MARITIME GOVERNANCE AS THE ENVIRONMENTAL PROTECTION DRIVER

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Abstract: The oceans and seas are causally interlinked so any environmental protection actions and policies in one sea area have an impact on other areas, especially on small seas such as the Adriatic Sea. This paper elaborates maritime governance in the Republic of Croatia and presents a model of integrated approach by Adriatic States in favour of environmental protection of the Adriatic Sea which entails joint policy and system of governance in certain aspects of maritime affairs. The authors call attention to the necessity of establishing a Coast Guard in the Adriatic Sea, as an international system of maritime surveillance and monitoring, to deal with the challenges of environmental protection.

Key words: maritime governance, environmental protection, coast guard, maritime surveillance

1. INTRODUCTION

As the Republic of Croatia has a coastline length of 5,278 km with 1,242 islands, the Adriatic Sea is one of the major national, economic and strategic resources affecting revenues from tourism, commerce, shipbuilding, shipping and sea-based activities. At the same time, the Adriatic Sea is exposed to many risks such as terrorism, illegal migration, smuggling of people and goods, and, most of all, natural and ecologic disasters. The vulnerability of the Adriatic Sea is caused by the fact that it is an impasse of the Mediterranean Sea with very slow water exchange that makes ecosystem extremely delicate to preserve. The concentration of industry and inhabited areas on Adriatic coast and frequent traffic of ships, especially tankers, presents a constant risk of environmental catastrophes.

2. INTERGOVERNMENTAL COMPETENCE FRAMEWORK IN MARINE ENVIRONMENTAL PROTECTION

The significant sources on maritime governance law in the Republic of Croatia are the Environmental Protection Act 2007 and Maritime Code 2004, together with a large number of governmental regulations and ministerial regulations and orders adopted in accordance with the provisions mentioned. Those regulations empower the Ministry of the Sea, Traffic and Infrastructure to regulate and enforce provisions relating to the environmental protection of the Adriatic Sea within national jurisdiction while the Ministry of Environmental Protection, Physical Planning and Construction perform its tasks in environmental protection through the
Department of Inspectional Affairs. The key competence to environmental safeguard of the Adriatic Sea lies within the Ministry of the Sea, Traffic and Infrastructure, in particular with its Department for Sea and Seabed Protection and Diving within the Directorate for Seafaring and Inland Waterway Navigation Safety and Sea and River Protection. That body oversees the obligation of sea and seabed protection for pollution by ships, control of enterprises that deal with sea and seabed environmental protection and cooperates with domestic authorities and ship owners in dealing with those tasks, it cooperates with the International Maritime Organization and controls implementation of international law and its enforcement in the area of sea and seabed protection within the national Jurisdiction.

An important role is also played by harbourmasters’ offices, as the field branch offices of Ministry of the Sea, Traffic and Infrastructure. The obligation of harbourmasters’ offices is to monitor navigation in internal and territorial waters of the Republic of Croatia, actions of search and rescue on sea, inspection of navigation safety, inspection of the maritime domain, registration and deletion of vessels as well as organizing a register of vessels. Additional duties include, among others, establishing vessels’ ability to navigate, tonnage measurement of ships, issuing of documents necessary for navigation, establishing the level of proficiency in case of professionals employed in the maritime transport. These duties of the harbourmasters’ offices represent the very core of decision-making and enforcement of environmental protection provisions. By performing their duties, the harbourmasters’ offices directly enforce legislation regarding environmental protection, while the horizontal cooperation with the harbourmasters’ offices is mostly performed by the maritime police stations within police county administrations.

3. ESTABLISHING THE COAST GUARD IN THE REPUBLIC OF CROATIA

The initiative that new organization in charge of controlling, managing and protecting the Adriatic Sea took place back in the early 1990s by contemplating comparative legislation, practice and experience from neighbouring country of the Republic of Croatia. In August 2004, after Croatian Parliamentary Declaration of Establishing the Zone of Ecological Protection and Fisheries, as a surrogate to exclusive economic zone, it was quite obvious that present form of maritime governance was inadequate for performing the intricate task not only in internal waters and territorial sea, but also in the new area called zone of ecological protection and fisheries. Therefore, the Croatian Government formed a body for harmonising the tasks in controlling and protecting the various legal regimes of the sea.

The activity mentioned resulted in the adoption of the Coast Guard Act in October 2007 establishing the Croatian Coast Guard as a new authority for efficient control and protection of national rights and interests at sea, in accordance with the provisions of international law laid down in the United Nations Convention on Law of the Sea 1982. The main task of the Coast Guard is protection of coastal states’ rights in the exclusive economic zone, on the continental shelf and in high seas, while in internal waters and territorial sea the Coast Guard provides support for other authorities in performing their tasks, such as enforcement of international and domestic legislation.

The Coast Guard in the Republic of Croatia is part of the Croatian Navy. Although there were different experiences of coast guards being placed under military or civilian authority, Croatia chose the first option. Proposing the Bill to Parliament, the Croatian Government emphasised the need for transformation in the traditional role of the Navy in peace-time in accordance with the Strategy of National Security as well as the fact that current capacities of the Navy should be sufficient to enable the Coast Guard to play a role in performing its tasks. On the
other hand, it is concluded that the goals laid down in the proposed Bill should be achieved without any unnecessary investment. These were the main reasons for choosing the military structure of the coast guard. The Coast Guard is overseen by a commander who is an officer of the Croatian Armed Forces appointed by the President of the Republic on proposal of the Government and personnel of the Coast Guard are members of the Armed Forces. Cooperation of the Coast Guard with other authorities in charge of maritime affairs is performed through the Command of the Coast Guard.

The Coast Guard Act established the Central Coordination for the Control and Protection of National Rights and Interest at Sea. This central coordination body consists of representatives of all relevant authorities in maritime affairs, i.e. Ministry of Defence, Ministry of Sea, Traffic and Infrastructure, Ministry of Internal Affairs, Ministry of Agriculture, Fishery and Rural Development, Ministry of Environmental Protection, Physical Planning and Construction, Ministry of Economy, Labour and Entrepreneurship, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Culture, Ministry of Justice, Director of National Protection and Rescue, Director of Inspectoral Affairs, the Chief of Police, the Chief of General Staff of Croatian Armed Forces, the Croatian Navy commander and the Coast Guard commander. Duties of the Central Coordination are to analyse security and protection of sea areas under the State jurisdiction, to give guidelines for planning the surveillance and protection of national interests at sea, to inform the Government about measures taken for implementation of these plans and to propose new measures to enhance security and protection of sea areas under national jurisdiction. For technical and professional work on proposals for the Central Coordination the Technical Board was established and is presided over by the Commander of the Coast Guard.

The Coast Guard Act of 2007 specifically regulates the rights and duties over protection of the sea environment. The Coast Guard is expressly entitled and obliged to perform surveillance and protection of sea environment in zones of ecological protection and fisheries and to support the national authorities for maritime affairs in doing those tasks in internal waters and territorial sea. The Coast Guard is also obliged to perform tasks in accordance with the protocol valid for an intervention plan and unexpected pollution at sea.

4. SUB-REGIONAL COOPERATION IN THE NORTH ADRIATIC

The Republic of Croatia cooperates with the Republic of Slovenia and Italy at a sub regional level in protection of the Adriatic Sea. In 2008 the states adopted, within the framework of the Barcelona Convention and in conformity with Article 17, Agreement on the Prevention and Emergency Protocol, a Sub-regional Contingency Plan for Prevention of, Preparedness for and Response to Major Marine Pollution Incidents in the Adriatic Sea. The purpose of the Sub-regional Contingency Plan is to establish, within the framework of the Prevention and Emergency Protocol to the Barcelona Convention and according to the obligations of the Contracting Parties under this Protocol, a mechanism for mutual assistance, under which the competent national authorities of Croatia, Italy and Slovenia will cooperate in order to coordinate and integrate their activities related to prevention and response to marine pollution incidents affecting or likely to affect the territorial sea, coasts and related interests of one or more of these countries, or to incidents exceeding the available response capacity of each of these countries alone.

The specific objectives are to determine the extent of cooperation among the relevant authorities of the Parties to the Plan, in the field of prevention of marine pollution incidents, to determine the extent of cooperation for the implementation of the Plan in cases of
emergency between the responsible authorities at an operational level, to define the areas of responsibility of the Parties to the Plan, to divide the responsibilities and to anticipate the transfer of responsibility from one state to another, to establish the principles of command and liaison and to define the corresponding structures, to provide arrangements concerning the operation of ships and aircraft of one of the Parties within the area of responsibility of the other Parties, to specify the type of assistance which might be provided and the conditions under which it will be provided and to determine in advance the financial conditions and administrative modalities related to cooperative actions in case of emergency.

According to the Plan, each State Signatory has to designate an authority responsible for coordinating at national level all the activities related to prevention of pollution from ships, and in particular for the exchange of information between the Parties to the present Plan. For the purpose of the Plan such authority shall be called national Pollution Prevention Coordination Centre. In the Republic of Croatia that authority would be the Headquarters for the Contingency Plan for Accidental Marine Pollution.

5. THE EUROPEAN INTEGRATED MARINE POLICY APPROACH

The European Union recognised that its well-being is inextricably linked to the sea. Shipbuilding and shipping, ports and fisheries remained key maritime activities, but offshore energy (including oil and gas), and coastal and maritime tourism also generate massive revenues. Sea-ports and shipping allow Europe to benefit from the rapid growth of international trade and to play a leading role in the global economy, while the exploitation of mineral resources, aquaculture, blue biotech and emerging sub-sea technologies represent increasingly important business opportunities. Equally significant are the recreational, aesthetic and cultural uses that are made of the seas and the ecosystem services they provide.

Ensuring that use of the marine environment is genuinely sustainable is a prerequisite for these industries to be competitive. The growing vulnerability of coastal areas increasingly crowded coastal waters, the key role of the oceans in the climate system and the continuous deterioration of the marine environment all call for a stronger focus on oceans and seas.

Ocean sustainability is today widely recognised as a major global challenge, closely to climate change. The European Union finds that increasing competition for marine space and the cumulative impact of human activities on marine ecosystems render the current fragmented decision-making in maritime affairs inadequate, and demands a more collaborative and integrated approach. For too long policies on, for instance, maritime transport, fisheries, energy, surveillance and policing of the seas, tourism, the marine environment, and marine research have developed on separate tracks, at times leading to inefficiencies, incoherencies and conflicts of use. Proceeding from the principle that the oceans and seas are extremely complex and influenced by many activities, interests and policies, and on the other hand that all matters relating to Europe's oceans and seas are interlinked, the European Union concluded that sea-related policies must develop in a joint manner if it is to reap the desired results.

In October 2007 the European Union adopted an Integrated Maritime Policy (so called “Blue Paper”) to face the challenges of globalisation and competitiveness, climate change, degradation of the marine environment, maritime safety and security and energy security and sustainability. The goal of the European Union Integrated Maritime Policy is to enhance Europe's capacity to face the challenges of globalisation and competitiveness, climate change, degradation of the marine environment, maritime safety and security, and energy security and sustainability. This goal is to be achieved by changing the way maritime policy is created and
decisions are taken. Compartmentalised policy development and decision-making are no longer adequate. Instead, the Commission emphasised that interactions must be understood and taken into account; common tools developed; synergies identified and exploited; and conflicts avoided or resolved. Furthermore, importance is put on the need to adopt an action plan on projects such as the European Maritime Transport Space without barriers, a European Strategy for Marine Research, national integrated maritime policies to be developed by Member States, a European network for maritime surveillance, a roadmap towards maritime spatial planning by Member States, a strategy to mitigate the effects of climate change on coastal regions, reduction of CO₂ emissions and pollution by shipping, elimination of pirate fishing and destructive high seas bottom trawling, a European network of maritime clusters and a review of European Union labour law exemptions for the shipping and fishing sectors.

In Europe, maritime affairs have traditionally been dealt with by a number of separate sectoral policies. Such compartmentalisation of maritime governance continues to predominate at different levels of power (international, European, national, regional and local). Nevertheless, some European Union Member States apply or are moving towards an integrated approach to policy, such as France, Germany, Portugal, the Netherlands and Slovenia. For example, France, the Netherlands, Italy and Slovenia indicate that they follow an integrated approach to maritime affairs coordinated by one central entity; landlocked countries, such as Hungary and Luxembourg concentrate responsibilities for maritime affairs that are relevant for their countries. Also, a number of countries are seen to be following a decentralised approach.

Some Member States have set up bodies or specific procedures for coordination of Maritime Affairs. Others have dominant lead ministries which cover a majority of subjects related to maritime affairs. In some cases, ministries apply a degree of integration of policies, which may be distributed among a number of ministries in other Member States. A number of Member States employ a clear-cut division of labour between different sectoral ministries (usually transport, economics, environment, agriculture and fisheries, defence, interior), with some – often unspecified – procedures to ensure coordination of policy making and implementation relating to maritime affairs. Several Member States also apply a division of labour between different levels of government (central, regional, local), with more or less clear-cut systems to ensure coordination.

The European Union Integrated Maritime Policy requires a governance framework that applies the integrated approach at every level, as well as horizontal and cross-cutting policy tools. Its goal is to achieve greater coherence between different policy areas and approaches, taking particular account of the need to avoid duplication of regulatory powers of different national or regional authorities in the Member States and to replace overlap and double track decision-making by a one-stop-shop approach in each Member State; the acknowledged need for coordinated planning of competing maritime activities and for strategic management of maritime areas (maritime spatial planning); the need for better coordination between the different Sectoral Social Dialogue Committees at European level which are involved in maritime issues; the adoption and implementation of the ecosystem approach and the Marine Strategy Framework Directive; the need to develop an interface between science and policy and to ensure that marine science is able to inform maritime policy; the need for reliable and comparable statistics to inform maritime policy making at all levels; and finally, the need to facilitate closer coordination on maritime surveillance between, and within Member States.
6. CONCLUSIONS

The Croatian Maritime Code 2004 and the Coast Guard Act 2007 constitute the legal framework while Pre-Accession Maritime Strategy established the basic principle of maritime policy in the Republic of Croatia. It is important to stress that States should draw up their own national integrated maritime policies, in close collaboration with their maritime stakeholders, and enhance and facilitate cooperation at all levels of maritime governance, including the European level because each government has its own specific priorities for its maritime policy. In our opinion, maritime policy in the Republic of Croatia pursued the basic principles of the integrated maritime policy, although additional effort could be made in enabling active participation by maritime stakeholders in integrated national, regional or local maritime policies.

In establishing the Central Coordination for the Control and Protection of National Rights and Interest on Sea, the Coast Guard Act 2007 fulfilled the demand for creating internal coordinating structures for maritime affairs within their government frameworks. Its structure does include mechanism providing political guidance at the highest level in the form of inter-ministerial committee for coordinating maritime affairs. Moreover, the coastal regions and local decision-makers of regional governments are also included in maritime governance, as requested by the Guidelines. In addition, the Coast Guard Act 2007 establishes regional coordination for joint planning and efficient operating proceedings for surveillance and protection of the sea.

Surveillance activities in the European Union are carried out by Member States but most of the activities and threats they address, especially concerning the environment, are transnational in nature. Within most Member States surveillance activities which concern fisheries, the environment, policing of the seas or immigration fall under the responsibility of several different enforcement agencies operating independently from each other. The authors are urging for the improvement and optimisation of maritime surveillance activities and interoperability at the European, subregional and national level to meet the challenges and threats relating to safety of navigation and environmental protection.

The authors advocate the need for a higher degree of coordination on maritime surveillance through deeper cooperation within and among the Member States' Coast Guards and other appropriate agencies. The efficiency of the Coast Guard organisation in the Adriatic Sea, as part of an international system of maritime surveillance and monitoring, is imperative for maritime governance as the environmental protection driver, particularly for the semi-enclosed sea marine habitat.

REFERENCES


UPRAVLJANJE U POMORSTVU KAO POKRETAČ ZAŠTITE OKOLIŠA

Oceani i mora međusobno su utjecajno povezani, pa se sve radnje i postupci oko zaštite okoliša u jednom morskom području odražavaju i na druga područja, ponajviše na mala mora kakvo je Jadranisko. Ovaj rad obrađuje upravljanje u pomorstvu u Republici Hrvatskoj i predstavlja model integriranog pristupa jadranskih zemalja u cilju zaštite Jadranorskog mora, što zahtijeva zajedničku politiku i ustrojstvo vlasti u određenim pitanjima pomorstva. Autori ukazuju na potrebu uspostave obalne straže jadranskih zemalja kao međunarodnog sustava nadzora i nadziranja koji se bavi izazovima zaštite morskog okoliša.

Ključne riječi: upravljanje u pomorstvu, zaštita okoliša, obalna straža, nadzor mora