

Chapter 10: ITALY

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Overview

Italy's story of coastal law and regulation reflects the country's challenges of governance and the differences across regions (sub-national authorities) in capacity to meet these challenges. The country's sunny coastal land is a magnet not only for second homes and tourists, but also for illegal development. Italy also faces significant issues of institutional coordination. The high fragmentation of laws and regulations seems to be the main issue that needs to be somehow tackled if better practice for protection and management of coastal areas is to be achieved.

Given the large differences between regions, this chapter tells two stories: In addition to the national level, this chapter also focuses on a selected region – Puglia in the south east. This region faces major challenges in coastal preservation, yet in recent years has developed ambitious regulations and statutory plans to improve the management of its coasts.

The national law defines a 300m setback zone, but regional and local plans can override restrictions. Enforcement against illegalities is fragmented among many municipalities and differs from one region to another. In some areas, the Mafia has undue influence. Although there has been some progress, regional and urban planning regulations have not yet been able to stop the illegal construction.

PART I THE NATIONAL LEVEL

1. The context: Introduction to Italy's coastal issues

Italy's coastline is about 7,600 km long (MATTM, 2014; World Factbook), making it the second longest in the Mediterranean, after Greece. As is common around the world, Italy's coast attracts a disproportionately large population: The total area of Italy's 644 coastal municipalities (illustrated at Figure 10.1) is around 14% of the total national land area, yet the total population of these municipalities represents 28% of the total national population (Istat, 2019). Furthermore, the average population density of Italy's coastal municipalities is 400 inhabitants per square kilometre; more than double the density (168 inhabitants per square kilometre) in inland municipalities (Istat, 2017).

Despite the law which sets strict rules about development within 300 metres of the shoreline (Legislative Decree 42/2004, discussed below), construction within this zone has rapidly increased in the last 50 years (ISPRA, 2011) with the central regions that show rates of developed land to be over 50% of the total. To date, 34% (692 square kilometres) of the land has been developed (both legally and illegally). In addition, in the central regions, which have undergone significant development in the last 50 years, over half of the land within 300 metres of the shoreline, including cities, is developed (Abruzzo 62%; Marche 59%; Emilia-Romagna 55%). Nationally, 53% of coastal land within 300 metres of the shoreline is developed (ISPRA, 2011, p. 263).



Figure 10.1: Italy's coastal municipalities and regions

Source: Image by Enzo Falco

Evolution of the legal framework for coastal zone management

Italy's system for safeguarding and regulating the coastal zone is quite complex. Maritime domain laws, rights of use, landscape and urban planning laws, national policies and strategies, Civil Code and Navigation Code regulations all overlap to protect coastal areas from unregulated and illegal development, uses and general damage. Yet, as we will demonstrate later in the chapter, enforcement of these laws is weak, leading to rampant illegal development.

In Italy, legislation for coastal protection is part of broader environmental legislation pertaining to "landscape". The foundation for Italy's environmental laws is Article 9 of the Italian Constitution, which states that as a fundamental principle, the Italian Republic safeguards its "landscape" (Amato, 2001). Legal provisions relating specifically to protection of the coast were first introduced in 1939, through the law "Protection of Natural Beauty" (Law 1497/39). More recently, two laws in the 1980s strengthened the legal protections for coastal areas: The 1982 law "Provisions for the Defence of the Sea" (Law 979/82) and the 1985 law on "Urgent provisions for the protection of areas of particular environmental interest" (Law 431/85), which established a coastal setback zone on land within 300 metres of the shoreline. In addition, a general law for "environmentally protected areas" (Law 394/91) protects environmental assets across Italy.

The Law 979/82 established a framework for preparation of a national "General Mercantile Plan for the safeguard of sea and coasts", but such a plan was never prepared. The 1985 law, however, was more effective: It introduced special controls over development in a 300-metre zone – described here as a "setback zone". The 1939 and 1985 laws have since been superseded, first in 1999, by a law on "cultural and environmental assets" (Law 490/99), then in 2004 by the Code on Cultural Heritage and Landscape (Law 42/2004; henceforth the 2004 Code).

Italy's Civil Code (Article 822) and the Navigation Code (Article 28) each identify the sections of land along the coast that fall within the maritime public domain. The Navigation Code contains extensive provisions regarding the definition, acquisition and use of the maritime public domain, as will be discussed below.

Until 1967, legislation which defined and regulated the use of the maritime public domain (the Civil Code and the Navigation Code) took precedence over urban planning legislation and urban plans (Casanova 1986; Virga 1995; Conio, 2010). But in 1967, the 'Legge Ponte' (Law 765/67, bridging law) reformed the national Planning Law (1942). Since that time, public works carried out on public domain, including maritime public domain, must be in accordance with the provisions of the relevant binding urban plan (Law 765/67, Article 10). Authorization from the relevant mayor is required for works carried out by third parties within the public domain. This represents a major change from the previous regime, as it means acknowledging that public domain areas are part of the territory and therefore subject to urban planning policy and regulations.

Significantly, the 2004 Code changed the paradigm for coastal protection in Italy, as it delegated significant powers to the regional governments (but not all, e.g. environmentally protected areas under Law 394/91 are planned jointly by the relevant region and the State). While the Code still lists land within 300 metres of the shoreline as protected and subject to restrictions on development, it leaves it up to the regions to regulate specific restrictions, through *pianificazione paesaggistica*

(landscape planning). Under Section III of the 2004 Code, each region is required to prepare a landscape plan which should detail how natural areas, including land within the coastal setback zone, are to be protected and managed. The Code also states (at Article 143) that the regional landscape plan must identify areas where construction or other activities are permitted, based on special authorization by the responsible authority (Luchetti, 2011). Any provisions included in regional landscape plans take precedence over local urban plans. The 2004 Code has been amended twice – in 2006 and 2008. The amendments further specified the list of natural and protected areas and their protection and safeguard through *pianificazione paesaggistica*.

Italy has not yet ratified the Integrated Coastal Zone Management (ICZM) Protocol to the Barcelona Convention, which was adopted by the European Council in 2008. As far as we know, the Protocol and its ratification are not perceived as major issue on the policymakers' tables, and there is no visible public discussion.

2. Maritime public domain – definition and permitted uses

Italy's Civil and Navigation Codes define a maritime public domain (MPD), which is coastal land owned by the State. The purposes of the MPD, and public domain land in general, is to fulfil the need and interest of the public (De Martino et al., 1976). The Civil Code defines the maritime public domain as follows (Article 822):

The shore of the sea, the beach, the bays and the ports belong to the State and belong to the public domain.

Similarly, the Navigation Code (Article 28) lists the following as being part of the maritime public domain:

- a) the shore, the beach, harbours/ports and bays;*
- b) lagoons, river mouths / estuaries that flow into the sea, basins of salt or brackish water that flow freely to and from the sea, at least during a part of the year;*
- c) canals that can be used for maritime public use.*

The classifications in the two codes differ terminologically but not substantially. Scholars acknowledge that the definition found in the Navigation Code is more detailed, but that all the listed elements fall within the general categories identified in the Civil Code (Avanzi, 2000; Gullo, 2006). We note that the elements (shore, beach, etc) are not specifically defined in the law, which affects legal certainty for landowners.

Delineation of the shoreline and MPD

Italy's shoreline is defined separately from the landward boundary of the MPD. The shoreline is generally identified through the interpretation of aerial orthophotos on the basis of calm sea (it is not clear whether this refers to low tide or mean sea level, but it is not high tide).

The shoreline is delineated on the official cadastre and its demarcation is the responsibility of the State through the Minister for the Environment. Regions may define and demarcate their shoreline through *pianificazione paesaggistica* (landscape planning) and regional landscape plans in

collaboration with the Ministry for Cultural Heritage Activities and Tourism, but only for the purposes of coastal landscape protection under the responsibility of this ministry. The Puglia region discussed below is one of the regions which has elected to demarcate its shoreline.

The natural parts of the shoreline and their delineation are subject to erosion and change. As Gaeta (1965) notes, the shoreline follows the sea, its tide and erosion activity. It follows that the shoreline changes continuously. The delineation is updated at random intervals by the Minister for the Environment, but the reassessment procedure is not set out in the law.

The demarcation of the shoreline contributes to the demarcation of the Maritime Public Domain; anything seaward of the shoreline is “automatically” owned by the State as public domain. The technical procedures for delineation of the MPD are stipulated by the Navigation code, which states that public domain is determined on the basis of the highest water mark. In this case too, reassessment of the MPD areas happens at random intervals. Decree 78/2015 (Art. 7) provides that regions and the State should collaborate to define a periodic redefinition of the MPD, though the time periods and procedures remain undefined. As the MPD is State-owned, the power to determine its limits rests with the State (through the Ministries for Transport and Infrastructure, Economy and Finance, other interested ministries and the maritime authorities). Even in cases where another administration (e.g. regional government) is responsible for the management of that specific part of the MPD, it is still the State that has the power to determine its boundaries. Such a delimitation power represents an instance of the exercise by the State of the self-protection power (*potere di autotutela*). In cases where the State needs to expand the MPD beyond the already identified areas, the State may expropriate bordering private properties.

Private properties which are permanently affected by flooding, or erosion which causes shore and beach to disappear, become part of the public domain *ipso iure* (Querci 1959; Gaeta 1963). The implications on the affected property are clear: The property is automatically expropriated and transferred to the State. Private landowners have the right to appeal against a delimitation decision, either to the ordinary court (regarding suitability of the land to be included in the MPD) or the administrative court which settles disputes between private citizens and public institutions.

Issues related to shoreline erosion and change were highlighted in the preparation process for Puglia’s Regional Coastal Plan (2012, described below), where investigation indicated that the previously designated MPD had narrowed in many places, expanded in others and in some places, even disappeared entirely under the sea. In these cases, the regional administration must undertake a complicated and lengthy procedure for the modification of shoreline delineation, which is subject to authorization by the national government.

Status of the Maritime Public domain

The maritime domain falls within the category of public assets. As such, the maritime domain is inalienable: no area can be sold and if this happens the selling contract is to be considered null and void). The public domain is not subject to prescription rules and cannot be acquired by continued and regular use. It also cannot be expropriated by any government authority (it is already public) unless a specific State act cancels the public domain status. The public domain is generally not

subject to rights that favour third parties except for specific cases, such as concessions for beach resorts.

Ownership and management of maritime public domain

The body of law regarding the owner and administrative functions related to the maritime domain is complex and has undergone numerous changes over time, especially on matters concerning delegation to the regional governments. The debate over who owns maritime goods and the responsibility to manage and administer them revolves around whether the manager of the goods can, or should, be considered the owner. Following long debates regarding delegation, the State (national government) remains the owner of all maritime goods, with the exception of those in the Sicily Region in which ownership of the goods was transferred to the regional authority through the D.P.R. (Decree of the President of the Italian Republic) 684 of 1977 (Salamone, 2004).

Prior to 1977, the maritime public domain was managed by the State. In 1977, a Decree of the President (no. 616) transferred management of tourism and recreational uses in the maritime public domain to the regional governments. The State retained management powers relating to national safety, immigration police, harbours and areas of national navigation interest. This represented the first attempt of delegation of administrative functions from the State to the regions, but there was no real delegation of powers until almost 20 years later. In 1995, through a decree of the Prime Minister, the State and regional management responsibilities were formally clarified. Then, over 1997-1998, the functions were transferred to the regions (through Law 59/1997 and Legislative Decree 112/1998, which established administrative federalism, *federalismo amministrativo*). The purpose was to identify the functions that were of exclusive responsibility of the national government and leave all other functions to the regional and local administrations' responsibility.

In 2001, the Constitution (Section V) was amended (by Law 3 of 2001) to assign all the administrative functions of the State to the municipalities (Article 118, Section 1 of the Constitution). Thus, all administrative functions are attributed to the municipalities except when these are more adequately exercised by a higher-tier administration, on the basis of principles of adequacy, subsidiarity, differentiation.

Land use in the maritime public domain

Any use of the maritime public domain is subject to an authorization in the form of a “concession” (ground lease), between the managing authority and the party seeking to use the land. The Navigation Code regulates concessions and differentiates between concessions granted for different time periods (over 15 years; between 4 and 15 years; less than 4 years). The Ministry for Infrastructure and Transportation is responsible for granting concessions for a period of time over 15 years, while the other concessions are the responsibility of the Maritime Authority.

Concessions for beach resorts, commercial activities and boat rentals generally last for a period of six years and, until 2011, were automatically renewed at the end of that period for another six years (Law 296 of 2006 *Financial and Budget Law*, which amended Decree 400 of 1993 *Provisions to determine fees for MPD concessions*). Following an infringement procedure initiated by the European Commission in 2008¹, in 2011 the Italian authorities repealed the part of the Financial and Budget Law which provided for automatic renewal of concessions in the MPD. Thus,

concessions in the maritime public domain now expire. Originally, the 2011 amendment provided a transitional period of up to 2015, before concessions expired. Another extension was granted in 2012 (Law 221/2012), allowing existing beach concessions to remain in place until 31 December 2020.

The extensions for concessions were contentious; and the debate reached the Council of State (the highest administrative court), which determined that the 2012 extension was not compatible with the European Community principles of free competition and equal opportunity for businesses. The Council of State thus referred the question to the Court of Justice of the European Union (CJEU). The CJEU (C-458/14) determined that extensions are no longer possible and private businesses who intend to use the MPD for economic reasons must submit to a tender to win a contract.

The Navigation Code and Civil Code stipulate that structures erected in the MPD must be “easily removable”. After a long period of uncertainty regarding this requirement, various national and regional rules have established that “removability” does not imply that a structure must necessarily be dismantled at the end of the bathing season or when beaches are closed, and that it can be kept on site for the entire duration of the concession. Structures may be built on concrete platforms or supported with concrete in the foundations (Ministero dei Trasporti e della Navigazione, Circolare no.120/2001). However, the Regions are authorized to make stricter rules, as we shall see in the Puglia case study.

In order to regulate the use of the maritime public domain for tourism and recreation activities, each regional authority must produce a “utilization plan” which specifies detailed regulations, used also to guide tenders for granting concessions for such activities (Piano di Utilizzazione delle aree Demaniali Marittime, PUD). Apart from specifying normative and quantitative rules for permitted uses, these plans should also aim to ensure the right of public access to the shore, as discussed below. Given that the use of maritime public domain for tourism and recreation has potentially significant impacts on the coastal environment, requests for concessions for these uses are subject to environmental impact assessments (Licciardello, 2008).

When beach-bathing operators apply for permission to erect “easily removable structures” within the public domain, and due to the landscape protection of the 300m setback zone, they require authorization from the local representatives of the Ministry for Cultural Heritage Activities and Tourism (known as *Soprintendenti*). Despite the fact that it is not required by law, in the sub-region of Salento in Puglia (as detailed below) *Soprintendenti* often require that structures are removed at the end of the bathing season, on the basis of impacts on the landscape values of the area.

3. Coastal setback zone

Italy’s Navigation Code (Article 55) specifies that “new works within 30 metres of the maritime domain or from the edge of the elevated land on the sea” are subject to State authorization. These requirements may be extended to apply to land inland of the 30-metre line by decree of the President. Whilst the requirement for authorization is not equivalent to an absolute restriction on construction, this provision does indicate an awareness that land in proximity to the sea requires additional protections. We refer to this 30-metre strip as the “mini-setback zone”.

Italy's coastal setback zone is set at 300 metres from the shoreline. Within this setback, development is restricted, but not outright prohibited and is regulated by regional plans through *pianificazione paesaggistica* (landscape planning). Since 2004, there are no longer any uniform provisions regarding permitted uses within the setback zone. As the regional regulations generally do not contain outright prohibitions against development, it is not uncommon for urban plans to zone land within the setback zone for low density residential development, while still according with the requirements of the relevant regional plan. Below we will present one example of regional rules, in our discussion of the Puglia region.

4. Coastal Zone Management and urban planning

Italy has not yet ratified the ICZM Protocol and, despite having ratified the Marine Strategy Framework Directive (13 October 2010 through Legislative Decree no. 190), Italy does not yet have a marine national strategy. These two elements are symptomatic of the overall lack of coordination in Italy's coastal management system. As highlighted in the introductory section to this chapter, powers relating to the maritime public domain are fragmented between the national government, the regional governments and the municipalities. This institutional fragmentation may explain some of Italy's difficulties in achieving a coherent coastal policy and implementation.

Coastal Zone Management is implemented through landscape planning and in some regions through Regional Coastal Plans (as is the case for Puglia). The planning system at the regional level is defined through a set of strategic plans. The General Plan (*Piano Territoriale Regionale*, PTR, or *Piano di Indirizzo Territoriale*, PIT), identifies the vision, main objectives and infrastructure projects for the region. The 2004 Code on Cultural Heritage and Landscape introduced the Regional Landscape Plan (*Piano Regionale Paesaggistico/Paesistico*, PRP), which is a regional-level plan which specifically focuses on the protection of landscape and environmental values. The PRP may replace the PTR/PIT, but where both are in place, the PRP must be in accordance with the PTR/PIT.

Given PRPs are mandatory, all regions do have one in place, though only four regions (Friuli V.G., Puglia, Piemonte and Toscana) have a PRP which fully complies with the 2004 Code. The recent trend across Italian regions is to substitute the PTR/PIT (General Plan) with a PRP (Regional Landscape Plan). These plans, which apply to the whole regional territory, including coastal areas, place particular emphasis on environmental values. They identify areas of environmental significance and include development restrictions. PRPs are binding and local urban plans must conform to them.

Regional Coastal Plans (*Piano Regionale delle Coste* PRC) add an additional, but optional, layer to the already complex regional planning system. Such plans are specifically aimed at the protection of the coastal environment. All coastal regions except Friulia Venezia Giulia have a coastal plan in place. These plans are subordinate to their region's PRP.

Beyond regional planning, local authorities must each prepare a local land use/ urban plan. Thus, coastal planning and management is defined through at least three plans which apply in the vast majority of local areas: The PRP, PPRC and local urban plan (and a fourth plan where a PTR/PIT is also in place). Furthermore, in one region, Puglia – which is also the focus region for this chapter – authorities are also required to prepare Municipal Coastal Plans (*Piani Comunali delle Coste*). This

adds an additional level of complexity. We explore the case of the Puglia region in detail later in this chapter.

5. Right of public access

In Italy, a formal right of vertical public access to the shore was introduced in 2006 (Financial and Budget Law, Article 254). This right is to be guaranteed through the regional “utilization” plan prepared specifically for the MPD areas (PUD – refer section on public domain). The law states that the relevant regions and municipalities must strive to find a correct balance between beach areas whose use is granted to private third parties by means of concessions and beach areas that are to be freely accessible by all citizens. Horizontal access to the shore is also guaranteed, though in a minimal manner. The public has a right of access along the shore, within 5 metres of the shoreline. To that end, operators of beach resorts are not permitted to block free passage along the coast. They are also obliged to identify and mark paths of public access through their resorts to the shore. The public can register complaints and NGOs, mainly Legambiente, monitor public access to the shore.

The above legal provisions relating to access were introduced as a consequence of the proliferation of beach resorts which impeded access to the shore, but the 2006 legislation was not effective: According to WWF (2012), in 2012, across a 4,000km stretch of bathing beaches, 12,000 beach resorts occupied a stretch of 900km along the coast; nearly double the number of resorts than ten years earlier. A specific example is the beaches in Lido di Ostia, Rome, where in 2011, access to the shore was not available in over 90% of resorts, which collectively occupied 17.5km of land along the coast of the municipality (Legambiente, 2011). In response, in June 2015, the relevant region (Lazio) passed a law which requires that municipalities allocate at least 50% of the length of their coastlines as freely accessible beaches.

6. Compliance and enforcement

Illegal construction has long been a feature of the development industry in Italy and coastal areas are no exception. In fact, coastal areas draw more illegal construction than inland areas. Illegal development is not limited to illegal buildings, but also to extensions.

Without delving into the history of illegal development in Italy (for that, see Zanfi, 2013), we note that the phenomenon was particularly prominent over the three decades beginning in the 1960s, when it accounted for about 25% of total developments (Zanfi, 2013, p. 3428). This number pertains to buildings without any permit. Smaller violations are rampant. The history also includes three amnesties (*condoni edilizi*), in 1985, 1994 and 2003, which resulted in an increased amount of illegal development (Zanfi, 2013). In more recent years, the phenomenon has decreased to a national average of just over 10% – most likely primarily as a result of the reduced building activity in major cities due to the economic crisis – but this figure is still considerable. It is interesting to note that the construction costs for an illegal building are estimated to be less than a half of the costs for a legal one. The reasons can be surmised: Savings on costs such as various taxes or regulatory fees, professional services required for licensing, undeclared payments for constructing services for tax avoidance.

Specifically relating to coastal areas, every year the environmental NGO *Legambiente* produces a report called *Mare Monstrum* (Monster Sea) on illegalities, including illegal building activities (but

also fishing, wastewater treatment and navigation) which have taken place in the 300 metre setback zone and MPD. In 2017, 3,314 building violations were reported in the coastal areas across Italy (approximately 19.5% of total reported illegalities). In absolute terms, most of the illegal building activity along the coast is located in the southern regions. In fact, the four Mafia-influenced regions (Campania, Puglia, Sicilia, Calabria) account for 54.3% of the yearly total (see Table 10.1). However, perhaps a more relevant method of comparison across regions is the number of illegalities in the building sector per km of coastline. Using that measure, Basilicata, in the country's south, has the largest number of illegal structures, followed by Campania (south) and Lazio (centre), Emilia Romagna (centre), whereas Sicily and Sardinia are well below the average.

Table 10.1 – Absolute number, coastline length, and number per km of coastline of building sector illegalities in the MPD in 2017 by Region (Data source: Legambiente, 2018)

Region	Number of building illegalities	Coastline length (km)	Building Illegalities per Km of coastline
Abruzzo (centre)^	99	125	0.80
Basilicata (south)^	117	56	2.09
Calabria (south)	478	736	0.65
Campania (south)^	702	480	1.46
Emilia Romagna (north)^	123	130	0.95
Friuli Venezia Giulia (north)	80	111	0.21
Lazio (centre)^	347	290	1.20
Liguria (north)	150	466	0.32
Marche (centre)	93	172	0.54
Molise (centre)	1	36	0.03
Puglia (south)	417	865	0.48
Sardegna (island)	160	1897	0.08
Sicilia (island, south)	204	1623	0.13
Toscana (centre)	251	442	0.58
Veneto (north)	92	140	0.66
Average	220.9	N/A	0.68

^ Region with above average number of illegalities per km of coastline

Over the years, and especially since 2009, the absolute number of building-sector-related illegalities steadily decreased until 2013, with an upsurge in the years 2015-2017 (Figure 10.2). In 2013, the number of building sector illegalities reached unprecedented low levels for Italy, down to 2,412 from 3,954 in 2009. The reasons for this decrease are not clear, but we suggest that contributing factors include the economic crisis, a lack of demand for second homes, and more frequent demolitions, as recorded on the Legambiente website². More recently, the trend has reversed.

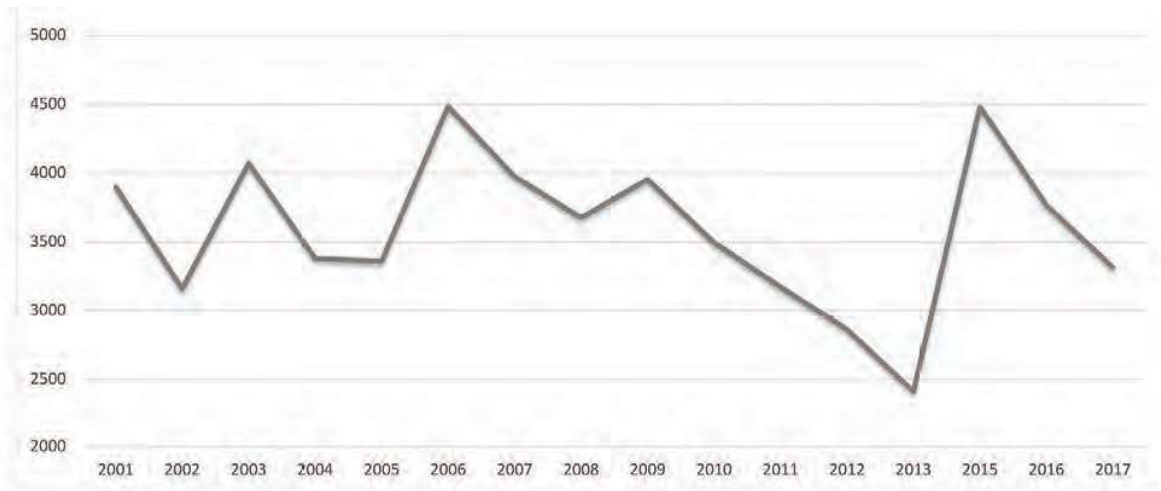


Figure 10.2: Building-sector illegalities on the Maritime Public Domain 2002-2017

Data source: Legambiente 2002-2017. No data for 2014

We now turn to the matter of enforcement against illegalities in the Maritime Public Domain and the setback zone.

Enforcement

Italian legislation offers a broad set of enforcement and punitive measures for the protection of the MPD. They are obviously not enough to deal with the still-extensive illegal construction. The Ministry for the Economy and Finance is responsible for enforcement within the maritime public domain. Enforcement measures available to that agency to protect the public domain include *rivendicazione* (claim), *negatoria* (denial), *regolamento di confine* (border-determination procedure), *apposizione dei termini* (border-restoration procedure when the boundaries between public domain and private properties are certain but not visible anymore). There are also additional actions related to possession that are known as *reintegrazione* (re-integration) and *manutenzione* (maintenance) (Civil Code, Articles 948- and 1168-).

In addition to the above, the maritime public domain police is a body intended to guarantee order, public safety and respect on the part of the general public of use regulations. In addition, there is a power known as *autotutela* (literally, self-protection), through which the public administration has the powers to modify, revoke and render null any concessions previously granted, in order to ensure that the public domain continues to be protected.

In case of illegal use or development in either the maritime public domain or the 30-metre “mini-setback zone”, the public administration may require the perpetrator to demolish the illegal structure. In case of inaction following a demolition order, the responsible administration may proceed to demolition *ex-officio* (Navigation Code, Articles 54 and 55).

Illegalities are punishable through sanctions that are also regulated through the *Building Code* (*Testo Unico dell’Edilizia*, 2001), under Article 35, which deals with illegal construction on land owned by the state and other public administrations. The demolition of illegal structures is the

responsibility of the municipality in which the relevant public domain land is located. Costs are to be covered by the offender who is subject to potentially severe punishment – a fine of up to 51,645 Euros and incarceration of up to two years. In general, not only on the MPD, demolitions of illegal development are not frequent, due to the expense. According to Chiodelli (2019), based on Legambiente data, between 2004 and June 2018 only 19.6% of 71,450 demolition orders issued were actually carried out (Legambiente, 2018).

7. Climate Change Awareness

The National Strategy for Climate Change Adaptation (NSCCA) was approved by the Ministry for the Environment and Protection of Territory and Sea (MATTM) in 2015. The Ministry began to publish related policy documents in 2013 (MATTM 2013) following a consultation process with the national scientific community, policymakers, and interested stakeholders. A questionnaire survey was also conducted in 2012 to collect the stakeholders' opinions and views on climate change issues and impact (Davide et al., 2013).

The policy documents on the NSCCA contain a specific section dedicated to coastal areas and the ways that they are impacted by climate change. A series of policy documents published during 2013-2014 identifies sea level rise and resulting erosion as the main issues affecting the Italian coastal environment (MATTM, 2013a; 2013b; 2014a; 2014b; Castellari et al., 2014). They highlight that about 42% of approximately 4,000km of beaches are subject to erosion, as shown in Table 10.2 (MATTM, 2014). Our selected region, Puglia, has one of the highest rates of coastal erosion.

The NSCCA identifies several adaptation measures, including an initial set that includes increased investment in ecological research and the development of a strategy to address the main risks for endangered species. The second set of measures includes adaptation of infrastructure networks, new policies for water supply, limitations and restrictions on urban development with the introduction of new building technologies and safety measures (MATTM, 2013, p. 44-46). The NSCCA states that implementation is to be achieved through sectoral plans. It also addresses the phasing of the implementation, monitoring and evaluation, key actors and stakeholders, and allocations of financial resources (Ministero dell'Ambiente, 2013, p. 2).

Table 10.2 – Sandy-beach coast subject to erosion activity by region

Region	Coastline Length (Km)	Beach (Km)	Erosion (km; %)
Sardegna	1897	459	195; 42
Sicilia	1623	1117	438; 39
Puglia	865	302	195; 65
Calabria	736	692	300; 43
Campania	480	224	95; 42
Liguria	466	94	31; 33
Toscana	442	199	77; 39
Lazio	290	216	117; 54

Marche	172	144	78; 54
Veneto	140	140	25; 18
Emilia Romagna	130	130	32; 25
Abruzzo	125	99	50; 50
Friuli Venezia Giulia	111	76	10; 13
Basilicata	56	38	28; 74
Molise	36	22	20; 91
Total	7569	3952	1681; 42

Data source: Ministero dell’Ambiente, del Territorio e del Mare 2014

8. Coordination and integration

Lack of national strategy and coordination among government agencies is a key issue in Italy. The State’s response to the need to bridge implementation gaps in many fields appears to consist essentially of returning power and resources to the national level. This response, reinforced by the financial crisis, is based on the widespread perception that intergovernmental conflicts between regional/local and national government reduce decision-making efficiency. Planning for the coastal zone is highly fragmented: As indicated above, several overlapping plans must be prepared to regulate the same coastal areas. At the regional level, two or three plans are expected to determine the vision, strategy, safeguards and protections for coastal areas. A single region might even have several of the same type of plan in place concurrently. For example, the most recent Liguria General Plan (PTR), approved in 2014, replaced six PTRs, a situation which was described as “*creating difficulties of interpretation, increasing administrative discretion and reducing clarity*” (Regione Liguria, 2014).

The Ministry for the Environment and Protection of Territory and Sea (MATTM) states on its website that in order to improve the management framework and fragmentation of responsibilities in Integrated Coastal Zone Management (ICZM) it has:

“... activated an agreement with the other institutional partners (regional governments and municipalities), with regard to planning and management of coastal areas in view of the definition of the necessary national strategy as well as the preparation of plans/programmes or guidelines for the ICZM Strategy”. (MATTM, n.d.).

There has been no evident follow-up to that statement.

CAMP Project

The UN has set up special programs to implement the ICZM Protocol in the Mediterranean countries. One of these is the Coastal Area Management Programme (CAMP) Italy that began in 2014, with an agreement between MATTM (Ministry for the Environment and Protection of Territory and Sea) and UNEP/MAP (United Nations Environmental Programme – Mediterranean Action Plan). The project is intended to assist local-level implementation of the ICZM Protocol (despite the fact that the Protocol has yet to be ratified by Italy). The CAMP project Italy differs

from other CAMP projects in the other countries in that it is the first multi-area project involving five different coastal areas and three regions (MATTM, 2018). The areas involved in the project include two in Sardinia, two in Tuscany and one in Emilia Romagna.

One of the main objectives of the CAMP project is the introduction of an integrated management of coastal zones through actions intended to reduce coastal erosion, biodiversity loss and pollution. In order to achieve this broad objective, a variety of agencies must work together on specific sub-projects. In addition, regions must work together in mapping ICZM actors; capacity building; identifying ICZM indicators and collecting data; and networking. In order to promote knowledge sharing and exchange of best practice examples, an online platform, e-CAMP was planned, but in 2019, the project is no longer online.

PART II: Focus on the Puglia Region: A region with major coastal challenges yet determined to change course

9. Puglia as a focus region

A regional account is an important supplement to this chapter, given the extent of delegation of legal powers to regional authorities. The Puglia region provides an ideal case study: Situated in the extreme south-eastern tip of the country, it is the Italian mainland region with the longest coastline (865 km according to Castellari et al., 2014)³. It is also a region with high rates of illegal development on the coast (see Table 10.1) and one of the highest rates of coastal erosion (Table 10.2). At the same time, since 2005, Puglia's elected government is determined to change course towards greater sustainability of the coastal areas, reduction of illegal construction, and increase in public awareness of the importance of coastal preservation. The region was the first in Italy to approve a regional landscape-territorial plan (PRP) that fully complies with the 2004 Code (MIBACT, 2017). As a result of its actions, Puglia has been recognized as one of three Italian 'virtuous regions' in that it has implemented a coastal policy aimed at guaranteeing citizens the right of public access to beach areas (Legambiente, 2019).

Puglia is very much a coast-oriented region. It is composed of a long and narrow peninsula, bordering two seas; the southern Adriatic and the north-western Ionian (both subdivisions of the Mediterranean Sea). It is a diverse region. A variety of physical, historical, cultural and socio-economic characteristics and processes affects its coastal areas. Of the 258 municipalities in the region, 68 (26%) are on the coast; but those municipalities are home to 43% (1,718,759) of the 4 million in the region. Most of Puglia's coastal areas – 86% of its coastline length – are classified and used as beaches.

Various agricultural activities take place on land abutting the coast (Mininni, 2010) and over the years have preserved significant areas in the face of tumultuous development, especially post WWII. These open spaces are of great environmental and landscape value, including vegetable gardens and the citrus groves of Gargano Park, which are now in danger of disappearing due to the abandonment of agriculture in favour of forest expansion.

Coastal areas in Puglia have been increasingly affected by competing processes and interests. These recall Karl Polanyi's (1944) "double movement" concept on industrialized capitalist economies: As

markets have expanded, counter-movements emerged to limit their reach and influence, and to protect human beings and nature. On one hand, socio-economic changes have led to increasing anthropic pressures on the coastal environment; on the other, social awareness has grown, and the public has increasingly mobilized to prevent or minimize activities which can cause environmental damage, and implement public action for the protection of environmental assets in coastal areas⁴. In Puglia, this mobilization is expressed in the region's adoption of innovative regulatory tools to promote Integrated Coastal Zone Management (ICZM).

10. Anthropic pressures and resulting implementation gaps

Up until the end of the 1950s, over 80% of the Puglia coast was entirely free from development (Romano & Zullo, 2014). The following decade saw rapid transformation of Puglia's coastal areas, like the other Italian southern regions (also called "*Mezzogiorno*"⁵), which had historically been less developed than the north. In the 1950s, the focus of development in the region was on large infrastructural projects for the modernization of agriculture. From 1960 to 1980, development policy, organized and run by a public agency known as *Cassa per il Mezzogiorno*, was focused on large-scale heavy industry (Graziani et al., 1973). The most relevant outcomes of this period in Puglia were the establishment of highly capital-intensive large-scale state-owned firms (Partecipazioni Statali) in port cities: A giant steel-maker Italsider (now AnceIorMittal) in Taranto; petrochemical industries in Brindisi and Manfredonia. In addition, around Bari, state-owned and private firms were established, but then progressively replaced by a network of small and medium-sized local firms, mostly supported by EU financing programs (Barca & Ciampi 1998).

Today Puglia's coastal eco-systems are under severe pressure from the impact of industrial and building activities. The price of economic growth policies, from the perspective of environmental sustainability, has been high, especially if we consider that such policies were not able to stimulate significant autonomous growth or to reduce development gaps between northern and southern Italy (Trigilia 1992). The coastal location most under threat from environmental degradation is Taranto (Barbanente & Monno, 2004; Banini & Palagiano, 2014) but the other industrial growth poles – Brindisi and Manfredonia – have also been affected. These areas have been defined as contaminated Sites of National Interest (SIN) on the basis of the quantity and hazardousness of pollutants, the extent of health and ecological risks, and degradation of cultural and environmental heritage. They are characterized by releases of different types of pollutants (heavy metals, PCB, hydrocarbons) and industrial discharges (including cooling waters) (Shape – IPA project, 2014).

Since the 1970s, land use in Puglia's coastal zones has progressively become suburban and building development has been increasingly disconnected from the compact coastal cities, due to the growth in the number of second homes and, more recently, of recreation and tourism activities. As has occurred in other Mediterranean regions (European Environment Agency, 2006; Salvati et al., 2013), urban sprawl and sprinkling (Bonifazi et al., 2017) have been the predominant pattern of spatial transformation in Puglia's coastal areas, which are now overloaded by construction, both legal and illegal, including on dunes and cliffs, close to canals and dams (Bonifazi et al., 2016; Zanchini & Manigrasso, 2017).

These factors, together with agricultural and water interventions (irrigation, dragging, etc.) have had a huge impact on the extent of coastal erosion (Table 10.2; Sansò, 2010; Regione Puglia, 2012;

2018). Erosion has increased in recent years; the extent of affected coastline doubled between the periods 1992-2005 and 2005-2017 (Regione Puglia, 2012, 2018; MATTM, 2017). The construction of port facilities and hydraulic works at sea and along the main waterways have caused erosion, but also progradation (sediment build-up), depending on the case.

These processes have led to changes in the position of the shoreline, but authorities have failed to update data in MPD information systems (which includes cadastral information, aerial photography and satellite images). As such there are situations in which private land and associated developments fall into the MPD in some areas, and the MPD demarcation falls under the sea in others (Figure 10.3).



Figure 10.3: Irregularities in the demarcation of the MPD, Puglia (left: Marina di Lesina; right: Monte Sant'Angelo)

Source: Base map with demarcation from SID, Ministry of Infrastructure and Transportation, labelled by Angela Barbanente

Any steps taken to solve these irregularities will have to contend with potential significant impacts on the fisheries and tourism sectors. Both industries make significant contributions to the regional economies (Crea, 2017; Regione Puglia, 2017). In addition, bathing beach operators are perhaps the most stubborn defenders of the status quo, as they often benefit from illegal use of the MPD.

The regional policies that will be discussed in the following sections originated from calls from the public for a change in Puglia's approach to coastal zone management, to stop the privatization of beaches and improve environmental quality and services in coastal areas. But policy proposals have been met with strong resistance from beach managers, often supported by local policymakers and professionals, who fear that the changes proposed would conflict with their own interests. This has considerably slowed down the implementation process.

11. Regional regulation and planning for coastal zone management

A general change in regional policies for coastal areas over the 2000s is the shift from the focus on individual places and projects to the consideration of the coast as a complex system, made up of dynamic relationships between sea and land as well as coastal and inland areas. Actions that previously consisted of the protection of individual sites have been replaced by rules and plans for the protection and use of the entire regional coastal system. These policies have been increasingly influenced by a vision of regional development focused on the recovery and enhancement of endogenous natural and cultural resources, and on local action that recognizes the value of these resources and re-appropriates them for more sustainable development (Barbanente, 2011). This shift is a result both of increased public awareness of environmental issues and a change in the regional government of Puglia since 2005⁶.

Before 2005, the protection of areas of extraordinary natural value was primarily initiated within the framework of EU directives and State laws. Puglia implemented EU Council Habitats Directive (92/43/EEC), through which it identified 77 Sites of Community Importance (SCI), 21 of which are in coastal areas. Puglia is home to Gargano Park (121.118 hectares), which is a national protected area established under the law for environmentally protected areas (Law 394/91) and includes important rocky coasts and wetlands. The region also includes two nature reserves which are marine protected areas and three wetlands of international significance, protected areas at the international level through the Ramsar Convention (Shape – IPA project, 2014). In addition, there are 18 protected natural areas established on the basis of a regional initiative (Law no. 19/1997), most of which are located along the coast and twelve established after 2005.

As early as 1980 (five years prior to adoption of the 1985 law discussed above) Puglia adopted a law (no. 56) which prohibited any building within a 300-metre coastal setback zone. However, this law was not effective, as (a) it provided significant exemptions for development within the zone and (b) it did not curb illegal development, which was later legalized through national amnesty laws (1985 and 1994⁷). Moreover, the prohibition expired with the entry into force of the first Regional Landscape Plan (approved 2001; Law 431/1985), which paradoxically reduced the width of the strip within which development was prohibited from 300m to 200m.

Before 2005, public administrations carried out specific projects which, at best, solved local coastal problems for which they were responsible, ignoring the consequences that such interventions could have on neighbouring areas. The turning point of this approach dates back to 2006, when an integrated vision of the coastal zone was started, as an essential prerequisite for a policy that seeks to integrate social and economic development with the protection and improvement of the coastal zone environment. The case of Puglia is interesting both for the particularly innovative policies in the national panorama promoted by the Region and for the difficulties encountered in their implementation. Not only has this clashed with established economic interests and power relations that revolve around the privatisation and urbanisation of coastal areas, but it has also had to address the problems of lack of cooperation and coordination between the different levels of government - central, regional and local - that characterise the management of all Italian coastal areas (see Part I).

As explained in Part I, in Italy the protection, management and planning of coastal areas are essentially founded on two separate legislative frameworks established at the national level: the first

concerns the protection and management of the maritime public domain; the second concerns the protection and planning of the setback zone, which is under the landscape legislation. In the following sections we will illustrate how the Puglia region implemented secondary legislation and planning instruments within the abovementioned two national legislative frameworks.

Puglia Law Number 17: “Rules for the protection and use of the coast”

Soon after the election of the new government in 2005, Puglia adopted a regional law (17/2006) on “Rules for the protection and use of the coast” in June 2006. This law provides a framework for policy actions to be implemented in the maritime public domain, based on ICZM principles, with innovations aiming to ensure public access and free use of the MPD and territorial sea, and at promoting the preservation, protection and sustainable use of the coastal environment, as well as the cooperation between different levels of government and coordination between different activities, public uses and designations. The law outlines the rules for the exercise of administrative functions for the management of the MPD, in accordance with the Regional Coastal Plan (Piano Regionale delle Coste - PRC) and Municipal Coastal Plans (Piani Comunali delle Coste - PCCs).

Law no. 17 transcends national legislation by requiring that at least 60% of the available length of the MPD within each municipality (excluding unusable areas such as ports or cliffs) be reserved for public use and free bathing. It is worth noting that the highest minimum percentage defined by other coastal regions is 40% (Liguria) and that five regions do not include this numeric requirement. Moreover, Law 17/2006 prohibits municipalities from granting concessions for private use in ravines areas, river mouths /estuaries, alluvial channels, areas at risk of erosion, and other sensitive and vulnerable sites.

These regulations, which inevitably required declassification of beaches, met with strong resistance, especially from operators of beach resorts, who had previously gained concessions for the use of the MPD, as well as automatic renewals, and had used the land as exclusive private property.

Law 17/2006 prohibits the construction of fences on the MPD, leaves it to the Regional Coastal Plan to define specific rules for concessions, which must ensure public accessibility and free use of the shore, including for people with disabilities. Fences may be authorized and, in such cases, vertical access to the shore must be guaranteed at least every 150 metres. The Law also provides also a more restrictive definition of the State standard for "easily removable structures", prohibiting the use of any kind of cement, and requiring structures to consist of modular elements that modular elements which, after being dismantled if necessary, can then be reassembled in situ.

The Soprintendenza (see Part I) of Salento (sub-region of Puglia) often specifies on permits for such “easily removable structures” that they are valid only for the bathing season (from April to October), in order to minimize the impacts on views and the hydro-geomorphology, especially in areas characterized by sand dunes and vegetation. If the Soprintendenza wish to impose the requirement that such structures are disassembled in winter, they must provide adequate justification. Recently, the Council of State (no. 00738/2019) rejected an appeal brought by a beach-bathing operator in Lecce against the Soprintendenza, which had required removal of a concession. The Court ruled that such a decision by the Soprintendenza is legal, assuming it is well-

founded in the provisions of the laws for landscape protection and has been adequately justified, which it found to be the case.

Finally, the law institutes deadlines for accomplishment of regional and municipal obligations, including adoption of rules for public works on the coast (which were previously largely unregulated) and the preparation of PCCs.

In 2015, this 2006 law was repealed and replaced (by Law 17/2015) because of two key legal innovations: The 2011 amendment to the national law which required that concessions expire (Law no. 217) and the approval of a national law (Law no. 27/2012 on competition, infrastructure development and competitiveness), which transferred powers to regions to approve master plans for regional harbours and ports. The new law slightly modified some provisions of the old law to improve the effectiveness of regional action in monitoring and implementing coastal policy; committing the region to establish the "Regional coastal observatory for maritime conservation, development and planning" and to issue "Guidelines for the exercise of functions delegated to municipalities".

Puglia's regional coastal plan (PRC) 2012

The Regional Coastal Plan (PRC) is strictly limited to regulating the use and management of the MPD, with three primary policy aims: safeguarding the environmental and landscape heritage, guaranteeing free access to the shore, and promoting the development of sustainable tourism and recreation activities. It sets binding rules for the grant of concessions in the maritime public domain, as well as for development of the 68 municipal coastal plans (PCCs). These plans must be based on detailed studies and conform to the regional plan. They address the protection, restoration and monitoring of the coast, as well as the main contributing causes of degradation and morphological instability.

The PRC, prepared by an interdisciplinary group of experts from the Politecnico di Bari (Technical University of Bari), was based on a strong foundation of technical and scientific knowledge of the dynamics of coastal areas. The key guidelines for coastal works or development on the coast emerge from the definition of three classes of the level of critical danger of erosion of sandy beaches ("criticality"), and three classes of environmental sensitivity ("sensitivity"). Combined, these two classifications generate nine different coastal zone classes, each with different allowances regarding use and development, as well as different guidelines for minimizing the impacts of coastal activities. According to the plan's regulations for implementation (*norme tecniche di attuazione*) and recommendations for designing the PCCs, in each coastal municipality concessions for any use in the maritime public domain (whether for a new application or renewal) may be granted only for areas included in the lowest levels of "criticality" and "sensitivity".

In other words, concessions should not be granted unless the municipality lacks less critical areas, and in such cases, the concessions should be granted gradually to ensure the coast is stable, and only after a technical assessment approved by the Autorità di Bacino dell'Appennino Meridionale (Southern Apennine Basin Authority), the authority responsible for soil protection, indicates that erosion has stabilized. In order to ensure the implementation of this rule, the Puglia region

promoted several monitoring programs and recently adopted a programmatic framework for combating coastal erosion and defining priorities for action (Regione Puglia, 2018).

Similarly, in areas with highly sensitive values, concessions are usually prohibited and if the municipal territory lacks areas with low or medium values, they should be granted only after a specific environmental assessment submitted with the application for a concession, in addition to that required for environmental and landscape permits. In areas of high sensitivity, priority should be given to “free beaches with facilities” over private beaches. Moreover, in sensitive areas, concessions are limited to minimum beach services (small bar kiosks and public services).

The approval of the PCCs has been considerably delayed, so much so that in early 2018, the region appointed commissioners to take on substitutive powers in 23 defaulting coastal municipalities. The difficulties in approving PCCs primarily relate to the incompleteness and inconsistency of information on the legal status of the MPD (described above), particularly changes to the shoreline position due to erosion, as well as significant numbers of developments and concessions which do not comply with the law.

The regional landscape-territorial plan (PPTR), 2015

The Puglia Piano Paesaggistico Territoriale Regionale (Regional Landscape and Territorial Plan, henceforth PPTR), approved in February 2015, was the first Italian plan to fully comply with the 2004 Code and to apply the principles of the 2000 European Landscape Convention (ELC). It covers the entire regional territory and has a particular focus on coastal landscapes. The PPTR is binding on all land-development activities falling within the plan limits and on all other relevant general and sectoral plans at all levels – regional, provincial and municipal.

The Puglia PPTR is extremely innovative in the Italian context: It demonstrates an evolution from a restrictive-normative tradition to a complex dynamic planning vision, based on the integration of top-down and bottom-up approaches. While the PPTR is a statutory plan, it adopts a strategic approach. This mix of statutory and strategic emerges from the two different regulatory foundations for the preparation of PPTRs: The 2004 Code gives the PPTR statutory superiority over other plans, which allows it to dictate rules to prevent the coastal landscape from being further compromised by entrenched planning practices. On the other hand, the ELC principles call on governments authorities to adopt a policy based on active landscape protection; dynamic landscape management which involves the public and their expectations; and framing of planning projects for coastal areas (Council of Europe 2000).

The plan is organized into three main parts: (i) An Atlas of environmental, territorial and landscape heritage; (ii) A Strategic Scenario, which includes a vision and outlines objectives and guidelines, planning projects and actions for bringing the territory-landscape closer to the proposed vision through time; (iii) Regulations for implementation (*norme tecniche di attuazione*), which include guidance, directives and requirements. Overall, the PPTR combines a strategy based on a selective range of objectives and issues, and an open, proactive approach to plan-making and implementation, with statutory legal certainty and clear rules for the transformation of protected areas.

In relation to coastal areas, the PPTR includes an online GIS (Geographical Information System)-based map, indicating the limits of the 300m setback zone, as jointly delimited by the Region and the Ministry (Figure 10.4). This map must be periodically updated by the Regional Landscape Observatory according to the results of the annual monitoring of the plan. The PPTR regulations protect the 300m setback zone by prohibiting any plan, project or works in a range of categories, including: Construction of new buildings, or fences that reduce access to the coast or coastal views; removal of natural vegetation; changes in use of existing buildings for large-scale industrial and commercial activities; the use of materials and construction techniques that reduce soil permeability; and the construction of new roads, with the exception of those designed to improve existing settlements in ways consistent with site morphology and landscape features.



Figure 10.4: The 300m setback zone as jointly delimited by the Region and Ministry
Data source: Regione Puglia (2015) PPTR

In addition, the PPTR extends the requirements of Regional Law 17/2006 and the PRC regarding “easily removable facilities” for bathing and other recreational activities to apply beyond the MPD, to the 300-metre setback area, but without obliging concession holders to remove them after the bathing season. It specifies that these facilities may be permitted only on condition that they do not damage the natural landscape, alter the morphology, or reduce the usability or accessibility of the coast. In addition, they must be constructed from ecological materials.

The regulations also encourage maintenance and restoration of the coastal environment through various works and appropriate infrastructure, such as rainwater collection plants.

In order to promote protection and improvement of the coastal landscape as a valuable element of the natural and historical heritage, as well as an important socio-economic asset. As a consequence, the Strategic Scenario includes a specific Regional Project (RP) for the “integrated protection and improvement of coastal landscapes”⁸. The RP is consistent with the RCP and PPTR regulations, but allows a more holistic approach to management of the coastal zone. It includes areas that go far beyond land affected by the PRC and PCC (Figure 10.5). The project promotes a pro-active approach for ensuring that the public can enjoy the coastal areas, creating synergies with inland areas for a broader view of the coastal zone. It limits land take-up, thus preventing the formation of continuous linear development along the coast and protecting the immense heritage (urban, natural and rural), which can still be found in the coastal system and its inland areas. These goals can be achieved through Regeneration Schemes aiming to improve the ecological and landscape quality of settlements, focusing on the enhancement of the large undeveloped areas still present as well as urban waterfronts, suburbs, infrastructure connecting between coastal and inland areas, and low impact navigation (Granatiero et al., 2011).

12. Compliance and Enforcement in Puglia

Any effort to implement Integrated Coastal Zone Management (ICZM) in Puglia is hampered by illegal activities in the coastal areas. As demonstrated in Table 10.1, the number of illegal buildings constructed in Puglia’s coastal zone is high – far above the average across Italy. A crucial problem is the failure of municipalities to comply with the basic rules in force for illegal buildings which may not be legalized retroactively; namely, to take enforcement action through fines or demolition. As such, demolitions are rare – only just over 10% of owners of illegal developments were issued demolition orders over the period 2004-2018 (Legambiente, 2018). Demolitions orders are usually issued only decades after illegal developments are detected, following extended court battles, and rarely actioned due to the reluctance of municipalities and their limited financial resources. Most of the demolitions in Puglia are actioned by the Prosecutor's office following criminal proceedings.

Another compliance issue relates to beaches and beach services (parking areas, kiosks, etc.) which operate without concessions or in areas where such uses are prohibited by the Law (17/2006). In addition, many beaches are not in accordance with legal obligations, particularly the required minimum levels of services (sanitation, showers, kiosk, signage) and vertical and horizontal public access.

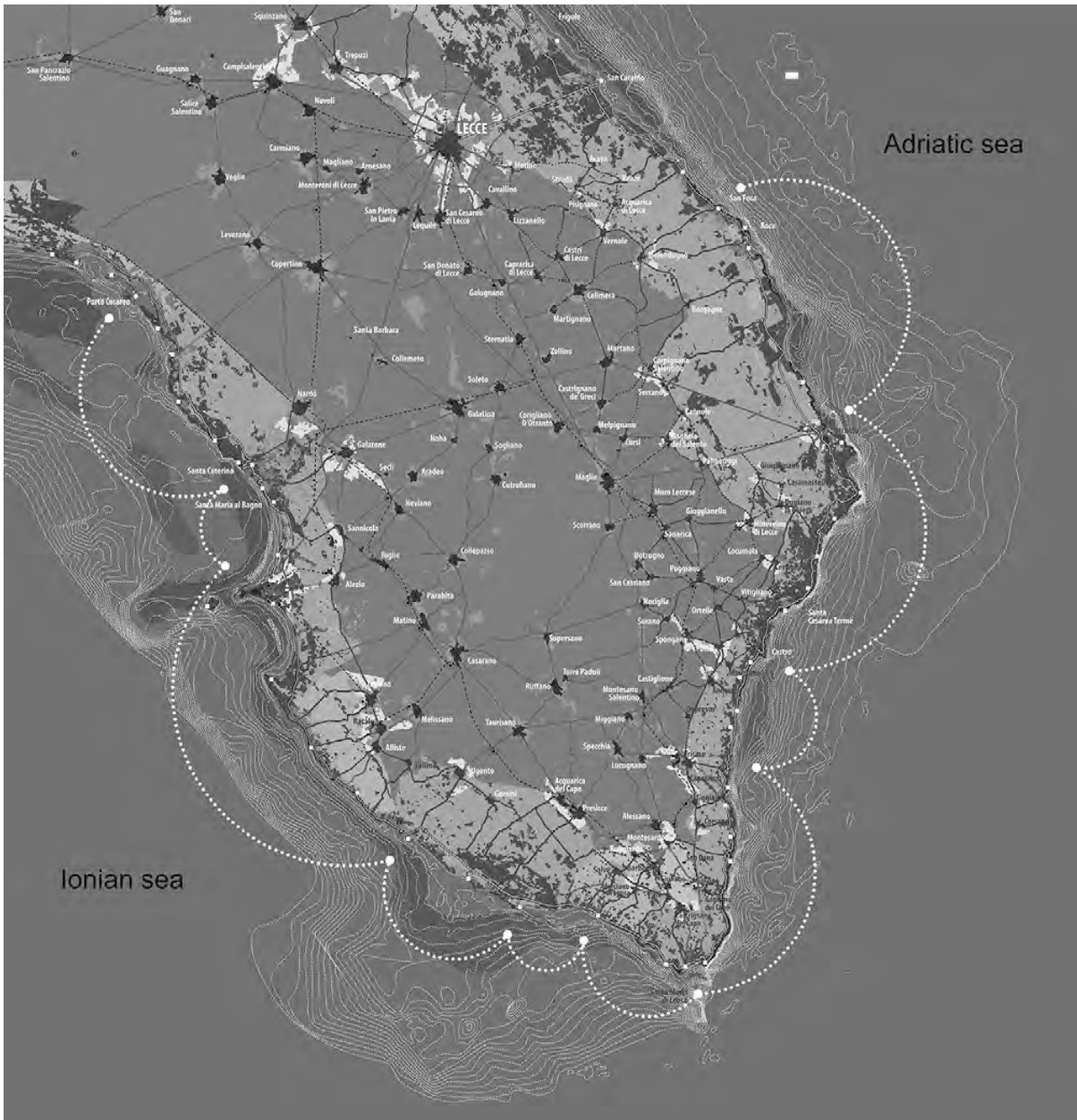


Figure 10.5: Regional Project for the "integrated protection and improvement of coastal landscapes": Salento sub-region

Source: Regione Puglia (2015) PPTR

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Figure 10.6: Illegal and legalized (after amnesty) buildings in the Lecce MPD

Source: F. Curci e C. Novak, DASTU, Politecnico di Milano, “Arretrare per riconquistare e tutelare i beni pubblici e ridare valore al patrimonio costiero”, Presented at SIU Seminar Politecnico di Bari, 4 June 2019 [Public Domain presentation]

State legislation does not assign specific responsibilities to the regions to prevent and suppress illegal construction. Puglia Law No. 15/2012 (“Rules on regional functions of prevention and repression of illegal building”), aiming to enhance the effectiveness of the region’s enforcement actions, is considered a ‘virtuous case’ within a context in which the national parliament and some regional councils recently attempted to approve essentially what were masked new amnesties⁹. The Law is the result of a process that involved all the key actors, including the association representing municipalities in the region, prosecutors and law enforcement agencies, as well as environmental NGOs. The Law:

- Stabilizes institutional cooperation through agreements with local authorities and judicial and police organizations operating in the field of urban planning control;
- Provides a database on illegal development, integrated into the regional GIS system, in order to improve the monitoring of land-use changes, information exchange and coordination of administrative actions;
- Supports the demolition of unauthorized buildings by removing key barriers to municipal implementation; lack of human and financial resources (or excuses to that effect). This involves two actions: (i) enhancing the regional exercise of power of substitution, by appointing regional acting commissioners and involving the prosecutors for investigation; (ii) allowing

municipalities to use a regional revolving fund for demolition and reversion to the previous state. The expenditures are to be refunded by the owners of illegal buildings;

- Defines general criteria for allocation of the regional fund, including the extent of the phenomenon, the damage caused by the illegal activity and the landscape value of the area concerned.

Implementation is slow and difficult given this law requires significant change in well-established social behaviours and political and administrative routines. The “implementation map” of this law varies according to contextual factors: If we focus on the sub-regions most affected by illegal buildings, we see some progress in Salento, but stubborn inaction in Gargano. Salento has seen some good practice; it has carried out demolitions using the regional revolving fund. These demolitions have been initiated by the prosecutor's office and, to a lesser extent, the municipalities, and result from ongoing collaboration between the region and law enforcement agencies, with four regional officials employed by the prosecution and paid by the region for monitoring and control activities. The same initiatives promoted by the regional government in Gargano failed miserably. In response, the region exerted the power of substitution, replacing officials in four municipalities with regional acting commissioners for building demolition. In Gargano, the regional government used an incremental approach, as it seemed to offer the best way to prevent paralysing conflicts related to stubborn opposition to demolition in an area characterised by collusion between local organized crime and public administration.

The rate of illegal development in Puglia has declined since 2012. In 2017, it was estimated that for every 100 authorized buildings, there were 36 illegal buildings; a much lower rate than in other southern regions: 68 in Campania, 65 in Calabria, and 61 in Sicilia (Istat, 2018). This certainly cannot be directly attributed to the measures described above, but perhaps may be an indicator of a turnaround to which regional and local governments and NGOs have contributed by their initiatives.

13. Public participation and proactive implementation of the Regional Landscape and Territorial Plan (PPTR)

The above plans and actions were developed with participation from the public and NGOs. The following refers specifically to the most recent plan prepared – the Regional Landscape and Territorial Plan.

Participation of local authorities, stakeholders, NGOs and the public at large, was promoted from the very beginning of the planning process and continued during implementation, using specific tools, which were tested during the plan-making stage, as part of standard practice in territory management (Iacovone, 2011).

The participation tools included in the plan are: Area conferences, community maps, eco-museums, and an interactive website with an online observatory. In addition, the plan includes governance tools such as agreement protocols, local territorial pacts, river agreements, awards benefits and incentives, and integrated pilot projects.

During the formal participation procedures required by law, on exhibition of the draft PPTR, the Regional Council received 2,700 formal requests for revision of the plan, mainly from landowners, but only 2% of these requests concerned coastal areas. This is due, on one hand, to the accuracy of the delineation of the 300m setback area (at a scale of 1:5000) and on the other hand, to heightened public awareness of the environmental and landscape values of coastal areas and the need to preserve them for use by the public.

In addition, the plan spurred one hundred appeals to the administrative court, all concluded in favour of the region, by decision of the Council of State. To prevent the opposition from getting the upper hand, the region increased its effort, also using financial resources, to involve municipalities and other local actors in the proactive implementation of the plan.

The most innovative tools that were used during the plan-making process are “integrated pilot projects”. These projects involved about 50 local authorities, together with numerous organisations and social actors and aimed to demonstrate, “live”, the bottom-up approach and proactive role for local actors envisioned by the PPTR.

Five integrated pilot Regeneration Schemes for coastal landscapes were undertaken during the plan-making process. The first (2012) included four municipalities on the southern part of the Ionian coast, led by Gallipoli, which experiences massive tourism pressure on its attractive beaches, especially in August¹⁰, putting unsustainable pressure on its fragile ecosystem. The four municipalities cooperated on a strategy for the regeneration of the coastal area, drawn up with the participation of residents. The Regeneration Scheme includes a range of actions for the improvement and sustainable future use of the coastal landscape (Figure 10.7). As the strategy aims to promote local development, specifically through the creation of new forms of sustainable tourism, it has been financed with European Community and national cohesion funds reserved for regions classified by the EU as “less developed”. Since the approval of the PPTR, the region has continued to promote integrated projects.

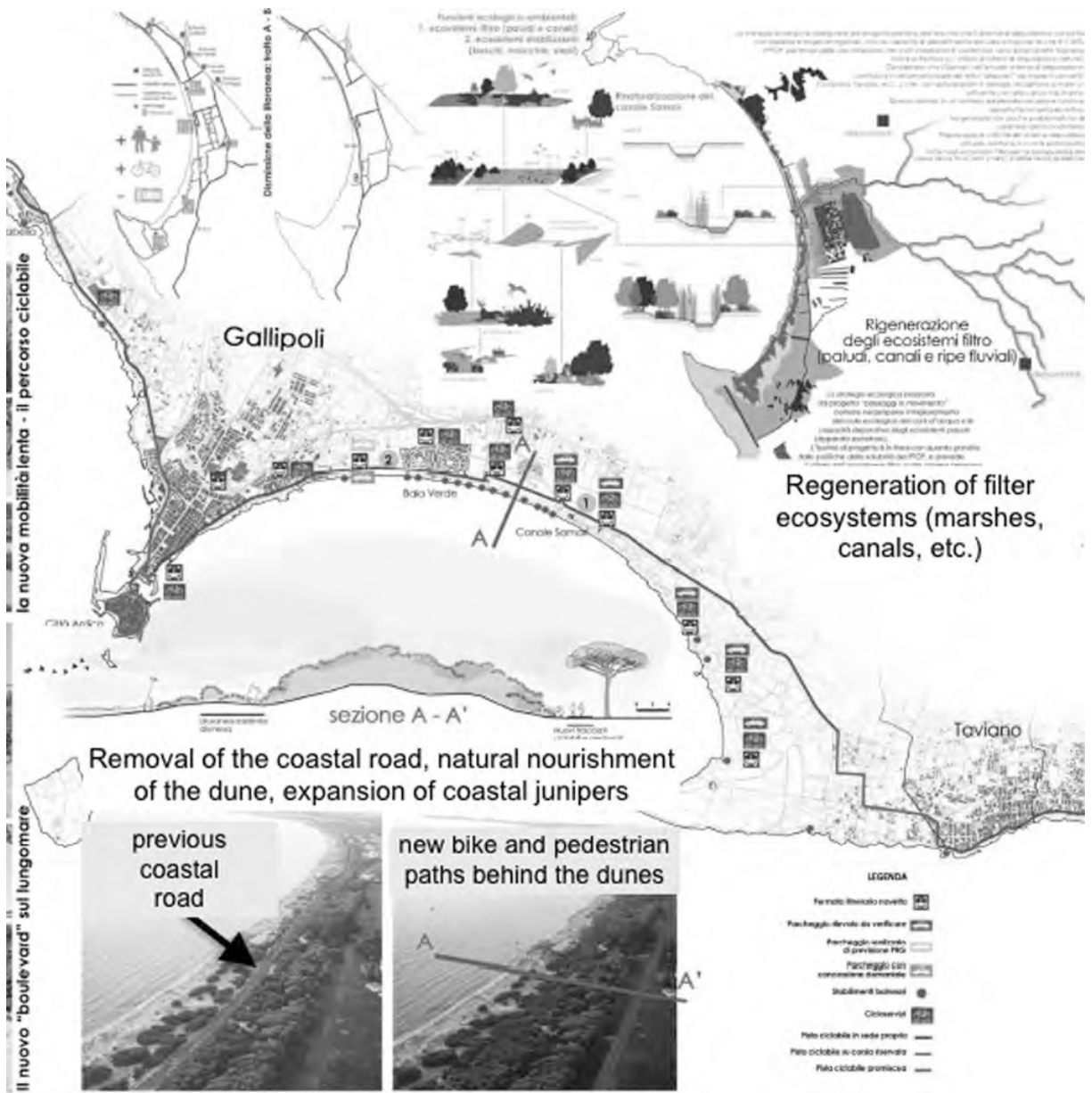


Figure 10.7: Extract from the Regeneration Scheme for the coastal area of Gallipoli and three neighbouring coastal areas
 Data source: Regione Puglia, Regeneration Scheme [Public Domain document]

14. Conclusions from Parts I and II

In Part I, we discussed the main features of the Italian system of planning regulations in coastal areas and laws relating to the Maritime Public Domain. We emphasized the main peculiarities of a system that is quite fragmented in relation to management of permitted uses and concessions, construction, planning and administrative functions. Even national strategies for coastal zone management and adaptation to climate change seem to be detached. No coordination is found between them and implementation is lagging.

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The measures and regulations found within the Navigation Code and Civil Code are consistently oriented to safeguard public domain and minimize the impacts on it. Despite the myriad of regulations on concessions, uses, planning, and property rights, protection of coastal areas is not always successful. Illegal development is still very widespread, especially in the southern regions, and planning regulations have to date, not succeeded in attempts to thwart it.

In Part II, we used the image of “double movement” to depict a region affected by increasing anthropic pressures on the coastal environment, which is trying to implement a more sustainable development in coastal areas through the mobilization of cognitive, social, political, and organisational resources. Both disputes and conflicts with central government and locally well-established illegal practices and behaviours, complicate the path to implementation. Yet through innovative regulation and planning approaches, the Puglia region has made significant progress towards more sustainable coastal zone management and more effective preservation of its coastal landscapes.

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National Legislation

- Law on “Protection of Natural Beauty” (Law 1497/39)
- Civil Code 1942 (as amended)
- Navigation Code 1942 (as amended)
- Decree of the President of the Italian Republic 684 of 1977
- Law on “Provisions for the Defence of the Sea” (Law 979/82).
- Law on “Urgent provisions for the protection of areas of particular environmental interest” (Law 431/85)
- Law 394/91 Framework Law on environmentally protected areas
- Decree 400 of 1993 “Provisions to determine fees for MPD concessions”
- Law 59/1997 Bassanini Law – Administrative Federalism
- Legislative Decree 112/1998 – Administrative Federalism

Law on “cultural and environmental goods” (Law 490/99)
Constitutional Law 3 of 2001 – Changes to Title V of the Constitution
Code on Cultural Heritage and Landscape (Law 42/2004; 2004 Code)
Law 296 of 2006 Financial and Budget Law

Regional Legislation

Puglia Law 19/1997 “Rules for the establishment and management of protected natural areas in the Puglia Region”

Puglia Law “Rules for the protection and use of the coast” (17/2006; amendment 17/2015)

Puglia Law “Rules on regional functions of prevention and repression of illegal building” (15/2012)

ENDNOTES

¹ Letter of formal notice dated 7 May 2010.

² <http://www.legambiente.it/abbattilabusso/abbattuti>

³ 985 km according to the more accurate survey of the Regional Coastal Plan.

⁴ There is no space in this chapter for even a cursory consideration of all the harsh conflicts arising around the management of coastal and maritime areas in Puglia. Significant cases which have seen conflicts between the State, Puglia and others include the ongoing construction of the Trans Adriatic Pipeline (TAP) for the import of natural gas from Azerbaijan to Italy, with the landing point on southern Puglia's Adriatic coast; oil exploration and extraction all along the coast of Puglia; and offshore wind energy projects particularly concentrated around the Gargano Park.

⁵ This term refers to the whole of Southern Italy, comprising 123 thousand square kilometres, with about 21 million inhabitants, and 8 regions out of 20.

⁶ In 2005, a leader of the *Partito della Rifondazione Comunista* (Communist Re-foundation Party), Nichi Vendola, won the Puglia regional primaries and then the elections for President. The region was previously governed by the centre right. He was re-elected regional president in March 2010. His government, surprisingly the most enduring in the history of the region, proposed an alternative model for development focussed on the enhancement of regional resources: social capital, especially youth, and cultural and environmental ‘common goods’ (Damiani 2011).

⁷ Unlike the amnesty of 2003 that legalized only “minor illegal works” in environmentally protected areas, the laws of 1985 and 1994 allowed legalization of entire illegal buildings.

⁸ The other 4 projects are: The regional ecological network, the city-countryside pact, the soft mobility system, and the systems for public use of cultural heritage.

⁹ Draft national law AS 580-B/2016, known as “Falanga” after the first signatory senator, on the criteria for execution of demolition of illegal buildings, which would make it more difficult to perform demolitions. In addition, in 2017, the State took both Campania and Basilicata to the Constitutional Court because they introduced new proposals for amnesties for illegal development.

¹⁰ In August 2014, the number of tourists was estimated at 60,000 per day compared to a resident population of 20,000 residents.