Chapter 9

The institutions and laws governing Italian fisheries

9.1 The sea and institutions: the difficulty of governance in fisheries

Abate F. S.

Economic globalisation brings with it increases in the impacts on marine ecosystems. To tackle this situation it is more necessary than ever for the rules of play to be clearly laid out, unambiguously shared and easily applicable. In short, it is necessary to define governance that is effective and efficacious and as extensive, participatory and democratic as is possible.

The *governance* of the fisheries policy is particularly complex and to date has yet to be effectively and comprehensively defined. Fishery activities have repercussions on common and shared resources, the correct management of which calls for the involvement of different areas of expertise and different interpretative criteria in order to create a connection between the different dimensions that characterise the subject of fisheries.

On the one hand it is necessary to manage resources jointly: fish stocks cross borders and seas, as fishing fleets have done for centuries. Because the activities of one fleet have repercussions on others, the countries of the European Union decided to draw up a Common Fisheries Policy (CFP) to be implemented in collaboration with local, regional, national and international partners. On the other, all the subject areas associated with fisheries such as ecology, the economy, law and sociology constitute an *unicum* for establishing an effective fisheries policy.

These are the reasons that make the sharing out of responsibilities relating to fisheries particularly complex: the qualified and transparent involvement of all those interested in the different phases of formulating and implementing the policy and the cohesion of the fishing policy with other policies. Establishing the effective *governance* of fishery activities still constitutes, to this day, a gruelling challenge.

Additional areas of complexity are created by the particular technicality that characterises the management of fish resources and which renders the separation of the technical-management functions from the legal-political ineffective: the technical management function must of necessity be involved in the process that shapes the regulations for a correct formulation in preparation for an effective implementation of the same regulations. The development of regulations, which has characterised the subject-matter until now, confirms said observation.

From an EU perspective the European Commission has concentrated all the skills required for implementing the CFP under one single directorate. The main legislative tool is the regulation,

characterised by a particularly marked level of technicality, which does not require transposition into the national legislative system in as much as it is directly applicable. From here comes the accentuated prescriptive nature of the community programming and planning functions, from which it is not possible to separate the technical function.
Once the common goals have been established by means of the Council's decisions and after having fixed the minimum conditions to be met and the criteria to be respected in order to guarantee uniform rules, every EU member country must draw up the methods for implementing said rules effectively.
National institutions, called upon to implement the CFP and achieve its objectives, must maintain a close working relationship with the offices of the EU, both during the drawing up of the regulatory tools as well as the operational stages for implementing the same. In Italy the activities in preparation for the formation of the regulations and those concerning the implementation of the same tend to be concentrated, in compliance with what occurs in the EU, under one single directorate. The experience has highlighted the effectiveness of such an approach, which is characterised by the involvement of technicians who will subsequently be charged with implementing said regulations, in all the stages of the process for drawing up the CFP.
Moreover, the process also sees the involvement of the sector's economic operators, through the trade associations and the sector's trade unions, with the aim of reconciling the interests involved, safeguarding the position of those who make their living from the sea, who work on it and are the main targets of the regulations in question.
In the area of fisheries, the dialogue between the Commission, the Council and the Member States does not only consist of large ministerial gatherings, but also takes the form of an ongoing consultation, thanks to the Council's work groups, in which representatives of fisheries management also take part to discuss and criticise the draft documents. In this way different stances come to light and possible compromises are drawn up. Once the regulations have been established the Member States are responsible for the implementation and monitoring of the fisheries policies and the prescriptive nature of the community regulation leaves little room for manoeuvre during the implementation phase.
The importance of this process needs to be reaffirmed and its effective operation guaranteed: the possibility of safeguarding the specificity of our sea comes from the power of the Government to influence the stances taken in these areas. It becomes essential, therefore, to increase the incisive capability of Italian involvement during the EU negotiation phase, something that is increasingly becoming a driving force in the management of sectoral problems.

Governance of the Mediterranean Sea

The solutions to the problems of managing fisheries in Italy are not only to be found at EU level. A great many of the issues are associated not only with the organisation of the fishing fleet in Italy – mostly fragmented into small family-run businesses – but also with the location of the Italian peninsula, in the middle of the Mediterranean Sea.
The semi-enclosed nature of the Mediterranean and the cross-border repercussions of maritime activities necessitate greater cooperation with non-EU Mediterranean partners. Over twenty coastal States exist alongside one other within the basin with differing levels of economic development and administrative competencies and between which there exist strong political differences in particular when it comes to the demarcation of territorial and maritime spaces.

More specifically, seven of the coastal States are EU members, two are candidate countries and three are potential beneficiaries of the EU's expansion policy. The remaining countries maintain close relations with the EU, primarily in the area of the policies on European proximity. With the exception of one country, all the others are members of the Union for the Mediterranean.
Unlike other semi-enclosed seas, such as the Baltic or the Black Sea, a large part of the Mediterranean Sea is made up of high seas, which creates particular problems of *governance*: around 16% of the sea area is composed of territorial waters and 31% of different maritime areas, often contested by other coastal states because of the expansion of the area laid claim to or the validity of that claim.
A considerable part of the Mediterranean's waters are located outside of the areas that come under the jurisdiction or sovereignty of the coastal States. The aforementioned States do not possess any prescriptive or executive powers that allow them to exhaustively regulate any human activities outside of these areas, in particular when it comes to the protection of the marine environment, fishery activities and the development of energy sources. Outside of the areas of their jurisdiction, the States can only adopt measures that apply to their own nationals and vessels. Certain actions can also be undertaken jointly within the restricted framework of regional agreements for the safeguarding of the marine environment and the preservation and management of fish resources, albeit the problem of implementing the decisions adopted still remains, in particular with regard to third-party countries that are not party to the agreements.
This situation is due to the fact that, in the Mediterranean, the problems of demarcation of borders between adjacent states are tied to complex and politically sensitive disputes in an area that does not exceed 400 nautical miles. The Mediterranean's particularly vulnerable marine environment is the victim of a disturbing combination of phenomena: pollution originating from the mainland and from ships; discharging of waste materials; threats to biodiversity and excessive fishing and coastal degradation. Within the framework of the MARPOL agreement, the Mediterranean Sea has since 1983 been classified as a "special area" with respect to hydrocarbons and from May 2009 with regard to waste materials. The Union for the Mediterranean added the reduction of the pollution in the Mediterranean Sea to its priorities. The coastline appears increasingly threatened, as is the cultural and natural heritage that is not to be found anywhere else in the world and which includes the more than 400 UNESCO sites. In order to solve these problems it is necessary to find a solution to two important gaps in the area of *governance*. Firstly, in most of the Mediterranean States each of the sectoral policies is carried out by a specific Government, just as every international agreement is applied according to each State's own regulations. It therefore becomes difficult to obtain an overall picture of the cumulative impact of maritime activities at a basin level. Secondly, because a large part of the sea consists of high seas, it becomes difficult for coastal States to plan, organise and regulate activities that inevitably end up impacting directly on their own territorial waters and coastlines. The combination of these two elements creates a situation in which policies and activities tend to develop independently one from the other, without any real coordination between the different activity sectors that have an impact on the sea or between all the local, national, regional and international players. To this should be added other issues that are essential for good *governance*: the involvement of interested parties, the transparency of the decision-making process and the implementation of regulations drawn up by common agreement.
In this context, an important tool for managing fish resources is the General Fisheries Commission for the Mediterranean (GFCM). This is a regional, advisory type body whose purpose is that of promoting the development, preservation and correct management of living marine resources.

Its responsibilities include the formulating of conservation measures, the regulating of fisheries methods and systems and the establishing of minimum catch sizes etc. The GFCM constitutes a particularly effective model of cooperation at a regional level to which both EU Member States as well as non-EU coastal States belong.
A particular feature of this organisation is also associated with its distinctive method of working. The GFCM is organised into committees and working groups, made up of experts of different nationalities, who keep the sector under constant observation with regard to the aspects relating to their own subject areas. This allows the situation to be constantly monitored and provides those sector operators involved in the working groups with a voice. A limitation for the international bodies lies in the absence of coactive power and in the lack of any binding powers in the decisions taken. Unless there are any formal objections, the recommendations of the GFCM become compulsory for each individual Member State once they have notified. Where there is an objection the recommendation does not become effective for State that has lodged an objection.
As revealed by the Commission in the communication on *governance* of the Mediterranean, our sea constitute a prime example of a maritime region in which human activity could gain more substantial economic benefits from the sea, with a far lesser impact on the ecosystem. In this sense, it is necessary to reinforce cooperation between the affected parties and Administrations involved in all of the maritime sectors, to intensify multilateral cooperation and promote dialogue and collaboration with those countries of the Mediterranean basin that are non-EU Members. It would appear, in this context, that in order to establish shared rules it is necessary to improve the implementation of international and regional agreements that regulate maritime activities and the ratification and application of the United Nation's Convention on the Law of the Sea. The tools that in particular require an increased commitment are: the planning of maritime areas, the integrated management of coastal areas and integrated marine surveillance in order to render maritime surveillance more uniform across the entire Mediterranean Sea. All of our efforts are focussed on moving in this direction.

References

- COM (2009) 163 final of 22.04.2009, Green Book on the Reform of the Common Fisheries Policy.
- COM (2009) 466 of 11/9/2009, Communication from the Commission to the Council and European Parliament on “An integrated maritime policy for better governance in the Mediterranean”.
- COM (2011) 417 of 13/7/2011, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Reform of the Common Fisheries Policy”
- ISMEA (2006) - *Verso un sistema di regole comuni per la pesca nel Bacino del Mediterraneo*. Roma.
- Spagnolo M. (2006) - *Elementi di economia e gestione della pesca.* (Elements of economy and management of fisheries). Franco Angeli, Milano: 279 p.

9.2 Changes at a constitutional level in the allocation of responsibilities in fisheries related areas

Marzio P., Romanò P.

The present responsibilities in matters related to fisheries are the product of a long regulatory process which began with Royal Decree 387/1861 which allocated them to the Ministry of Agriculture, Industry and Commerce, without differentiating between marine and brackish waters. Even the Royal Decree 1604/1931, consolidation act of the law on fisheries, dealt jointly with the regulation of fisheries in marine and brackish waters and the related responsibilities were assigned to the Ministry of Agriculture and Forests.

The aforementioned consolidation act in the main extended the regulation related to marine fisheries, also because aquaculture took on a totally peripheral role compared to traditional fishing.

Legislative Decree No. 26/1946 of the Provisional Head of State resulted in the creation of the Ministry of the Merchant Navy to which, under Legislative Decree No 396/1947 of the Provisional Head of State, passed the powers related to fisheries (which had once been the responsibility of the Ministry of Agriculture and Forests), with the exception of those powers associated with brackish waters which remained with the latter.

Previously the Navigation Code, which only controlled marine fisheries with a few regulations, had been approved by Royal Decree No 327/1942.

The subsequent legislation was then inevitably influenced by the wording of the 1948 Republican Constitution which mentioned fisheries in brackish waters, amongst the many subject areas contained in Article 117 dedicated to the powers of the Regional legislator.

More specifically the separation of the subject matter ended up establishing different legislative powers: that of the State, with regard to marine fisheries and that of the Regions for fisheries in brackish waters. With the approval of Law 963/1965 and Presidential Decree 1639/1968 the area of sea fishing was once again regulated, leaving the Consolidation Act 1604/1931 in force only for non-sea fishing.

The growing interest for the sea fisheries sector was reasserted by Law 41/1982 in which national programming was introduced and included, for the first time, the notion of fishing effort.

The aforementioned law, intended to favour the rational exploitation and re-evaluation of sea resources through a balanced development of sea fishing, decreed that, in view of the state and regional programming, the EU guidelines and the international involvement, the Minister for Merchant Shipping (now the Minister for Agriculture Policies) should draw up the three-year national fisheries and aquaculture plan.

Thus, with Law 41/1982 the national legislator gave primary importance to conservation and rational management of the sea's biological resources. In so doing it complied with the principles that were already particularly clear and envisaged internationally, significantly diminishing the relationship between the private sector and fishery activities.

Subsequently, with Constitutional Law No. 3 of 18 October 2001 (Official Gazette 248/2001), the Italian Parliament assigned additional legislative and administrative powers to the Regions, consequently laying the foundations for a change in direction towards a Federal State. The

principle of the Central State's overall jurisdiction, with a final listing of the areas of jurisdiction attributed to territorial agencies, which is normally typical of a unitary state, was replaced with that of the general jurisdiction of the Regional Administrations, a principle typical of Federal States, with the exception of those areas for which legislative control remains explicitly with the State.
The Constitutional Law No 3 of 2001 therefore represented a decisive change in the criterion of sharing out the legislative powers between the State and the Regions. Contrary to what was envisaged by the original Constitutional Article 117, in which regional power was limited purely to areas expressly indicated by it, the new Constitutional Article 117 gave the Administration the powers to legislate in all those areas not assigned exclusively to the authority of the State or that of the concurrent regional power. Thus the State retained the exclusive power to legislate on the subject areas listed in Paragraph 2 of Constitutional Article 117 and in Paragraph 3 of the same within the constraints of the setting of the fundamental principles. Every other area was assigned exclusively to the jurisdiction of the regions.
The subject area of fisheries in particular, with the new Title V, was not the object of any mention of Constitutional Article 117, it not having been included in the lists of subject areas passed back to the sole legislative or concurrent power of the State as per Paragraphs 2 and 3.
On the basis of what has been stated, it was considered that the same had to be included in the "residual" and exclusive legislative power, referred to in Paragraph 4 of Constitutional Article 117. What was envisaged, primarily determined the failure to differentiate between fishing in brackish waters and fishing at sea, as the criteria for the assigning of legislative functions. Furthermore, the new constitutional system appeared to consist of a number of subject areas, associated with the subject of fisheries and with it a close qualifying relationship, which had been specifically listed in Paragraph 2 (the State's exclusive legislative power) and Paragraph 3 (concurrent power).
Finally, to round off the information in its entirety, it should be pointed out that with Law 27/2001 (commonly referred to as the "market laws") the Government received the power to issue decrees in the areas of forestry, fishing and aquaculture for the purpose of modernising these sectors.
These laws were followed by three legislative decrees, namely Numbers 226, 227 and 228, all dated 18 March 2001 and referred to as "guideline decrees". These decrees, just like Legislative Decrees 153 and 154 of 2004, issued on the bases of Enabling Law 38/03, profoundly changed legal regulation in the areas of fisheries, totally repealing Law 41/1982 and Law 963/1965 almost entirely.
Following the outcome of the aforementioned scrutiny of the legislative sources that followed in succession in the fisheries sector, it is possible to state that even the briefest analysis of the most significant aspects of the regulation of fishery activities revealed certain profiles that are instantly subject to criticism.
Numerous aspects in fact emerged on which the legal analysis undertaken up to this point by scholars and case law has not achieved, with respect to the fisheries sector, a similar degree of investigation to that which occurred in other sectors of production.
Nevertheless, in attempting to outline the relationship between state and autonomous territorial sources in the area of fisheries, it is possible to highlight certain undoubtedly useful interpretative criteria.
In particular, it is principally at the moment of formulating a regulation that the interests of those associated with fishery activities are established. In the meantime let us examine the critical issues are that have emerged from the analysis undertaken and their possible interpretations.
Firstly, the regulations that govern fisheries have taken on distinctive features all of their own. The aforesaid distinctiveness undoubtedly consists in a considerable overlapping of regulations

over time, the result of periods and legislative notions of fishing activities that differ greatly among themselves, as well as in the difficulty in replacing regulations that date far back in time in order to guarantee uniformity to the legislative system.
Secondly, the legal regulations that refer to fishing activities present a marked diversity in relation to the contents. This aspect results in an exponential multiplication of the regulations of equal standing with considerable qualitative differences that end up invalidating their uniformity.
Moreover, it becomes necessary to weigh up the specificity of the EU's regulation of the fish sector, something that is difficult to find in other sectors of regulation. Said distinctiveness finds its origins in the type of legislative source that is predominantly prevalent, that is to say that of EU regulation. The instrument used almost exclusively by the EU to govern fisheries is the regulation, with two not unimportant effects, also on the legislation of individual systems. On the one hand because they are directly applicable these community regulations do not require internal implementation, as occurs in the case of directives. They also determine both the effect of providing uniform rules for all Member States and that of not stimulating a constant internal regulatory activity over time. On the other, the EU sources in this sector are characterised by an especially apparent level of detail that leaves little space to individual Member States for regulation. On the other hand, the level of sub-state legislation, even though fully justified by the text of Constitutional Article 117, it does not achieve an appropriate level of uniform development across the entire territory.
Finally, there is a level of disjointedness in the State regulation that it has only been partially mitigated by more recent legislative interventions that render the activity of those that interpret them equally complex. In a framework of such legislative complexity, the sharing out of powers has of necessity had to, in the first instance face up to the passage of the consideration of fishery activities from the productive purpose to being the point of balance of complementary interests that necessarily have to merge. Nevertheless these interests create the shifting of legislative and administrative powers, towards an 'adequate' level of regulation that is difficult to put into place. This level, as has been highlighted, carries out its duties by and large towards the top. It is necessary to remember that the difficulty in recognising the adequate territorial level depends also on the distinctive nature of what is being regulated, that is to say the exploitation of fish resources. The arrangement of responsibilities outlined by the State legislator and the Constitutional Court puts forward, as already said, countless difficulties in interpretation.
In any case, it is possible to identify a sufficiently safe criterion with which to ensure total legitimacy to the exercising of legislative power on the one hand and administrative power on the other.
The criterion is identified by the Constitutional Court which envisages, even if only in the very few rulings that deal directly with the "subject matter" of fisheries, which are the rights to legitimation of the State role, beyond which the full legitimacy of regional intervention is recognised.
Despite the assigning of legislative and administrative powers, which the wording of the law would appear to place at a sub-state territorial level, a systematic analysis of the judicial rulings however reveals how essential the powers assigned at State level actually are to regulating the sector. Two motivating aspects in particular legitimise the State's powers in governing fisheries.
The first, which in itself would be sufficient for understanding all the subsequent profiles, is the responsibility of the State with respect to community obligations.
Despite the presence of multiple levels of regulation, it appears beyond doubt that there has to be, of necessity, a principle of parallelism between the powers exercised and related responsibilities. In the same way, it is certain that fisheries management recognises the state as being responsible with respect to EU bodies for the effective application of the voluminous supranational legislation.

All of this appears to be confirmed both by what has been revealed in the Constitutional text, on the basis of which (Article 117, Paragraph 2(a)) the State has exclusive lawmaking powers in the areas of "foreign policy and international relations of the State; relations between the State and the European Union", but also in the same EU legislation. An analysis of community sources in relation to controls has revealed how the non-fulfilment of the regulations contained therein results in a sanction for the Member State that can be applied in a variety of forms, amongst which, the most significant, with direct applicability and consequences at the same regional level, is the suspension of the allocation of EU funding on which the entire system of interventions relies. It is therefore a question of considering the State's intervention in fisheries as being legitimate, in so far as it ensures that the State itself has the appropriate tools for guaranteeing the respect of the obligations taken on in a supranational context.
The second reason that justifies the assigning of responsibilities at a State level consists in the setting out of uniform minimum levels in the area of environmental protection and competitiveness. The State's role is legitimised primarily by the need to secure the principle of unity, something which the administrative powers should strive for in any case. On the basis of what has been said, the powers for determining standards do not allow for a disparate regulation by individual regions. That said the coexistence of functions of the levels of government, both supranational and regional, results in the need to establish the privileged forms of composition of the interests in the operating methods of the aforementioned roles. The relationship between concurring roles appears to distinguish itself in two areas. The first is caused by the recurrence and density of the programming role. Indeed the favoured tool for the positioning of the different levels of exercising powers is identifiable in the interlinking of programming instruments in a relationship of one's dependency on the other.
The second role, deducible from the relationship between powers, is identified by the same Constitutional Court and it consists of the forms of loyal collaboration between the State and the Regions.
The method of regulation becomes the only tool that is capable of guaranteeing the full legitimacy of a State's intervention. Said regulation of the sector inevitably passes through the different forms of coordination. These, in particular, can take one of two specific forms.
The first is the procedural which is referable to the dialogue between institutional bodies and those having an interest. This form constantly has to face the problems associated with the procedural burden, not to mention the right of veto over the normal execution of the procedures assigned to participating bodies. The second form, towards which the need for cooperation may tend to lean, is that of the organisational dimension. Take for example the creation of ad hoc collective bodies for carrying out administrative functions in which all the different levels of government are represented, such as the Central Advisory Committee for Fisheries and Aquaculture, are represented, as per Article 3 of Legislative Decree 154/2004.
At the outcome of the analysis, albeit partial, of the underlying problems of fishery activities (having indicated how State intervention should be viewed not only as legitimate but as something positively indispensible for ensuring respect of EU regulations and the effective regulation of the sector) it is considered appropriate to briefly express some critical points concerning the future prospects of regulating the fishery sector.
EU regulation highlights without a shadow of a doubt how, in recent years, greater protection of fishing resources has become a primary objective of the European Union and one that is considered essential for gaining the respect of regulations of the Common Fisheries Policy.

From the study conducted of the new fisheries control system, it is possible to confirm that the objective of responsible and sustainable fisheries is no longer possible with the development, among operators, of a culture of compliance that must follow both the management measures as well as the execution of the regulations adopted and without closer collaboration between Member Countries of the European Union.
A study of the legislation reveals the gradual growth of awareness of both the negative effects of the overexploiting of fish resources and the need to come up with management methods that are increasingly more specific and appropriate. The remedy, therefore, has to be found in a global action whose effectiveness is not possible without the necessary cooperation of member states. All the parties in the chain of production are bound by the compliance and execution of the CFP regulations, in order to express that culture of respect that can guarantee a sustainable and responsible exploitation of fishing resources. When it comes to sharing out the responsibilities between the State and the Regions, this appears to be far from being entirely clear and the aforementioned criteria leave leaving the legislator room for the application of, in a virtuous sense, a rationalisation of the same.
In this sense, a rationalisation of the areas of responsibility passes by necessity from the possible amalgamation of functions through the harmonisation of interests, applying the criterion explained by the Constitutional Court itself to the fisheries sector in ruling 225/2009, according to which, even with the necessary clarifications with regard to the need to ensure loyal collaboration between levels of government, the distinctive criterion is teleological: the responsibility for "safeguarding" and therefore preserving and improving the resource rests exclusively with the State whilst the regulating of different "uses" for the purposes of improving the environment, avoiding compromises or changes to the environment itself rests with the Regions. In this respect, the State's responsibility, when it is an expression of the safeguarding of the environment, constitutes a "restraint" on the carrying out of regional responsibilities. In conclusion, the legislative picture described here highlights several points of great interest for the juridical analysis which, in all probability, in this sector has not been subjected to the same degree of in-depth scrutiny that has been reserved for other areas of the system, as evidenced by the poor national law in this regard. The framework of functions appears to be divided between levels of government that are likewise legitimised, but the Constitutional Court has established logical criteria based on which the legislator will of necessity have to move. There is leeway for a rationalisation of the areas of responsibility which will require a corresponding careful consideration of the important juridical interests associated with fisheries.

References

- Casanova M. (1990) - *La pesca nell'ordinamento giuridico italiano*. Dir. mar.: 433 p.
- Cigolini F. (1933) - *Lineamenti e princìpi informatori del nuovo testo unico delle leggi sulla pesca*. Riv. pen.: 312 p.
- Di Giandomenico G. (2003) - *Il diritto della pesca*. Edizioni Scientifiche Italiane, Napoli: 500 p.
- Fonderico F. (2010) - Corte Costituzionale e codice dell'ambiente. *Giornale di diritto amministrativo*, 4: 368 p.
- Grigoli M. (1982) - *Diritto della navigazione*. UTET, Torino: 696 p.
- Righetti G. (1987) - *Trattato di diritto marittimo*. Giuffrè, Milano: 2067 p.

9.3 The contribution of the Italian administrative regions[1] to fishery resource management and marine fisheries development

Tudini L.

Managing the fishery and aquaculture system is complex and it is regulated at an international, EU, national, regional and local level. The process of producing national and regional policies for managing fishery resources, strongly conditioned by common fishery policy, is currently going through an "adjustment" phase.

Regional regulations concerning marine fishries are highly diversified as regards the matters to be regulated – this can be ascribed in part to issues to be resolved concerning State-Region relationships. Over and beyond sector-specific regulations, Regions intervene in a series of other activities, including the following: preparing their own research and development programmes, enhancing local products in relation to local traditions, providing support for safeguarding biodiversity, contributing to defining locally-applicable national management plans, adopting local management plans and defining rules for setting up fishery and aquaculture districts.

Locally-applicable national management plans

The contribution of Regions to defining national management plans, with reference to the transparent goby (*Aphia minuta*) and the European eel (*Anguilla anguilla*) is illustrated below.

Council Regulation (EC) 1967/2006 regulates fishing operations in relation to Mediterranean fish stocks even via specific technical tools, but also envisages the possibility of allowing exemptions on distance from the coast and on net mesh size for certain types of fishing operations. In order to take advantage of these exemptions it is necessary that the Member State has a Management Plan for the species concerned, which must be evaluated by the Scientific, Technical and Economic Committee for Fisheries (STECF) and later approved by the Commission by means of Council Regulations.

Considering that this regulation made transparent goby fisheries non possible, as it is performed along the coast and with a smaller-sized mesh compared to Community limits, it became necessary in Italy to prepare an appropriate Management Plan for the capture of this species. For Geographical Sub-Area 9 (GSA 9, Ligurian and North Tyrrhenian Sea) there was close collaboration between the MiPAAF and the Regions concerned. The Commission approved Commission Implementing Regulation (EU) 988/2011 of 4 October 2011, allowing the exemptions requested for some of the territorial waters in Italy.

Council Regulation (EC) 1100/2007 introduced measures to rebuild stocks of European eel and envisaged a Management Plan being sent to the European Commission by each Member State. In Italy, the national plan was written by the Italian Ministry of Agriculture, Food and

[1] Italy is subdivided into 20 administrative regions: Valle d'Aosta, Piemonte, Lombardia, Liguria, Trentino Alto Adige, Veneto, Friuli Venezia Giulia, Emilia Romagna, Toscana, Umbria, Marche, Lazio, Abruzzo, Molise, Campania, Basilicata, Puglia, Calabria, Sicilia e Sardegna.

Forestry Policies, supported by scientists and representatives from the Regions. Because circumstances in Italy are complex and administrative responsibility as regards eel fishing is not uniform, the National Plan is a mixed one. It envisages an action framework at a national level for coastal waters and for those Regions which preferred to delegate eel resource management to Central Government. Other Regions decided to make their own contribution, producing their own Regional Management and Protection Plan, thereby obtaining exemption from the total ban on eel capture. The National Plan, presented to the European Commission in January 2009, was approved via European Commission Decision C (2011) 4816 of 11 July 2011.

Local Management Plans

Council Regulation (EC) 1198/2006, concerning the European Fisheries Fund (EFF), provides for improving management and monitoring of the conditions of access to fishing areas via Local Management Plans approved by the competent national authorities. (Art. 37, letter m). These plans can be implemented via the Priority Axis III of the programme. This lays down a whole series of common interest measures (collective action, ports, landing locations and fishing shelters, new market development and marketing campaigns aimed at consumers, and pilot schemes).
The EFF national operating programme requires that plans be produced by associated groups of fishermen, by consortia and Producers Organisations (OPs) that represent at least 70% of the vessels or fishing capacity of the area in which the plan is to be applied. All measures indicated in the plan must be in harmony with the principles of protecting and conserving the biological resources listed in chapter II of Council Regulation (EC) 2371/2002 and will necessarily give rise to a gradual reduction in fishing effort that shall be scientifically quantified and demonstrable. The plans shall include any measures aimed at regulating fishing activity that impose more restrictive regulatory obligations compared to those indicated in EU legislation. Regional administrations were identified as Intermediate Bodies for promoting the implementation of plans by fishermen.
The Regions promote the presentation of Local Management Plans by management bodies which comprise operators who are supported by a Scientific Research Institute expert in this topic. The plan is the result of a consultation and sharing process with fishing trade associations and field operators. The Regions carry out initial assessment of the plans, which will then have to be approved at a later stage by the MiPAAF. EFF regulations finance the costs incurred in producing the plan, as well as the technical management and control measures identified within it.
Several local plans submitted by the Regions have already been approved by national government (Sicily, Friuli Venezia Giulia); other Regions have started up the process by issuing public notifications (Campania, Calabria and Sardinia); others are still defining the selection procedures to identify the beneficiaries in order to issue the relative orders or calls.

Fishery and aquaculture districts

The process of identifying fishery districts for rationally managing biological resources dates back to the fifth 1997-1999 three-year Marine Fisheries and Aquaculture Plan.
In approving the Sixth 2000-2002 three- Marine Fisheries and Aquaculture Plan, the Italian Interministerial Economic Planning Committee (CIPE) recommended to the MiPAAF that the Fishing District experiment be started up and that management consortia be consolidated.
Art. 4 of Decree Law 226/2001, issued to implement Enabling Act 57/2001, introduced and defined Fishing Districts, which were set up to ensure rational management of biological resources:

marine areas that are homogeneous from an environmental, social and economic point of view are considered as Fishery Districts. The procedures for identifying, limiting and managing Fishery Districts are defined, at the behest of Region or Regions concerned, by means of an Italian Ministry of Agriculture, Food and Forestry Policies decree agreed with the Environment Minister after having consulted national fishery associations.
Manufacturing Districts are different in nature, and although initially fisherieswere not included amongst the allowable activities for setting up a District, at a later stage they were included. Italian Decree Law 228/2001 defined how to identify the conditions for establishing Agriculture and Food, Rural And Fishery Districts, and gave responsibility to the Regions for identifying them.
The later enabling act empowered the Government to modernise the agriculture, fishery, aquaculture, agri-food, food and forestry sectors (Law 38/2003), and envisaged a re-launch of Fishing Districts. Law 81/2006 extended the regulations concerning Manufacturing Districts or Clusters introduced by the 2006 budget to Fishery Districts: participating companies can be subject to tax and statutory agreements both at a local and national level, with evident benefits in terms of tax schemes and simplified administrative procedures. The subsequent Law 205/2008 established that in order to promote integration of the fishery system supply chain and strengthening of Fishery Clusters in depressed areas, the MiPAAF would encourage strategically-important Supply Chain and Cluster Contracts with supply chain operators, including consortiums, aimed at implementing inter-professional investment programmes.
The methodological approaches, operating procedures and the geographical areas for setting up Fishing and Aquaculture Clusters, on a separate basis from Manufacturing Clusters, are currently being defined at a local, and inter-regional level as well as in the field of international cooperation. Within this defining process, in some circumstances much reference is made to so-called geographical sub-areas agreed at an international level (such as in the case of the Northern Adriatic and Northern Tyrrhenian Seas), whereas in other cases the fishing resource management level concerns regional areas (such as in the case of the five Clusters identified in Sardinia).
MiPAAF resolution dated 23 February 2010 formed the North Adriatic Fishery District (GSA 17) including the sea and coastal areas of Friuli Venezia Giulia, Veneto and Emilia Romagna.
Furthermore, in the Italian context there are some scenarios that can be classified as Manufacturing Clusters, such as the ”Sicilian Industrial Fishing Manufacturing District (Sicilian Consortium for Fishery Enhancement COSVAP)”, the “Sicilian Fishing Supply Chain and Fishing Tourism District”, the “Rovigo Province Fishery Manufacturing District” and the “Apulian Fishery and Aquaculture Manufacturing District”. The effective performance of the Fisheries and Aquaculture Districts in managing living resources has yet to be understood, given that other bodies were set up at later dates with the same aims, and bearing in mind that often the objective of these Districts lies precisely in preparing Local Management Plans.

Agreements and memoranda of understanding with Port Authorities

Port Authorities, bodies of the Italian Ministry of Infrastructure and Transport, are competent authorities for administrative and technical monitoring and controlling of marine fisheries, and are operationally subordinate to the the MiPAAF. Bearing in mind the role played by Regions in managing and developing marine fisheries in their own areas, it is opportune to set up forms of partnership between Regions and these bodies, even pursuant to Legislative Decree 112/1998.

This set out that in order to meet their responsibilities in relation to pleasure vessels and sea-fishing, Regions and Local Authorities should make use of the Port Authority or Harbour Masters' Offices. This partnership is indispensable if one considers that in some cases regional regulations envisage additional responsibilities for Port Authorities (for example, checks to be carried out in relation to Fishing Tourism or arising from technical provisions envisaged by Local Management Plans).

Conclusions

The legislation concerning responsibilities in fisheries and aquaculture is largely clear as regards most of the topics that characterise their activities. Nevertheless, in relation to professional marine fisheries activities, there are still several unsolved issues as regards the relationship between State government and Regions. Although some Regions have produced legislation on the matter, the regulatory provisions have not always been implemented. Indeed, several aspects of fisheries can only be regulated by the State, given that they must be considered as a whole, and that there is a consequent need for regulations to be uniform. However, in relation to matters where there is shared responsibility, the state has legislative jurisdiction in determining the fundamental principles which shall govern regional authorities in producing detailed regulations. It is, therefore, necessary to redefine the juridical reference framework to be used by Regions in dealing with matters for which they are responsible in the field of national coordination. Defining responsibilities and rules has a strong backwash on issues concerning measures provided for in Common Fisheries Policy, with particular attention given to sector support implementation procedures and to Management Plans (both local and national ones) for the protection and re-recovery of fishing resources. As regards the European Fisheries Fund, in particular, a short-sighted allocation of the State and Regional workload has given rise to several operational problem areas, given that measures to promote fishing fleet improvements are partly within the jurisdiction of both state and regions.
To summarise, there is a significant level of involvement of several Regions in "fisheries" management, but there is also a need to introduce innovative coordination procedures which require relations between State and Regions, as well as among Regions, to be constantly kept up to date. It is, therefore, evident that there should be a flexible organisational model to link up the various institutional levels, capable of adapting to the available intervention tools and of meeting the needs of the various areas with their divergent characteristics. Local stakeholders make an essential contribution to this model for finding shared sustainable development strategies, from an environmental and socioeconomic point of view, even though there is still the need to specify a national coordinating framework within which regional responsibilities can be placed.

References

- MiPAAF (2007) - Piano Nazionale di Gestione (PNG) per l'anguilla in Italia reg. (CE) 1100/2007.
- MiPAAF (2007) - Programma operativo FEP per il settore pesca in Italia.
- MiPAAF (2011) - National management plan for derogation to mesh size and distance from the coast (Rule (EC) no. 1967/2006, art. 9) and 13) regarding the use of boat seines for transparent goby (*Aphia minuta*) fishing in GSA 9.

9.4 Port Authorities and the fight against illegal fisheries

Pasetti A.

Fisheries, just like all the other economic activities based on the exploitation of natural exhaustible resources, has always enforced a rigorous system of control on the behalf of States in order to safeguard a commodity that is of common good for everyone, upon which employment and the support of the fishing community depends and which represents an important element of the social structure.
The national interest associated with said function has been acknowledged and enhanced by the European supranational community which has considered it essential to coordinate the participating States in the common safeguarding of the fish resource, now universally acknowledged as a primary asset to humanity and a renewable source of sustenance to populations.
The role assigned to Member States by the EU has been therefore codified into numerous resolutions which ultimately tend to limit the indiscriminate use of means and methods of fishing in the lofty intent of safeguarding the resource, regulating its collection and dividing up the possibility of exploiting fish resources fairly.
From this perspective, the opposition to IUU fishing in Italy, just as in other EU states, pursues the aim of compliance with supranational legislation through the recognition, in the internal law, of the numerous EU resolutions relating to fisheries control.
In line with the principles ratified in the most recent editions of the Green Book, the new regulatory system in particular (Regulation (EC) 1005/2008 and subsequent modifications and additions) allows Member States to move in an increasingly incisive manner, towards the achieving of that which, without a shadow of a doubt, can be defined as one of the fundamental objectives of the Common Fisheries Policy: “to ensure the conservation and exploitation of fisheries resources in conditions of total economic, social and environmental sustainability”.
On the one hand, precise provisions have been adopted that are designed to reinforce the procedures and methods for controlling the legality of fisheries products caught and landed (or transhipped), in particular from third party vessels in EU ports. Whilst on the other, a rigorous certification system has been introduced for catches that are the subject of commercial exchanges to and from the EU market. An *alert system* based on the principle of reciprocal assistance at an intra-community level and between the Commission and third countries has also been created with the aim of ensuring the full and correct application of the new measures. It is against this background, which calls for a substantial operational and administrative commitment on the part of the Member States, that the centrality of the role of the Port Authorities – Coast Guard continues to become manifestly apparent, not only as the institutional body appointed to monitor and control the multiple activities associated with the sea fisheries sector but also as a tool for action through which Italy can effectively contribute to the development of a better “*governance*” of the seas.
The control over the orderly development of marine fisheries also requires, in addition to the full knowledge of EU and national regulations, a familiarity with other laws associated with them (the navigation code, navigation safety, regulations concerning the safety of crews, hygiene-health laws, regulations of the trade of fishery products etc.). This results in a need, perceived by the

legislator, to assign the coordination of activities to the Port Authorities, which are well-established and well spread out along the over 8,000 km of coastline. Article 21 of Law 963/1965, containing the regulating of marine fisheries, expressly foresees that "the overseeing of fishery activities and the trading of fish products and verification of any breaches of the laws and regulations associated with these be assigned to the Head of the Port Authority". It should also be noted that following the passing of the Common Fisheries Policy, the EU Member States also identified the need to indicate a qualified entity, in every state, to which all the bodies responsible for controlling the fisheries supply chain should report. This resulted in the establishment up of the National Fisheries Control Centres. The National Fisheries Control Centre (CCNP) came into effect with the introduction of the Commission's Regulation (EC) 1489/97 of 29/07/1997, describing the methods for applying the Commission's Regulation (EEC) 2847/93 on the system for the satellite monitoring of vessels.

The role of the National Fisheries Control Centre (CCNP), as envisaged by Presidential Decree 424/1998 is to monitor the fisheries efforts and the economic activities associated with them. Said system of monitoring is directed at fisheries vessels sailing under the Italian flag (irrespective of which waters they may be sailing in or the port they put into), those of other Member States as well as others belonging to non-EU States when they are operating in EU waters.
Eventually Italy, with the aforementioned Presidential Decree 424/98, appointed the General Command of the Port Authorities at the "head of the control chain" and in order for it to carry out its work provided it with the software required to help it locate vessels in real time by means of *blue boxes* and, in the near future, with AIS (Automatic Identification System) as envisaged by Regulation (EC) 1224/2009 which established a control system for guaranteeing the observance of Common Fisheries Policy regulations. All of the aforementioned reveals just how difficult and onerous the tasks assigned to the General Command and all the different branches of the Coast Guard actually are. In fact, the implementation of the new EU regulations require human resources and means that must allow Italy to undertake its primary role in the area of the Common Fisheries Policy, given the Peninsula's central position in the Mediterranean Sea. The potentials of the new legislative tool adopted and implemented at EU level are truly enormous; both in terms of

effectively combating illegal fishing as well as strengthening and renewing still further the Common Fisheries Policy. Naturally the effectiveness and efficiency of said implementation requires the constant collaboration of and between all those public and private operators involved. In the case of the former, by providing the appropriate implementation and support elements and in the case of the latter by coming increasingly into line with the mechanisms required. This necessary osmosis, combined with the effusive commitment of the bodies responsible for monitoring and controlling (the Coast Guard first and foremost), above all in the areas of prevention, constitute the crucial point for speeding up the times for achieving that ideal scenario, which the European Commission envisages, in the case sea fishing, is achievable by the year 2020.
The efforts undertaken by the Coast Guard in this direction are diversified and manifold and are not only carried out on the high sea with the deployment of its own boats and aircraft, but it is also widely conducted on land by inspecting fish markets, shops and restaurants in order to check that the regulations in force are being applied correctly (see Table 9.1).

Table 9.1 - Comprehensive report of the fisheries control activities undertaken by the Coast Guard from 2011, Jan., 1st - 2011, Nov., 3rd.

	No. of controls	No. of administrative penalties	No. of criminal penalties	Amount in Euro	No. of seizures	kg	Pieces of equipment
At sea	14,150	1,140	232	1,431,162	293	144,766.8	3,087
Landing locations	45,256	935	126	845,365	226	40,972	380
Wholesalers	1,642	118	21	391,664	44	30,932.2	-
Fish markets	2,351	65	27	118,146	40	2,914.1	1
Large-scale retailers	1,572	110	15	244,517	25	8,052.6	-
Catering	3,181	200	47	310,332	114	2,038	-
Airports	4	-	-	-	-	-	-
On the road	5,725	339	273	475,951	404	55,101.7	77
Fishmongers	4,144	349	72	561,685	139	4,963.3	-
Total	**78,025**	**3,256**	**813**	**4,378,822**	**1,285**	**289,740,7**	**3,545**

Source: National Fisheries Control Centre – General Command of the Port Authorities.

9.5 Fisheries and institutional communication

Ricciardi S.

At the close of the nineteen eighties the environmentalist groups revealed that one of the major factors contributing to the gradual impoverishment of the seas was fishery activities. The fishery world responded by emphasising that the first victims of the pollution of sea waters were fishermen. But everyone involved was aware of the complexities of this issue and the fisheries' administrative bodies and associations began, under the guidance of university research scientists, to devote more and more time to what could objectively be considered their own responsibilities towards the environment.

The first steps were however tentative and heated discussions often broke out between environmentalists and fishermen, some of which degenerated in some ports into actual brawls.

In 1993 the fisheries and aquaculture directorate put in place a communications strategy with two objectives:

- to re-launch the image of fishermen so as to do away with their negative reputation as sea predators, emphasise their role as sentinels of their own resources and make people aware of the significance of fishing as part of our cultural heritage;
- to guide Italian fisheries towards a reconversion that would allow them to match up to the difficult environmental situation at sea and along the coastlines and fall into line with the increasingly stringent European guidelines relating to catches.

That was the first step towards establishing a series of communication activities aimed at different targets with the objective of enhancing the role of fisheries in our society, strengthening the culture of the sea among the younger generations and making them aware of the importance of fishing and sea resources, as well as providing concrete help for bringing about a rapprochement between opposing factions.

The first announcement was published in the national dailies in 1995 when the Minister openly championed the new approach of fisheries towards the issue of the environment. In some ways that announcement marked the beginning of a new era. By publicly recognising the need for a new cultural approach from fisheries, with which to protect marine resources, the Minister finally freed himself from his unwillingness to take sides and took a constructive stance alongside the other stakeholders in an attempt to tackle environmental issues practically. One of the major communication tools identified, and one which was at the time innovative, was his agreement with RAI (Italian broadcasting company) which included the co-production of numerous television slots, included in TV magazine programmes such as *Lineablu* and *Sereno Variabile*. The presence of sea fishing on television, not merely in information slots aimed at those employed in the industry but presented to Italian viewers in its own right, caused a radical change in the way it was perceived and lead to the world of fisheries (which until then had been relegated to information slots for those working in the sector) being allowed to legitimately enter Italian households.

It is thanks also to the drive provided by this newly found identity and to the gradual success of the TV programmes that the fisheries associations and environmentalist groups embarked on numerous initiatives together. Starting from 1995 the different communication activities repeatedly began to call the attention of citizens as well as fishery operators to the really important environmental issues.

To date many different communication activities have been created and launched but some, in particular, have been viewed in Italian homes and received favourably by families. One is the "Pesce trasparente" (transparent fish) campaign, the widespread information campaign on how to read labels correctly, produced in collaboration with thousands of fishmongers across Italy, or the campaigns against the catch and consumption of protected species. In this same context the initiative about date mussels proved particularly effective for the general public and in thousands of restaurants that decided to display campaign stickers on the doors of their establishments.
A fundamental part of the communication strategy was the campaigns in schools. These included "Vivere il Mare" (Living the Sea) which saw the launch of the first ever competition in upper high school to produce a video, and "Marinando" (Seafaring), the now legendary theatrical production, promoted in 1995 to make Italian lower high school students and those from the Mediterranean countries aware of the importance of the sea and its resources. A key element of the Marinando campaign was the continuity which meant that, over the years, it became possible to activate a profound cultural action through the use of theatrical language which allowed youngsters to innovatively look into the issues of the sea and fisheries whilst at the same time bringing them closer to public bodies. What is more, the theatrical festival that takes place every year at Ostuni will now also be brought to Rome with performances of some of the best productions. This is to underscore the centrality and importance of the initiative and the quality of the work undertaken by young students from Italy and abroad.
This is an example of how, after so many years, it is now possible to assert that the creation of institutional communication on fisheries paved the way for the communication that the MiPAAF and other government departments have subsequently adopted and are still pursuing to this day.