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EC Water Legislation and European Agreements on Transboundary Watercourses

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Tuire Taina is a legal expert at the Water Resources Unit of Finnish Ministry of Agriculture and Forestry. She is currently working with the ongoing renewals of the Finnish Water Law from 1961 as well as of the Finnish-Swedish Frontier River Agreement from 1971. Before her work at the ministry, Taina assisted on research projects on comparative water law at the Department of Private Law of the University of Helsinki. Her principal interests are transboundary water management, the use of planning instruments in water management as well as in land use and international and national environmental law in general. She has published an article in Finnish on the title theme. Alongside her legal studies Taina has studied real estate economics and valuation and land management at the Helsinki University of Technology, and will finish her MS during the Spring of 2002.

ABSTRACT

The renewal of the 30 year old Finnish-Swedish Frontier River Agreement is being prepared at the moment on the ministry level both in Finland and Sweden. The official negotiations for a new agreement should take place during 2002. Part of the preparation of the new agreement has been an international comparison of seven European agreements on transboundary watercourses.

Three of these agreements are bilateral agreements between Finland and its neighbours Russia, Sweden and Norway. The other four international river basins selected for the comparison are the basins of River Odra, Rhine, Danube and the Portuguese-Spanish river basins. These four river basins were chosen because there exist new and modern agreements from the 1990s on each of these transboundary watercourses. To better understand the legal framework behind these agreements the international water law as well as some of the general international agreements are prescribed in the paper.

One starting point for the renewal of the Finnish-Swedish Frontier River Agreement as well as for the study has been EC Directive 2000/60/EC establishing a framework for Community action in the field of water policy and especially its Article 3. According to Article 3 of the Directive each member state shall ensure the appropriate administrative arrangements for the application of the rules of the directive within the portion of any international river basin district lying within its territory. The member states may use existing structures stemming from international agreements for coordination of all programmes of measures in an international river basin district.

In the comparison of the agreements on transboundary watercourses, the degree to which the agreements include substantive legal norms on the use of common water resources and, on the other hand, how much the institutional framework for cooperation is emphasized is studied. How the influence of general principles of international environmental and water law can be seen in the agreements is also compared. The third central issue in the thesis is the relationship between the powers of an international joint body created by an agreement and the traditional view of the sovereignty of the states.

How the influence of EC water legislation and the whole EU water policy can be seen in the individual agreements on transboundary watercourses is also studied. An interesting question is whether the development of EC water legislation could diminish the importance and need for international agreements on transboundary watercourses in Europe. An assessment is also made, how these agreements and the joint bodies created by them could be used in the implementation of the Water Framework Directive.