedial action. The first aspect comprises a fact finding recourse—making a review of the actual state of the water resources and hydraulic structures and systems; making a review of the maintenance, reconstruction and development activities since January 1, 1992; making a review of the revenues from water fees and of the Governmental budget, and other funds spent in the same period; and making revision of the spending of the funds in the "Srbijavode", in the same period. The findings should be compiled and published in a kind of a 'White Book' on Water Management in Serbia.

The second aspect of activity should comprise:

- Enactment of a document on water policy in Serbia and Vojvodina (separately);
- Preparing the basic initial documents for drafting new water legislation in Serbia—aiming to begin and promote decentralization in the water management system, to overcome centralist, totalitarian inheritance and to develop and affirm civic and democratic social values;
- To establish intensive co-operation with international organizations dealing with water management issues, and particularly international co-operation within the regional frameworks (especially important for Vojvodina), as well as the intensive co-operation with the neighboring countries sharing the same water resources;

- To provide for as long as possible the influence of Vojvodina (as a region traditionally having the best water management system, and the area vitally dependent on the successful functioning of the water management system in a much greater degree than other parts of Serbia) and other regions of Serbia to water management activities run on both the levels of Serbia and the FRY.
- On the international level, the country should be included as soon as possible in the multilateral convention signed under the aegis of the UN/ECE (*i.e.* Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991; Convention on the Protection and use of Transboundary Watercourses and International Lakes, Helsinki, 1992; Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, 1998) as well as in the Convention on Co-operation for the Protection and Sustainable Use of Danube River (Sofia, 1994); and in all activities intensively running on in Europe for years in the frameworks of these conventions. It should be analyzed whether or not FRY should accede to the Convention on the Law of the Non-Navigational Uses of International Watercourses (New York, 1997). Special attention should be given to the revision of old water treaties signed by Former Yugoslavia with the neighboring countries, as well as to signing the bilateral treaties on transboundary water resources with the Republic of Croatia, Bosnia and Herzegovina and Macedonia;
- To apply for the international community financial aid for research activities for institutional strengthening of water management system and for capacity building .

Several other prompt measures were proposed as well, in particular the setting up the Water Councils of Serbia and of Vojvodina. In the Preamble of the Declaration, the opinion expressed was that “*Vojvodina has the capital of immense value consisting of hydraulic works and systems rarely seen in the world, which has been created for centuries exclusively by the work and investments of the population of Vojvodina, but which is not governed by the people of Vojvodina and to whose operation, on which lives and prosperity depend, the people of Vojvodina do not have any influence*”, as well as “*that is nothing but normal to request that those who have built and been using hydraulic structures and systems take care of them, instead of an alienated bureaucrat structure*”.

There is also call for the setting up special authorities responsible only for water management in Serbia and Vojvodina, providing full publicity on the Governmental activities concerning the water management system. Here could be added the need for regulation of the relationships between authorities of Serbia and UNMIK (international community body for civil affairs at Kosovo—southern province of Serbia) concerning the water resources and hydraulic structures, and systems intersected by the border of Kosovo Autonomous Province.

PROSPECT OF CHANGE

Having in view the initiative of the Yugoslav Association for Water Law, the new elected Executive of Vojvodina appointed a Task Force for the designation of the Water Management Policy of Vojvodina. The Task Force adopted several documents concerning particular aspects of water management system including the Conceptual Frameworks for Decentralisation, De-concentration and Deregulation of the Water Management System of Serbia; 10 Statements on the Ownership and Status Transformation of the Water Management System of Serbia; Proposal for Regulation of the System of Water Management in the Territory of Vojvodina; On the Master Water Resources Plan of Serbia etc. The next step is now for the subsequent publishing of the ‘White Book’.

The work of the Task Force is slow and achieving its ultimate goal—to provide the documents suitable for taking over from the central level of Serbia all responsibilities concerning the water management in the territory of Vojvodina—is dependent on the solution of the issue of the new autonomous position of Vojvodina in the new democratized Serbia. In other words, it depends on the real willingness of the Democratic Opposition of Serbia (DOS—a 18-members political coalition that won last year elections and defeated Milosevic’s regime) to fulfil its own pre-electoral promises that Serbia shall be democratized and decentralized, and that Vojvodina will achieve its full autonomy.

The new Government of Serbia has made no moves as yet towards changes in the water management system. It seems that old administrative system, now under the control of DOS, are more concerned in obtaining international financial aid, than to make changes upon itself. It could be seen as normal behavior of an anachronous managerial structure trying to prolong its existence in the coming era of democracy and market-economy. But it cannot not be seen as acceptable that the new democratic Government does nothing to change the inherited structural/managerial patterns (readily available to serve any political power, always in its own interest). Perhaps, the new Government needs more time. Or perhaps the terms and conditions for international financial inputs in this sector will push the authorities to change the state of things in a completely new direction, as been seen in some other countries.
