

**REPORT ON
THE SITUATION REGARDING
MARINE SPATIAL PLANNING IN
TURKEY**

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1. Is there a specific law in your country to regulate marine spatial planning?

- **If yes, describe its main content and present the main elements of marine spatial plans.**
- **If not, are there some specific legal provisions to deal with marina planning in the law on spatial / physical / regional planning in the country? If yes, please, provide some details, characteristics.**

There is no specific law in Turkey to regulate marine spatial planning that directly aims the preparation of marine spatial plans. Article 43 of the Turkish Constitution describes the use of shores and shore strips. This article states: "Shores are under the jurisdiction and responsibility of the State. In benefiting from the sea, lake and river shores, and from shore strips bordering sea and lakeshores, benefit to the public is primarily sought. The widths of shores and shore strips, in relation to purposes of use, possibilities and conditions for people to benefit from these places are established by law". Any kind and scale of spatial planning activity that effects and/or describes the human for the use of sea is in the scope of "Shore Law" number 3621. If these activities, constructions are more strictly regulated with different legislation (National Parks Law, Environmental Law etc.) then this legislation is used for the area. Therefore, Shore Law is in use as the main legislative structure in Turkey and it does not make a separation between landward and seaward planning; both of them are in the scope of this law. The characteristics and detailed information is provided below for Shore Law and other specific legislation related with sea use;

Shore Law (4.4.1990. Amendment 1.7.1992)

The purpose of this Law is stated (Art 1) as "to set out the principles for protection of the sea, natural and artificial lakes, and rivers shores, and the shore strips, which are extensions of these places and are under their influence, by paying attention to their natural and cultural characteristics, and for their utilization towards the public interest, and access for the benefit of society". The Law gives definitions of the "shore line" and the "shore". The "shoreline" is defined as: "the line along which water touches the land at the shores of seas, natural or artificial lakes, and rivers, excluding the inundation periods". The "shore" is the area between the shoreline and the "shore edge line", which is defined as "the natural limit of the sand beach, gravel beach, rock, boulder, marsh, wetland and similar areas, which are created by water motions in the direction of land starting from the shoreline". It is observed that, although the location of the shore edge line is very important for managing development at the shore, its definition is far from clear and precise. The "shore strip" is set to have a minimum of 100 m width horizontally, starting from the "shore edge line", according to the amendment-dated 1.7.1992.

Shore is "open to benefit of all, equally and freely"(Art. 6). It is illegal "to excavate the shore, and to mine sand, gravel etc. at scales which may cause changes at the shore". It is forbidden to dump excavated soil, furnace ballast, debris, or wastes along the shore and the shore strip.

On the shore, subject to a land use planning permit; a) infrastructural and other facilities such as pier, port, harbour, berthing structure, quay, breakwater, bridge, seawall, lighthouse and storage facility, salt production plant, fishery installations, treatment plant and pumping station, which aim either shore protection or utilization of the shore for the public interest; b) buildings and facilities like shipyards, ship

dismantling plants, fish farming-mariculture facilities, which can not be located inland due to the nature of the activity; can be built.

Along the first 50m width of the shore strip (Zone A), apart from those which can also be built on the shore as described above, no building of any kind is allowed. This area can only be planned and used “for pedestrian access, walking, relaxing, sightseeing and recreational purposes”. On the remaining part of the shore strip (at least 50 m wide), roads, recreational and tourism facilities (other than those which offer boarding) open to public use, and public waste treatment plants can be built, subject to land use planning permit.

Across the shore and the shore strip, building of barriers that hinder free access, such as walls, fences (wooden or wire), ditches, piles, or similar, is prohibited.

Harbours Law (14.4.1923)

Management, cleaning, deepening, enlargement, dredging, placement of buoys, and protection, and all related harbour works are the responsibility of the Government. The government agency, which carries out this responsibility, is the Ministry of Transport.

“Without obtaining an official permit from the harbour master, pier, quay, boat-shelter, repair shop, factory, recreational facility, warehouse, shop and public sea baths (this term is probably used to indicate public beaches) cannot be constructed on sea shores; debris, excavation material, ballast, wastes and similar substances can not be dumped in places which are prohibited by the harbour master” (Art. 4). The relevant articles of the Environmental Law superseded this article.

“At places in harbours, specified and restricted by the Government, it is forbidden to drill piles at the sea shore; to occupy sea area by reclamation; to build restaurants, boarding houses, or similar facilities; and to restrict the size of the harbour in any way” (Art. 5).

Diving activities in coastal waters are subject to permits from the harbour master (Art. 6).

Other items covered by the Harbour Law include:

- Removal of shipwrecks and other objects that disrupt the safety of navigation in harbour areas;
- Regulations on ship sheltering and loading and unloading in harbours.

The Environmental Law

This Law administered by the Ministry of Environment and Forestry covers environmental issues generally. Several by-laws that have been passed under the Environmental Law deal with issues such as air pollution, noise, water quality, solid waste management and environmental impact assessment (EIA), and provide the rules and regulations for environmental management Art. 8, entitled the “prohibition of pollution”, refers to by laws that cover various issues related to pollution of coastal waters. The By laws on “Water Pollution Control” classify lake waters according to their quality (Art. 9), and coastal and seawaters according to their dominant use(Art.14).

For the purpose of establishing the necessary set up for securing the transfer the natural beauty of areas which have ecological significance at national and international levels and which are sensitive to degradation, to future generations, the Council of Ministers is authorized to identify and declare “Specially Protected Areas”, to determine the principles of protection and utilization within these areas, and to

decide which ministry is going to prepare and implement the plans and projects (Art. 9).

“Organizations, companies and establishments that may cause environmental problems through activities which they plan to carry out, are required to prepare an environmental impact assessment report” (Art. 10). The EIA By laws (passed on 7.2.1993 for the first time, and revised twice on 23.6.1997 and 6.6.2002) provide the list of projects for which environmental impact assessment reports are required, outline the contents of the report, and describe the authority and procedure for their approval.

The Fisheries Law

The scope of this law is the “protection, exploitation, production and control of living resources” (Art. 1). The responsible government unit is the Ministry of Agriculture & Rural Affairs.

The Law prohibits the dumping of substances into inland waters and into the production areas in seas and their neighbouring areas, which may cause harm to living resources, or to people who catch or consume them, or to the vehicles, gears and tools that are used to catch them.

National Parks Law

The purpose of this Law is specified as the “identification of areas which possess values of national and international importance, as national park, nature park, nature monument, and nature protection area, and the protection, enhancement and management of these areas without degrading their values and characteristics” (Art. 1).

National parks are declared by a decree of the Council of Ministers, following a proposal of the Ministry of Forestry (renamed the Ministry of Environment and Forestry in 2003), which is supported by earlier reports from the Ministries of National Defence, Public Works and Settlements, Culture, and Tourism, and other ministries if deemed necessary (Art. 3). The Ministry of Environment and Forestry is responsible for the management of the areas covered by this Law.

Council of Ministers’ Decree for the Establishment of an Agency for Specially Protected Areas

This Decree aims to set up an Agency for Special Protected Areas, which has duties and responsibilities “in special protected areas already declared or yet to be declared, to take all kinds of measures to solve environmental problems and to protect environmental wealth, to establish principles of protection and utilization in these areas, to prepare land use plans, to revise and approve plans of all scales and planning decisions” (Art. 1). The Agency was initially set up under the Prime Minister’s Office. It was transferred to the auspices of the Ministry of Environment and Forestry.¹

¹ PAP/RAC: “Coastal Area Management in Turkey”, Özhan, Erdal 2005 is widely used for 1. and 2. answers.

2. If there is no specific legislation dealing with marine spatial planning, which ministries (institutions) are competent to regulate sea-use, such as for the issuing of permits to install fish farming (aquaculture in general), define sea ways for ships, declare protected areas in the sea (nature protection, cultural heritage), define recreational zones, off-shore wind farms to produce energy, and alike?

Main competent institutions and their roles for regulating sea-use are;

The Ministry of Public works and Settlements: Planning implementations in coastal zones and monitoring implementation plans.
Governorships and municipalities: Spatial Planning implementations in coastal zones and monitoring
The Ministry of Environment and Forestry: Nature protection, protected areas and high scale planning
The Ministry of Culture and Tourism: Tourism planning, cultural heritage.
The Ministry of Agriculture: Fish farming
The Ministry of Energy and Natural Resources: Energy lines, off-shore oil drilling.
The Ministry of transport: Maritime Transport Master Plans.
Maritime Undersecretary: Sea ways for ships

Legal structure of competent institutions for the implementation is given below;

Main public authority in charge	Related legislation
Ministry of Public Works and Settlements	Shore Law Settlements Law
The Prime Minister's Office, Under Secretariat for Maritime Affairs	Harbours Law
Ministry of Transportation	Harbours Law
Ministry of Environment (Ministry of Environment and Forestry)	Environment Law The Ministerial Decree for SPAs
Ministry of Agriculture	Fisheries Law
Ministry of Forestry (Ministry of Environment and Forestry)	National Parks Law Forest Law
Ministry of Domestic Affairs	Coastal Security Force Law Municipal Law
Ministry of Culture (Ministry of Tourism and Culture)	Law for the Conservation of Cultural and Natural Wealth
Municipalities	Municipal Law
Ministry of Tourism (Ministry of Tourism and Culture)	Tourism Incentives Law

3. What is the procedure of co-ordination (decision-making) for these sea-uses?

Every institution has the authority to act in the limit that their legislation gives them the responsibility. Shore Law is the main leading legal structure and is any other legal instrument brings out more strict decisions for the sea-use, then, it is implemented. New constructions on marine areas (filling, breakwater, marina etc.) requires EIA and Ministry of Environment and Forestry is responsible for EIA. A draft By Law on SEA is already prepared and will be in force at the end of 2007. Plans and programmes considering coastal strip will be in the scope of the regulation.

There are 22 institutions in total that are in charge. Ministry of Environment and Forestry and Ministry of Public Works and Settlements are leading institutions in this field. Ministry of Environment has the legal responsibility of high scale spatial planning, implementing environmental assessment tools, defining spatial protected areas, national parks and has the authority to manage and monitor the developments in these areas. Ministry of Public Works and Settlements takes it importance from Shore Law and low scale spatial implementation plans. They control all implementation activities on the sea and shore.

Most of the decisions by any of the institutions are given including other official opinions of the other institutions. However, sometimes these opinions are not taken into account.

4. If sea-use plans exist, provide some examples in the annex of this report (maps of local, regional, state sea-use plans). If no such plans exist, provide some examples of the current state of sea-uses at local / regional level.

Sea is used for the aim of recreation, maritime activities and aquaculture, mainly in Turkey. The Ministry of Environment and Forestry makes high scale plans that brings out decisions also for sea-use. Examples of spatial decisions (plans) for the sea-use are given for Dilek Peninsula and Gelibolu Peninsula National Parks in Annex-1.

Gelibolu National Park is a special historical area and there are protected archaeological heritage sites in the sea that are defined for sunken war ships. There are provisions considering the sea inside the Long Term Development Plan (1/100.000 scale);

“a. Water/Sea pollution: Prevention of sea pollution in Historical National Park (HNP) is a principle of Long Term Development Plan (LTDP). HNP management takes into account; 2872 Numbered Environment Law, 3621 numbered Shore Law, 1380 numbered Water Products Law, 618 numbered Harbours Law, 2692 numbered Turkish Coast Guard Command Law and other related legislation. HNP management aims for the prevention of sea pollution in Dardanelles Strait and Saroz Gulf and will give effort in this direction.

b. Streams: HNP management, with utilizing from Dardanelles Strait streams, produces solutions for environment friendly energy production including also solar and wind energy. It is a principle to promote environment friendly energy for HNP.

c. Aquaculture: No new aquaculture area is allowed inside HNP's land and sea borders, existing ones will be closed. HNP management will prepare an action plan for the clearance of existing (fish, mussel) facilities and eliminate their environmental damages.

d. Underwater activities: It is the principle to protect sunken and other undersea heritages. Thus, sunken visits (sunken tourism), underwater hunting, diving, underwater photograph and related activities must be organized under the responsibility of HNP management. Management makes all necessary coordination and cooperation with Strait Command, Ministry of Culture and Tourism and related responsible public institutions.

f. Coasts and coastal management: Description of HNP coastal edge line must be made and coastal strip should be protected in a sustainable manner. Constructions and usages inside the coastal strip must be made according to Shore Law. No implementation contrary with LTDP is allowed. “

The aim of Dilek Peninsula LTDP is to ensure natural resources continuity and use and protect balance. Planning decisions part describes provisions for coastal area and sea;

“1 km. seaward is defined as “sensitive zone” Provisions for his area:

Coast line can not be changed, no filling or drilling is allowed, any kind of fishery, aquaculture activity that threatens natural ecosystems and geomorphologic structure is forbidden, only traditional fishing methods are allowed and possible fishing areas and types of fishing ships are described in the planning provisions.

Any kind of diving, underwater photography, film etc. is subject to permission. Any kind of activity that negatively effecting the water quality and creates pollution is forbidden in this zone. Only specially permitted ships can enter the national park. No other ships are allowed inside sensitive zone “

As it is also understood from the summary of the planning provisions, this is also a conservation plan and it brings out stricter provisions than Shore Law”. There are also different spatial plans in Turkey that brings out tourism, housing, transport infrastructure to the region and they are not as conservative as above mentioned plans. However, important point is; they are still bounded with different legislation.

5. Give some comments on how you find the issue of co-ordination of the uses on the sea in the country.

What are the expected conflicts/problems if sea-use is not regulated in the future?

Which are the most emerging conflicts?

There were several harbours master plans prepared in the past. However, these plans are not implemented and the locations for harbours were selected according to political reasons.

There are 22 institutions in charge for the sea and coastal areas. Many of the problems occur because of overlap of authorities and responsibilities and gaps in the related laws. Gaps are unavoidable in this chaos environment. Absence of co-ordination and cooperation and authorization conflicts between these several old and new, local and central institutions is an obstacle for the healthy use of sea and shore. It is obvious that authority for the marine areas should be collected in one institution.

I do not expect any conflicts because of absence of sea-use spatial plans. However, problems should be solved by an effective coordination, implementation of ICZM.

6. What would you recommend for the regulation of the sea-use and marine spatial planning in your country? What should in your opinion be the relation ICZM vs. marine spatial planning?

Sea-use and marine spatial planning are not divided planning fields in Turkey. Every planning activity or responsibility for the coastal strip is also related with the marine spatial planning. My opinion is that ICZM should not be separated into sea part and land part and individual marine spatial plans are developed. They should rather be integrated. However, it is still a fact that sea is used denser than the past and the possible negative effects of these uses on marine environment, historical and cultural heritage should be more taken into account while bringing decisions in spatial plans.

Draft ICZM protocol also gives enough importance not only to landward of coastal zones but also to seaward. Aquaculture, shipping, construction activities, oil drilling and all kind of other uses for the marine area are given importance with their possible negative effects and measures of mitigation is described in the draft protocol. Ecosystem is a whole and should not be separated into two since interaction between the coastal zone and sea is important.