



WORKSHOP ON MARINE AND COASTAL ZONE RESOURCES MANAGEMENT



REPORT ON INTEGRATED COASTAL MANAGEMENT IN SPAIN

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Ministerio de Medio Ambiente
Secretaría de Estado de Aguas y Costas

Dirección General de Costas
Subdirección General Adjunta
Carlos Peña Martínez

Paseo de la Castellana, 67
28071 Madrid
Fax 91 - 597 85 10
Teléfono 91 - 597 70 00

REPORT ON INTEGRATED COASTAL MANAGEMENT IN SPAIN

WE HAVE IN SPAIN A LAW DEALING SPECIFICALLY WITH COASTAL ZONES. Its title is *Ley de Costas* (I think its best translation into English is Law of Coasts although it is also translated as The Shores Act). The date of enactment of this law is the 31st July of 1988, but as a matter of fact, the *Ley de Costas* (Law of Coasts) deals only with some of the problems of the coastal strip, mainly establishing limits to some activities such as urbanism, marinas, etc.

Other activities are ruled by their specific sectoral laws:

Urbanism is ruled by the *Ley del Suelo* or Urbanism's Law that applies to the whole territory; and now this Urbanism's Law is different in every autonomous region. Land Use Planning in Coastal Zone is under the same rules and Laws that in the inner territory with the exceptions of the easement strip of 500 m. mentioned before. So, there is not any law dealing with land use planning in coastal zones.

The issue of permissions/authorisations to perform activities in the public coastal property is regulated by the national Law of Coasts (1998) and as far as I know there is no any other law regulating specifically permissions and authorisations in the coastal zone outside the public coastal property.

Fishery is ruled by a National Fishery Law that applies to territorial waters. But in waters near the coast every Autonomous Community can establish their own rules and law.

National Ports are under the National Law of Ports and Merchant Navy (*Ley de Puertos y Marina Mercante*). The Law of Coasts does not apply into the port's territory.

Marinas are ruled by the governments of the autonomous regions under their own Law but their establishment and construction must get permission of National Coastal Authority (Law of Coasts).

But unfortunately there is no a coastal legal code or legal framework under which all applicable laws are consolidated and this is why Integral Coastal Zone Management is difficult to implement in Spain.



Another problem is that there is not a definition of coastal zone in Spain although the Law of Coasts (1988) establishes the limits of the public coastal property and establishes some easements and limitations to ownership in a strip of 500 m. of private land landward. Besides this there is no any specific definition of Coastal Zones.

As defined in Section 3 and 4 of the Law of Coasts the public coastal property includes natural harbours, bays, estuaries, small island areas, marine areas and a small part of coastal terrestrial areas, such as cliffs, beaches and dunes.

Besides this, a strip of 500 m. is also subjected to easements and limitations of use.

That strip of land of 500 m. and the public coastal property is the only land where the Law of Coasts applies, but of course the **coastal zone** is much wider.

The landward limit (not of the coastal zone) where coastal regulation applies is 500 m. measured from the seashore limit (see point 8a) as defined in the Law of Coasts (Chapter 1 Section 3); and since the width of the seashore varies usually between zero and one hundred meters we can say that the Spanish coastal strip limit (where coastal regulation applies) is between 500 and 600 m. landward from the sea although in some parts is much more wider. The seaward limit is the boundary of territorial waters.

Section 3.2 of the Law of Coasts.

At the National Level the management of the coastal public property is entrusted to the General Directorate of Coasts of the Ministry of the Environment except the following areas or fields, all of them regulated by their own specific legislation.:

National Ports areas are managed by the National Ports Authority of the Public Works Ministry with the Regional Authorities participating.

Marinas are managed by Regional Autonomous Governments.

Fisheries in the nearshore are managed by the regional autonomous governments through their own General Directorate of Fisheries.

Fisheries in the territorial waters far from the coastline are managed by the Ministry of Agriculture and Fisheries.

Maritime Transports, security in the sea and waste disposals from vessels are managed by the Ministry of Public Works through the General Directorate of Merchant Marine.

At regional and/or local levels there are also institutions responsible for coastal zones. Autonomous Governments have Agencies or Institutions responsible for coastal zones in their specific fields.

Waste disposals from land are managed by regional autonomous governments although authorisation of the National General Directorate of Coasts is required.

The problem is that **INSTITUTIONAL INSTRUMENTS FOR CO-ORDINATION** are **poor or nonexistent.**

There are the so called Conferencias Sectoriales (Sectorial Committees) with representatives of the National and the Regional Autonomous Governments to cope with some sectorial or specific problem. (*Section 5 of the Law of Juridical Regime of Public Administrations and Common Administrative Procedures*) But as far as I know a *Conferencia Sectorial* never took place to cope with the coastal problems and as a matter of fact this is not the appropriate institution to cope with the coastal problems because all the Regions are included in it and coastal problems are different in each region.

Other form of co-ordination are the so called Convenios de Colaboracion (Collaboration Agreements) (*Section 6 of the Law of Juridical Regime of Public Administrations and Common Administrative Procedures*) and *Convenios Marco* (Framework Agreements) between a National Agency and a Regional Agency.

Theoretically they could be useful to put the responsibilities of both sides together and to achieve an Integrated Management but although two of these Convenios have been enacted, so far they are only useful to let the signing parts know each other their own criteria, budgets and plans. They could be a good start point to Integrated Management but so far they aren't yet.

In Spain the Law of Coasts could be a good start point to a new legal framework in order to facilitate the analysis of coastal zone problems.

As far as planning policy agreements are concerned, agreements don't usually take place because responsibilities are defined by law and nobody want other Agency or institution to get involved in their own responsibilities.

Public Property

The public coastal property is the exclusive ownership of the State according to the Spanish Constitution.

Its definition is in Section 132 of the Constitution and in Chapter 1 Section 3 and 4 of the Law of Coasts.

It includes:



1. *The seashore and coastal water inlets which include:*

a) *The foreshore, i.e., the zone between lowest water mark of high spring tides and the highest limit reached by the waves in the greatest known storms, or, the highest water mark of strong tides, whichever is higher, This zone also includes the shores of the rivers up the point affected by the ebb tides.*

This zone includes marshes, estuaries, swamps and, generally, all lowlands which are periodically inundated by the rise and fall of the tides, the waves or seawater filtration.

b) *The beaches, i.e., zones of deposit of unconsolidated material such as sand, gravel, stones and cobblestones, including escarpments, berms and dunes, whether or not covered with vegetation and formed by action of the sea, sea winds or other natural or artificial causes.*

2. *Territorial and inland waters, their beds and subsoil as defined and regulated by their specific legislation.*

3. *Natural resources of the economic zone and the continental shelf as defined and regulated by their specified legislation.*

Section 3 of the Law of the Coasts.

The following shall be also deemed part of the coastal public property.

1. *Accretions to the seashore by the deposit of materials or receding of the sea, regardless of the cause.*

2. *Advance of land, directly or indirectly caused by works or drainage of the shore.*

3. *Land invaded by the sea and which thereafter becomes part of its bed for any cause.*

4. *Cliffs sensibly vertical which are in contact with the sea or with coastal public property, up to their crest.*

5. *Land segregated as public property by means of boundary delimitation proceedings which due to any cause has lost its natural features as beach, cliff or foreshore, except as provided in Section 18.*

6. *Small islands located in inland waters and territorial sea.*



7. Land added by the grantee of a concession in order to complete the area of a coastal public property concession when so established in the grant.

8. Land adjacent to the foreshore when acquired for its inclusion in the coastal public property.

9. Works and installations built by the Government on the coastal public property.

10. Works and installations for the lighting of the coasts and maritime signals built by the Government, regardless of their location, as well as the land used in servicing such installations, except as provided in Section 18.

11. Harbours and harbour installations owned by the Government which shall be governed by their specific legislation.

Section 4 of the Law of Coasts.

Private Property

The State can expropriate land in the coastal zone, according with legal procedures, and as a matter of fact they often do; but there is not a public policy of land acquisition.

Conditions for construction in the public property

There are specific limitations for construction:

The occupation of the coastal public property shall only be permitted for those activities or installation which by their nature may not be located elsewhere.

Section 32 of the Law of Coasts.

The protection easement is imposed over a zone of 100 m. landward from the landward limit of the seashore (which includes beaches, see point 8a).

Section 23 of the Law of Coasts.

1. In the protection easement zone the following shall be forbidden.

- a) Buildings for residential purposes.
- b) The construction or alteration of intercity motorways or roads with traffic levels higher than those stipulated in the implementing Regulations as well as their service areas.
- c) Activities involving the destruction of deposits of sand, stones and granule.

- d) The aerial laying of high-tension electrical cables.
- e) The disposal of solid waste, rubble and unprocessed sewage.
- f) Advertising by means of posters bills or boards or by acoustic or audio-visual means.

2. Generally, only works, installations and activities which by their very nature may not be located elsewhere or which provide services necessary or convenient for the use of the coastal public property, as well as outdoor sports installations, will be permitted in this area.

Section 25 of de Law of Coasts.

1. The territorial planning and zoning of land included in a zone, which width shall be determined in the corresponding regulations and, at least, 500 meters landward of the landward limit of the seashore, shall respect the coastal public property protection requirements through the following rules:

a) In sections of the seashore with beach and vehicle access, land reservations for parking lots sufficient to guarantee parking outside of the right of passage easement zone shall be provided.

b) Buildings shall have to comply with the provisions of the zoning legislation. The formation of architectural screens or the accumulation of volumes must be avoided. To the foregoing effects, the building density shall not exceeded the average of the planned developments districts, in the zoning plans of the respective municipality.

Section 25 of de Law of Coasts.

Marinas and tourism activities in the public coastal property are regulated under specific laws from each Autonomous Regional Government (there are 16 in the Spanish coast) although they all have to get authorisations or concessions from the General Directorate of Coasts.

As far as seasonal structures is concerned they are planned and carried out by the municipalities but they must get the aproval of the General Directorate of Coasts.

Both marinas and seasonal structures proposed or accepted by regional governments or municipalities could have their authorisations or concessions refused by the General Directorate of Coasts for public interest reasons.

(Chapter IV and V of the Law of Coasts).

Aquaculture

There are not particular rules for aquaculture, but they must get concession from the General Directorate of Coasts and it could be refused for any specific reason of public interest.

Zone in which no construction is allowed



The zone in which no construction is allowed is the coastal public property as defined in the Law of Coasts and the protection easement zone (100 m. landward from the landward limit of the seashore as defined in section 3.1. of the Law of Coasts (See point 8.a)

This section of the Law does not apply to the zones which upon the coming into force of the Law of Coasts (August - 88) were included in planned development districts or districts suited for development according with the Ley del Suelo (Land Use Law).

Third Transition Provision of the Law of Coasts.

Exceptionally and for duly evidenced public interest reasons, the Council of Ministers (the Gabinet) may authorise activities and installations forbidden in the Protection Easement Zone.

(Section 25.2 of the Law of Coasts.)

BEACH ACCESS

Access to the beach is guaranteed by law. It is granted by the Law of Coasts in its sections 27 and 28.

Public access perpendicular to the coast is granted both by car and by walking only when the land is to be developed by the owner.

To ensure the public use of the coastal property, the coastal planning and Town zoning plans and regulations shall provide for sufficient access to the sea and parking outside the coastal public property except in areas qualified as of special protection. To the foregoing effects, the accesses to the sea by car in urban and development areas must have a maximum separation of 500 meters from one another, and the accesses for pedestrians, 200 meters. All accesses must be signposted and open for public use upon their completion.

Section 28. 2 of the Law of Coasts.

If the land is not to be developed there is no obligation to the owner to provide or to permit access perpendicular to sea. Then the land necessary to change other public accesses to the sea or to carry out new ones is hereby declared of public interest for the purpose of its expropriation under the procedure of the expropriation Law.

Section 28 3 of the Law of Coasts.

There is a right of free movement along the entire coastline (parallel to the coast) along the entire coastline over a strip of six meters landward from the landward limit of the seashore

(Section 27.1 of the Law of Coasts).

This means that this strip is behind beaches and dunes and not only behind the highest sea level.

Traffic of motor vehicles is forbidden on dunes and beaches.

Non authorised parking and circulation of vehicles as well as camping and camp sites are forbidden in the public coastal property which includes coastal dunes and beaches.

(Section 33.5 of the Law of Coasts).

New roads running along the coasts are only forbidden in the public coastal property and in the protection easement zone (100 m) unless the Council of Ministers of the Central Government gives authorisation for such works for duly evidenced public interest reasons.

(Section 25 of the Law of Coasts).

COASTAL LAND-USE PLANNING

The only legal provisions affecting coastal land-use plans specifically are those in the Law of Coasts and they apply to a strip 500 m. wide from the landward limit of the seashore.

There isn't an integrated coastal land-use plan **covering all the activities, both marine and terrestrial**. There are only sectoral plans mainly for urbanism in private land; or for tourism recreational uses of public property land; or for marinas; etc.

CONTROL OF INDUSTRIAL AND COMMERCIAL ACTIVITIES ON THE COAST

As far as the public national property is concerned a system **covering all the activities, both marine and terrestrial** exists, it is included in the Law of Coasts and is carried out by the General Directorate of Coasts, except in port areas and in the specific fields regulated by their specific law.

(Title III - Chapters IV, V and VI of the Law of Coasts)

Outside the public national property, permissions and authorisations are regulated and granted by Regional or local authorities but in general terms there is not a specific system for the coastal zone and the system in force for the inner territory of the region applies also at the coastal zone.

Environmental Impact Assessment



Environmental Impact Assessment is obligatory for the activities listed in the Directive of the European Union, 85/337/CEE of 27th Jun 1985 as amended by Directive 97/11/CE of Mars 3rd 1997 about the Environmental Impact Assessment of some specific public and private projects. Also in the Spanish Royal Decree 1302 / 1986 of Jun 28th about E.I.A., its Regulation through Royal Decree 1131 / 1988 of September, 30th; and in the regulations of the Regional Governments.

As far as the coastal zone is specifically concerned, E.I.A. is only obligatory for ports, marinas, and big projects in the sea.

CONTROL OF RECREATIONAL ACTIVITIES

Recreational activities in the national public property are partially regulated by the Law of Coasts. This regulation is not at all enough. Many of the recreational activities related to the coast are not regulated in a satisfactory way.

For instance, one of the problems is how to regulate the coexistence of bathing, swimming and nautic motorised activities.

PROTECTION OF AREAS OF ECOLOGICAL AND NATURAL VALUE

There are **special legal measures for the protection of coastal natural areas (such as designation of marine parks, marine reserves)** at a regional administrative level, not at a national level. These protection areas are defined, regulated and protected at the level of the Regional Governments because this is a responsibility entrusted to them by the Spanish Constitution.

- Regional Governments may define both terrestrial and marine areas including national public property as protected for environmental reasons.

The question now in Spain is, to which extent or to which degree, regional environmental regulation must be assumed and accepted by National Authorities in the national public property.

Submarine waste water outfalls

Both industrial and domestic waste water discharging is allowed through maritime outfalls. In the case of domestic water, at least a primary treatment is required; and in the case of industrial waste water the regulation and procedure to get the permission is a little different in every region but all industrial waste must get regulated permission.



Bathing water quality

There is a law prescribing bathing water quality. This law is the Directive 76/160/CEE from 08/12/1975 of the European Union about bathing water quality levels

Besides this, most of the beaches in Spain are being monitored by regional authorities according to the Directive 76/160/CEE from 08/12/1975 of the European Union about bathing water quality and the results must be reported to the Ministry of Health (Ministerio de Sanidad). The Ministry of health reports all these data to the European Union. As far as I know the results are not always presented to the public in a systematic way but the Ministry of Health publishes every year a report summarising all the results.

INFORMATION AND PUBLIC PARTICIPATION

Everybody can participate in national decision making through the mechanism of public notice, public information, and reporting by Departments and Agencies. Usually N.G.O.s and Local Authorities do actively participate in those procedures. This procedure is established in the *Section 6 of the Law of Juridical Regime of Public Administrations and Common Administrative Procedures. (Ley de régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común)*. This procedure of public notice or public information is adopted as well in the law of coasts.

(Section 74.1 of the Law of Coasts).

COASTAL PROBLEMS AND ACTIVITIES NOT ADDRESSED BY ADEQUATE LEGISLATION

There are three sectorial activities that are not covered by adequate legislation.

a) Urbanism and land planning

There is not a specific legislation to regulate these activities in the coast. So, the same laws and regulations that in the inner territory apply in the coast. But, as everybody can accept, market conditions are very different: offer-demand is not balanced and cannot be balanced; added value sharply comes down when the land comes away from the coast line; problems involved by bad planning and their consequences are sometimes terrible, etc..

On the other hand economic pressures are very hard and as a result many times the coastal zone is planned according to economic private interests and not to general interest; this could be much easier if a specific land planning law in coastal zones could be implemented.



b) Ports and marinas.

This sectoral activity in the coast is well regulated from the strict sectorial point of view of the economic activity.

Nothing, or very few is written in the Law of Ports or in the Law of Marinas about compatibility between ports and beaches or between ports and ecosystems; nothing is written about sectorial integration or sustainable development.

The result is that still some ports and marinas are planned without taking into account this points of view-

c) Coastal ecosystems and landscape.

As in the case of urbanism and land planning there is not a specific regulation to protect coastal ecosystems, marshes, cliffs, dunes, estuaries from attacks and aggressions. Although all this points are public national property, this is not enough to protect the values of their ecosystems.

The same can be said about maritime fauna and flora.

LEGAL PROBLEMS IN FORMULATING A SATISFACTORY INTEGRATED COASTAL ZONE LEGISLATION

May be the main legal problems is the distribution of responsibilities between different agencies, and governments of the three levels of the Spanish administration: national, regional and local. All of them try to optimise their own interests and to reach their own objectives.

The problem is that doing so, the target of integrated planning and management is not possible and the coastal resources as a whole cannot be optimised.

There is no a law to force government and agencies to co-ordinate and to cooperate. So the result is that only sectorial planning and management can be reached so far.

This situation is made worse when the different agencies and governments belong to different politic parties, because the communication between them is worse and objectives, assumptions, start points and means are often very different.

The problem is still made worse by the fact that politicians usually are not interested in long term policies; they are interested in short term policies because they want (and they really need) to show the results before next election-day; and election-day is different in the different levels of government.

Under this framework it is very difficult to reach agreements over main objectives comprising all or most sectorial activities. In my opinion only a new law (it could be a Coastal Resources Integrated Management Law) could solve some of this problems.