

Water: Conceptualisations, Regulatory Approaches and  
Scrutinising EU Water Law

Water: Conceptvorming, regelgevende benaderingen en de  
toetsing van de EU-waterwetgeving

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## SUMMARY

This dissertation contributes to the answering of one question – if we conceptualise water as fragmented, should we adopt an integrated regulatory approach? The response is that we can, but we should not. While the integration of water resource management has become the dominant paradigm among water experts, its results are mixed at best. Integration has not been a panacea for water management; it is only under certain conditions that integration functions well. The thesis corroborates this point by analysing European Union water regulation, in particular, its Water Framework Directive. This dissertation thus reflects on integration from a regulatory perspective and concludes that its role is tangential compared to the central problems of water management: the literature's emphasis on integration is misplaced.

While arguing that, this study shows that water regulation depends on physical and sociocultural perceptions that may vary across space and over time. Water is indeed a complex resource, encompassing multifaceted conceptualisations in science and society. Such conceptualisations not only contribute to how water is made known, but also appeal to various legitimisations and logics of how this resource is to be managed. It follows that a unique set of economic and legal arrangements devised *a priori* will not do justice to the multiple social constructions of water.

Against this background, this study highlights that it is not imperative to embrace integration, especially in polities with entrenched traditions of sectoralism, such as the EU regulatory framework. Instead, it is advisable to devise water regulation in a manner that would pay more attention to other issues: the quest for cooperation, the existence of a pluralistic legal framework that triggers the need for coordination and the fact that uncertainty pervades the regulatory framework, calling for the establishment of public participation to acquire localised knowledge.

In order to reach these findings, this study embraces two research routes. Firstly, it discusses the context-dependence of water both across space and over time in the first three content chapters. Secondly, it analyses what the Integrated Water Resource Management concept is and what its effects at the regulatory level are in the last two content chapters. These two research routes, in conjunction, provided the reader with new



lenses through which to look at the paradigm of Integrated Water Resource Management in the legal realm. This study, however, attempts to relate to more than one discipline by combining doctrinal legal research, economic analysis, political science and hydrology.

## SAMENVATTING

Dit proefschrift draagt bij aan het beantwoorden van één belangrijk vraag – als we waterbeheer beschouwen als een gefragmenteerd concept, zouden we dan een geïntegreerde regelgevingsaanpak moeten gebruiken? Het antwoord is dat we dit wel kunnen, maar dat we dit niet zouden moeten doen. Ondanks dat de integratie van waterbeheer het dominante paradigma geworden is onder waterdeskundigen, zijn de resultaten van deze aanpak echter gemengd. Integratie is geen wondermiddel voor waterbeheer want de integratie van waterbeheer functioneert alleen onder bepaalde omstandigheden goed. Dit proefschrift zal dit punt kracht bijzetten door het analyseren van waterbeheer in de Europese Unie en hierbij vooral de ‘Water Framework Directive’. Dit proefschrift reflecteert dus op de integratie van waterbeheer vanuit een regelgevend oogpunt en concludeert dat de rol van integratie slechts klein is vergeleken met de centrale problemen in watermanagement. De nadruk in de literatuur op integratie is dus misplaatst.

Met dit punt laat deze studie zien dat het succes van waterbeheer afhangt van fysieke en socio-culturele percepties die van plaats tot plaats en over verschillende tijdsperiodes kunnen variëren. Water is dan ook een complexe hulpbron waarvan in de wetenschap en in de maatschappij, veel verschillende conceptualisaties bestaan. Dergelijke conceptualisaties dragen niet alleen bij aan de manier waarop water als hulpbron in de maatschappij bekendstaat, maar zijn ieder ook gebaseerd op verschillende legitimaties en zienswijzen op de manier waarop deze hulpbron moet worden beheerd. Hieruit kan geconcludeerd worden dat een enkele, unieke reeks van economische en juridische constructies die a priori zijn bedacht geen recht kunnen doen aan de veelzijdige sociale constructies op water als hulpbron.

In deze context benadrukt deze studie dat het niet noodzakelijk is om integratie te omarmen, vooral niet in politieke systemen met diepgewortelde tradities van sectoralisme, zoals het EU-regelgevingskader op het gebied van waterbeheer. In plaats daarvan is het raadzaam om de regelgeving op waterbeheer zo te ontwerpen dat er meer aandacht is voor andere kwesties zoals de zoektocht naar samenwerking, het creëren van een pluralistisch wettelijk kader dat ervoor zal zorgen dat coördinatie op het gebied van waterbeheer noodzakelijk wordt. Ook is het belangrijk dat er in het beleid van de EU ruimte is voor

verschillende percepties op waterbeheer zodat publieke participatie tot stand kan komen om lokale kennis te verwerven.

Om tot deze conclusies te komen, worden in deze studie twee onderzoekroutes gebruikt. Ten eerste, zal in de eerste drie inhoudelijke hoofdstukken de contextafhankelijkheid van water besproken worden, door zich te richten op de aanpak van waterbeheer in verschillende plaatsen en gedurende verschillende tijdsperiodes. Ten tweede zal in de laatste twee inhoudelijke hoofdstukken de betekenis van het concept 'Integrated Water Resource Management' besproken worden en zal uitgediept worden wat de effecten van dit concept zijn op de regelgeving op het gebied van waterbeheer. Deze twee onderzoekroutes geven de lezer samen nieuwe invalshoeken op het paradigma van geïntegreerd waterbeheer in de juridische wereld. Deze studie beperkt zich echter niet alleen tot de juridische wereld, maar probeert met een multidisciplinaire aanpak een relatie te leggen met meer dan één discipline door doctrinair juridisch onderzoek, economische analyse, politicologie en hydrologie met elkaar te combineren.