Maritime spatial planning in the Black Sea
ISBN 978-973-614-977-1 | 49-56

Legal framework for maritime spatial planning in Romania - curent state and challanges -

Dragoş-Florian VINTILĂ[1*], Cosmin FILIP[1], Mari-Isabella STAN[1],
Diana-Doina ŢENEA[2], Anca Ileana GINAVAR[2]
[1] Ovidius University of Constanta, Constanta, Romania
[2] Ministry of Regional Development, Public Administration and European Funds, Bucharest, Romania

ABSTRACT. The necessity of using Europe's maritime space for various purposes, as well as the multiple pressures on coastal resources have led, on the initiative of some European countries, to the drafting of a legal act establishing a framework for maritime spatial planning - Directive 2014/89 / EU. The Black Sea is one of the most threatened area in Europe due to the continental pressures and contradictory coastal and maritime activities. Thus, Romania and Bulgaria are currently implementing the MARSPLAN Black Sea project in order to make progress in supporting the implementation of the Directive and expanding the cooperation framework with all the Black Sea basin states. In this paper, the authors discuss the nature and context of maritime spatial planning in the Black Sea, taking into account the scientific and prospective researches, exploitation of natural resources, oil and special gases, taking into account all regulations specific to the environment, civil engineering and cultural heritage.

KEYWORDS. maritime spatial planning (MSP); legislation; coastal zone; Black Sea; Romania.

I. INTRODUCTION

Europe's coasts and coastal areas are in many respects the most valuable areas in the world due to the beauty of the natural landscape, because coastal areas are also economic development areas due to housing, tourism, industry, the maritime ports providing many jobs, a vital resource on which millions of people depend both economically and in terms of quality of life.

The Black Sea is the eastern gate of the European Union, a junction between Europe, Central Asia and the Middle East, an important transport and energy hub, a crossroads of different cultures, a region with political, social and economic fragmentation, and at the same time one of the most threatened areas in Europe due to continental pressures and contradictory coastal and maritime activities.

There are six Black Sea coastal states that include two EU Member States: Bulgaria and Romania and four non-member states: Georgia, the Russian Federation, Turkey and Ukraine [1], which should have an integrated approach to terrestrial and marine problem solving and management of the area.

Romania has a coastal area that extends about 240 km along the north-western part of the Black Sea. Black Sea coastal zone defined as "geographic location situated at the contact of sea with land, including surface and underground coastal waters and adjacent land, surface and ground waters thereof, strongly interconnected and in close proximity to the shoreline, islands

* E-mail of corresponding author: vdragos@univ-ovidius.ro

and salty lakes, wetlands in contact with the sea, beach and cliff " [2] is subject to multiple pressures on coastal resources.

At present, this area is affected both by natural factors and by anthropogenic factors. The beach shore erosion, the uncontrolled spills, the increasingly under construction seaside area, the lack of an effective protection of heritage areas, the incoherent development of commercial buildings, the lack of an architectural-landscape thinking that assures optimal functionality and imaginative quality, leads to a decrease in the attractiveness of its competitiveness.

Despite all the problems it faces, the Black Sea coastal area of Romania still has an exceptional potential, with plenty untapped resources.

Given the character of uniqueness that transcends the local importance of this territory and the fact that traditionally the sea and the beaches are public property, the state must assume its role of coordination, control, defining and promoting the interest in the context of decentralization and subsidiarity as a result of communication between all stakeholders.

In this context, the sustainable development of the Black Sea coastal area and maritime space should be seen as a multifaceted concept with four pillars (economic, social, environmental and cultural) and several dimensions, including spatial / territorial [3], a development that is based on an increasingly complex legislative framework, with specific procedures, whose adequacy to the challenges of the moment will be analyzed / commented in this article.

II. EUROPEAN CONTEXT OF MARITIME SPATIAL PLANNING

The European Union is concerned about the strategic importance of the Black Sea region as well as the role and importance of seas and coastal areas in the European economy from the point of view of economic, social and territorial cohesion and sustainable development.

The issue of spatial planning is not new, maritime spatial planning being in fact the expansion of land-use planning at sea, which is used for the planned and coordinated development of urban and rural areas.

Since the 1970 Bonn Conference, land-use planning has become a fundamental political objective at European level. It was decided to create a unitary system of information, plans and legislation, having as main principles the development of regions lagging behind, the economic integration of cross-border areas, a balance between urban and rural areas and between the economy and ecology, the revitalization of rural areas, the restructuring of declining regions, the preservation and valorisation of natural resources, a long-term policy in the infrastructure field and communication channels, the collaboration in the research field and the harmonization of research and action methods.

This conference was continued by successive meetings of the European Ministers responsible for Territorial Planning (CEMAT), which, based on scientific research, developed common action principles for spatial planning policies at European level, principles which were assumed through resolutions adopted at ministerial conferences.

It can be noticed that, although we can talk about paradigm shifts and the use of new tools, in fact, strategic spatial planning (known in Romania as spatial planning) is in fact a field assumed at European level for almost 50 years, its importance being given by the spatial coordination of sectoral, economic, social and environmental policies, aiming at achieving better complementarity between these policies.

Over the last 20 years, there has been a general trend to revise planning systems as an impact of globalization and the need to integrate sustainable development goals into spatial planning processes, fair distribution of economic growth, objectives based on the idea of preserving and developing the qualities of the existing environment and less increasing at any cost, regardless of the environmental, social or territorial impact. Also, a number of important challenges for legislation and practice stem from the integration of goods and services and market forces - capital, labor, technology and information into a single market.

Although, primarily a subsidiarity principle, spatial planning being usually used for the balanced distribution of human activities and for land use planning, the importance of coordinating actions at macro-territorial level for a number of relevant areas such as transport, energy, natural risk management has caught the European Council and the European Commission's attention , which has made a number of resolutions, normative acts, policies or funding programs.

Among the European documents establishing common principles for public action, it should be mentioned the European Territorial Agenda 2020 [4], a document adopted by the EU Member States (including Romania), which sets territorial priorities: sustainable spatial development, integrated development of cities, rural areas and specific regions, ensuring competitiveness based on strong local economies, increasing connectivity, management of natural and cultural landscapes and tools development for policy coordination.

At the same time, it is necessary to recall that the main research funding program that supported the steps that led to the emergence of maritime spatial planning is the INTERREG Operational Program [5], which since the 1990s has funded studies and research on spatial planning and transnational cooperation.

Among the projects funded under the INTERREG Community Initiative we mention the PlanCoast project, which was a project carried out between 2006-2008 through the INTERREG III CADSES operational program and aimed at developing tools for the integrated planning in coastal and maritime areas in the Black Sea regions, Baltic Sea and Adriatic Sea, implemented by 16 partners from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Germany, Italy, Montenegro, Poland, Romania, Slovenia and Ukraine, Romania being represented by the National Institute of Research and Development for Urban and Spatial Planning - URBANPROIECT Bucharest and "Grigore Antipa" Marine Research National Institute.

Also, as the issue of maritime spatial planning has become more important, research in this area has gained a new dimension, that of transnational cooperation, mentioning here the European research co-ordination projects: MarTERA, MARTEC II - Maritime Technologies as ERA-NET, SEAS-ERA-Towards Integrated Marine Research Strategy and Programs, or the Marine Spatial Planning Research Network, which is made up of numerous researchers and provides an important information base for stakeholders.

III. EUROPEAN LEGAL REGULATION ON MARITIME SPATIAL PLANNING

Maritime Spatial Planning (MSP) supports and facilitates the implementation of the Europe 2020 strategy for a smart, sustainable and inclusive growth and represents "a process of public analysis and allocation of spatial and temporal distribution of human activities in marine areas to achieve the environmental, economic and social goals "[1].

According to UNESCO's definition, maritime spatial planning is "a practical way to create and establish a more rational way of organizing the use of maritime space and the interaction between its uses, to ensure the balance between the need for development and the need for protection of marine ecosystems and achieving social and economic objectives, established in a transparent and planned manner" [6].

Article 5 of Directive 2014/89 / EU states that "the primary purpose of maritime spatial planning is to promote sustainable development and to identify the use of maritime space for different uses as well as to manage space use and conflicts in marine areas" [7].

In accordance with art. 2 (3) of the MSP Directive, the following activities / uses should be considered in the maritime spatial planning process: aquaculture areas, fishing areas, installations and infra structures for the exploration, exploitation and extraction of oil, natural gas and other energy resources, minerals and aggregates, renewable energy production facilities and infrastructures; shipping routes and traffic flows; military training areas;

protected areas and species; scientific research; cables and submarine pipelines; cultural submersible patrimony [7].

It is important to note that the multitude of activities to be harmonized at spatial level and planned at sea level are subject to complex international and European legal framework on: transport and navigation, fisheries, natural environment and landscape, energy, archeology.

Among the objectives of maritime spatial planning we mention the management of use conflicts between different economic sectors, the identification of synergies between different uses, the promotion of a sustainable maritime economy, the protection and preservation of great maritime diversity, the welfare of coastal communities through the sustainable use of resources, predictable business environment, clarification and simplification of licensing and licensing processes taking place in the maritime area, setting clear and transparent mechanisms for decision-making, coordination and integration of different sectoral policies.

It is recognized that maritime spatial planning is an extension of land-use planning policies and instruments, first to the coastal zone, defined as the land-to-sea area, for a sustainable coastal management and currently applied to the activities taking place at sea.

Although land spatial planning and marine/ maritime spatial planning (MSP) have an important common background, both being planning processes that seek to link human activities to a definite space, processes that end with the design and implementation of a physical plan in time of a set of measures, there are also elements that differentiate the two types of planning, namely differences related to the management of the space in question, for instance in MSP there are planned activities which are carried out vertically at different levels - at the bottom of the sea, in water or its surface, imposing certain technical features, and last but not least, the fact that there are unprofessional uses / usages related to a space with a completely different ownership regime.

Property on the sea and the objects inside it is governed by a corpus of normative acts that are part of international law, which will be briefly discussed in the next section of this article.

Given that "marine management requires appropriate policies and integration of different sectoral approaches and interests into a coherent set of measures" [8], and coastal and maritime sectors have significant potential for a sustainable growth, and they are essential for the implementation of the 2020Europe Strategy [4], prior to the approval of the maritime spatial planning Directive, a number of legal regulations have been adopted at the European Union level to ensure a sustainable management of these areas. Maritime Spatial Planning has been considered as part of Integrated Coastal Zone Management (IZCM) [9] until the entry into force of 2014/89/EU Directive.

Thus, the main instrument for promoting integrated coastal zone management is Recommendation 2002/413/EC of the European Parliament and of the Council on the implementation of Integrated Coastal Zone Management in Europe. Chapter I of this recommendation highlights the importance of a strategic approach to coastal zone management based on the recognition of climate change threats, the risks of rising sea levels and the increased frequency and violence of storms, the adoption of appropriate measures for the protection of coastal human settlements and cultural heritage, and by improving the coordination of actions taken by authorities in the area of sea-to-shore interaction [9].

Another reference document is the Marine Strategy Framework Directive 2008/56/EC which represents the regulatory framework for the Member States of the European Union to take the necessary measures to achieve or maintain the good environmental status of the marine environment by 2020 [10].

It should also be mentioned here the European legislation related to maritime spatial planning, namely an important set of European directives transposed into national legislation, such as: Birds Directive 2009/147 / EC, Habitats Directive 92/43/EEC, Water Framework Directives, strategic environmental assessment and environmental impact assessment, and, last but not least, the INSPIRE directive.

In this European legislative context, the need to use the maritime space for various purposes (eg: installations for the production of energy from renewable sources, exploration and exploitation of oil and gas, maritime navigation and fishing activities, ecosystem and biodiversity conservation, the extraction of raw materials, tourism, aquaculture facilities and underwater cultural heritage) has led at the level of the European Union to the development of a specific instrument to establish a common framework for maritime spatial planning - Directive 2014/89/EU.

IV. LEGAL REGULATIONS IN THE CONTEXT OF MARITIME SPATIAL PLANNING IN ROMANIA

The legal framework for maritime spatial planning can be structured into three components:

- Specific legislation for MSP;
- Sectoral legislation with impact on MSP (environment, water, protected areas, landscape, construction, energy, transport and navigation, fisheries, cultural heritage and archeology);
- Horizontal legislation: international law, environmental impact analysis.

This article will not deal exhaustively with all normative acts, but some relevant issues will be discussed in relation to certain issues that have proved to be insufficiently deepened / regulated in Romania and require debates among the stakeholders.

Thus, in order to transpose Directive 2014/89/EU, Romania adopted Ordinance no.18 on August 24th, 2016 on Maritime Spatial Planning, approved by Law no. 88/2017. According to this, there is an obligation to develop and approve the Maritime Spatial Plan by March 31, 2021 at the latest [11].

However, in the application of O.G. 18/2016, a Decision of the Romanian Government (a draft decision) regarding the approval of the Organization and Functioning Regulation, as well as the nominal composition/constituency of the Maritime Spatial Planning Committee is in the process of being adopted.

Romania's Black Sea's concerns have begun since the signing by the riparian states (Russia, Ukraine, Romania, Bulgaria, Turkey and Georgia) of the 1992 Bucharest Convention on the Protection of the Black Sea Marine Environment, convinced that "the natural and Black Sea recreation resources can be preserved, first of all, by the joint efforts of the Black Sea riparian countries" [12].

We also mention some acts in the field of international law, which are relevant to this article, noting that in fact there is an impressive corpus of acts as follows:

- The United Nations Convention on the Law of the Sea (UNCLOS) in Montego Bay, a global international treaty establishing the rights and responsibilities of nations with regard to the sustainable use of the seas and elements related to the exploitation of submarine resources, ratified by Law No. 110/1996;
- The UNESCO Convention on the Protection of the Submerged Cultural Heritage (Paris 2001), accepted in Romania by Act No 99 of 16.04.2007, which is in full agreement with UNCLOS, provides for ethical principles of intervention, protection measures, cooperation mechanisms between states, scientific guidelines for submarine archeology, a convention applied differently from the Valetta Convention on the Protection of Archaeological Heritage, ratified by Law no.150/1997.
- United Nations (UN) Convention on the Protection of the World Cultural and Natural Heritage of 23.11.1972, published in the Official Gazette of Romania, in force since March 31,1990.

The applicable sectoral legislation contains regulations specific to those areas of activity listed above and contains European directives of direct applicability, transposition of European directives, national regulations approved by normative acts of different ranks (laws, decisions of the Romanian Government, ministerial orders, etc.).

The effort to engage and analyze the consistency of this corpus of impressive normative acts with regard to its applicability to maritime spatial planning is considerable but necessary not only as an obligation to transpose the MSP Directive and the elaboration of the maritime spatial plan but also in the context of new types of investments which require the improvement of existing regulations or the development of specific primary and secondary legislation, especially for installations for the production of renewable energy, the exploration and exploitation of oil and natural gas, the construction of cables and submarine pipelines.

In addition to the above-mentioned European documents, some European regulations are also part of the legal framework for maritime spatial planning to be considered, such as: Regulation (EU) No. 508/2014 of the European Parliament and of the Council of 15 May 2010 on the European Maritime and Fisheries Fund (FEPA) or Regulation (EU) (EC) No. 347/2013 of the European Parliament and of the Council of 17 April 2013 on trans-European energy infrastructure guidelines, repealing Decision No. 1364/2006/EC and amending Regulations (EC) 713/2009, (EC) No. 714/2009 and (EC) No. 715/2009.

The projects on the exploration and exploitation of new hydrocarbon resources in the Romanian Black Sea sector are investments of major importance for achieving the energy, economic and climate objectives of Europe and Romania.

Also, the projects for the development and exploitation of natural gas and interconnection and development of natural gas transport and supply infrastructure are a national priority for energy security, ensuring the competitiveness of the economy and increasing citizens' standard of living of by providing access to energy.

As a result of the analysis of normative acts and of the dialogue with the industry, some aspects insufficiently regulated have been highlighted as a result of the fact that this type of investment has not been developed in Romania or, in some cases, it was developed only by the state, in a centralized economy during the communist era.

Thus, there are issues that need to be clarified regarding the ownership right, namely the clarification of the acts that allow the obtaining of building permits in the sea or under the beach, the access of the investors to other exploration/exploitation perimeters in order to organize the execution of the works, technical issues related to quality assurance in construction for buildings made at sea or for pipelines linking operating perimeters, traversing areas from the sea are located on the seabed, passing under the beach and going to the surface, connecting to the national transport system gas, clarifying the competencies of the competent authorities for the approval and authorization, establishing appropriate procedures for the archaeological researches related to the submarine pipelines and cables, provided that the continental shelf of the Black Sea was classified as a historical monument under the aforementioned conventions.

We can say that the challenges Romania is facing with in the implementation of the Maritime Spatial Planning Directive are not only a mere transposition of it through a normative act and the development of a document based on a planning process, but also adapting its legal framework and planning, authorization and technical regulation practices.

In this context, the first steps were taken with the adoption of new specific normative acts which, besides the transposition order, need to be mentioned: Law 185/2016 on the approval of specific measures for the implementation of projects of national interest in gas, Law 165/ 2016 on the safety of offshore oil operations or the special procedure for the authorization, construction, execution and operation of pipelines transporting natural gas from the fields located off the Black Sea to pipelines of projects of national importance or, as the case may be, to other pipelines covered by the projects included in the development plans of the National Gas Transmission System.

V. CONCLUSIONS

Maritime Spatial Planning (MSP) is a challenge for Romania in the context where it is a field that has not been much explored and which still requires both scientific research and the regulation of some issues that have not been so far the subject of any primary or secondary normative acts.

It must be recognized that, despite the complexity of the legal framework, there is currently a regulatory vacuum for investment arising from the challenges of both the struggle to conquer new energy resources/exploitation of natural resources - both renewable and non-renewable (wind-driven turbines, offshore oil and gas exploitations), similar situations being encountered in many European countries that have developed a specific legal framework not only for maritime spatial planning but also for the actual realization of these investments (building authorization, technical regulations).

In this respect, it is necessary, on the one hand, to capitalize on the results of existing research and to continue the scientific research of the phenomena and processes taking place at sea and in the adjacent area, but on the other hand, by communicating with all the relevant actors - public institutions with responsibilities in the field (existing or in the process of being organized, as well as recently introduced authority on offshore oil operations, university and research environment, representatives of the industry, etc.) to identify the legislative vacuum areas and to develop a coherent legal framework that responds to the objectives that maritime spatial planning pursues.

ACKNOWLEDGEMENT

This work has been supported by the European Commission through the European Maritime and Fisheries Fund, grand No. EASME/EMFF/2014/1.2.1.5/2/SI2.707672 MSP LOT 1/BLACK SEA/MARSPLAN-BS.

REFERENCES

[1] A.-I. Petrişor, "Methodology for assessing environmental quality in the Romanian coastal area using GIS", *Urbanism. Architecture. Constructions*, vol. 5, nr. 3, 2014, pp. 69-72.

[2] Ordonanţa de Urgenţă nr. 202 din 18 decembrie 2002 privind gospodărirea integrată a zonei costiere, publicată în Monitorul Oficial nr. 965 din 28 decembrie 2002.

[3] A.-I. Petrişor, "The territorial competitiveness of sustainability cannot be assessed by a single domain", *Urbanism. Architecture. Constructions*, vol. 5, nr. 4, 2014, pp. 27-34.

[4] European Commission (2010), Communication EUROPE 2020 - A strategy for smart, sustainable and inclusive growth, http://www.eufinantare.info.

[5] European Commission, European Territorial Co-operation, http://ec.europa.eu.

[6] UNESCO: Marine spatial planning A Step-by-Step Approach toward Ecosystem-based Management, http://unesdoc.unesco.org.

[7] Directiva 2014/89/UE a Parlamentului European și a Consiliului din 23 iulie 2014 de stabilire a unui cadru pentru amenajarea spațiului maritim (JO L 257/135, 28.8.2014).

[8] N. Schaefer, V. Barale, "Maritime spatial planning: opportunities & challenges in the framework of the EU integrated maritime policy", *Journal of Coastal Conservation*, vol. 15, no. 2, pp. 237-245, Springer, June 2011.

[9] Recommendation 2002/413/EC of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe (OJ L 148, 6.6.2002).

[10] Directiva 2008/56/CE a Parlamentului European și a Consiliului, Directiva-cadru Strategia pentru mediul marin (JO L 164/19, 25.6.2008).

[11] Ordonanţa nr. 18/2016 din 24 august 2016 privind amenajarea spaţiului maritim publicată în Monitorul Oficial al României nr. 658 din 29 august 2016.
[12] Convenţia privind protecţia Mării Negre împotriva poluării din 21 aprilie 1992, publicată în Monitorul Oficial al României nr. 242 din 29 septembrie1992.

Dragoş-Florian Vintilă: Lecturer, Ovidius University of Constanta, Faculty of Civil Engineering, Vice Chairman of the National Commission for Seismic Engineering, technical expert: A6 - Strength and stability of harbor and offshore constructions; A7 - Strength and stability of hydro-technical constructions; A1 - Mechanical resistance and stability of civil, industrial and agricultural constructions; energy; telecommunications; mining; municipal utilities and concrete, reinforced concrete, masonry, wood structures; PhD diploma in Civil Engineering from 2010; Full member in the specialized technical committees of the Ministry of Regional Development and Public Administration: CTS 1 natural hazards and risks; Member in professional associations and international organizations: ACI – American Concrete Institute - ACI Member #: 1323612; Fib - Fédération internationale du béton.

Cosmin Filip: Lecturer, "Ovidius" University of Constanta at the Faculty of Civil Engineering, 2011. Graduate of the Technical University of Civil Engineering of Bucharest, Bachelor Degree in: Economic Engineering in Construction in 2004 and of the Masters Degree in: Construction Project Management at the Faculty of Civil Engineering, "Ovidius" University of Constanta in 2006. Doctor in civil engineering since 2010. Member of the General Association of Engineers in Romania - AGIR.

Mari-Isabella Stan: Associate Professor at the Faculty of Civil Engineering and Faculty of Law and Administrative Sciences, "Ovidius" University of Constanta since 2011. Graduated "Coastal Engineering" at the Faculty of Civil Engineering, "Ovidius" University of Constanta in 1998 and the Master's program "Public Policies and Public Administration" at the Faculty of Philosophy, University of Bucharest in 2002. Doctor in Civil Engineering since 2006. Member of the General Association of Engineers in Romania - AGIR.

Diana-Doina Ţenea: General Manager of the Department for Regional Development and Infrastructure, Ministry of Regional Development, Public Administration and European Funds, Lecturer at "Ovidius" University of Constanta, the Faculty of Civil Engineering since 2000. Graduated: Technical University of Civil Engineering, Bucharest, Specialization: Railways, Roads and Bridges in 1990 and the Faculty of Economics, the "Ovidius" University of Constanta in 2002. Doctor in Civil Engineering since 2007. Member of the General Association of Engineers in Romania - AGIR.

Anca Ileana Ginavar: Territorial and Urban Planning Architect, Master Degree in Integrated Urban Development, Head/ Manager of Territorial Planning and Urbanism, Regional Development and Infrastructure General Directorate within the Ministry of Regional Development, Public Administration and European Funds, Associate Professor at the University of Architecture and Urbanism Ion Mincu Bucharest since 1999 and at the University of Bucharest - Faculty of Geography since 2006, member of the Romanian Architectural Order, of the Professional Association of Urbanists from Romania, member of the Scientific Committee of the European Urban Research Association during 2007-2014.