

MARINE SPATIAL PLANNING IN CYPRUS

By Andreas Demetropoulos

A. INTRODUCTION AND BACKGROUND

In Cyprus there is no single law for marine spatial planning and for resolving any conflicting uses of marine areas. Ultimately where such conflicts arise they are submitted to the Council of Ministers for decisions, if they cannot be resolved on a service or ministerial level. A number of laws have provisions that address and regulate sectoral interests. These are implemented/administered by a variety of Departments and Ministries and the Cyprus Ports Authority. In addition horizontal legislation, primarily the EIA legislation, is applicable to a number of activities/projects in the marine environment and is applied frequently in this context. The new SEA legislation is also applicable to any plans or programmes.

The Town and Country Planning legislation that regulates spatial planning on land is not applicable to the sea, though it is of course applicable to the coastal zone and shoreline. There have been some deliberations as to the feasibility of making it applicable to the sea also, but this has apparently not progressed any further.

Increased development pressures on the marine environment in the island have arisen as a result of the expansion of such activities as aquaculture, the needs for dumping areas for dredged material from harbour maintenance and expansion, potential offshore wind farms and desalination plants (including the location of brine outfalls from land based desalination plants), fishing and shipping activities and in meeting Cyprus' international and national commitments to biodiversity conservation.

The existing legislation that has provisions or has a bearing on marine spatial planning and the various sectors concerned are summarised in this paper.

B. TERRITORIAL JURISDICTION

Territorial Waters

Law 45/64 foresees for a 12 nautical mile zone. The Council of Ministers has the authority to give permits for the use of any part of these waters and has not delegated authority to any other body.

Exclusive Economic Zone

By its EEZ Law of 2 April 2004, Cyprus proclaimed an EEZ in which rights and jurisdictions foreseen in the UNCLOS shall be exerted, and whose limit shall not extend beyond the 200 n.m. from the baselines from which the breadth of the territorial sea is measured. The Law affirms that rights and duties shall be exerted in a manner compatible

with the provisions of the UNCLOS, and further details, in Articles 7 and 8, outline the existing obligations pertaining to conservation and use of living and non living resources including the exploration and exploitation of these resources. These articles further contain penal provisions in case of infringement. The relevant provisions of the Law on the Continental Shelf are also referred to in Article 4 in relation to the implementation of the above.

The EEZ law further adds, under Article 11, that regulations may be adopted to “(...) serve all or some of the following purposes: (a) the preservation of the living resources of the EEZ; (b) the protection of the environment in this zone; (c) with reference to foreign vessels, the regulation of fishing areas, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used; (d) the regulation of matters pertaining to marine scientific research; (e) the authority to board foreign vessels to inspect, arrest and confiscate, as appropriate to ensure compliance with the laws and regulations adopted to safeguard the relevant sovereign rights of the Republic; and (f) licensing procedures for rights to be enjoyed in the EEZ”.

The Continental Shelf Law (Law 8 of 1974)

C. RELEVANT CONVENTIONS, PROTOCOLS ETC RATIFIED BY CYPRUS

The list below is not an exhaustive list of all the Conventions etc that Cyprus has ratified but a list of the more relevant ones:

Law of the Sea Convention (UNCLOS) (R – 1988) (2002 – Straddling Stocks)

Barcelona Convention (R – 1979) Amendments (Acc. 2001)

- SPA Protocol (R - 1988)
- Protocol on Specially Protected Areas and Biological Diversity (R - 2001)
- LBS Protocol (R - 1988) Amendments (Acc. 2001)
- Emergency Protocol (R -1979)
- Dumping Protocol (R – 1979) Amendments (Acc. 2001)
- Offshore Protocol
- Hazardous Wastes protocol

Bern Convention (R - 1988))

Convention on Migratory Species (R - 2001)

- ACCOBAMS (R - 2006)

RAMSAR (R - 2001)

Desertification (R – 2001)

Convention on Biological Diversity (Biodiversity Convention) (R - 1996)

Convention Concerning the Protection of the World Cultural and Natural Heritage (R - 1975)

GFCM Agreement (FAO)

International Convention for the Regulation of Whaling (Washington, 1946) (R – 2007)

Note: S - Signed R- Ratified

Other international agreements on the environment, that Cyprus is party to: Air Pollution, Climate Change, Climate Change - Kyoto Protocol, Environmental Modification, Hazardous Wastes, Marine Dumping, Nuclear Test Ban, Ozone Layer Protection, Ship Pollution (London), Air Pollution-Persistent Organic Pollutants

D. NATIONAL LEGISLATION

In addition to the existing national legislation, Cyprus in joining the European Union had to transpose all the necessary EU Directives into national law. These include: Habitat Directive, Bird Directive, EIA and SEA Directives, and Access to Information Directive etc. Again, the list of national laws given below is not an exhaustive list but a list of those laws deemed to be most relevant to the issue.

1. General and Environment:

Law that Provides for the Protection and Management of Nature and Wildlife (153(I) of 2003). This is the law that transposed the Habitats Directive into National Law. It has inter alia provisions for setting up protected areas as a part of the NATURA 2000 network. This law is implemented through the Environment Service. A Scientific Committee was set up as advisory to the Minister of Agriculture Natural Resources and Environment (and to the Minister of Interior for implementing the law transposing the Birds Directive)

Fisheries Law (CAP 135) and Fisheries Regulations (273/90) – and amendments up to 2005 (contains provisions related to marine biodiversity conservation and marine pollution issues). Implemented by the Department of Fisheries and Marine Research (DFMR -MANRE). See also Fisheries and Aquaculture and Marine Protected Areas below.

Law Concerning the Control of Water Pollution (No. 69/91)

Environmental Impact Assessment Law 140(I) 2005

Strategic Environmental Assessment Law 102 (I) 2005

The Town and Country Planning Law (No. 90/72, Amending Laws 56/82, 7/90, 28/91, 91(I)/92, 55(I)/93, 72(1)/98, 59(1)/99 & 142(1)/99. This law was passed in 1972 but was not fully implemented until 1990. It provides for the preparation of Local Plans, Area Plans and for the Policy Statement for the Countryside, which covers the parts of the island not covered by the Local and Area Plans (see below for more details). It does not cover marine spatial planning. Implemented by the Department of Town Planning and Housing (Ministry of Interior). The powers rest mainly with the Minister of Interior. There is a Planning Council.

The Foreshore Protection Law (CAP 59 and No. 22/61, and amending Laws). This is applicable to the Foreshore (90m from the highest sea level) and regulates activities in this area. There seems to be some conflict (or confusion) in the definitions/implementation of this law in relation to the provisions of the Town and Country Planning legislation (see above) regarding the foreshore.

The Piers Law (CAP 48 and Laws No. 39/73, 36(I)/94). This regulates constructions etc that are connected to the shore.

2. The Town and Country Planning System

The three-tier hierarchy of Development Plans introduced by the 1972 Town and Country Planning Law is based on the concepts of the “Island Plan,” which refers to the national territory and the regional distribution of resources and development opportunities; the “Local Plan,” which refers to major urban areas, areas of exceptional importance or areas undergoing intensive development pressures and rapid physical development; and the “Area Scheme,” at the lower end of the hierarchy, which in general refers to areas of a smaller scale and is more detailed and specifically project oriented.

For all territory where neither a Local plan nor an Area Scheme is in force, an additional type of development plan was introduced to the planning system in 1982, the “Policy Statement for the Countryside,” a legally binding document in the form of an adapted regional plan for the control of development and the protection of the environment in villages and rural areas. Along with this document, a series of zoning plans have been published for the majority of rural settlements, while areas of outstanding natural value, selected coastlines and nature protection areas, as well as areas of protected landscapes are all delineated on a detailed cadastral inventory which complements the guidelines of the Policy Statement.

3. Marine Protected Areas

Both the law transposing the Habitats Directive (Law 153(I) of 2003) and the Fisheries Law has provisions for setting up protected marine areas. The first has provisions primarily for setting up Natura 2000 sites for the conservation of habitats and species listed in Annex I and II. The Fisheries law has provisions for setting up protected areas for the conservation needs of any aquatic species. This is done through the passing of Regulations. The Minister (of Agriculture Natural Resources and Environment) may also regulate all kinds of fishing and navigation in any sea area, as defined, for a number of reasons, including reasons pertaining to the conservation of any fishery resource or of any aquatic species that will be specified in the Order to be issued (see below).

4. Fisheries and Aquaculture:

Fisheries Law (CAP 135), including amendments of this law up to 2005, and the Consolidated Fisheries Regulations of 1990 (No. 273/90) adopted on the basis of Article 6 of the Fisheries Law, as well as Regulations 1994-2006.

On the basis of Article 6 of the basic law the Council of Ministers may make Regulations needed for the conservation of any aquatic organism

On the basis of Paragraph 5A of the basic Fisheries Law “The Minister of Agriculture Natural Resources and Environment may issue an Order to be published in the Gazette prohibit fishing with any kind of fishing method and /or the navigation of any vessel in

any sea area of the Republic for any reason concerning the security of the Republic, for any public safety or public interest reason, including reasons pertaining to the conservation of any fishery resource or of any aquatic species that will be specified in the Order to be issued, provided that this does not affect the provisions of the Law on the Protection of and Management of Nature and Wildlife of 2003.” (This is a free translation of the Greek text)

Fishing Shelters Law of 1990. This law is implemented by the Department of Fisheries and Marine Research. The law empowers the Council of Ministers to declare any area (covering land and sea) as a Fishing Shelter (a fishing harbour). Regulations have been issued on the basis of this law.

Aquaculture Law 117(I)/2000, Amending Law 189(I)/2002 and Regulations 533/2002 and 911/2003.

This law and its regulations are implemented by the Department of Fisheries and Marine Research.

This legislation provides for operational licenses for fish farms, which are issued subject to a number of conditions (applicable to hatcheries and farms (shrimp) on the shore and cage farms offshore).

In Cyprus marine aquaculture is undertaken offshore with the use of deep sea cages with onshore hatcheries. Aquaculture Laws of 2000 and 2002 as well as the Aquaculture Regulations of 2002 and 2003 are applicable. For the establishment, expansion, and diversification of farming units an operating license is given that requires first that the applicant brings forward all other necessary licenses and permits, which are:

- Environmental consent, according to Law 140(I) 2005) for the assessment of the effects of certain public and private projects on the environment which is transposing Council Directive 85/337/EEC of 27 June 1985 into national legislation.
- Town planning permit (applicable to onshore installations but not to projects undertaken in the sea).
- Permit for effluent discharge according to Law 106(I) of 2002 for the control of pollution of water and land sectors which is harmonized with the water sector Council Directives.
- Permit for the use of sea area which is issued by Council of Ministers.

Aquaculture Zones

Marine aquaculture has been developing fast over the last years with production in 2006, reaching 3450 tons and 12 million marine fish fry valued at about C€16 million. This production came from open sea cages, with 2450 tons of sea bass and sea bream and 1000 tons of blue fin tuna. Its needs, in terms of sea area suitable and acceptable for cage

farming in particular, have on occasion faced competition, mainly with other uses and users, such as maritime traffic, tourism, recreational activities and fishermen. Environmental/biodiversity concerns relating to the location, size and management of farms have been dealt with so far mainly through the EIA procedures and the provisions of the Aquaculture legislation. The designation of aquaculture zones is now on the forefront of thinking by the DFMR, so as to mitigate problems and ensure a sustainable future for the sector. Priority is given to the Vasiliko – Moni area. This area was selected for the development of aquaculture so as to avoid as much as possible competition for space, though a number of activities have since developed in the area. Most of the marine farms are located in this area and this is considered as an “unofficial” aquaculture zone. The relatively large capital needed for the development of marine aquaculture makes marine spatial planning and the creation of aquaculture zones in particular, a pressing need, primarily for the sector’s sustainability.

Sites currently licensed in this area in particular face conflicts with maritime traffic as Government plans to build the land based Energy Centre that will significantly increase maritime traffic in the area. Moreover the plans for the Energy Centre have given rise to other energy related investments within the sea area.

E. COASTAL WORKS/BREAKWATERS

All coastal works that are connected to the shore are subject to the Piers Law on the basis of which the District Officer of the Ministry of Interior is responsible and any structure of this kind requires a permit from the District Officer of the particular district. Offshore breakwaters (parallel breakwaters) and any other structure or permit (including leasing of the sea area for offshore aquaculture) do not come under the jurisdiction of the DOs but come under the jurisdiction of the Council of Ministers on the basis of the Territorial Waters and the Continental Shelf laws (and more recently the EEZ 2004 law, where applicable). As a result the District Officers issue permits for coastal works (piers etc) connected to the land while a Council of Ministers permit is needed for any structure or permit or lease offshore.

Cyprus Government signed an agreement with the EU for co-funding an integrated study regarding Coastal Protection in Cyprus. This was a MEDSPA project and was called the “Coastal Zone Management Project”. The study, which started in 1993 and lasted for three years, was carried out by the Department of Public Works (PWD), of the Ministry of Communications and Works, in co-operation with the Dutch firm "Delft Hydraulics" and other governmental services.

The primary aim of the study was the establishment of criteria and methods for the protection and improvement of the beaches and of the coastal zone as a whole, minimizing at the same time environmental impacts. The project focused primarily on shoreline management and erosion control.

Within this study, the coastline was divided into 12 more or less homogeneous areas, in geomorphological and hydrodynamic characteristics. Within this study, Master Plans for

the protection from erosion and improvement of the quality of the shoreline in Cyprus were drawn up. Master Plans have so far been completed for Limassol and Larnaca Bays, the southern shore of Paphos, Tylliria, Chrysochou Bay and the Zygi-Kiti coastline. These Master Plans were drawn in the framework of an integrated approach and taking into consideration the impacts on the coastal environment. The studies for any proposed structures in each area are submitted to the Environment Authority for approval on the basis of Laws 140(I)2005 and 42(I) 2007 (the EIA laws)

“Coastal Policy Guidelines for the Master Plans” were prepared by the Project.

The twelve areas are listed in the table below:

District	Area
Paphos (includes Nicosia)	Kato Pyrgos Bay Tylliria area Khrysochou Bay Akamas Area North Paphos Area South Paphos Area
Limassol	Episkopi Bay Akrotiri area Limassol Bay Zygi- Kiti area
Larnaca	Larnaca Bay
Famagusta	Ayia Napa- Protaras area

As the Master Plans prepared need to be approved by Government taking into consideration all the relevant views (Environmental etc) the implementation of any proposed works by the PWD does not need any permission from the District Officers.

F. PORT AND PORT AREAS (Law of 1973 and subsequent amendments)

The Cyprus Port Authority (CPA) has authority over the main harbours of the island and also over a number of smaller ports. The Customs and Excise Department of the Ministry of Finance also has some related powers in these ports (Order 93/92, issued on the basis of the Customs Laws 1967 to 1991). The CPA (and the Customs and Excise Dept.) also has certain powers over the sea areas adjacent to these ports. A map of the sea areas where such jurisdiction exists can be found in ANNEX 1.

