



Strengthening Legal, Regulatory, and Policy Frameworks for Transboundary Water Resources Management in the Lake Kivu and Ruzizi River Basin

POLICY BRIEF



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Executive Summary

The Lake Kivu and Rusizi/Ruzizi River Basin is of great importance for its riparian populations and countries – Burundi, the Democratic Republic of Congo (DRC) and Rwanda. At the same time, the basin is facing severe challenges relating to the over-exploitation of resources, unsustainable economic development and climate change. Many of these challenges, but also opportunities, transcend the boundaries of nation states and therefore require transboundary cooperation. While a mechanism for institutionalizing such cooperation has been established with the 2014 *Convention internationale relative à la gestion intégrée des ressources en eau du bassin versant du Lac Kivu et de la Rivière Rusizi/Ruzizi* (2014 Convention) and the related establishment of the *Autorité du Bassin du Lac Kivu et de la Rivière Rusizi/Ruzizi* (ABAKIR), the implementation of the Convention and specific cooperation activities between the member countries to tackle joint challenges and advance cooperation benefits is still lagging behind.

A comprehensive study on “Strengthening Legal, Regulatory, and Policy Frameworks for Transboundary Water Resources Management in the Lake Kivu and Rusizi/Ruzizi Basin” was conducted in order to provide advice to the riparian states of the Lake Kivu and Rusizi/Ruzizi Basin on how to advance and enhance cooperation among them.

The key findings of the report and the recommendations to the basin countries revolve around the embeddedness of ABAKIR in the broader regional cooperation and integration framework, the legal bases of ABAKIR as well as its actual functioning and the resources required for this.

Introduction

The Lake Kivu and Rusizi/Ruzizi River Basin is of great importance for its riparian populations and countries – Burundi, the Democratic Republic of Congo (DRC) and Rwanda. The water resources of the basin provide drinking water to people, help irrigate fields and thus support food security, generate electricity in a region suffering from energy shortages and outages, supply industries, facilitate navigation and thus exchange and trade, and provide important ecosystem services. The basin is, however, also facing extreme pressures stemming from the over-exploitation of resources, unsustainable economic development and climate change. Given the transboundary nature of the Lake Kivu and the Rusizi/Ruzizi River, identifying and implementing solutions to such challenges will require cooperation between the riparian states. Acknowledging this transboundary cooperation need, the riparian countries have, in 2014, adopted the *Convention internationale relative à la gestion intégrée des ressources en eau du bassin versant du Lac Kivu et de la Rivière Rusizi/Ruzizi* (2014 Convention), which provides the legal basis for the *Autorité du Bassin du Lac Kivu et de la Rivière Rusizi/Ruzizi* (ABAKIR).

The issues at stake

Various key issues were identified that are of great relevance to the basin, its riparian countries and its people – either because they present challenges to the basin and its resources and therefore jeopardize socioeconomic development opportunities for riparian populations and/or bear a risk of conflict, or because they present opportunities for enhanced water resources use to the benefit of socioeconomic development and/or regional cooperation and peace. Those issues include water quantity and the allocation of water resources across different sectors, water quality and pollution more generally, including solid waste issues, navigation, fish, fishing and fisheries, methane gas and oil exploration as well as climate change and disaster preparedness. All those require collaborative action – either through coordination, that is, the implementation of specific measures at the national or local level on the basis of national and local rules, regulations, policies and activities that are coordinated at the basin level by ABAKIR, or through harmonization, that is, the development and implementation of joint rules and regulations that are to be implemented in all ABAKIR member states in the same manner.

Approach and methodology

In order to derive policy-relevant recommendations that meet the needs of the basin, the report was based on a thorough analysis of available documents at the regional, national and local level as well as intense stakeholder involvement. A document analysis was conducted that reviewed relevant international, regional, national and local legal and policy instruments. Secondary literature on the basin was also consulted. In addition, stakeholders were consulted through various national-level stakeholder consultation meetings, individual stakeholder engagements in each of the three member states of ABAKIR as well as a regional high-level stakeholder consultation workshop.

Key findings and required action

Overall, the report found that approaches for addressing the challenges the basin faces and for harvesting the cooperation potential that lies in the transboundary nature of the Lake Kivu and Rusizi/Ruzizi River Basin are still insufficiently developed. And while promising legal and policy instruments as well as specific practices already exist, their implementation is often inadequate.

At the international level, water law principles are norms that should and can guide cooperation over shared water resources and are available in the form of customary international law as well as codified in the 1997 UN Watercourses Convention and the 1992 Helsinki Convention. However, the three basin states still make limited reference to these principles and their implementation appears to be of lower priority for the basin states.

At the regional level, a large array of regional economic and political cooperation and integration mechanisms exist, indicating a great interest in and potential for

regional cooperation, including over shared water resources. The specific engagement with and linkages to these different regional organizations is, however, still insufficiently defined and requires further clarification in order to ensure that basin cooperation, and ABAKIR in particular, operates efficiently and effectively in the regional context. This concerns, in particular, the other basin organizations with whom ABAKIR shares the same hydrological basin.

At the national level, it was observed that all three basin countries have comprehensive legislation as well as policy instruments in place to address the different water-related challenges and opportunities in the basin – although the exact degree of legal and policy development varies considerably across sector/water use as well as across countries. The implementation of those instruments is, however, a challenge in all basin countries. Addressing implementation gaps in national and local legislation and policies is therefore of utmost importance to better manage the basin's resources.

With regard to ABAKIR itself as the institutionalized cooperation mechanism for the basin, it has been observed that the persistent non-ratification of the 2014 Convention remains a challenge. In addition, the insufficient availability of human, technical and financial resources is a serious impediment to ABAKIR's functioning and puts existing and potential achievements from transboundary cooperation at risk. This can also be regarded as a lack of commitment and willingness of member states to the organization.

Based on this assessment, the following actions are required by ABAKIR and, in particular, its member states in order to move cooperation ahead to the benefit of the basin and its people:

- Assess the applicability of international water law principles to the basin and its countries and improve their application and implementation at the basin and the national level
- Engage with regional political and economic integration organizations in order to determine and detail relations between ABAKIR and relevant regional organizations
- Engage with basin organizations covering related basins (Lake Tanganyika and Congo) with a view to improving the integrated management of the overall basin
- Improve the implementation of existing (and potentially develop additional) legal and policy instruments for the various areas of water resources management at the national and local level as a prerequisite for effective water resources management also at the transboundary level
- Advance and achieve the implementation of the 2014 Convention in order to provide ABAKIR with the required legal foundation for its functioning
- Prioritize key topical matters that require ABAKIR's attention the most and develop and implement clear action plans

- Provide ABAKIR with the required technical, human and financial resources required for its functioning and the effective implementation of its tasks

Key messages

Overall, the study and in its context the consultations with key stakeholders has led to the following 10 key messages:

- 1) Transboundary cooperation over the shared water resources of the Lake Kivu and Rusizi/Ruzizi River Basin is of utmost importance in order to effectively address the challenges that the shared basin, its ecosystems and its people are facing.
- 2) Transboundary water cooperation in the Lake Kivu and Rusizi/Ruzizi River Basin also provides great opportunities for advancing cooperation over shared water resources and beyond, contributing to regional peace and stability more generally.
- 3) The Lake Kivu and Rusizi/Ruzizi River Basin already has a comprehensive regional cooperation landscape in place. ABAKIR needs to engage with existing institutions – whether focusing on shared water resources or more generally – in order to ensure effective linkages and functioning cooperation while avoiding overlaps and inefficiencies.
- 4) The implementation of water-related legal and policy instruments in basin countries is often still inefficient, affecting water resources and the people depending on them. Implementation at the national and local level therefore needs to be improved.
- 5) In some cases, such legislation or policy instruments might require harmonization across basin states – in others, coordination of national activities towards a jointly defined goal would be sufficient (if not more effective on the basis of the subsidiarity principle). ABAKIR and its member countries therefore need to engage in a discussion on what level of cooperation to apply for which matter at stake.
- 6) The persistent non-ratification of the 2014 Convention presents a key impediment to effective institutionalized cooperation. This impediment needs to be overcome soon and the overall commitment of ABAKIR member states to institutionalized cooperation needs to be elevated.
- 7) In order to address specific topical issues in the basin and advance institutionalized cooperation over those, the development of additional legal or political instruments – such as protocols to the 2014 Convention, procedures or guidelines – might be required. ABAKIR member countries therefore need to engage in a process of discussing which issues require such additional documents and develop a roadmap for developing those.
- 8) ABAKIR struggles with a lack of technical and human resources. ABAKIR is insufficiently staffed and equipped to fulfil its tasks along its mandate. Member countries need to ensure that ABAKIR is provided with additional staff (in particular at the technical level) to fulfil its functions.

- 9) The persistent lack of financial resources presents a key challenge to ABAKIR's effective functioning and its ability to pursue its mandate and thus deliver on cooperation promises. Member states need to urgently comply with their own financial commitments made to ABAKIR. In addition, they might want to jointly explore additional external funding and financing opportunities that can support specific basin management activities.
- 10) A large number of specific actions and measures are required for effectively and cooperatively managing the basin. Some of them can be costly. ABAKIR and its member states should therefore seek the support of external financial resources to implement these projects, building on a sound cooperation basis at ABAKIR that is supported by member states' commitment.



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