

BLUEMED

Activity 3.3

Assessment of national/regional governance plans and actions
implementing existing legal frameworks and development of innovative
strategies

Deliverable 3.3.1

Assessment reports on national/regional governance plans and actions
implementing existing legal frameworks and development of existing
tourism strategies

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I. Foreword

The aim of Activity 3.3 'Assessment of national/regional governance plans and actions implementing existing legal frameworks and development of innovative strategies' and its respective deliverable is to assess already existing national and EU legal frameworks regarding the underwater natural and cultural heritage and propose policy recommendations in order to enhance the protection as well as the preservation while improving accessibility and sustainable tourism development of Mediterranean regions.

This kind of assessment will allow national, regional and local authorities to improve strategies and plans for sustainable and responsible tourism development and to implement improved legislation concerning Underwater Museums, Diving Parks and Accessible / Visitable Underwater Archaeology Areas. Moreover, it will be an opportunity for the responsible authorities to take up and approve operational and management plans for the selected BLUEMED pilot sites.

The deliverable '*D3.3.1 Assessment reports on national/regional governance plans and actions implementing existing legal frameworks and development of existing tourism strategies*' will include the assessment of national and EU legal frameworks concerning the protection of the Underwater Cultural Heritage (UCH) in BLUEMED countries, namely Cyprus, Greece, Croatia, Italy and Spain. The reports will present national and regional governance plans and actions to improve the preservation and protection protocols of the UCH and enhance existing tourism strategies.

II. Croatia

A. LEGAL FRAMEWORKS

1. The general legislation on recreational diving

In the Republic of Croatia there are strategies that are related to a given topic, but there is legislation that comprises the method of issuing permits for tourist diving in underwater cultural sites. Principle which is obtained in this way is unique in the world, because on the one hand there is the permeation of cultural heritage and tourism, and on the other hand represents a special form of seabed protection.

The practice about diving at underwater cultural heritage in Croatia can be a positive example and a proposal of common methodology for tourist activities on underwater cultural heritage.

Underwater Cultural Heritage

On November 2nd, 2001 in Paris, the UNESCO Convention on the Protection of Underwater Cultural Heritage was adopted. The Republic of Croatia was the third country to ratify the Convention, confirming the importance that Croatia gives to the protection of underwater cultural heritage.

It is the first multilateral treaty which systematically and comprehensively deals with the protection of underwater cultural goods. On September 17th 2004, the Decision of the President of the Republic on the promulgation of the Law on Ratification of the Convention on the Protection of Underwater Cultural Heritage (Official Gazette 10/04).

According to the said Convention, underwater cultural heritage means all traces of human existence of cultural, historical or archaeological character, which has been partially or totally under the water, periodically or continuously, for at least 100 years. Among other determinants, by the Convention is defined also that the preservation of underwater cultural heritage in situ is considered the first option, and that priority is given to non-destructive methods of research and documentation over extraction of the objects. Therefore, this project is fully in line with the Convention, as the usual theoretical and practical treatment of the underwater cultural heritage in Croatia as well as the performance of diving and research of the heritage.

2. The legal framework of recreational and tourist diving on the underwater cultural heritage

The protected underwater archaeological heritage includes registered and individual preventively protected cultural goods and wider areas or protected zones. Regardless of the type of protection (registration, preventive protection) as well as the area of spread (individual sites or wider areas), on such cultural goods it is possible only organized performance of diving (in terms of sport recreational, tourist diving), research, recording and related activities, with the approval of the competent authority or competent conservation departments, the Directorate for the Protection of Cultural Heritage in the Ministry of Culture.

All this is regulated by the Act on the Protection and Preservation of Cultural Goods (Official Gazette no. 69/99, 151/01, 157/03, 87/09, 88/10, 61/11, 25/12, 136/12, 157/13 and 152714) (hereinafter “Act”) and the Regulations on the procedure and method of granting a permit for performing underwater activities in the internal waters and territorial sea of the Croatia which are protected as a cultural heritage (Official Gazette 22/09, 36/11 and 58/14) (hereinafter: the “Regulations on the procedure and method of granting a permit”), which follows from the above mentioned “Act”.

Regulations on the procedure and method of granting a permit

The entire process is elaborated in a way that the Ministry of Culture, based on the “Regulations on the procedure and method of granting a permit” brings The Five Year program of underwater activities in the internal sea waters and territorial sea of the Croatia in the areas where there is a cultural heritage (hereinafter: The Five Year program). The last such program is from 2014 and refers to the period 2014 - 2018.

The program provides a list of all the sites and zones for which can be obtained permission, the number of permits, the minimum annual fee for diving and any special conditions of diving and obligations of the permit holder (e.g. it is not permitted to enter the wreck, touch weapons, setting the anchor blocks, cleaning of protective nets, etc.).

Based on the above programs and regulations the Ministry of Culture releases the Tender for granting a permit for diving in protected areas for a certain period of five years, which is published in the Official Gazette.

To the tender can apply:

- diving centers (companies and crafts)
- diving clubs (civic associations, non-profit organizations)

Diving centers must meet certain requirements in terms of:

- registration of legal person for tourist activities of organizing and carrying out tourist diving (proven by an excerpt from the register of activities);
- dive leaders with minimum qualifications R *** or instructor by categorization of recognized diving schools registered in the Ministry of Education and Sports;
- dive leaders must be employees of a legal entity or engaged in them under separate contracts (proof of diving qualification and a copy of the employment contract or other relevant contract).

To tender cannot apply diving centers or clubs, and their applications will not be taken into consideration, where in the last five years are determined two or more irregularities in the work in the field of cultural heritage protection.

The Minister of Culture appoints the Expert Commission of five members for the implementation of the tender which considers all the applications and decides which applications are valid, and which diving centers get the permission to dive on certain cultural goods.

The main parameters when selecting dive centers which get permission to organize and conduct diving on cultural goods are:

- the offered amount of the annual fee (minimum is prescribed by Five Year program);
- employment of local population (priority is given to diving centers that employ local population);
- active participation in the protection of cultural heritage (previous participation in research, registration of new locations);
- proximity to a protected area - the zone for which the permit is requested (priority is given to the diving centers that are closer to the zone or locality);
- The decision of the Expert Commission is forwarded to the competent conservation departments that on the basis of such decisions adopt suitable

Resolutions, i.e. approvals for diving to dive centers.

Obligations of the holder of the permit, i.e. diving instructor are:

- to keep a diary of diving and related diving list (list of divers each dive with specified time and place of diving, and dive leader).
- to fax mentioned diving list to the Ministry of Culture before each dive so that is always known who, where and when is diving. Statistics of dives and number of visitors is made at the end of the year.
- to prevent damaging the cultural assets and extraction of objects.
- in the case of new findings or sites, and about all observed changes and illegal acts on existing sites, immediately to inform the Ministry of Culture, the competent port authority and maritime police.
- diving leader throughout the dives must be with divers

In addition to diving centres (companies and crafts) as profit organizations, permission to organize and conduct diving on cultural goods can be obtained by diving clubs (non-profit organizations, civic associations) provided that they made a specific program related to the protection of seabed (underwater inspections, creation of bottom sketches, etc.) that contributes to the protection and preservation of cultural goods. Diving clubs do not pay a fee for diving, and only the club members can dive. This possibility was introduced primarily because of the local diving clubs on the islands, which are also protected zones, and not to disable the local indigenous population to dive. In addition, most of the data on new sites comes from such diving clubs, and is in the interest of the Ministry of Culture to provide diving also to the clubs.

In addition to the described multi-year permits, the competent conservation departments of the Ministry of Culture may optionally issue single-use permits which must be of clear, promotional, memorial or educational character.

With this procedure for obtaining the permit to organize and conduct diving on cultural goods control and protection of underwater cultural heritage is enhanced. On most sites, dives and control are performed almost daily, and timely and promptly information is obtained about any changes or new sites. Besides that, in this way, seeks to contribute to the development of touristic offer in the Croatia, and to the development of local diving centres, while the Ministry of Culture in addition to financial benefits through diving centres, is indirectly protecting cultural goods. In fact, the diving centres that take tourists to the cultural goods also take care and make sure that they remain preserved in order to

have something to show, and in the same time is developing awareness of the importance and necessity of cultural heritage.

3. The legal framework for conducting underwater archaeological researches

All archaeological researches in Croatia, including underwater, are regulated by the Regulations on Archaeological Research (NN 102/10), which is derived from the “Act”. All the rules and obligations of the said Regulations are common to all archaeological researches, provided that certain articles refer exclusively to underwater archaeological research. Thus, for each archaeological research is necessary a permission of the competent conservation department of the Ministry of Culture, which prescribes the time and place of research, type of research (trial or systematic excavation, field inspections, non-destructive research methods: geophysical, geo-radar researches, aero archeology etc.), research leader and other participants, place of storage and conservation and restoration of materials, keeping proper photo, descriptive and other field documentation etc. It is important to note that the financial resources with which are carried out researches must be sufficient for the planned excavation, as well as for the conservation and restoration of movable and immovable archaeological findings and sites.

In addition to these standard conditions for all kinds of archaeological research, additional conditions in underwater research are:

- lead researcher, which must be an archaeologist and a Croatian citizen, must have a minimum diving qualifications CMAS 3 * or the equivalent in other diving associations, and a minimum of 24 months experience gained by participating in field research.
- a list of all divers in research with appropriate professional and diving qualifications corresponding to the estimated depth of diving and the medical certificate of good health for professional diving.
- information on diving equipment and instruments for underwater researches.
- lead researcher is obliged to ensure marking of areas where research is carried out in accordance with special Ordinance on Performing Underwater Activities.
- lead researcher is obliged to immediately inform the competent port authority of the beginning, termination, continuation or abandonment of works.

In all researches, regardless of whether they are terrestrial or underwater, they can participate domestic and foreign physical and legal entity on the basis of the approval of the competent authority. Foreign physical and legal entities can participate in research if they have the permits required by special regulations (i.e. Aliens Act), and with condition of reciprocity. The request for participation of foreign physical and legal entities submits technical leader of the research.

Therefore, the protection of underwater archaeological and historical heritage is regulated by the Act on the Protection and Preservation of Cultural Goods, and two Regulations concerning the (tourist) diving on cultural goods and archaeological research of cultural goods, including underwater.

This kind of protection in the legal and theoretical sense is of good quality, but the most important is the physical control, i.e. presence and surveillance at sea by the competent institutions of the Ministry of Culture, the Port Authority and the Marine Police. For now, the cooperation of those institutions is intense and positive, and in the last time enhanced through the work of the Coast Guard, as well.

B. POLICY RECOMMENDATIONS

1. Guidelines for Underwater Cultural Heritage protection

In Croatia, there are no official guidelines for the protected underwater archaeological sites. However, as a starting point for any future strategy regarding this topic can be presented indicative guidelines:

- in accordance with the international UNESCO Convention on the Protection of the Underwater Cultural Heritage, as well as positive regulations of Croatia, one should endeavor to use as much the non-destructive methods of research and documentation, and less extraction of archaeological findings from the sea.
- carry out activities to promote the presentation of underwater archaeological heritage in situ, or on the sea bottom, to get the real museums in the sea or underwater archaeological parks.
- promote the importance of underwater cultural permeation and natural heritage tourism with the aim of refining and protection of all the involved factors.
- with careful planning and later on with certain forms of monitoring supervise the

activities carried out on the underwater heritage, and in the purpose of enriching the tourist offer.

- promote and popularize values of underwater cultural and natural heritage in order to strengthen awareness among the wider population about the importance of this segment of heritage, which is also the best way of protecting it.
- use modern technological achievements in research, documentation and presentation of underwater cultural and natural heritage.
- involve the local community in the promotion and presentation of underwater cultural and natural heritage.

2. The Strategy of Conservation, Protection and Sustainable Economic Use of Cultural Heritage of the Republic of Croatia for the Period 2010-2015

The number of cultural heritage goods in the Register of Cultural Assets is never constant due to the changing character of the heritage. On January 1st, 2011, the total of permanently and preventively protected immovable and movable cultural property was 8217. Permanently protected cultural goods were a total of 6950, of which the number of individual immovable cultural goods (including land and underwater archaeological sites) was the 5319.

Only nine ancient underwater sites are covered by protection structures in form of a cage. To increase that number, the Ministry of Culture is continuously implementing projects to protect these valuable sites. For thirty-one underwater archaeological sites / zones there is a program of underwater activities (twenty-one that belongs to the archaeological periods, while others are modern era), and permission to perform commercial is issued for a five-year period. There are numerous preliminary proposals for the realization of underwater arheoparks and underwater itineraries for tourist, professional and educational use.

The problems of sustainable use of archaeological heritage (underwater) are the following:

- Lack of database (archaeological topography) of archaeological sites (land and underwater) for the whole Croatian territory.
- Lack of skilled staff and funding for the action of collecting data about underwater archaeological heritage (the territorial sea area is 50% bigger than the mainland RH).

- Insufficient infrastructure for the widespread acceptance of visitors of underwater archaeological heritage and insufficient presentation in museum conditions.
- Lack of management plans for archaeological sites, land and underwater, containing component of conservation and sustainable use (cultural tourism, entrepreneurship based on archaeological heritage, cultural industries, etc.).
- Low level of awareness of citizens, local and regional (regional) governments, and educational institutions on the value of the archaeological heritage as a carrier of identity, recognition, a sense of belonging and the potential for sustainable use.
- The necessity of engaging external associates increases costs for bringing cultural property in the state that is suitable for commercial use.

Therefore, to improve the sustainable use of archaeological heritage, it is necessary to:

- Systematically build a database of terrestrial and underwater archaeological sites and include it in a database of cultural heritage of Croatia.
- Define educational profiles and skills, and personnel structure with the basic role of economic use of land and underwater archaeological heritage (with knowledge of the principles of preservation of archaeological heritage).
- Develop management plans for archaeological heritage (sites / parks).
- Ensure participation of conservationists at all stages of project development and management plans for archaeological heritage.
- Conduct strategic planning and selective preparation (from resources to attractions) of underwater cultural heritage for sustainable use.
- Ensure participation of all entities that by their work effect on the preparation and development of projects with economic (particularly tourism), cultural and educational potential (protection service, local and regional governments, tourist boards).
- Include more subjects (heritage protection, local governments, tourist board) in activities to promote the sustainable use of archaeological heritage as a development resource region and the entire country.

III. CYPRUS

A. Legal Frameworks

LEGAL FRAMEWORKS AND POLICY RECOMMENDATIONS

1. Underwater Cultural Heritage

CAP 31 - Antiquities law and its recent amendments (200(I)/2014 and 16(I)/2017)

Definitions

According to the Antiquities law CAP.31 (and its recent amendments of 2014 and 2017) the following are defined:

Antiquities: Any object, both movable or part of immovable property, which is considered a work of architecture, sculpture, art, painting, or any other form of art produced by humans and which needed to be carved, painted or generally man-made. Also includes material discovered or excavated in Cyprus, dated at least 100 years, as well as materials found in the maritime zones of Cyprus, and this applies to any object or part thereof which was added, rebuilt, replaced or adjusted to it.

Maritime antiquity: Any antiquities found, discovered, or excavated within the maritime zones of Cyprus.

Zones for protection of maritime antiquities: Zones which are designated by national decree. Regarding the maritime zones, this applies to the territorial sea, the contiguous zone, the Exclusive Economic Zone and the continental shelf of the Republic. This designation is established when there is sufficient justification of the existence or the possible existence of antiquities, which will require to be protected, due to their important historical, archaeological or artistic value. It should be noted however, that during the time this report is being prepared no maritime zones for the protection of maritime antiquities have been designated.

Guidelines

According to the national amended law 200(I)/2014, on Antiquities law (CAP. 31), the following have been established regarding the antiquities found within the Exclusive Economic Zone and/or the continental shelf of the Republic of Cyprus:

- Regarding this law, all the antiquities found within the Exclusive Economic Zone and/or the continental shelf, with the contiguous zone included of the Republic of Cyprus which are either discovered, or not, by the time this law came into force, are considered property of the Republic of Cyprus.
- Any person who discovers antiquities within the Exclusive Economic Zone and/or the continental shelf of the Republic, without having a licence allowing those practices, is required by law to notify the authorities immediately upon such discovery and provide all the relevant information regarding the antiquities found, including the geographical coordinates and the location where the antiquities were discovered.
- No one is allowed to conduct any form of research aiming to discover antiquities, or excavations within the Exclusive Economic Zone of the Republic and/or the continental shelf, without obtaining a written permission prior to engaging in such activities.
- An application regarding the obtaining of the aforementioned licence must be submitted to the director, at least two months prior of the estimated starting day of those activities.
- The director grants that permission after he/she receives consultation from the involved governmental departments which have the relevant jurisdictions within the EEZ of the Republic and after the following are confirmed:
 - a) The applicant has the required knowledge and experience to conduct such activities, following the most recent scientific methods.
 - b) The applicant has been suggested by a reputable scientific archaeological organization or foundation.
 - c) Satisfactory provision has been made for the scientific publication of the results of any previous research or excavation activities conducted by the applicant.
 - d) The applicant, or the organization/foundation which represents will be willing to cover all the necessary expenses for the research/excavation purposes, in such a way that sufficient results will be expected.
 - e) The intended practices will not cause any harm to the environment, or affect in

any way the exploration and exploitation of the Republic's natural resources.

- The Director has the right to force specific rules and conditions for conducting a survey for search of antiquities and/or excavations which can be addressed to the following aspects:
 - a) Duration of licence
 - b) The people authorized to carry out the survey or excavations
 - c) The geographical limits within which the survey and excavations will take place.
 - d) The measures which will be taken for protecting the antiquities which will be lifted and also, to ensure a detailed diary will be kept during the aforementioned activities, which will record the surveys or excavations carried out, as well as include photographs and any other illustration means taken/used during that period.
 - e) The measures to avoid or decrease the interference to the future surveys and exploitation of the Republic's natural resources.
 - f) The measures for preventing, decreasing and controlling environmental pollution.
 - g) The publication of sufficient scientific report on the results of their survey or excavation.
 - h) The operation of an AIS or other system which will transmit the full and accurate data of the ship, under which the survey or excavation will be carried out, for the purposes of monitoring it by the Republic's authorities.
- All antiquities to be found are required to be handed over to the Director, together with the originals of survey diaries, footprints and photographs.
- The person who is authorized to conduct such activities is obliged to inform the relevant authorities of the Republic, on a daily basis, regarding the ship's location, on which the survey or excavation takes place, or regarding the lifting of a wreck. He/she is also required to contact the relevant authority in order to ensure a notice will be made to seafarers and is also required to follow any seafarer notices are generally made by the Republic.
- The survey for finding antiquities or the excavations should not prevent the established

shipping routes.

- If any of the rules and conditions listed in the aforementioned guidelines are not followed, the person involved will be charged accordingly to the violation.

Prohibitions

- It is forbidden by law to remove the antiquities, or intervene in any way, without obtaining the relevant licence from the Director of the Department of Antiquities. If this is violated charges are applied.
- Regarding the zones of protection of maritime antiquities, the following are forbidden:
 - a) The construction of any installation, artificial reef or any other structure.
 - b) The mooring of ships.
 - c) The engagement in fishing or diving activities that might cause damage to the antiquities or intervene in any way.
 - d) The drilling, use of explosives and the introduction of harmful substances to the marine environment.
 - e) Any action that might cause some damage or intervene in any ways to the antiquities.
- It is forbidden to lift a shipwreck considered as antiquity, unless such a permit has been obtained by the Director.

KDP.218/2016 - Regulations on the Protection of Underwater Cultural Heritage of 2016

Definitions

Licence to conduct any activity relevant to maritime antiquities: Defined according to the Antiquity law (CAP 31), concerning the territorial sea, the Exclusive Economic Zone and/or the continental shelf of the Republic of Cyprus.

Activity related to maritime antiquities: Any maritime survey conducted in order to find and excavate maritime antiquities, including the lifting of a shipwreck, and/or any other type of activities which is related to maritime antiquities.

Guidelines

According to the national decree KDP 218/2016 regarding the regulations on the protection on Underwater Cultural Heritage, which complements the Antiquity law the following regulations are in force:

- Protecting the maritime antiquities through their preservation in the location where they have been discovered is considered the first choice and the upmost priority.
- The licence regarding the activities on maritime antiquities will be published by the Director, if according to his/hers' judgment the protection of maritime antiquities is secured. The sole purpose of those activities should involve the protection and preservation of maritime antiquities, or the increase of knowledge around them. Also, an assessment over the mass of the maritime antiquities should be conducted, on defining their archaeological, historical, artistic, aesthetic value, as well as their need to preserve them for the future generations.
- The director has the authority to reject an application regarding obtaining the licence, if he/she thinks that the enlisted activities are going to negatively affect the maritime antiquities excessively.
- An archaeologist is not prohibited to offer his/hers' services on maritime antiquities, if the nature and sole purpose of them are in line to the overall regulations of the law.
- The director is responsible for the storage of maritime antiquities which have been hoisted out of the sea, in such a way that would not affect the scientific or cultural interest on the antiquities, or the integrity of the lifted material, and that no harm is caused on them, neither are being dispersed.
- Any intervention on the maritime antiquities must be documented throughout the survey, including recordings from the very beginning of the survey, to the very end. Those documents must be forwarded to the director on a regular basis, according to his/hers' guidelines.
- Non-destructive techniques and methods should be preferred and applied during

the activities on the maritime antiquities, instead of lifting those antiquities out of the sea.

- If for any reason the hoisting of the maritime antiquities is considered necessary for scientific and protective purposes they should be conducted in such a way in order to ensure their long-term preservation.
- As was mentioned in the Antiquities law a detailed diary should be kept, recording all the details of the methodologies applied during the survey and/or excavation, including photographs taken throughout the survey. All the cultural, historical and archaeological information obtained throughout the project should be documented as well.
- The Director can allow the general public access the maritime antiquities if for any case the protection and preservation of them is not threatened in any way.
- In order to conduct any type of activities on maritime antiquities various aspects regarding the project's design are expected to be delivered to the director, when applying for the licence, as for example data on preliminary studies, detail description of the project and its objectives, the methodologies planned to be followed, the project's timeframe etc. The activities carried out during the survey are expected to be the same as the ones included in the application process, which were approved by the director.
- In order to ensure the preservation of maritime antiquities and the accompanying documents to the conducted survey, in case the project is suddenly terminated, a back-up plan is expected to be planned ahead.
- Any activity is conducted under the guidance and careful supervision of a skilled and experienced maritime archaeologist. The people consisting of the group working on that project should also be adequately experienced and knowledgeable. Collaboration with international teams is permitted.
- The preservation and conservation of maritime antiquities should be conducted with the use of the most updated technological standards.

- Funding must be secured prior the beginning of the survey, which will ensure the economical coverage of all the project's stages, including the preservation of the maritime antiquities, as well as their adequate documentation and preparation of report. An additional measure to secure the successful operation of the project is the detailed definition of schedule regarding all the project's phases.
- During the maritime archaeological survey or excavation, the Director is required by law to prepare an announcement/warning to the seafarers, informing them on the geographical coverage of the survey and the protective zones around it, which needs to be sent to all the relevant authorities.

Additional measures and regulations refer to the adequate documentation of the project, providing information on the aspects required to be reported to the Director. Policies are also applied on the crew's safety, as well as the protection of coastal and marine environment. Lastly, regulations define the aspects regarding the publication of the project's results and the dissemination of them.

Prohibitions/Offenses/Penalties

- The overall commercial exploitation of maritime antiquities, as well the trade of them, as if they are a product of commercial, the transportation, interference and dispersion of them is prohibited.
- A person is of course prohibited to conduct any work, if the required licence has not been obtained.
- Any person who does the following is guilty of charge:
 - a) Moves, interferes or disperses the maritime antiquities
 - b) Conducts work on maritime antiquities, despite the decision of the Director in ending such activities, and continues to do so in a way that causes harm to the antiquities
 - c) Performs work using destructive techniques and methods of survey, which have been prohibited by the Director.

- d) Conducts work without documenting in detail the cultural, historical and archaeological information of the maritime antiquities, through detailed reports in a diary and sufficient imaging and recording of the site.
- e) Fails to take care that the survey is under the lead and guidance of a well knowledgeable and experienced maritime archaeologist, and that the group working on maritime antiquities is consisted of equally experienced personnel.
- f) Fails to scientifically publish the survey's results within a logical timeframe, defined by the director.
- g) Fails to immediately inform the "Centre of Coordination, Search and Rescue" on the events of an accident during the survey, which might have caused severe injuries, and even death.

Other national policies and laws related to Cultural Heritage

As a note, it is important to add that UNESCO's database on National Cultural Heritage Laws is critically useful for the identification of all the relevant national policies on cultural heritage, since they provided all the national laws translated in English:
<http://www.unesco.org/culture/natlaws/index.php?&lng=en>

→ Law 182(I)/2002 on the export of cultural goods

<http://www.unesco.org/culture/natlaws/media/pdf/cyprus/cy law 182 engtof.pdf>

→ Law 182(I)/2002 on the export of cultural goods

<http://www.unesco.org/culture/natlaws/media/pdf/cyprus/cy law 182 engtof.pdf>

→ Law 183(I)/2002 on the return of cultural objects

<http://www.unesco.org/culture/natlaws/media/pdf/cyprus/cy law 183 engtof.pdf>

→ Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Cyprus concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Materials (amended 2012)

<http://www.unesco.org/culture/natlaws/media/pdf/cyprus/cyprus mouusa12 enorof.pdf>

→ Agreement between the Swiss Federal Council and the Government of the Republic of Cyprus on the Import and Repatriation of Cultural Property

http://www.unesco.org/culture/natlaws/media/pdf/switzerland/sw_ba_cyprus_13_ent_of

Policy recommendations on regulation regarding Underwater Cultural Heritage

Taking into consideration that no maritime zones for the protection of maritime antiquities have been designated yet, it is of utmost importance to set this as a governmental priority, as this is not being applied at the moment. Following the relevant legislations linked to this, as for example the requirements set by the European Directive 2014/89/EE on maritime spatial planning, the Republic of Cyprus will need to define which areas are considered of great historical, archaeological or artistic value. The criteria used for the categorization of those areas in Zones A, B and C for example should be defined through regulation. In order to do so, information regarding the existence of natural resources, and the possible future exploration and exploitation of them should be taken into account, as well as the seafarer routes.

According to the Antiquities law, several articles refer to the fact that the archaeological survey or excavation will not affect in any way the exploration and exploitation of the Republic's natural resources. A subsequent regulation should be defined for the opposite, ensuring that the antiquities found in an area of high economical/exploitation value will not be harmed in any way by the activities associated to exploration and exploitation of natural resources. If this cannot be avoided, a priority should be given in conducting an archaeological survey (apart of the surveys for the preparation of the environmental assessment, or strategic environmental assessment) aiming to assess the historical, archaeological, or artistic value of the area. This will help in defining the priorities that should be given prior to the exploration and exploitation of the natural resources of the area.

Also, different measures should be applied to different zones, something which will need to be defined through regulation, including information on the activities allowed, or prohibited, the timeframe that those activities are allowed/prohibited, restrictions on people engaged to these activities etc.

Beyond that, taking into consideration the future need in establishing Underwater

Archaeological Parks and Marine Parks, in order to support and enhance diving tourism, they will need to include information on the archaeological areas where activities such as scuba diving and snorkelling will take place. This information should include specific regulations, guidelines and prohibitions which will be forced in those areas.

Subsequently the terms Underwater Park, Diving Park and Underwater Museum should be defined in detail. Article 9 of the national decree KDP 218/2016 on allowing the general public access the maritime antiquities should be expanded, including information where this is applied, and where it is not, in order to ensure the protection of the maritime antiquities. On the other hand, information regarding the access to the maritime antiquities by organized diving groups and the criteria those groups/clubs should meet is also important to be defined by law.

Lastly, management measures regarding the monitoring of those areas should also be defined through regulation, since limited information is provided regarding this.

2. Diving Parks and Underwater Museums

Currently, no specific guidelines and regulations are applied on the subject, since Cyprus currently has no Diving Parks or Underwater Museums. If the steps already applied in other similar situations are taken into consideration, then it's clear that an initial review of all the relevant policies, governmental plans and actions (if exist) is required, as is also the preparation of a Strategic Environmental Assessment prior to such development. The suggestions and policy recommendations stated above could also be taken into consideration.

3. Modern and Ancient shipwrecks

KDP 200/2008 – National decree on Zenobia wreck

This national decree was set in force in order to prohibit fishing activities and vessels' transit in the world-famous diving wreck Zenobia, in specific marine areas. According to this law, for reasons of public interest, any activities associated to fishing, or vessels' transit in the defined area mentioned below is forbidden. Specifically, for reasons of

protecting the marine fisheries and overall marine organisms, it is forbidden to fish in any way, in a distance shorter than 500 metres around Zenobia wreck, which is located in Larnaca district at the following coordinates: 34°53', 6N και 33°39', 5E.

Policy recommendations

According to our laws regarding regulations on modern wrecks should be expanded, since the future needs in exploiting those wrecks for the purposes of enhancing diving tourism, will require that various legal aspects are pre-defined. One example of such policies is Law 298 on wrecks, which according to us it should be updated with an amendment since outdated terms, which are no longer applied, are used in the law's text.

Law 298 on wrecks currently focuses on the search activities executed in cases of a maritime accident or a wreck, defining the duties and authorities of the people involved in the wreck. It also defines regulations regarding the rescue efforts, offenses regarding the wrecks, with looting included and selling of the wreck to a foreign port. If the future needs in the touristic exploitation of the modern wrecks are taken into consideration then it is easy to understand that new regulations regarding the prevention of harm, protection and preservation of the wrecks, as well as the safety of divers should be developed as well. The establishment of management and monitoring plans should also be secured legally. Lastly, regulations defining the restrictions, prohibitions and permits regarding the diving centres/clubs/organizations performing group dives on those wrecks should also be defined. The same suggestions apply for the further development of the national decree on Zenobia wreck.

4. Natura 2000 sites and Marine Protected Areas

Definitions

The Natura 2000 network consists of a European cohesive, ecological network of protected areas for fauna and flora species and important habitats, aiming to safeguard the most precious and threatened European ecosystems. This network covers 18% of European land and almost 6% of its marine territory. It's divided in 9 different biogeographical regions, based on the areas' characteristics on vegetation types, climate and geology. According to the policy of Natura 2000, human activities within Natura 2000 sites, like fishing and agriculture are not forbidden, in the condition that are not executed

in a way that threatens the environment. Natura 2000 sites include the Sites of Community Importance and the Special Protection Areas (SPAs) which are explained below.

As stated in the EEA's report on the Marine Protected Areas in Europe's seas (2015), the MPAs are the geographically distinct zones for which conservation objectives are applied. They consist a key policy measure and management tool for addressing the complex, anthropogenic environmental threats, with the aim to successfully safeguard the marine biodiversity and increase the resilience of ecosystems to unwanted change. Additionally, according to the regulation 1967/2006 of the European Commission on Marine Protected Areas, some MPAs include within their limits Fishing Protected Areas. These are defined as "the geographically defined sea areas, in which all or certain fishing activities are temporarily, or permanently banned, or restricted, in order to improve the exploitation and conservation of living aquatic resources, or the protection of marine ecosystems".

The Sites of Community Importance (SCI) are areas which have been designated by the government and confirmed by the European Union as parts of the Natura 2000 network. Following the Directives 92/43/EEC and 2009/147/EC, the successful protection and recovering of the important habitats and species is aimed through the designation of SCI and SPAs. Within 6 years the EU member states are required to define those areas as Special Areas of Conservation (SAC) and set the priorities for the long-term conservation of those habitats and species. In line to the European Directives 92/43/EEC and 2009/147/EC, Cyprus proceeded in the designation of 40 Sites of Community Importance and 30 Special Protection Areas.

In Cyprus, the marine Natura 2000 sites have the legislative status of Sites of Community Importance. In 2008 the European Union confirmed those sites as SCI, which were at that point classified as Special Protection Areas and proposed as SCI. These areas are considered a valuable tool towards the successful protection of marine life and resources, with the subsequent management of fisheries. The MPAs of Cyprus include the marine areas where artificial reefs are (more details later) and the Lara-Toxeftra site which is included in the Natura 2000 site of the Akamas peninsula.

Today in Cyprus there are 6 coastal/marine areas of the Natura 2000 network, which include the sites in Polis-Gialia (CY4000001), in Akamas (CY4000010), in Moulia (CY4000006), Cape Aspro-Petra Romiou (CY5000005), Cape Greco (CY3000005) and Nissia (CY3000006). These sites include important habitats and fauna and flora species protected from the EU Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna

and flora. As you can see in the Figure 2, in Akama Peninsula (Chersonisos) the Marine Protected Area of Lara Toxeftra is included, which is considered one of the most important nestling habitat of the marine turtles, *Chelonia mydas* and *Caretta caretta*.

Information on these Marine Protected Areas, within the Natura 2000 network can be found in the links below on the Standard Data forms for the SPAs, the proposed sites for Community Importance, the SCI and the Special Areas of Conservation (SAC).

→ Kavo Gkreko or Cape Greco (CY3000005)

<http://natura.environment.moa.gov.cy/CY3000005.html>

→ Thalassia Periochi Nisia or Marine area of Nissia (CY3000006)

<http://natura.environment.moa.gov.cy/CY3000006.html>

→ Periochi Polis-Gialia or Marine area Polis-Gialia (CY4000001)

<http://natura.environment.moa.gov.cy/CY4000001.html>

→ Thalassia Periochi Moulia or Marine area Moulia (CY4000006)

<http://natura.environment.moa.gov.cy/CY4000006.html>

→ Chersonisos Akama or Akama Peninsula (CY4000010)

<http://natura.environment.moa.gov.cy/CY4000010.html>

→ Akrotirio Aspro-Petra Romiou or Cape Aspro-Petra Romiou (CY5000005)

Guidelines

The guidelines regarding the designation, protection and management of the Natura 2000 sites and the Marine Protected Areas follow the European Directives 92/43/EEC and 2009/147/EC, and the national laws adapted based on them. Specifically, the National law on the protection and management of Nature and Wild Life (153(I)/2003) and its forthcoming amended laws (131(I)/2006, 113(I)/2012 and 67(I)/2015), based on Directive 92/43/EEC; and the National law 152(I)/2003 on the protection and management of wild birds, based on Directive 2009/147/EEC.

Law 153(I)/2003 - Protection and management of Nature and Wild Life

This law aims to protect biological diversity, through the preservation of the natural habitats and of the wild fauna and flora of the Republic of Cyprus. It subsequently aims to

secure the preservation and restoration of the natural habitats and species of Community Interest and Importance. In order to ensure adequate implementation of the law, a scientific committee is founded which withholds the duty of advising accordingly the Ministers of Agriculture and of the Interior, on subjects related to this.

Based on this law, the Minister of Agriculture has the responsibility of preparing a list which includes all the relevant information regarding the types of the natural habitats, including the sites of specific priority, the Sites of Community Importance based on Annex I of law 153(I)/2003 and the species of community importance and priority, based on Annex II, which are found on the documented areas.

When a site is established by the Committee, as a “Site of Community Importance” the Minister of Agriculture has the responsibility of declaring that site as “Special Areas of Conservation”, in a timeframe of maximum 4 years. Based on the suggestions and overall guidance of the National Scientific Committee the Minister defines a set of measurements in line to the following axis:

- a) Importance of preservation and restoration of the natural habitats of Community interest (Annex I) and the species included in Annex II, targeting to the subsequent increase of the Natura 2000 network’s coherence.
- b) Taking into consideration the dangers of overall degradation and destruction of the Special Areas of Conservation.
- c) Ensuring the dedication towards the prevention and avoidance of habitat degradation and general anthropogenic impacts on the protected species for which SACs have been declared.

Law 152(I)/2003 – Protection and management of wild birds

This law follows the Directive 2009/147/EEC and provides measurement for the following aspects:

- a) The protection, preservation, management and within limits exploitation of the wild birds
- b) The protection, preservation or adaptation of the wild birds’ populations taking into consideration the relevant requirements in terms of ecological, scientific, educational, economical and “entertainment” aspects.

- c) The protection of wild fauna
- d) The assurance that the species of community interest are sufficiently preserved and restored.
- e) The protection of biodiversity and containment of its loss, as well as the containment of the loss of ecosystems, wild fauna and flora of Cyprus, and the subsequent prevention of disease transmission to the wild populations.

Prohibitions

National Decree KDP 273/1990 on regulation 14 – Marine Protected Area of Lara

According to this decree, in the period between the 1st of June and the 30th of September, the following activities are forbidden to everyone, within the geographical limits of the Marine Protected Area of Lara. Exceptions apply to those that have received the relevant licence from the Director of the Department of Fisheries and Marine Research.

- a) To drive a boat or any other type of floating vehicle and anchor in the area. The same stands for the person who withstands/allows this activity.
- b) To fish in any way, with exception the pole fishing

Subsequent prohibitions regarding the coastal area of Lara's MPA are applied. Specifically, it is forbidden to anyone without a license:

- a) To enter, or stay within this area during the day (from sunrise to sunset).
- b) To drive or allow/withstand anyone drive a vehicle on the sandy beach of this area.
- c) To place a cot, an umbrella, a caravan, a tent or any other similar parapet on the coast.

Law 153(I)/2003 on the protection and management of Nature and Wild Life.

According to this law, the Minister of Agriculture can establish the following, after consultation with the national scientific committee, in order to manage and protect the nature:

- a) Prohibit a specific activity or operation
- b) Order the uptake of a specific activity or operation

- c) Define specific measures of preservation
- d) Define specific measures of management plans

Apart from this, according to this policy the following are forbidden:

- a) All forms of deliberate capture or killing of species of Community interest, listed in part A of Annex III.
- b) The deliberate harassment of fauna species of Community interest, listed in part A of Annex III, during the reproduction, nursing, hibernation and migration periods.
- c) The deliberate destruction and collection of eggs belonging to species of Community interest, which are included in Part A, of Annex III.
- d) The damaging, destruction or disturbance of the breeding and resting areas of fauna species of Community interest.
- e) The possession, transportation, selling, exchanging, or offering to sell of any sample of fauna species included in Part A of Annex III of this law.
- f) The deliberate collection, cutting, eradication or destruction of species belonging to the flora listed in Part B of Annex III. The same applies for the possession, transportation, selling or exchanging, or offer to sell those species.
- g) The collection, killing of fauna species of Community interest enlisted in Part A of Annex IV, when selective means are used which can likely cause the local extinction or disturbance of their populations.

Law 152(I)/2003 – Protection and management of wild fauna

The Minister of Interior is authorized to take any measurements are considered necessary for establishing a general regime for the protection of all wild bird species. In addition, and irrespective of any measure established by the Minister the following are prohibited:

- a) The deliberate killing and/or collection of wild birds in any way.
- b) The deliberate destruction and damaging of nests, eggs, and/or the removal of nests of wild birds.

- c) The deliberate disturbance of wild birds, during the breeding season and during the period of nestling.
- d) The collection of wild birds' eggs in nature, even when they are hollow.
- e) The possession of wild birds which are forbidden to capture or hunt.
- f) Although the Minister of Interior has the right to designate any species of wild birds as prey, the hunting of them is forbidden, during the rearing, breeding, nestling and returning to the nesting site periods.

5. Marine Protected Areas with Artificial Reefs

Definitions

As stated in the National Strategic Plan for the creation of artificial reefs, released by the Department of Fisheries and Marine Research (DFMR), Ministry of Agriculture, Rural Development and Environment, the artificial reefs are basically constructions which mimic the natural reefs' characteristics. They are purposely placed on the seabed in carefully selected areas, where they act as shelters and places for feeding and reproduction of the existing marine life. In Cyprus, the marine areas with artificial reefs have a legislative status of Marine Protected Areas, since they are covered by a protection system which provides several restrictions, such as fishing and the regulation of vessel passage.

The first pilot MPA with artificial reefs was in the marine area of Amathounta, which included the ancient port of Amathounta and the artificial reef which was created ([http://www.moa.gov.cy/moa/dfmr/dfmr.nsf/All/8A6B97C51CF74D1242257D9600445315/\\$file/Amathounta%20gr.pdf?OpenElement](http://www.moa.gov.cy/moa/dfmr/dfmr.nsf/All/8A6B97C51CF74D1242257D9600445315/$file/Amathounta%20gr.pdf?OpenElement)). In the following years, with the successful utilization of economic resources provided through European funding from the already completed European fisheries fund of 2007-2013, the establishment of Marine Protected Areas with artificial reefs in the marine areas of Paralimni, Ayia Napa, Limassol and Pafos, was achieved. Similar actions will continue with funding from the ongoing European maritime and fisheries fund of 2014-2020 (<https://www.youtube.com/watch?v=h7GbXjbm0j0&feature=youtu.be>), which include the enrichment of existing protected areas with artificial reefs and the subsequent addition of two new marine areas in Larnaka and Polis Chrysochous. It is important to mention that both programmes were co-financed by the Republic of Cyprus and the European Union.

Through the creation of MPAs with artificial reefs, the DFMR aims the medium-term increase of species diversity and the restoration and increase of fish stocks ([http://www.moa.gov.cy/moa/dfmr/dfmr.nsf/All/33F5C12165A1F72742257D960043FDC9/\\$file/TEXNHTOI%20YFALOI.pdf?OpenElement](http://www.moa.gov.cy/moa/dfmr/dfmr.nsf/All/33F5C12165A1F72742257D960043FDC9/$file/TEXNHTOI%20YFALOI.pdf?OpenElement)). Additional targets include the protection and enrichment of marine biodiversity, the ecosystem upgrade and the attraction and enrichment of diving tourism. Subsequently, they will act towards sites for contacting scientific research and for the promotion of environmental awareness for the protection of marine life and the marine environment in general, through environmental education activities.

Guidelines

The construction of artificial reefs in Cyprus follows the National Strategic Plan (NSP) on Artificial reefs and the guidelines set in it. Also, as stated in NSP of artificial reefs, policies that set the legislative framework include the National Law on fishing (CAP.135), especially the fifth article of its amended law (N.106(I)/2004). Also, the United Nations' Mediterranean Action Plan of 2005, on the "Guidelines for the placement at sea of matter for purpose other than mere disposal (construction of artificial reefs" (UNEP(DEC)/MED WG.270/10).

The guidelines below for the development/construction of artificial reefs in Cyprus are based on the National Strategic Plan on Artificial reefs, announced by the Department of Fisheries and Marine Research, Department of Agriculture, Rural Development and Environment.

- They must be placed in areas which extend from the coastline to the contour depth of 35 to 40 meters, targeting the protection of almost all life stages of most coastal zone species.
- They must be placed in marine areas relatively close to ports, marinas, fishing shelters etc., with weak winds and sea currents.
- They should not be placed over important habitats like a rocky seabed, posidonia fields etc.
- Prior to the creation of the artificial reef, an environmental and spatial analysis is required, which needs to be approved by the Department of Fisheries and Marine Research and the Department of Environment. This research must include the description of the habitats and the recording of the macrofauna and macrophyte species found in the

chosen area. Also, the specific location for the placement of the artificial reefs, a description, plans and the construction materials used in them need to be included, along with an environmental assessment on the effects caused by this construction.

→ In case a vessel is used as an artificial reef, this subsequently needs to be suitable for such use, in terms of size and construction.

→ The creation of an artificial reef requires the establishment of a marine protected area, where various uses and activities could be applied in line to the guidelines set for the MPAs. The permitted uses include diving, fastening in specific locations, controlled passage of vessels, swimming, scientific research, environmental education and awareness activities.

Concerning the management programme for the area of artificial reefs, it is stated in the NSP for artificial reefs, that a managing authority will be created with members including an officer from the Department of Fisheries and Marine Research, and an individual representative from the local authority, the Cyprus Tourism Organization, and the Cyprus Association of diving centres. Representatives from other governmental departments, research entities, associations, local development companies, non-governmental organizations and individual specialists will be invited in meetings related to their field of expertise. The managing authority will need to oversee, coordinate, and solve any problems relevant to the operation and management of artificial reef sites. Also, a management plan will be adapted which will include measurements and provisions related to the use, protection, control, and general management of these areas.

Prohibitions

According to the National Strategic Plan and the law N.106(I)/2004, the forbidden activities include any source of fishing activities, the sampling of species, anchoring etc. This is in agreement with the national decree KDP. 51/2014 on the Fisheries law, which defines that any type of fishing activity, vessel passage and anchoring (except in the specified passages) are forbidden in the MPAs of Amathounta, Paralimni and Limassol for the protection of marine life and resources.

IV. GREECE

A. LEGAL FRAMEWORKS

1. The general legislation on recreational diving

In Greece, recreational diving was forbidden across the board in 1978 and was permitted and regulated by law 3409/2005. This law incorporated into Greek legislation the European Standards for Recreational Diving, set by the European Committee for Standardization (CEN) in 2003, and went into effect on 06/02/2006.

2. Spatial Planning Regulations

The legislation in effect is General Hellenic Framework for Spatial Planning and Sustainable Development ([Decision of the Ministry of the Environment, Spatial Planning and Public Works - YPEHODE 6877/4872/2008, Government Gazette \(GG\) A 128/2008](#)), in combination with the Special Framework of Spatial Planning for Tourism (Decision of the Ministry of the Environment, Spatial Planning and Public works - YPEHODE 24208/4-6-2009, [GG 1138B/11-6-2009](#)), which in article 6 E1.3 establishes the concept of diving tourism and its development through Diving Theme Parks with overall spatial planning and provision made for perimeter zones of restricted fishing. The provisions of the aforementioned Special Framework of Spatial Planning for Tourism support its promotion in order to enrich the tourism product in areas where tourism is developing and/or developed, by establishing organized diving theme parks.

Diving parks are designated as appropriately protected and managed marine habitats. Their development can be combined with the existence of protected marine parks and their operation can co-exist with scientific research carried out in the general area as well as with lower-environmental-impact forms of fishing. Areas considered eligible for such development must have:

- a) the required resources (underwater geological formations and ecosystems with varied marine fauna; or others permitting enhancement in the number and size of species with appropriate measures; underwater wrecks; underwater antiquities, etc),
- b) easy access, and
- c) a location that will require a maximum of 90 minutes travel to reach health infrastructures required to meet emergency needs linked to the sport (e.g. functioning hyperbaric chamber).

Moreover, the legislation promotes the construction of land facilities in support of the underwater activity (museums, aquariums, etc.) in areas near those where diving activities take place.

In brief, the aforementioned Special Spatial Planning Framework for Tourism sets out almost universal spatial planning for diving parks and this correctly, as this is an activity that does not harm but instead improves the environment, and which takes place in appropriate natural rather than man-made areas. The more recent 2015 special framework for spatial planning for Tourism has not brought about any changes in the foregoing.

3. Legislation on Diving Parks

Diving Parks as an innovative institution were first proposed in Greece, and potentially also internationally, by article 13 of L. 3409/2005. In the initial draft of article 13 of L. 3409/2005, Diving Parks were designated as Areas for Integrated Development as a Diving Park (POAKP) along the model of Areas for the Organized Development of Productive Activities (POAPD) designated under law 1650/1986, the precise manner for the establishment of which would be designated by Joint Ministerial Decision (JMD) of Ministry of the Environment, Spatial Planning and Public Works and the Ministry of Naval Affairs. With its Decision 71277/17-9-2013 ([Diavgeia Reference Number \(ADA\): BA920-N27](#)) the Ministry for the Environment, Energy and Climate Change (YPEKA) made provision for a Committee to draft the JMD.

After it was drawn to their attention by the document with YPEKA prot.no. 3879/24-1-2014 that Diving Parks do not constitute a production activity; and that instead of issuing a JMD for a POAKP, what was required was to undertake a fundamental legislative replacement of article 13, which was in fact legislated with article 10 of L.

4296/2014, which replaced article 13 of I. 3409/2005, and took on its current clear and detailed form with which it became practically feasible to establish and operate Diving Parks, without the requirement of any further legislation being issued.

In brief, the new article currently in effect, provides for:

- Diving Park establishment / concession / projects: With JMD of the Ministers of Finance, National Defense, YPEKA, Rural Development and Food, Naval Affairs, the Aegean and Tourism without public tender. With or without shoreline / beach. The works shall be carried out on the basis of article 14 I. 2971/2001.
- Definition of DP: Covering an area of up to 2 sq.km. Boundaries set with buoys. Compatible with NATURA. Used exclusively for recreational diving, related activities, environmental training, scientific research. Minimum distance 3 nautical miles from any official underwater archaeological site.
- Prohibitions: On general water transport, anchoring (only mooring onto buoys), fishing, collection of organisms.
- Permitted: The sinking of wrecks and in general the construction of man-made attractions.
- Supporting documents: Presentation / agency documentation / adequate resources. Technical Report on the position, organization, infrastructures, project works. Draft of Charter regulations. Environmental Impact Approval Decision.
- Procedure: A File is submitted to the Directorate of Spatial Planning of the Ministry of the Environment, Energy and Climate Change. Within five days this is inspected to ensure it meets all formal requirements. Then it is immediately dispatched to all jointly competent bodies for formal opinions, which must be issued within 30 days. These are then evaluated within 10 days. A JMD announcing / providing the concession is drawn up within 15 days. JMD is published.
- Criteria for concession: Directions of spatial planning policy; how planned park is compatible with / complements other local uses / activities, area characteristics; whether the requisite infrastructures exist; whether there are direct or indirect benefits for the environment, tourism, economy / population. Suitability of site, seabed, waters, existence of other nearby DPs, joint participation of Local Authority Organizations, Legal Entities under Public Law,

professional associations. Separate policing by Coast Guard.

- Rights / Obligations of body: Sole activity: Management of the DP, trading in relevant materials. Effective guarding with the right for self-sufficient protection. Ticket sales. Payment of remuneration / exchange to the State.
- Penalties for infractions: Withdrawal of concession / announcement. Criminal and Administrative Charges pursuant to: articles 28-30 of L. 1650/1986 on the Protection of the Environment; article 157 of Legislative Decree 187/1973 the Code of Private Marine Law; article 15 of L. 3409/2005 on Recreational Diving; article 27 para. 7 of L. 2971/2001 on the Shoreline and Beach.

The unfortunate downside of article 13 of L. 3409/2005 as in effect was the aforementioned prohibition against establishing Diving Parks at a distance of fewer than 3 nautical miles from existing official underwater archaeological site.

This is a blatantly redundant and damaging regulation as:

- a) in order for a diving park to be established, the Ministry of Culture must in any case publish its expert opinion;
- b) contiguity to a diving park acts to protect underwater antiquities, as the site is required to be guarded and only accompanied and therefore supervised dives are permitted to take place in the park;
- c) any future discovery of underwater antiquities at a distance less than 3 nautical miles from an existing diving park would lead to its closure with the loss of the concomitant investment; and
- d) this prohibition impedes the creation of tourist packages with multiple dives in a variety of diving parks and archaeological sites accessible to the public in the same region.

It is obvious that, in order to develop the institution of Diving Parks in Greece, which would be developmentally and environmentally beneficial, the aforementioned restriction must definitely be abolished.

In the meantime, the only diving park that appears to be approaching completion and set to commence operations is that being set up by the Region of the Peloponnese in the area of Tyros Arkadia, which is at the stage of negotiations with the Ministry of

Finance to set the financial remuneration it will pay for the concession of the marine area.

4. Archaeological Diving Parks (Marine Archaeological Sites Open to Visitors)

Initially provided for by article 11 par. 1 sentence 2 of L. 3409/2005 as Submarine Museums, which would be authorized by a JMD of the Minister of Culture and the Minister of Naval Affairs.

Para. 1 of article 44 of L. [4179/2013](#) added a subparagraph, in order to avoid confusion with the legislation on land museums, which renamed the Submarine Museums to Marine Archaeological Sites Open to Visitors and provides for the following: “With the same decision (proclaiming their establishment) the capability may be offered to draw up programming agreements for cultural development in implementation of para. 5 of article 100 of L. 3852/1010 (KALLIKRATES) (GG A 287), which will specify the projects, programmes and services of a cultural nature within underwater archaeological sites open to visitors, as well as issues of their organization, management, monitoring and exploitation of those activities permitted in these sites, and any other requisite detail”.

Already with Joint Ministerial Decision no. A /ΓΔΑΠΚ/ ΔΙΠΚΑ/ TAX/Φ41/ 176862 /94489 /5535 /30-9-2013 of the Ministry of Culture ([GG 2489/B/3.10.2013](#)), the Ministers of Culture and Sport and Naval Affairs and the Aegean pronounced the establishment of the two first Marine Archaeological Sites Open to Visitors at Pylos and Methoni, and the relevant Concession Decisions are ready to be signed over to the Municipality of Pylos - Nestoras.

Since then, the sites of the award-winning programme of the Ano Magniton Nisoi in the Pagasitic Gulf and the Northern Sporades Islands have been proclaimed as Marine Archaeological Sites Open to Visitors (JMD no. ΥΠΠΟΑ/ ΓΔΑΠΚ/ ΔΙΠΚΑ /ΤΠΚΑΧΜΑΕ/ Φ53/ 12387/ 6960/ 772/240/ 2015, [GG 119B/21-1-2015](#)), as have six ancient ship wrecks in the southern Evoikos Gulf and the region of Lavrion (JMD No. ΥΠΠΟΠΑΙΘ/ ΓΔΑΠΓ/ ΔΙΠΚΑ/ ΤΠΚΑΧΜΑΕ/ Φ17/249071/ 146515/ 12446/ 3591/2015, [GG 2069B/21-9-2015](#)); the Irene Serenade shipwreck at Navarino bay in the Municipality of Pylos-Nestor and the “Sarcophagi” shipwreck at Methoni north of Sapienza island.

Nevertheless, to date, not one Marine Archaeological Site Open to Visitors has commenced operations in Greece.

The problem lies in the provision of par. 1 before last subparagraph of article 11 of I. 3409/2005, according to which, visitors to marine archaeological sites must always be accompanied by divers who are guards of antiquities or archaeologists.

This provision along with the view, that accompanying divers who are antiquities guards and archaeologists must be employees of the Archaeological Service, has rendered the operation of marine archaeological sites open to visitors practically unfeasible, as, irrespective of the present unfavourable economic circumstances, it would be impossible to hire the tremendous number of civil servants this would require.

Furthermore, the aforementioned provision should in all instances be avoided, as the very few diving members of staff of the Ministry of Culture and Sport are required to remain available for general sufficient research into, guarding and policing of marine archaeological sites, including those open to visitors and they cannot be allowed to waste their efforts in accompanying tourists privately, just as they are not required, obviously, to do so archaeological sites in land that are open to visitors.

It is precisely due to this imprecise and non-implementable regulation that during the 12 years since I. 3409/2005 went into effect, it has not been possible for any marine archaeological sites open to visitors to begin operations.

In order to clear the impasse, the Ministry of Culture, moving in the right direction, accepted through its Legal Service, that, given that article 13 of I. 3409/2005 does not make mandatory reference to the legislation on civil servants guards of antiquities or archaeologists, visitors (to marine archaeological sites open to visitors) could be accompanied by those authorized, in accordance to the provisions of I. 3409/2005 to provide accompanied recreational diving services, after they have received special training and a permit from the Ministry of Culture, while the marine antiquities will be at all times guarded and policed by the archaeological service (Ephorate of Underwater Antiquities) and the Coast Guard.

This solution path was also taken in the Programme Agreement, which was signed on the 19/12/2014 between the Ministry of Culture, the Municipality of Pylos – Nestoras

and the Region of the Peloponnese, in accordance with paragraph 5 of article 100 of I. 3852/2010 Kallikratis (after first ensuring the relevant capability with a suitable addition to article 11 of I. 3409/2005 with paragraph 1 of article 44 of I. 4179/2013, GG A 175 8/8/2013). With this specific programme agreement, the Ministry of Culture ceded the underwater archaeological sites of Pylos and Methoni that are open to the public to the Municipality, in order for the latter to take over the implementation, organization and exploitation thereof in exchange for a consideration to the Ministry of Culture.

Despite all this, the development and operation of Archaeological Sites Open to the Public halted, as, once again, the view predominated in Administration agencies that visitors to such sites should, finally, be accompanied by Civil Servants. Due to the predictable impasse which this has caused, already the jointly competent Ministries are studying manners in which the issue can be resolved, and are considering potentially adopting the above solution or something similar.

5. Marine Protected Areas

Marine Protected Areas were provided for, established and operate in Greece on the basis of institutional law [1650/1986](#) for the protection of the environment and particularly by Article 19 thereof.

The Article 19 “Criteria for classification and principles of protection” institutes the classification of environmentally protected areas (nature reserves) in general (both land and marine). For the implementation of the present law:

1. As **strict nature reserves** shall be characterized expanses with exceptionally fragile ecosystems, habitats of rare or endangered species of the native flora or wild fauna or expanses that play a major role in the life cycle of rare species of wild fauna threatened with extinction.

These areas shall be subject to strict protection by the competent services. In areas of strict nature preserves any form of activity shall be prohibited. Exceptions can be permitted in accordance with the specific regulations of the reserve’s management plan, to carry out scientific research so long as a high degree of protection is ensured; as well as to carry out such works as safeguard the maintenance of protected objects, species or habitats.

2. As **Nature Reserves** shall be characterized expanses of major ecological or biological significance. In these areas the natural environment shall be protected from every activity or intervention which may change or alter its natural condition, composition or evolution. Exceptions may be permitted, in accordance with the specific regulations of its management plan, for the execution of works which are judged necessary in order not to alter those features that ensure the preservation of the protected objects, scientific research and the exercise of mild occupations and activities, if these do not come into opposition with the goals of preservation.

3. As **Natural parks** shall be characterized such land, water or mixed nature areas, if they shall present particular significance and interest due to the quality and diversity of their natural and cultural features, particularly biological, ecological, geological, geomorphological and aesthetic features and, at the same time, offer significant opportunities to develop activities, which are in line with nature and landscape preservation. Natural parks shall be classified as national or regional.

The purpose of classifying areas as natural parks shall be to preserve their natural heritage and biodiversity, as well as to preserve the ecological quality of broader regions of the country, while offering the public the opportunity for environmental education and nature-loving activities.

When a natural park or a large portion thereof is a marine or forest area or includes geotopes of major significance, it can be specifically called a marine park, a national or regional forest park or geopark respectively.

In order to serve the aforementioned purposes, appropriate measures shall be taken and scientific research shall be carried out, so that these areas can be protected sufficiently both from natural causes of deterioration and from human actions and interventions which shall cause alterations in the preservation condition of the protected values.

In natural parks, mild occupations and activities shall be permitted, such as are adapted to the natural environment and the local architecture, under the condition that these are set out in the act of characterisation and the management plan.

Within natural park, with the exception of segments thereof, which constitute areas under paragraphs 1 and 2, it shall be possible to permit quarrying and mining activities, if these

shall make a significant contribution to the local economy and shall not cause a deterioration of the environment incompatible to the nature of such areas.

In order for preservation and management of such areas that shall be clear and comprehensible to all their users, it shall be possible to make provision for delimiting protection zones within natural parks and to designate sufficient area of strict protection or nature protection (core). Designation of preservation and development zones on the periphery of the core, which shall be clearly delineated, that can be shown in a substantiated manner not to run counter to the goals of preservation of such areas, with increasing degree of preservation, shall always be carried out with the intention to provide integrated preservation of the protected ecological or other natural resources.

National forests which have been established pursuant to article 78 of legislative decree 86/1969 (GG 7A), as replaced by article 3 of l.d. 996/1971 (GG 192 A) and the wetlands of international significance according the Ramsar Convention, which was ratified by the first article of l.d. 191/1974 (GG 350A), shall be characterized as national parks with a presidential decree issued following a proposal by the Minister of the Environment, Energy and Climate Change in accordance with the procedure of article 21.

B. POLICY RECOMMENDATIONS

Below are the modifications on Law 3409/2005 upon recreational diving and other provisions.

1. The third segment of par. 1, article 11 of Law 3409/2005 is modified as follows:

a) Upon exception to the prohibition of case a' of that paragraph, by common decision of the Ministers of Culture and Merchant Marine, declared underwater archaeological sites to be classified as open to visitors.

b) In the underwater archaeological sites, diving is allowed by escorted diving services recognized in accordance with the provisions of this law and approved by the Ministry of National Education and Religious Affairs following special training on issues related to the particularity of diving in these areas, as well as by their staff.

c) The training of the staff is based on educational material, which cannot exceed 50 pages of text, and is determined by a decision of the Hellenic Ministry of Culture for each one or more of the archaeological sites of the same prefecture. The same decision defines the procedure for the approval of providers by the Ministry of the Environment, which is given for each or more of the archaeological sites of the relevant prefecture.

d) The preservation of Underwater Archaeological sites considering the protection of these monuments continues to be carried out by the Ministry of Ministry of Culture and Sports in cooperation with the relevant Coast Guard Authorities in accordance to the current legislation provisions.

INTRODUCTORY REPORT

Upon par 1 of the modification:

On one hand, it is clarified and it is set clear, that the protection of antiquities and monuments in the underwater archaeological sites open to visitors still remains and exercised exclusively by the state through its constitutionally authorities, services and institutions (Ministry of Culture, Coast Guard). On the other hand, there are restrictions and additional strict conditions, which allow diving only in underwater archaeological sites open to visitors due to the particularity of their underwater environment, which requires increased supervision of the visits being implemented on the location.

Thus, while in the archaeological sites located on land, non-escorted private visits are generally allowed, that is not the case in the underwater archaeological sites where as only the escorted and guided diving visits , meaning diving with obligatory escorts by certified professional divers – escorts, are allowed, considering that these divers – escorts are registered in the state records and supervised by the relevant Ministry of Merchant Marine, as provided by article 8, Law 3409/2005, (certified diving services).

In addition, unlike land-based archaeological sites open to visitors, whereas the professionals' activities are based there, are not supervised by the relative Archaeological Authorities or any other relevant authorities whatsoever, while in the underwater archaeological sites, even the qualified diving professionals may provide services only if a) they have received specific training on the particular demands required for providing the

safety needed for the underwater archaeological sites open to visitors and the correct information of visitors , b) if they have been formally approved and registered in the relevant Registry of the Ministry of Culture and Sports, where they are constantly monitored and supervised for the proper performance and execution of their duties. Their approval occurs by the Ministry of Culture and Sports followed by special exams and tests, which confirm their adequate training and consequently their adequacy for the specific tasks.

Considering the regulation axis and the reporting, the new formulation of the law, rationalizes the operation and the sustainability of the underwater archaeological sites, which due to the vague and inapplicable previous regulation, could not be sustained for 11 years since the adoption of the Law. 3409/2005 so far, to operate nowhere in the country. At the same time, the diving staff of the Ministry of Culture and Sports, remains available for the adequate preservation of the archaeological sites open to visitors, as it is said that they cannot be used as a private escort to tourists, as it is, of course, something which occurs in the land-based archaeological sites.

Due to the specificity of each underwater archaeological site or any other of the wider area of adjacent archaeological sites, which depends and is shaped both by their ancient sites and by their specific geographic, spatial and other conditions, with a common Ministerial decision of its proclamation as an open to visitors site, special additional protective and operational measures may of course be envisaged, as is the case with any archaeological site declared publicly accessible in accordance with Article 46 v. 3028/2002.

Finally, a significant correction introduced by the new regulation is the definitive introduction of exclusively the term "visiting enormous archaeological sites" and the elimination of the inexperienced "underwater museums" originally used in Article 11 of Law 3408 / 2005 and caused confusion and ambiguity, since it cited, albeit cumbersome, the legislation on land museums, an institution quite different and inconsistent with non-museum archaeological sites, as are the visiting archaeological sites.

With par. 2 of the new regulation:

The second segment of paragraph 4 of Article 13 of Law 3409/2005 is abolished, as replaced by Article 10 of Law 4296/2014, which includes the abolishment on the demarcation of diving parks with less than three (3) nautical miles of declared underwater archaeological sites, since this regulation creates serious dysfunctions in the institution of diving parks, which, as it is now established, does not threaten underwater antiquities but, on the contrary, contributes to their protection.

More specifically, the prohibition of the 3 nautical miles excludes diving wise the sea areas of the country, especially the small islands which basically they are the ones that need the Diving Parks in order to grow and develop in a sustainable manner with minimal investments.

In addition, the prohibition creates an unnecessary investment disincentive, since any discovery of antiquities closer to 3 nm from the Diving Park, which will have been established and will operate, raises the issue of revoking its license with the loss of its construction and reputation investment and its clientele which will have acquired.

The prohibition is not necessary for the protection of the underwater antiquities, since according to article 13 par. 9c, as it is currently valid based on article 10 of law 4296/2014, for the declaration of a Diving Park, the Ministry of Culture is responsible. Furthermore, the existence of a Diving Park protects the underwater antiquities.

Indeed, based on article 11 of Law 3409/2005 recreational dives are permitted throughout the marine region of the country except of the declared underwater archaeological sites, so that anyone may dive in legally within the boundaries of each underwater archaeological site which is under the supervision of the Coast Guard, and may enter into it underwater.

On the contrary, in Diving Parks private diving is prohibited and only organized diving by specialized diver escorts registered and recognized in accordance with the provisions of Law 3409/2005.

In addition, visitors and escorts, as well as the entire marine area of the Diving Park, are both monitored by the Coast Guard (par. 17 of article 13 of law 3409/2005), on a mandatory 24-hour basis, even with a revocation penalty of the Diving Park's license, and in-situ guards of the Authorities, who are legally entitled to immediate self-defense and

protection under Articles 985 and 997 of the Civil Code (Articles 13 (15) and 18 3409/2005).

Therefore, it is virtually impossible and extremely difficult for a single or unattended visitor-diver to enter and dive into the Diving Park or for a visitor to leave from its boundaries, so the underwater archaeological sites do not have to be far away from Diving Parks but on the contrary it is in their interest of being close to them

Apart from the above, from the 3 nautical miles prohibition the distances of diving trips, and in particular those between Diving Parks and Underwater Archaeological increase without any excuse and disproportionately, resulting to the fact that combined diving excursions become excessively time consuming and costly, unpleasant for divers - tourists and less profitable for diving and related services.

This creates a major weakness in dealing in a realistic and profitable way with the organizational design of diving and creating a default in the sustainability of diving businesses and hence of Diving Parks and Underwater Archaeological Sites open to visitors.

In other words, with the existing ban, environmental diving and underwater antiquities are unnecessarily transformed from interdependent into mutually exclusive and mutually damaging activities at the risk of losing the country's unique comparative advantage of combining complementary environmental conditions with archaeological tourist dives by providing to visitors an excellent complex and varied diving tourist product, which will make it a worldwide dive tourist destination.

V. Italy

A. LEGAL FRAMEWORKS & POLICY RECOMMENDATIONS

1. The National Public Authorities and their functions

The Public Authority in charge of the environment safeguarding is the **Ministry for the Environment and for the Protection of Nature and Sea**, acting through its **General Direction for the Protection of Nature and Sea**, branch of the Ministry established through the Presidential Decree n. 142, 10th July 2014.

According to the Article 6, its functions are:

- safeguarding of the Protected Areas on lands, seas and mountains;
- safeguarding of the Protected Areas related to the Natura 2000 Network;
- coordination of the activities aimed to update the Italian Nature Map (set up within the Framework Law 394/91, described below);
- governance policies of lands and seas;
- safeguarding of biodiversity on lands, seas and mountains and its guidelines;
- landscape planning;
- safeguarding of UNESCO naturalistic areas;
- scientific support in the field of OGM potential threats to the natural environment and biodiversity;
- safeguarding of flora and fauna species, with particular regard to forests and its ecosystems, and to the international trade of animals and plants;
- coordination of the monitoring activities of the marine environment;
- definition of the quality targets of the marine and coastal waters, and set up of measures aimed to reduce the water pollution;
- synergic management of the coastal areas and implementation of the Marine Strategy;
- sea safety evaluation with regard to pollution threats;
- evaluation of the impact of economical and commercial marine activities;
- evaluation of marine activities related to the safeguarding of marine habitats and biodiversity.

The **Marine Environment Section of the Coast Guards** is in charge of the patrolling and penalty activities on the National seas (according to Article 8, Law 8th July 1986, n. 349 and Article 3, Law 28th January 1994, n. 84).

The **Carabinieri Command for the Safeguarding of the Environment** is the police body investigating on the crimes against the environment.

The **Comando Carabinieri per la Tutela del Patrimonio Culturale**, better known as the **Carabinieri Art Squad**, is the branch of the Italian Carabinieri Army, responsible for combatting art and antiquities crimes, also underwater. The force has underwater units scattered on the Italian territory that cooperate with MIBACT for underwater archaeological activities. The force works internationally with organizations including UNESCO, UNIDROIT, ICOMOS, ICOM, and INTERPOL. Domestically, it works in partnership with a number of universities, cultural foundations, and research centres, including ICCROM, as well as the local soprintendenze and ecclesiastical bodies.

2. The National laws

The **Italian Constitution**, in its Article n. 9, states: “the Italian Republic promotes the development of culture and technical-scientific research. It safeguards the landscape and the historical and artistic heritage of the Nation”.

The **Italian Unified Code on the Protection of Cultural Heritage and Landscape (Law n. 42, 22 January 2004)** is the law protecting all kind of cultural goods and built heritage in the Country; its article n. 94 refers to the UNESCO Convention regarding the safeguarding policy of the underwater archaeological heritage. This is the only reference to UCH sites.

Law for the Protection of the Sea n. 979/1982: its articles 25 to 32 aim to create, list and describe the Marine Protected Areas, their requirements and their policies related to leisure, productive, fishing and commercial activities.

The **Framework Law for the Protection of the Sea n. 394/1991:** lists the National Parks and National Reserves, the Regional Parks and Regional Reserves, the Marine Parks / the Marine Protected Areas and the Other Protected Areas (land, rivers, lakes and seas) and rules their management and protection policies. Its objectives are:

- the preservation of flora, fauna, habitats, landscapes, geological and paleontological values, hydrogeological and ecological systems;

- the application of management and conservation methodologies aimed at safeguarding anthropologic, archaeologic, historical and architectural values;
- the promotion of activities related to education, formation, research, dissemination and compatible leisure.

The **Law n. 61/2006**, concerning the **institution of Marine Protected Areas beyond the territorial sea limit** (12 miles off the coastline), states that the protection of marine natural and archaeological/historical heritage, according to the UNESCO Convention guidelines, must be extended between 12 and 24 miles off the national coastline.

The **Laws n. 979/1982** and **394/1991** are ruling the definition, requirements, policies and management tools of all the National and Regional protected areas, both terrestrial and marine.

The protected areas were initially conceived only for the safeguarding of endangered species and habitats; **the Framework Law 394/91 extends the protection of the environmental resources to the cities, their historical values and their local excellences, aiming to encourage an eco-sustainable development of the economic activities.**

The Law 394/91 set up the Official List of the Protected Areas; the '2010 - VI Official List Update' states that the National protected areas are extended on the 10,5% of the Italian territory, through 871 Protected Areas, and cover 3.163.590,71 hectares on land and 2.853.033,93 hectares on seas, along 658,02 kilometers of coastline.

Nowadays the system includes:

- 24 National Parks;
- 147 National Natural Reserves;
- 27 Marine Protected Areas;
- 2 Geo-Marine National Parks;
- 2 Underwater Parks;
- 134 Natural Regional Parks;
- 365 Regional Natural Reserves;
- 171 Other Protected Areas (International Humid Areas, Special Protection Areas, Special Conservation Areas, etc.)

This huge mosaic of natural habitats ensures our Country to protect the biggest biodiversity heritage of Europe and to promote our rich cultural and landscape values, our historical, architectural, archaeological heritage and our unique intangible heritage, made out of popular traditions, quality agriculture and farming, food and wine excellences.

3. Protected underwater natural and cultural heritage - existing policy framework

Hereby, according to the objectives of the present report, are described the policy recommendations related to:

1. Geo-Marine National Parks;
2. Marine Protected Areas;
3. Underwater Parks.

3.1 Geo-Marine National Parks

This definition designates the **National Parks bearing both land and marine habitats** to be protected, in a close relationship that makes these areas unique geo-marine habitats. The National Park areas are divided in Land Areas and Marine Areas, and usually the marine areas of a Geo-Marine National Parks are divided in two Zones:

ZONE Ma: relevant naturalistic values, limited human activities;

ZONE Mb: relevant naturalistic values, human activities authorized under strict prescriptions.

ZONE MA – FORBIDDEN ACTIVITIES

- a. bathing;
- b. leisure ARA diving;
- c. access, navigation and stop of ships, boats, inflatable boats and every kind of vessel except patrol and safety naval units;
- d. mooring;
- f. professional and leisure fishing;
- g. under water fishing;
- h. every alteration of the geophysical and geochemical characteristics of the water however provoked, including pollution or let off of solid/liquid waste;
- i. introducing in the area of toxic/pollutants, weapons, explosives and whatever destruction or hunting device;
- l. every activity hampering the scheduled research activities in the area;

- m. damaging or removing mineral and geological formations;
- n. mooring in the marine birds nesting areas.
- o. all the activities forbidden in Mb ZONE.

ZONE MB – FORBIDDEN ACTIVITIES

- a. damaging or removing mineral and geological formations;
- b. mooring in the marine birds nesting areas.
- c. unauthorized under water fishing;
- d. introducing in the area of toxic/pollutants, weapons, explosives and whatever destruction or hunting device;
- e. bottom trawling fishing activities, fishing nets longer than 1 km.

ZONE MB – ALLOWED ACTIVITIES

- authorized leisure fishing activities;
- authorized professional fishing activities reserved to resident fishermen;
- bathing and ARA diving;
- authorized underwater fishing activities, favoring the resident citizens;
- navigation and mooring of every kind of vessel 300 meters off the coastline, at a maximum speed of 15 knots;
- navigation of public and commercial transport ships only along the traced routes;
- authorized navigation and mooring of every kind of vessel within 300 meters to the coastline for the resident citizens and authorized persons, at a maximum speed of 7 knots.

The National Parks are directly managed by the Italian State through its Ministry for the Environment and for the Protection of Nature and Sea.

3.2 Marine Protected Areas

The Marine Protected Areas (MPAs) can be considered as the instrument to promote and support forms of economic and social development while being consistent with the objectives of environmental sustainability.

Law n. 979/82 (art. 25) defines the Natural Marine Reserves as ‘marine areas including waters, related sea beds and coastlines bearing relevant values according to their natural, geomorphological, physical, biochemical characteristics, with particular emphasis on marine and coastal flora and fauna species and on their scientific, ecological cultural, didactic and economic importance’.

OBJECTIVES

Law n. 394/91 states the objectives pursued while restricting the rights of free entrance and free human activities in some defined natural areas of the territory:

- The conservation of flora and fauna species, habitats, ecosystems, areas of geological and paleontological interest;
- The implementation of environmental management and conservation tools aimed to the safeguarding of anthropological, historical, architectural, landscape values;
- The promotion of educational, formation and scientific research activities and of compatible leisure activities.

The MPAs management responsibility is in charge of the Regions; it is often transferred to the local public authorities (e.g. Municipalities), scientific institutions or relevant environment protection associations.

MPAs POLICY REGULATIONS

MPAs are usually divided into three zone types with differing degrees of protection:

- Zone A – integral reserve: untouched natural reserve (no entry - no take), where scientific research is the only human activity allowed in order to ensure the repopulation of flora and fauna and the safeguarding of biodiversity.
- Zone B - general reserve: (no take), where bathing, guided visits and dives and ship cruises are activities allowed under strict policies.
- Zone C - partial reserve: (buffer zone) where all human activities with low environmental impact are allowed (e.g. the navigation at a reduced speed, the low impact professional and leisure fishing activities, etc.).

ZONE A – ALLOWED ACTIVITIES:

1. navigation of patrolling and safety naval units and convoy ships supporting authorized research activities;
2. authorized scientific research activities and sampling;

ZONE A – FORBIDDEN ACTIVITIES:

1. bathing;
2. diving;
3. navigation;

4. mooring;
5. fishing;
6. water sports (aqua scooters, water ski, etc.).

ZONE B/C – FORBIDDEN ACTIVITIES:

1. night diving;
2. skin diving;
2. water sports;
3. improper use of woofers and sound amplificatory devices;
4. lay off of non-depurated water from the ships' lavatories and lay off of solid/liquid waste, toxic substances or pollutants.

ZONE B/C – ALLOWED ACTIVITIES:

1. navigation of patrolling and safety naval units and convoy ships supporting authorized research activities;
2. navigation of the public transport ships at a maximum speed of 10 knots;
3. authorized scientific research activities and sampling;
4. bathing;
5. authorized individual or group ARA / skin diving respecting the following rules:
 - it is forbidden the contact with the sea bed, the removal or damage of whatever material or organism (geological, biological, archaeological);
 - it is forbidden to feed marine organisms, bring or lay off whatever object or material, disturb marine organisms with improper behaviors;
 - the passage through natural caves according to the underwater trail must be as fast as possible;
 - the diving equipment must be adherent to the body;
 - it is mandatory to report to the local authorities the presence of waste or abandoned fishing tools on the seabed;
 - it is forbidden to use underwater propulsion devices, with exception of authorized devices supporting disabled visitors;
6. free navigation for motorboats, sail and oar/pedal boats (in Zone B only motorboat with ecologic certificate), at a maximum speed of 5 knots in Zone B, and at a maximum speed of 10 knots in Zone C, 300 meters off the coastline;
7. mooring in the dedicated floating markers and for no more than 2 hours;
8. convoy ships supporting diving activities can navigate at a maximum speed of 5 knots in Zone B, and at a maximum speed of 10 knots in Zone C, 300 meters off the coastline.

9. ARA diving guided visits by authorized diving centers, according to the season timetables, with expert diving instructors (min 1 for 5 visitors) and for groups of maximum 12 divers;
10. ARA diving guided visits by night, individually authorized with expert diving instructors (min 1 for 4 visitors) and for groups of maximum 10 divers;
11. aqua scooters reaching the AMP borders, travelling perpendicularly to the coastline, at a maximum speed of 5 knots in Zone B, and at a maximum speed of 10 knots in Zone C, 300 meters off the coastline;
12. woofers and sound amplification devices must be used only to give information related to the visit and the characteristics of the area, at a proper volume.
13. professional fishing with small or local traditional tools, reserved to resident fishermen only;
14. touristic fishing activities with the same rules of the above point 13.
15. authorized leisure fishing during the daytime, with a maximum of 3 kg of fish per person or 5 kg per boat.

3.3 Underwater Parks

In Italy there are two Underwater Parks bearing important archaeological submerged archaeological sites, both located in the Naples area: Baia, in the Pozzuoli Gulf, and Gaiola, in the Naples Gulf, established through the **Law 388/2000**.

The Law produced the **Inter-Ministry Decree 7th August 2002**, ruling the set up and management policies of both Underwater Parks through an agreement between the Ministry for the Environment, the Ministry for the Cultural Heritage and Tourism, the Ministry for the Land and Naval Transports, The Ministry for the Agriculture and Forests and Campania Region.

OBJECTIVES:

- a. the safeguarding of the natural environment and the archaeological heritage;
- b. the enhancement of the natural, historical, archaeological and cultural resources also to promote economic and social development;
- c. the dissemination related to the ecologic and biologic values of the sea and coastal habitats and to the underwater archaeological heritage;
- d. the implementation of educational programs aimed to the improvement of the general knowledge in the field of ecology, marine biology and archaeology;
- e. the implementation of ecology, marine biology and archaeology research projects to ensure the thorough, systematic assessment of the area;

f. the promotion of economic and social development forms consistent with the natural, historical and landscape values of the area, also supporting local traditional activities. In this context, the resident citizens and companies will be favoured regarding the management of the authorized touristic activities.

GENERALLY FORBIDDEN ACTIVITIES:

- a. removing, tampering or damaging archaeological artifacts or geological formations;
- b. hunting, seizing, collecting, damaging or endangering flora and fauna species, including the introduction of foreign species.
- c. the modification of the geophysical and geochemical characteristics of the water however provoked, through direct or indirect activities, including pollution or let off of solid/liquid waste;
- d. the introduction in the area of toxic/pollutants, weapons, explosives and whatever destruction or hunting device;
- e. every activity hampering the scheduled research activities in the area.

ZONE A – FURTHER FORBIDDEN ACTIVITIES:

- a. bathing;
- b. free diving, both ARA and skin diving;
- c. access, navigation and stop of ships, boats, inflatable boats and every kind of vessel;
- d. mooring;
- f. professional and leisure fishing;
- g. under water fishing;

ZONE A – ALLOWED ACTIVITIES:

- a. Patrolling naval units and convoy ships supporting authorized research activities;
- b. Authorized visits and underwater diving activities consistent with the safeguarding of the archaeological heritage;
- d. Authorized leisure fishing activities only with fishing rods and lines, reserved to the resident citizens.

ZONE B – FURTHER FORBIDDEN ACTIVITIES:

- a. free navigation;
- b. mooring;
- d. professional fishing activities;
- e. leisure fishing activities;

f. underwater fishing.

ZONE B – ALLOWED ACTIVITIES:

- a. bathing and skin diving;
- b. authorized navigation for motorboats at a maximum speed of 5 knots;
- c. navigation of sail and oar boats;
- d. authorized navigation for motorboats carrying visitors groups;
- e. mooring in dedicated areas;
- f. professional fishing with small or local traditional tools, reserved to resident fishermen only;
- g. leisure fishing only with fishing rods and lines reserved to resident citizens only.

The Underwater Parks are directly managed by the Italian State through its Ministry for the Cultural Heritage and Activities and for the Tourism (Parco Archeologico dei Campi Flegrei).

4. Recent National initiatives for the promotion of cultural tourism

The safeguarding and enhancement action put in place by the Public Authorities towards the national public heritage, both on the natural and cultural sides, despite of the big efforts spent during several decades, is never enough to fit the huge needs of the Country.

This is the reason why, in recent years, together with a radical reform of the Superintendence Offices and of the entire Ministry of Culture (MIBACT), the public sector is trying to encourage private sponsorships for the restoration of the cultural heritage and sets up a series of financial measures in order to support the private initiative in the touristic field:

4.1 Art Bonus (2016)

Urgent measures encouraging cultural philanthropy: Tax Credit (65%) applied to all the private donations supporting and enhancing the Italian cultural heritage and activities:

- a. Maintenance, restoration and protection of public cultural goods;
- b. Museums, archaeological sites, libraries and public archives;
- c. Public theaters and opera houses.

4.2 Tax Credit – digitalization of touristic activities (2016)

Tax Credit (30%) for all the technological investments in the touristic sector:

- a) Websites and wi-fi devices;
- b) software for the automation of online sales and ticketing procedures for touristic services and accommodations
- c) web and social media marketing and communication tools
- d) advertising spaces and expenses aimed to the promotion of touristic services, accommodations and packages on web specialized platforms and websites managed by travel agencies and tour operators
- e) expenses for planning, implementing and online promoting innovative proposals concerning hospitality initiatives for disabled persons
- f) formation of the owner and personnel of the touristic services and facilities.

4.3 Tax Credit – refurbishment and modernization of accommodation facilities

Tax Credit (30%) for a maximum of 200.000 Euro for refurbishment, architectural barriers removal and new furniture in hotels, guesthouses, b&b, camping etc.

4.4 Major Projects for the Cultural Heritage

The plan 'Major Projects for the Cultural Heritage' was financed with 85 million Euros for the safeguarding, restoration, enhancement and touristic promotion of the heritage and sites bearing exceptional cultural values.

4.5 State-owned buildings and facilities to be used for new touristic routes

Roadman's houses, railway stations, seaports, custom facilities, lighthouses and fortifications can be given for at least 9 years, through public concession, to private organizations, companies, cooperatives composed mainly by under-40 entrepreneurs and personnel, in order to implement new motorcycle and bicycle touristic itineraries.

4.6 Touristic districts - bureaucratic simplification for new companies and start-ups

- creation of Touristic Districts: zero-bureaucracy areas with simplified procedures for the commercial and touristic activities;
- simplified procedures for the opening, transfer and modifications related to travel agencies and touristic offices.

4.7 PON Cultura (Co-financed by European Union FESR funds)

The Operative National Programme "Culture and Development" 2014 – 2020 finances with 490 millions Euros (368,2 financed by UE – FESR Funds, 122,7 by the Italian State) the

development of the cultural sector in five Regions of Southern Italy: Basilicata, Calabria, Campania, Puglia e Sicilia. <http://ponculturaesviluppo.beniculturali.it>

The objective is to invest in the rich cultural heritage and resources of these Regions, the less economically developed ones, in order to promote the cultural tourism and to consolidate the network of cultural companies and organizations, through:

1) Enhancement of the cultural heritage: safeguarding, conservation and sustainable management of archaeological sites, built heritage, historical centers, museums, etc.; development of innovative services linked to the touristic sustainable use of the cultural heritage.

2) Enhancement of the local potential resources linked to the cultural tourism (micro, small and medium companies operating in the cultural field and in the media sector) supporting the innovation and technological improvement, the creation of new touristic products and offers, the companies' management tools and know-how.

5. Public competences related to the safeguarding of the cultural and natural heritage and to the promotion of the tourism

As in many EU Countries, the Italian State is in charge of the safeguarding and conservation of the natural and cultural heritage of the Nation (Italian Constitution, Article 9).

CULTURAL HERITAGE

All the public areas, buildings and artifacts bearing a cultural value are directly managed by the Italian Ministry of the Cultural Goods and Activities and of the Tourism, through its peripheral branches, the Superintendence Offices, Museums and Parks. The listed private cultural goods are under the Superintendence Offices surveillance, and their sale, export, use and conservation policies are strictly ruled and supervised.

The legal framework governing the cultural sector in Italy is one of the most ancient and developed among the European Union Countries (since 1939), thanks to the debate on cultural goods and values, always central and vivid in the academic world, and thanks to the need of managing one the richest and the most diversified cultural heritage of the world (with 53 UNESCO World Heritage Sites), concentrated in a relatively small country.

The Ministry of Culture and Environment, established back in 1975 collecting competences previously scattered between the Ministry of Education and the Ministry of Domestic Affairs, became the actual Ministry of Cultural Goods, Activities and of the

Tourism only in 2013, eventually linking the heritage safeguarding needs to the sustainable touristic development.

The Ministry's organization, its General Directive Offices and the peripheral Superintendence Offices, underwent a long series of modifications and reorganizations in order to follow the continuous development of the cultural sector along the decades.

The last ones occurred a few years ago: in 2013 with the inclusion of the Tourism competences in the Ministry of Culture, and in 2015 with the unification of the competences concerning Archaeology, Built Heritage and Fine Arts in the Superintendence Offices and the creation of autonomous Archaeological Parks and independent Museum Institutions.

Thus, the public management of such immense heritage is always struggling with insufficient economic, professional and personnel resources and with a complex bureaucratic system, both factors affecting the timing and quality of the safeguarding actions and conservation activities in the whole country.

NATURAL HERITAGE

As stated before, the Italian Ministry for the Environment and for the Protection of Nature and Sea is in charge of the protection of the natural environment areas belonging to the State: National Parks, Geo-Marine National Parks, National Natural Reserves; Underwater Parks.

In the Italian territory, there are also hundreds of protected areas governed by the Regions: Natural Regional Parks, Regional Natural Reserves Marine Protected Areas and Other Protected Areas, whose competences are transferred from the Regions to the local authorities (Provinces, Municipalities) or to no-profit organizations, research centers and universities.

TOURISM

The Ministry of Tourism was established in Italy only in 2009, revealing how the safeguarding and conservation activities were absolutely not related to the responsible cultural touristic use of the immense Italian heritage, an industry representing the 10% of the Italian Gross Domestic Product.

While the safeguarding and conservation of the cultural heritage is a Ministry's duty, its promotion, also under the touristic point of view, is shared between the Ministry and the

Italian Regions, doubling the offices and spreading through the local authority network (Provinces, Municipalities) many competences and responsibilities.

The touristic sector in particular, whose competences were once shared between State and Regions, thanks to the Constitutional Reform of 2001 is now of exclusive Regional competence, recognizing the undoubtable differences between the Italian territories and their diversified cultural values. Moreover, each Region is able to manage its own EU funds and proved so far a better planning and spending capacity than the central State.

6. Effectiveness of the public management action and expected results

The periodic reorganization of the public sector and of the national laws in the field, the legislative and economic autonomy of the Regions, producing Regional Laws within specific areas and competences and own administrative procedures, are all factors affecting an efficient management of the public heritage, both under the point of view of the heritage safeguarding action and of the sustainable tourism development.

The conflicts between National legislation and Regional governments are resolved in the State-Regions Conference, an institution created in order to harmonize the competing legislative initiatives: this institution gives an idea of the transversal competences shared by State and Regions on the same matters, and in general of the complexity of the system.

In the last twenty years, five reforms took place, and ten Ministers succeeded. The recent reform of the Ministry of the Cultural Heritage and Activities and of the Tourism (2015) created a huge dispute among the expert in the field, inside and outside the public institutions, and was submitted to a trial procedure to verify its consistency to the constitutional statements (consistency eventually, successfully confirmed).

Its main objectives are:

- The autonomy of the Museums, through the selection of the main 20 ones, and the reorganization of the 'minor' museums in Regional Hubs.
- The rationalization of the Superintendence Offices through the unification of the competences concerning Archaeology, Built Heritage and Fine Arts.
- The simplification of the private license procedures with respect of the landscape safeguarding laws.

In this context, the underwater archaeological research and safeguarding sector would need the creation, at a Ministry level, of a dedicated Office coordinating and programming the underwater activities on the whole national territory.

That stated, already before this last reform in Italy, the Archaeological Superintendence Offices were responsible of the Underwater Cultural Heritage and of the recovered artifacts. Important investments and researches in the field were conducted until the early '80s, and then, with the Archeomar Project (2004-2011), a register of all archaeological submerged evidences along the coastlines of the Italian southern and central regions was done. <http://www.archeomar.it/>

The last decades witnessed the decline of the underwater research and conservation activities, probably due to the weakening of the competent offices and the shrinking of the available resources, both human and economic.

Only the Sicily Region, endowed with administrative autonomy, set up a dedicated Underwater Archaeology Superintendence Office, with dedicated resources and competences: an organization wished also for the rest of coastal territories, but nowadays, with the fusion of Superintendence areas, even further illusory and far away. <http://www.regione.sicilia.it/beniculturali/archeologiasottomarina/>

The only MIBACT Office nowadays really effective in the field of the submerged heritage is the ISCR - Istituto Superiore per la Conservazione e il Restauro - with its Nucleo per gli Interventi di Archeologia Subacquea (NIAS) (Underwater Archaeology Operation Unit) and its Underwater Conservation and Marine biology Laboratory.

ISCR is active at a national and international level with several diagnostic and conservation interventions missions per year and with a strong involvement in the international conservation policies enhancement, through EU Projects and extra EU Agreements. At national level, we want to recall the progetto *'Restaurare sott'acqua – Restoring Underwater Project*, and the MUSAS Project: Monitoring and Enhancing Underwater Cultural Heritage in Campania, Puglia and Calabria regions.

The *'Restoring Underwater Project'*, funded by MIBACT since 2001, is focused on experimentation for *in situ* conservation, restoration and museum display of Underwater Cultural Heritage Sites such as the Roman villa of Torre Astura, the wreck of San Pietro in Bevagna, the wreck of Cala Spalmatore, the *in situ* submerged archaeological site of Baiae (Neaples).

The ongoing project of Baiae focuses on studying bio-erosion and bio-corrosion of underwater cultural heritage, controlling the biological infestation, surfaces cleaning, restoration of archaeological structures and 3D documentation of the archaeological sites.

The MUSAS project, funded by the European PON - FESR 2014 -2020 Cultura e Sviluppo, started in 2017. Its aim is to develop an integrated supra-regional model to monitor and enhance the underwater archaeological heritage, both in museums and *in situ*, in order to develop best practices that can be extended and deployed in other similar sites. It has three specific objectives:

- 1) The creation of a Web Portal for the *Museo Virtuale dell'Archeologia Subacquea* where images and 3D models will illustrate underwater sites and their artefacts, recovered and currently housed in museums.
- 2) The implementation of an advanced exploration system in the submerged archaeological sites of Baia and Egnazia.
- 3) The development of a network of innovative sensors that can be deployed flexibly to monitor the environment parameters, the condition of submerged sites and the location of underwater artefacts.

A number of archaeologically significant locations in Southern Italy have been selected as test sites, in Campania, Puglia (Apulia) and Calabria. The *Parco Archeologico Sommerso di Baia* in the Bay of Naples includes a large submerged port and residential area, as well as mosaics, thermal baths and areas dedicated to leisure, or *otium*, the restoration of which numerous ISCR projects have been working on for several years.

Egnazia (Puglia), is a city with substantial submerged port structures and significant Roman and pre-Roman remains along the coastline. Caulonia, a *Magna Graecia* site in Calabria, has notable coastal and underwater remains. In addition, the museums of Campi Flegrei, Egnazia, Manfredonia and Crotone house substantial collections of artefacts recovered from submerged sites.

At an international level, we can recall the following European projects:

- SASMAP - Development of Tools and Techniques to Survey, Assess, Stabilise, Monitor and Preserve Underwater Archaeological Sites; team leader: the National Museum of Denmark (<http://sasmap.eu/>);

- i-MARECULTURE: Advanced VR, iMmersive serious games and Augmented REality as tools to raise awareness and access to European underwater CULTURAl heritage, team leader Cyprus University. Project's iMARECULTURE scope is to raise public awareness of European identity by focusing in maritime cultural heritage, which by default bridges different civilizations. In particular, iMARECULTURE aims in bringing inherently unreachable underwater cultural heritage within digital reach of the wide public by implementing virtual visits, serious games with immersive technologies and underwater augmented reality. Scope of the project is to design, analyze, develop and validate pioneer applications and systems in the context of Virtual Museums through collaborative and innovative research from a diverse group of scientists, researchers, archaeologists, experts and museums. www.imareculture.eu;
- UCRCa Project - "Underwater Cultural Route in Classical Antiquity", devoted to promote an innovative touristic cultural product, named "Dive in History", involving Italy and Greece to link together their common underwater archaeological heritage and their shared cultural values.

VI. Spain

A. LEGAL FRAMEWORKS

1. Analysis of Underwater Museums and Diving Parks

In Spain, there are currently no Underwater Archaeological Museums for diving although there is the National Museum of Underwater Archaeology on land (Cartagena, Murcia Region). This museum, known as ARQVA, is the responsible institution for raising public awareness of the Underwater Cultural Heritage of Spain, promoting its conservation, and thus enhancing its use and enjoyment. Its objectives are the study, evaluation, research, conservation, promotion and protection of Spain's Underwater Cultural Heritage. These tasks are carried out jointly with the various local governments of the Autonomous Regions and their research centers, and with the member states signatories of the UNESCO Convention. In addition, there are several museums (archaeological, maritime, fishing, Ethnographic) that among its funds have some archaeological materials of underwater origin.

<http://www.mecd.gob.es/mnarqua/en/museo.html>

http://en.museoarqua.mcu.es/web/uploads/ficheros/libro_rutas.pdf

However, in 2016 the first Underwater Art Museum of Spain was inaugurated in Lanzarote (Canary Island). The underwater Museum Lanzarote called “Museo Atlántico”, depth 12 meters, on sandy seabed area of 50 x 50 meters, is a tourist and cultural attraction for divers and scuba divers. It has been conceived as a place to promote education in defense of the oceans and preserve and protect the marine and natural environment as an integral part of the system of human values. The museum is created as a huge artificial reef built with environmentally friendly neutral pH materials designed to adapt to endemic marine life so, over time, will help the marine biomass flourish and facilitate the reproduction of species on the island. Jason deCaires Taylor has created ten installations that aspire to reflect the contemporaneity and we pass some questions on the use of the natural resources. They are mysterious underwater worlds where art evolves as a consequence of the effects of nature. A connection between humans and nature, present in the work of the artist, with a romantic and apocalyptic touch that questions our future.

<http://www.cactlanzarote.com/en/cact/the-underwater-museum-lanzarote-museo->

[atlantico/](#)

On the other hand, there are not archaeological diving parks open all year in Spain. However, some archaeological sites are open a few weeks a year while the archaeologists make their excavations. Visits are organized so that the sport divers can see on live underwater archaeologists working in some emblematic sites. In recent years, we can highlight these activities:

a) Center of Subaquatic Archaeology of Catalonia: "Discover an underwater site"

The Center of Subaquatic Archaeology of Catalonia, known as the CASC (Centre d'Arqueologia Subaquàtica de Catalunya), form a part of the Archaeological Museum of Catalonia (Museu d'Arqueologia de Catalunya). From the beginning of the 21st century this institution promotes activities to public access to in situ underwater cultural heritage.

The first one was called "Una Capbussada al passat" and its objective was "Discover the underwater world of Empúries". Empúries is an emblematic site because of its scientific interest (the Greek and Roman city) and the large number of visitors it receives. Through this aquatic activity, during the months of July and August, the visitor discovered the submarine remains of part of the city and its port infrastructures. First, in reception center on land the monitors explained to the visitors the port activity of the city and then guided the visitors on a surface tour between three buoys that marked the cyuito and served as rest stops. As a snorkeling activity was accessible to all types of public, family, youth and adult.

Currently the CASC offers the activity "Discover an underwater site", from July to September, Monday to Friday. These visits are guided, by the hand of underwater archaeologist, to the sites in which the CASC is investigating and excavating. After a visit to the working ship and a brief explanation of its operation, a dive is offered to discover the site and work techniques of archaeologists. Prior reservation, diving and insurance certification are required for the participants. In recent years the visitors have been able to dive in important sites as "Cap del Vol" or "Cala Cativa I" from Roman times and "Deltrebe I" or "El Triunfante" from Modern times. (<http://www.mac.cat/eng/Seus/CASC/Activitats/Nova-oferta-d-activitats>).

b) Underwater Trail – Bou Ferrer (La Vila Joyosa, Alicante)

The underwater visits to the Bou Ferrer are an unique opportunity to contemplate on live the largest Roman merchant ship in excavation in the Mediterranean, shipwrecked in the

second half of the s. I A.C. in front of the old Allon (Villajoyosa) with a load of about 3,000 amphoras, full of fish sauces (one of the most valuable goods of the time) and lead ingots with marks that prove that they were personal property of the emperor, probably Nero (<http://www.vilamuseu.es/proyecto/bou-ferrer/4>).

The project is promoted by the Department of Education, Culture and Sport of the Generalitat Valenciana, which finances the scientific project and authorizes visits; by the University of Alicante through its General Foundation, which coordinates the work; by the Town Council of Villajoyosa, through the Department of Historic Patrimony, responsible for visits to the laboratories of Vilamuseu and all the conservation, restoration, diffusion and exhibition of the pieces; and the Nautical Club of Villajoyosa, which provides its facilities and staff. The local diving company Alisub organizes the logistics of the dives and contributes the own infrastructure of its dive center.

With these underwater visits, the project acquires a pioneering cultural diffusion dimension in the Spanish State, since it is the first old wreck in which a public experience of this type is realized. It is also an initiative within the so-called "tourism of experiences", which reinforces the value and the image of the tourist brands of the south of the Valencian Community. Excavations and underwater guided visits to the Bou Ferrer wreck are one of the pillars of the Underwater Archeology Plan of the Valencian Community. This plan is committed to the integral management of the underwater archaeological heritage, so that it becomes a cultural and economic motor, in close relation with tourism and sport, in this case to position the Vila Joiosa as a reference destination in scuba diving Experiential and consolidate it as one of the main cultural tourism destinations on the Costa Blanca.

B. GUIDELINES

In 2005 Spain was one of the first countries to ratify the UNESCO Convention of 2001 on the Protection of the Underwater Cultural Heritage, acquiring thus a permanent commitment to the defense and study of this important set of goods of our Cultural Heritage. Spain participates in many International and National Protection Programs. Among them we can highlight the following projects:

- a) *National Plan for the Protection of the Spanish Underwater Cultural Heritage. Green Paper*

In 2007 the Spanish Council of Ministers approved the “National Plan for the Protection of the Spanish Underwater Cultural Heritage, in order to translate this commitment into a set of effective and well-planned actions in Spanish territory. The Council of Historical Heritage that includes all the Autonomous Communities accepted this Plan prepared by the Ministry of Culture. The Plan discussed the main lines to be carried out in Spain for the protection of Underwater Cultural Heritage.

The Green Paper provides the tools for achieving the objectives of the National Plan which provides for a Decalogue of measures ranging from documentation and inventory of underwater archaeological heritage to the physical and legal protection of the most emblematic underwater archaeological sites on our coast, through training in this field, and collaboration agreements with the Ministries of Defense, Interior and Foreign Affairs.

The Green Paper was prepared in 2009 by a committee of experts made up of representatives of the Ministry of Culture (through the General Subdirectorate for the Protection of Historical Heritage and the National Museum of Underwater Archaeology-ARQVA), the Autonomous Communities and Universities, in order to analyze the situation of underwater archeology in Spain and establish guidelines and programs for the management of this heritage.

In chapter 8, dedicated to dissemination, we wish to highlight the following priority actions:

- “Encourage the creation of *Underwater Archaeological Parks* in Spanish coastal waters which, in compliance with the mandate set out in the 2001 UNESCO Convention, permit and promote the responsible access of citizens to this important part of Cultural Heritage”.
- “Help define and implement quality tourist routes focusing on Underwater Cultural Heritage combined with Terrestrial Maritime Heritage”.
- “Work together with the Autonomous Communities to create and manage *Educational Classroom* at especially coast and include archaeological sites suited for visitors”.

The digital publication of the Green Book is available online at the following links:

* [Libro Verde. Plan Nacional de Protección del Patrimonio Cultural Subacuático Español](http://www.mecd.gob.es/mnarqua/dms/museos/mnarqua/patrimonio-cultural-)
(<http://www.mecd.gob.es/mnarqua/dms/museos/mnarqua/patrimonio-cultural->

[sub/plan-nacional/verde.pdf](#))

* [Green Paper. National Plan for Protection of Spanish Underwater Cultural Heritage](http://www.mecd.gob.es/mnarqua/dms/museos/mnarqua/patrimonio-cultural-sub/plan-nacional/verde-ingles.pdf)
<http://www.mecd.gob.es/mnarqua/dms/museos/mnarqua/patrimonio-cultural-sub/plan-nacional/verde-ingles.pdf>)

b) Register of Good Practices of the Underwater Cultural Heritage of UNESCO

The Sixth Meeting of States Parties to the Underwater Cultural Heritage Convention, meeting in Paris on May 30, 2017, approved the inclusion of seven projects in the Register of Good Practices in the Protection, Conservation and Dissemination of Underwater Cultural Heritage. Two of them are Mexican projects, one Portuguese and four Spaniards. These examples will allow the Scientific and Technical Advisory Body (STAB) to draw up a register of best practices for the use of all States Parties to the 2001 Convention (<http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/best-practices/>).

In this context, the STAB evaluated all examples presented for consideration as Best Practices as (a.) concerning underwater cultural heritage falling under the definition of Article 1 of the 2001 Convention and (b.) being appropriately protected both legally and in practice. Also, (c.) responsible non-intrusive access is respected and (d.) all heritage sites have a framework ensuring sustainable management. It also considers that in all cases (e.) a special and outstanding effort has been made to make the sites accessible to the public and recommended to the Meeting of States Parties to designate all the examples submitted as Best Practices for their sharing and diffusion as part of a Register on the Convention's website (<http://unesdoc.unesco.org/images/0024/002489/248974e.pdf>)

Spain, with the support of four Spanish projects, continues to demonstrate its permanent commitment to the defense, study and valuation of the Underwater Cultural Heritage that it assumed in 2005, following the ratification of the UNESCO Convention for the Protection of the Underwater Cultural Heritage of 2001 (<https://www.mecd.gob.es/prensa-mecd/actualidad/2017/05/20170530-buenas-practicas.html>)

- 1) *“Cap del Vol and Cala Cativa shipwrecks. Archaeological research and study of trade (Port de la Selva, Alt Empordà, Catalonia, Spain)”.*

The project studies a series of shipwrecks at Cap del Vol and Cala Cativa that sank while

transporting wine produced in the Conventus Tarraconensis (from Valence to southern France), between the first century BC and the second century AD.

The Cap del Vol wreck was pillaged in the 1960s and 1970s, but the ship's architecture remained intact. An excavation and a study of the ship have been carried out, using recent technologies such as ROVS and AUVS, in the intention of establishing working protocols between archaeologists and underwater robotics engineers. A submersible, Ictineu 3, was also used for the study.

Only materials that are relevant for the study or for presentation in museums are brought to the surface. Remaining resources are preserved in situ. Between seasonal works on the site, the shipwreck is covered to prevent degradation.

The site is protected as an archaeological site by the Catalan autonomic law for cultural heritage protection. In addition, the sites are protected by a layer of sand, which will be restored upon finalization of the excavation works.

Heritage Access: The project includes several publications, an exhibition at the Archaeological Museum of Barcelona, conferences, scuba-guided visits to the shipwrecks during archaeological excavation works, on-site protection and a documentary (<http://unesdoc.unesco.org/images/0024/002489/248974e.pdf>, pp. 6)

2) *"Deltebre I. The History of a Wreck (Deltebre, Baix Ebre, Catalonia, Spain)"*.

The wreck of Deltebre I was discovered in 2008. It sank in 1813, during the French War. The Underwater Archaeology Centre of Catalonia (CASC) began excavations in 2009 that were completed in 2016.

The site is protected as an archaeological site by the Catalan autonomic law for cultural heritage protection. Several efforts have been made to protect the wreck from environmental degradation. Only the cargo materials that were required for study were removed from the wreck. The naval architecture is preserved in situ. Heritage Access through public visits has been organized during the excavations. It allowed to visit not only the site but also other archaeological work in the area. Information to the public was also made available through an exhibition, several publications and support for scientific research on site.

A collaboration between the Museu d'Arqueologia de Catalunya, Museo Arqueológico Provincial de Alicante and Denominación de Origen Vinos de Alicante resulted in a travelling exhibition that has been shown at the Girona Archaeological Museum, the

Alicante Archaeological Museum, the Tarragona National Museum of Archaeology, the Barcelona Archaeological Museum, the Deltebre municipality, and the Archaeological services of Culture of Tortosa (<http://unesdoc.unesco.org/images/0024/002489/248974e.pdf>, pp. 7).

3) *“Legal protection of Andalusia's underwater archaeological heritage (Andalusia, Spain)”*.

Created in 2004, the Management and Information System of Cultural Assets of Andalusia (MOSAICO) is an information system, which registers the work of different administrative units in the regional department of culture, as well as information concerning heritage assets in Andalusia. At present having 120 entries, the database also contains information about potential heritage sites, such as 900 historical shipwrecks that may be a source of further discoveries. The project shall guarantee the protection and in situ conservation of the archaeological underwater heritage of Andalusia. The Culture Council of the government of Andalusia has endowed it with the highest protection level through Law 14/2007 on Historical Heritage of Andalusia, an established two protection categories:

- Archaeological Zones: spaces, in which the existence of archaeological remains of relevant interest is proven.
- Archaeological Reserves: areas, in which archaeological remains are presumed to exist and prevention measures are considered necessary.

The Underwater Archaeological Centre of the Institute of Historical Heritage of Andalusia has carried out studies to define those spaces. This enabled the Directorate-General for Cultural Heritage to begin the registration and conservation. As a result, 56 areas were registered in the General Historical Heritage Catalogue of Andalusia as Heritage of Cultural Interest under the classification of archaeological zones. 42 areas located in the above-mentioned spaces were registered as archaeological reserves.

Heritage Access: Although sites now benefit from legal protection, visits to the sites remain encouraged for both divers and tourists. In order to raise public awareness, training courses and seminars have been organized, guided visits to the Centre of Underwater Archaeology have been set up, and several articles published (<http://unesdoc.unesco.org/images/0024/002489/248974e.pdf>, pp. 8).

4) *“The Bou Ferrer Wreck, a Roman shipwreck for society (Villajoyosa, Alicante, Spain)”*.

The Bou Ferrer Wreck is a Roman shipwreck of the first century CE, located off the coast of Villajoyosa, Spain. Underwater excavations have revealed the large ancient commercial vessel, measuring more than 30 meters in length and 9 meters in width. It was transporting a cargo of more than 230 tons. The Bou Ferrer Wreck is the largest ancient shipwreck of its kind currently under excavation. The Project has been committed from the very beginning to ensuring compliance with Article 2 of the 2001 Convention. With this in mind, the Bou Ferrer Cultural Resource Management Association (BFCRMA) was formed as a result of the union between the Valencian regional government (Generalitat de Valencia), the University of Alicante, the municipal government, the archaeological museum of Villajoyosa and the non-profit Club Náutico de La Vila.

The association works closely with the relevant administrative and cultural authorities and museums. In 2015, the Bou Ferrer Wreck was declared a Bien de Interés Cultural (BIC), such obtaining the highest legal protection available to cultural heritage in Spain.

To prevent pillaging in a non-invasive way, a layer of fishnets, metal chains and galvanized steel bars was put around the ship. The installation poses no risk to the wreck itself, its cargo or the environment, and can be removed. A management team has also been formed and is responsible for site management, protection, communication, outreach, and training. Several training courses have been carried out.

BFCRMA has launched the following actions to foster heritage access:

- Public visits to the site under the supervision of archaeologists, which include a two hour introduction to the site and its history.
- Public access to the archaeological materials in museums and during public presentations and lectures.
- Use of social media (Facebook, YouTube, Twitter) to provide videos, educational messages and informal reports.
- The archaeological finds are disseminated and analyzed during presentations and conferences, in preliminary reports and academic journals.

(<http://unesdoc.unesco.org/images/0024/002489/248974e.pdf>, pp. 9).

C. SPANISH LEGISLATIVE FRAMEWORK

Current legislation about cultural heritage safeguarding

- **Instrument of Ratification of the Convention on the Protection of Cultural Heritage Underwater**, made in Paris on November 2, 2001 (Official State Bulletin, March 5, 2009).

UNESCO Convention on the Protection of the Underwater Cultural Heritage (Paris, 2 November 2001) was ratified by the Spanish Government on May 25, 2005 and became effective in Spain on January 2, 2009 when this Convention came into force in general form in accordance with the provisions of Article 27 thereof. However, the Spanish Instrument of Ratification of this Convention was not published in the Official State Bulletin until March 5, 2009.

<https://www.boe.es/boe/dias/2009/03/05/pdfs/BOE-A-2009-3787.pdf>

- **Law 16/1985, dated 25 June, on the Spanish Historical Heritage** (Official State Bulletin of 29 June 1985).

This law dedicates its Title V to the Archaeological Heritage. Regardless of its location on land, underneath the ground or underwater, the same principles are adopted on the research and the safeguarding of archaeological heritage underneath the ground and Underwater Cultural Heritage in Spain. See mainly Articles 40.1, 41 and 44.

http://www.unesco.org/culture/natlaws/media/pdf/spain/spa_ley_16_1985_sporof.pdf

- **Royal Decree 1508/2008**, of 12 September, regulating the **National Museum of Underwater Archeology** (Official State Bulletin 248, 14 October 2008).

This Royal Decree regulates the National Museum of Underwater Archaeology and defines its purposes, functions, headquarters, collections, governing bodies, etc.

<http://www.boe.es/boe/dias/2008/10/14/pdfs/A41176-41178.pdf>

- **Order of April 20, 2009**, which resolved to declare 42 defined areas as **Archaeological Reserves** in the continental and inland waters of Andalusia, territorial sea and continental shelf along the Andalusian territory (Official Andalusian Bulletin 101, 28 May 2009).

This Order declare 42 underwater areas as Archaeological Reserves, in which archaeological remains are presumed to exist and prevention measures are considered necessary. That means that these areas have a preventive protection as areas of archaeological reserve.

file:///D:/PCS%20en%20aguas%20continentales/Andalucia/BOJA%20101_2009_Zonas%20de%20Servidumbre%20Arqueológica%20subacuaticas.pdf

- **Decree 285/2009**, of 23 June, which registers in the General Historical Heritage Catalogue of Andalusia as Heritage of Cultural Interest, under the classification of **Archaeological Zone**, 56 sites located in continental and inland waters of Andalusia, Territorial sea and coastal continental shelf to the Andalusian territory (Official Andalusian Bulletin 101, 6 July 2009).

This Decree declare 56 underwater areas as Archaeological Zones, spaces in which the existence of archaeological remains of relevant interest is proven. That means that these areas have the maximum protection as Heritage of Cultural Interest.

file:///D:/PCS%20en%20aguas%20continentales/Andalucia/BOJA%20129_2009_%20Zonas%20Arqueológicas%20subacuaticas.pdf

Specific legislation about marine natural areas

- **Instrument on ratification of the United Nations Convention on the Law of the Sea**, done at Montego Bay on 10 December 1982 (Official State Bulletin, February 14, 1997).

The UNC Law of the Sea (Montego Bay, 10 December 1982) was signed in 1984 by Spain and became effective on February 14, 1997 in Spain, when the Spanish instrument of ratification was published in their Official State Bulletin.

<https://www.boe.es/boe/dias/1997/02/14/pdfs/A04966-05055.pdf>

- **Law 41/2010**, of 29 December, **on the Protection of Marine Environment** (Official State Bulletin, December 30, 2010).

<https://www.boe.es/boe/dias/2010/12/30/pdfs/BOE-A-2010-20050.pdf>

VII. Conclusions

Some important aspects of the above presented analysis of the national legal framework, strategies and policies of the Project State Parties, related to the protection and enhancement of the UCH Sites can be highlighted as follows:

- Each involved Country is endowed with several UCH Sites of the highest relevance with respect of the archaeological, historical, cultural and naturalistic values.
- The National legislative tools in use for the safeguarding of the cultural and natural heritage in these Countries are very advanced, since every involved Country can count on a huge experience in the on land heritage management and policies.
- All the involved State Parties were glad to adopt the 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage, sharing its contents and overall aims.

That stated, the legislative tools and policies used to manage the UCH Sites look very different from one Country to the other.

Under the point of view of the naturalistic preservation, the similarities between the national approaches are relevant both on land and in underwater environment. This may be because the concepts of 'National and Regional Park', 'Natural Reserve' 'Marine Protected Area', and so on, after countless years of attention and endless efforts for the safeguarding of flora, fauna and natural habitats threatened of extinction and destruction, are now deeply steeped in our European common understanding.

In addition, the cultural heritage sites on land, including the Archaeological Sites, the Built Heritage, the Museums, the City Centers, the Landscape etc., benefit of centuries of cultural debates and efforts for their correct preservation and touristic valorization, and the related legislative tools and policies are comparable in the whole EU Countries, with very slight differences. For instance, the policy for visiting an archaeological site is comparable from one Country to the other.

The Underwater Cultural Heritage, instead, is managed in very different ways throughout Europe: the protected underwater heritage sites, as part of a millennial common history of maritime trades and shipping routes, are often very similar to each other, while every Nation chose its own peculiar strategy to ensure their protection and the way they could (or could not) be visited.

Croatia chose for some of the most important UCH Sites the iron net cages, installed around the wrecks or artifacts on the seabed, as the best tool for the 'in situ' protection of the delicate ancient artifacts. In the meantime, the openness to the private sector (diving centers and diving clubs) is significant, managed in a legislative frame that encourages the private entities, both profit and non-profit, to participate to the monitoring, protection and dissemination of the UCH.

The awarding system for the 'good' companies is also linked to the sustainability of the local economy, privileging the organizations that hire local personnel and promote the cultural heritage, and of the general economy, with an annual fee (royalty) to be paid by the diving centers only. The non-profit associations, active in the field of UCH safeguarding and promotion, provide the day-by-day monitoring and are encouraged to declare the new discoveries, thus feeding the public system actions with an efficient monitoring network at a local level. In this case, the private sector is involved both in the responsibility and in the outcomes related to the correct UCH safeguarding and management policy, in a virtuous circle.

Greece, on the other hand, so far protected integrally its UCH Sites closing the doors to the private initiative, and managing every aspect through the public sector's personnel. This approach, absolutely correct on the safeguarding side of the issue, proved not fully realistic in the long term and not beneficial for the touristic sector and the sustainable development of the many coastal areas and islands involved.

Moreover, the find of a wreck or archaeological artifacts has been seen in the last year as a threat against the current touristic activities by the private stakeholders. For all these reasons, the Greek authorities are committed to change this situation in favor of a step-by-step collaboration between public and private sectors.

The new policy for the Marine Archaeological Sites Open to Visitors, that foresees the management of the touristic aspect at a local level (Municipalities), will soon allow divers to visit some of the most enchanting Greek UCH Sites, in the full respect of their integrity.

Spain adopted another approach, allowing visitors to explore, together with underwater archaeologists, wrecks that are undergoing research excavations and surveys. On one hand, this is the most interesting kind of experience a diver can get, while exploring together with the archaeologists the last discoveries and sharing their specialist knowledge during the work in progress. On the other hand, only a few sites, of the vast Spanish UCH, are open for the visits, and only in specific timeframes. Moreover, without any strong link to the touristic private sector, this kind of tourism does not provide any

significant benefit for the local economy. The creation of Diving Parks is strongly encouraged in the Green Paper document, to 'promote the responsible access of citizens to this important part of Cultural Heritage' and with the submission of this guideline, Spain is committed to take this direction for the future of its UCH Sites.

Cyprus didn't designate any 'zone for protection of maritime antiquities' yet, due to the very recent legislative tool 'Regulations on the Protection of Underwater Cultural Heritage, KDP. 218/2016'. This law rules the maritime activities related to the finding, excavation or damaging of maritime antiquities, with no mention to the recreational diving activities in such areas, subject to accessibility restrictions and prohibitions similar to those applied to the Greek UCH Sites.

Italy does not have a specific National Law regarding the 'Regulations on the Protection of Underwater Cultural Heritage', and its huge UCH, submitted to the general National Law 42/2004 for the 'Protection of Cultural Heritage and Landscape', is ruled through regional and special laws, like the ones establishing the two Italian Archaeological Diving Parks in the Campania Region. In addition, no national guideline is governing the touristic activities and the recreational diving experiences in archaeological underwater sites, and only the Autonomous Region of Sicily is equipped with a dedicated Marine Office (Soprintendenza del Mare), managing the licenses for the touristic activities related to the designated Archaeological Diving Trails.

This non-exhaustive synthesis of the National strategies and management / legislative tools for the safeguarding of UCH sites, above described in detail, reveals that every approach displays advantages and risks, and that the best practices to be recommended for an effective UCH public safeguarding action should also include the responsible access and the active involvement of citizens and private entities.

An European Register of UCH Sites is strongly recommended. A legal framework studied at a European level for awarding the virtuous behaviors, together with a periodic monitoring of the local situations in order to check possible issues, could allow the public institutions to involve the private entities in the heritage management, making the public UCH safeguarding needs their own needs.

This could allow saving some public budget, currently spent contrasting illegal private practices, besides enhancing the local touristic activities, the dissemination of culture and the sustainable development of the coastal areas and islands involved.