

**PROTOCOL  
ON INTEGRATED COASTAL ZONE MANAGEMENT  
IN THE MEDITERRANEAN**

**COMPARATIVE ANALYSIS  
AND PLAN OF ACTION FOR  
ICZM PROTOCOL IMPLEMENTATION IN  
MONTENEGRO**

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# **1. Basic Objectives, Principles and Obligations determined by the Protocol on Integrated Coastal Zone Management (ICZM) in the Mediterranean**

## **1.1. Objectives of Integrated Coastal Zone Management**

- facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development;
- preserve coastal zones for the benefit of current and future generations;
- ensure the sustainable use of natural resources, particularly with regard to water use;
- ensure preservation of the integrity of coastal ecosystems, landscapes and geomorphology;
- prevent and/or reduce the effects of natural hazards and in particular of climate change, which can be induced by natural or human activities;
- achieve coherence between public and private initiatives and between all decisions by the public authorities, at the national, regional and local levels, which affect the use of the coastal zone.

## **1.2. General Principles of Integrated Coastal Zone Management**

- The biological wealth and the natural dynamics and functioning of the intertidal area and the complementary and interdependent nature of the marine part and the land part forming a single entity shall be taken particularly into account.
- All elements relating to hydrological, geomorphological, climatic, ecological, socio-economic and cultural systems shall be taken into account in an integrated manner, so as not to exceed the carrying capacity of the coastal zone and to prevent the negative effects of natural disasters and of development.
- The ecosystem approach to coastal planning and management shall be applied so as to ensure the sustainable development of coastal zones.
- Appropriate governance allowing adequate and timely participation in a transparent decision-making process by local populations and stakeholders in civil society concerned with coastal zones shall be ensured.
- Cross-sectorally organised institutional co-ordination of the various administrative services and regional and local authorities competent in coastal zones shall be required.
- The formulation of land use strategies, plans and programmes covering urban development and socio-economic activities, as well as other relevant sectoral policies, shall be required.
- The multiplicity and diversity of activities in coastal zones shall be taken into account, and priority shall be given, where necessary, to public services and activities requiring, in terms of use and location, the immediate proximity of the sea.
- The allocation of uses throughout the entire coastal zone should be balanced, and unnecessary concentration and urban sprawl should be avoided.
- Preliminary assessments shall be made of the risks associated with the various human activities and infrastructure so as to prevent and reduce their negative impact on coastal zones.
- Damage to the coastal environment shall be prevented and, where it occurs, appropriate restoration shall be effected.

### **1.3. Protection and Sustainable Use of the Coastal Zone**

- establishing in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. This zone may not be less than 100 meters in width, and it may be adapted for projects of public interest, and in areas having particular geographical or other local constraints, especially related to population density or social needs.
- identifying and delimiting, outside protected areas, open areas in which urban development and other activities are restricted or, where necessary, prohibited,
- limiting the linear extension of urban development,
- creation of new transport infrastructure along the coast;,,
- ensuring that environmental concerns are integrated into the rules for the management and use of the public maritime domain,
- providing for freedom of access by the public to the sea and along the shore,
- restricting or, where necessary, prohibiting the movement and parking of land vehicles,
- restricting or, where necessary, prohibiting the movement and anchoring of marine vessels, in particular in fragile natural areas, including beaches.

### **1.4. Restriction of Economic Activities related to the Use of the Coastal Zone**

#### **1.4.1. In General**

- accord specific attention to economic activities that require immediate proximity to the sea,
- ensure that the various economic activities minimise the use of natural resources and take into account the needs of future generations,
- ensure respect for integrated approach to water resources,
- ensure environmentally sound waste management,
- ensure that the coastal and maritime economy is adapted to the fragile nature of coastal zones and that resources of the sea are protected from pollution,
- define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity,
- promote codes of good practice among public authorities, economic actors and non-governmental organisations.

#### **1.4.2. Restrictions per Economic Activities**

##### Agriculture and industry:

- to promote a high level of protection of the environment so as to preserve coastal ecosystems and landscapes and prevent pollution of the sea, water, air and soil.

##### Fisheries:

- to protect fishing areas in development projects,
- to ensure that fishing practices are compatible with sustainable use of natural marine resources.

##### Aquaculture:

- to take into account the need to protect aquaculture and shellfish areas in development projects,
- to regulate aquaculture by controlling the use of inputs and waste treatment.

##### Tourism, sporting and recreational activities:

- to encourage sustainable tourism development that preserves coastal ecosystems, natural resources, cultural heritage and landscapes,
- to promote specific forms of coastal tourism, including rural and ecotourism, while respecting the tradition,

- to regulate and, where necessary, prohibit the practice of various sports and recreational activities, including recreational fishing and shellfish extraction.

Utilisation of specific natural resources:

- to control through authorisation the excavation and extraction of minerals, including the use of seawater in desalination plants,
- to regulate the extraction of sand, including on the seabed and river sediments or prohibit it where it is likely to adversely affect the equilibrium of coastal ecosystems,
- to monitor coastal aquifers and dynamic areas of contact or interface between fresh and salt water, which may be adversely affected by the extraction of underground water or by discharges into the natural environment.

Infrastructure, energy facilities, ports, maritime works and structures:

- to subject such infrastructure, facilities, works and structures to authorisation so that their negative impact on coastal ecosystems, landscapes and geomorphology is reduced or, where appropriate, compensated by non-financial measures.

Maritime activities:

- to conduct maritime activities in such a manner as to ensure the preservation of coastal ecosystems in conformity with the rules, standards and procedures of the relevant international conventions.

## **1.5. Protection of Natural and Cultural Heritage**

### **1.5.1. Protection of Natural Heritage (in addition to specially protected areas)**

Wetlands and estuaries:

- to take into account national coastal strategies, plans and programmes, and when issuing authorisations, the environmental, economic and social function of wetlands and estuaries,
- to take the necessary measures with a view to regulating or, if necessary, prohibiting activities that may have adverse effect on wetlands and estuaries,
- to undertake, to the extent possible, the restoration of degraded coastal wetlands with a view to reactivating their positive role in coastal environmental processes.

Marine habitats:

- to adopt measures intended to protect and conserve, through legislation, management and planning, marine and coastal areas, in particular those hosting habitats and species of high conservation value,
- to commit to regional and international co-operation for the implementation of common programmes on the protection of marine habitats.

Coastal forests:

- to adopt measures intended to preserve or develop coastal forests.

Dunes:

- to preserve and rehabilitate dunes and bars.

Coastal landscapes:

- to adopt measures for the protection of coastal landscapes through legislation, planning and management,
- to commit to regional and international co-operation in the implementation of joint programmes for transboundary coastal landscapes.

Islands:

- to promote environmentally friendly activities with participation of the inhabitants in the protection of coastal ecosystems based on their local customs and knowledge,

- to take into account the specific characteristics of the island environment and the necessity to ensure interaction among islands in national coastal strategies, plans and programmes and management instruments, particularly in the fields of transport, tourism, fishing, waste and water.

### **1.5.2. Cultural Heritage Protection**

- to use all measures to preserve and protect the cultural, in particular archaeological and historical, heritage of coastal zones, including the underwater cultural heritage, in conformity with the national and international instruments,
- the preservation *in situ* of the cultural heritage of coastal zones is considered as the first option before any intervention,
- the underwater cultural heritage of coastal zones removed from the marine environment should be preserved in an adequate manner, and not traded as commercial goods.

### **1.6. Instruments for Integrated Coastal Zone Management**

- to use and strengthen existing monitoring mechanisms; to prepare and regularly update national inventories of coastal zones, which should cover information on resources and activities, institutions, legislation and planning that may influence coastal zones,
- to participate, at the appropriate administrative and scientific level, in a Mediterranean coastal zone network,
- to enforce or prepare a national strategy for integrated coastal zone management and coastal implementation plans and programmes. These plans and programmes shall be oriented to the national strategy and implemented at a local level, determining the carrying capacities for the allocation and use of the coastal zone,
- the national strategy, based on an analysis of the existing situation, shall set objectives, determine priorities, identify coastal ecosystems needing management, as well as relevant actors and processes, enumerate the measures to be taken as well as the institutional instruments, and legal and financial means available, and set an implementation schedule,
- to define appropriate indicators in order to evaluate the effectiveness of the integrated coastal zone management strategies, plans and programmes.

### **1.7. Environmental Impact Assessment**

- to ensure that the processes and related studies of environmental impact assessment for all projects take into consideration the specific sensitivity of the environment and the inter-relationship between the marine and terrestrial parts of the coastal zone,
- to implement, as appropriate, a strategic environmental assessment of plans and programmes affecting the coastal zone,
- the environmental impact assessments should take into consideration the cumulative impacts on the coastal zone, paying due attention to their carrying capacities,
- prior to authorisation or approval of programmes and projects that may have harmful effects on coastal zones of other countries, to take into consideration the transboundary environmental impact assessment.

### **1.8. Land Policy**

- for the purpose of promoting integrated coastal zone management, reducing economic pressures, allowing public access along the shore, to adopt appropriate land policy instruments and measures directly linked to planning,
- to adopt mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties.

## **1.9. Risks**

- to formulate policies for the prevention and mitigation of harmful consequences of natural disasters to coastal zones,
- to adopt mechanisms and measures to reduce negative impacts of coastal erosion, as well as the necessary measures to maintain or restore the natural capacity of the coast to adapt to changes. Thereby, all the activities and works located in the coastal zone, shall be taken into consideration.

## **1.10. Institutional Responsibilities and Public Participation**

### ***1.10.1. Institutional Responsibilities***

- to ensure institutional co-ordination so as to avoid sectoral approaches,
- to ensure appropriate co-ordination between the various authorities competent for the marine and land parts of coastal zones in providing administrative services at the national, regional and local levels,
- to organise close co-ordination between national authorities and local and regional bodies in the field of coastal strategies, programmes and plans in relation to various authorisations that may be achieved through joint consultative bodies or joint decision-making procedures,
- to carry out awareness-raising activities on integrated coastal zone management, ,
- to develop educational programmes, training and public education on integrated coastal zone management,
- to co-operate on providing education for scientific, technical and administrative personnel in integrated coastal zone management with a view to establishing and enforcing facilities for the scientific and technical research development, promoting centres specialised in integrated coastal zone management, and promoting educational programmes for the local experts.

### ***1.10.2. Public Participation***

- to ensure the appropriate involvement of stakeholders in the implementation of coastal strategies, programmes and plans, as well as the issuing of authorisations of the relevant territorial communities and public actors, economic operators, non-governmental organisations, social actors and interested public through the establishment of consultative bodies, organisation of public hearings and implementation of public opinion polls,
- all information related to coastal strategies, programmes and plans, should be provided in an adequate, timely and effective manner.

## 2. Objectives of Integrated Coastal Zone Management – Proposals for Ensuring These Objectives through Implementation of Valid Regulations

A Protocol on Integrated Coastal Zone Management (ICZM) in the Mediterranean was signed in Madrid, Spain, on 21 January 2008. The ICZM Protocol is based on the fact that planning and management of the coastal zone, as an irreplaceable ecological, economic and social resource is, in view of its preservation and sustainable development, a priority of all Mediterranean countries, and wider. This is due to the increase of, in the first place, anthropogenic influences on this area.

The ICZM Protocol signatories are obliged to implement, through their legislation, and further, through the coastal strategies, plans and programmes, the objectives and principles established by the Protocol on Integrated Coastal Zone Management (ICZM) in the Mediterranean.

The objectives of integrated coastal zone management have been considered in relation to the valid programmes and regulations of Montenegro, as follows:

### a/ strategies and plans

- National strategy for sustainable development of Montenegro (January 2007)
- Policy and strategy for the development of tourism in Montenegro until 2020 (June 2008)
- Spatial plan of special purpose areas for the public maritime domain (2007)
- National strategy for integrated management of coastal zones in Montenegro (ICZM NS) – *proposal*

### b/ laws

- Law on land-use planning and construction ("Off. Gazette of Montenegro", No. 51/08)
- Law on public maritime domain ("Off. Gazette of the Republic of Montenegro", No. 14/92, 27/94, "Off. Gazette of Montenegro ", No. 51/08)
- Law on sea ("Off. Gazette of Montenegro ", No. 17/07, 06/08)
- Law on seaside and internal navigation ("Off. Gazette of the Socialist Republic of Montenegro", No. 19/78, 8/79, 19/87, 22/90, 13/91, 48/91, "Off. Gazette of Montenegro", No. 51/08)
- Law on yachts ("Off. Gazette of the Republic of Montenegro", No. 46/07)
- Law on ports ("Off. Gazette of Montenegro", No. 51/08)
- Regulations on requirements to be fulfilled by maintained and constructed bathing areas ("Off. Gazette of Montenegro", No. 20/08)
- Environmental Law ("Off. Gazette of Montenegro", No. 48/08)
- Law on Strategic Environmental Assessment ("Off. Gazette of the Republic of Montenegro", No. 80/05)
- Law on Environmental Impact Assessment ("Off. Gazette of the Republic of Montenegro", No. 80/05)
- Ordinance on projects subject to environmental impact assessment ("Off. Gazette of the Republic of Montenegro", No. 20/07)
- Law on water ("Off. Gazette of the Republic of Montenegro", No. 27/07)
- Law on sea fishing ("Off. Gazette of the Republic of Montenegro", No. 55/03, 40/04)
- Law on sea fishing and mariculture – *proposal*
- Nature protection law ("Off. Gazette of Montenegro", No. 51/08)
- Property law in Montenegro ("Off. Gazette of the Republic of Montenegro", No. 44/99)
- Law on local self-management ("Off. Gazette of the Republic of Montenegro", No. 45/91, 16/95, 23/96, 33/96, 42/03)
- Law on concessions – *proposal*

## **2.1. To Harmonise the Environment and Landscapes with Economic, Social and Cultural Development**

According to *Art. 5 of the Protocol on integrated coastal zone management in the Mediterranean*, one of the main objectives of integrated coastal zone management is, among others, to facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development.

### **2.1.1. To Harmonise Regulations on Management and Use of the Public Maritime Domain with Environmental Concerns**

In order to fulfil one of the above-mentioned main objectives of integrated coastal zone management, it is necessary to harmonise the rules on management and use of the public maritime domain with environmental concerns. Namely, according to *the provision c) of the Protocol on integrated coastal zone management in the Mediterranean*, one of the general principles of integrated coastal zone management is to apply the ecosystem approach to coastal planning and management so as to ensure the sustainable development of coastal zones.

In view of the above mentioned, there are several essential changes that have to be taken into consideration and made in legislation relating to management and use of the public maritime domain.

#### **a/ Law on public maritime domain**

**("Off. Gazette of the Republic of Montenegro", No. 14/92, 27/94, "Off. Gazette of Montenegro", No. 51/08)**

**Art 4** *The public maritime domain is owned by the state. With the exception of the part of the seashore, as defined in Art. 3, par. 3 of this Law, it can be privately owned as well, if this private ownership is not in contradiction to the nature of the public maritime domain, its purpose and preservation of its values, and if it ensures a better use of the public maritime domain.*

*If not otherwise defined by this Law, the public maritime domain is designated as a public asset.*

**Finding and proposal:** It is necessary to define exceptions (i.e. purpose for which the public maritime domain would be used) and a way of establishing the public maritime domain as a private property – a concession, institute easements on properties, or alike. In this sense, provisions have to be elaborated taking into consideration the need for establishing mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties, and not creating a new private property on public maritime domain.

Finally, it is necessary to incorporate, in the proposal of the **Law on concessions**, the possibility of pre-emption in the public maritime domain in relation to the state and self-management units.

#### **III Protection of the public maritime domain**

**Finding and proposal:** to harmonise with the provisions of **Environmental law**.

#### **b/ Law on sea**

**("Off. Gazette of Montenegro", No. 17/07, 06/08)**

**Art 32** *Artificial islands, apparatus and devices and security zones surrounding them, should not be installed in places where they might disturb navigation on recognised international waterways.*

**Finding and proposal:** Possible construction of an artificial island is in contradiction with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*.

### **c/ Law on seaside and internal navigation**

*("Off. Gazette of the Socialist Republic of Montenegro", No. 19/78, 8/79, 19/87, 22/90, 13/91, 48/91, "Off. Gazette of Montenegro", No. 51/08)*

#### **Art. 25 to Art. 49**

**Finding and proposal:** To harmonise the provisions of the above-mentioned articles with the provisions of the **Law on ports** ("Off. Gazette of Montenegro", No. 51/08).

#### **Art. 57 to Art. 60**

**Finding and proposal:** The treatment of underwater objects defined by the provisions of the above-mentioned articles should be amended in a way that in case of the underwater cultural heritage the preservation *in situ* is considered as the first option before any intervention. The underwater cultural heritage of coastal zones removed from the marine environment should be preserved in an adequate manner, and not traded as commercial goods. This should also be incorporated in the provisions of the **Law on cultural heritage protection**.

### **d/ Law on yachts**

*("Off. Gazette of the Republic of Montenegro", No. 46/07)*

**Art. 33** *Registered yachts and yachts staying in the waters of the Republic of Montenegro, are forbidden to let leak or discharge oil, oily water, waste and garbage, or any other substances causing environmental pollution, into the sea.*

**Finding and proposal:** The above-mentioned provision should be harmonised with the provisions of **Environmental Law**. Also, disposal of waste from the yachts should be defined by the **Law on waste – or some other similar decree**.

### **e/ Law on ports**

*("Off. Gazette of Montenegro", No. 51/08)*

**Art. 6** *According to their purpose, ports can be divided as follows:*

- commercial ports;
- ports for nautical tourism – marinas;
- shipbuilding ports; and
- fishery ports.

**Finding and proposal:** The purpose of the ports should be defined by the **Spatial plan of special purpose areas for the public maritime domain** and by all future local-level spatial plans.

The anchorage issue, which has not yet been defined, should also be regulated by the subject law. Anchorage is an important issue meaning the location in and/or outside of the port intended for a temporary anchoring of vessels during the tourist season.

**Art. 14** *A concession is issued for using of the port or part of the port, port infrastructure and suprastructure, providing port services and performing other port activities being economically, traffically or technologically related with these services.*

*A concession can also be issued for building, reconstruction or maintenance of the port infrastructure and suprastructure according to the BOT system, including also other forms of this system.*

**Finding and proposal:** It is necessary to define the purpose of a concession distinguishing thereby the existing from the planned ports.

As far as a concession is concerned, it is of utmost importance to harmonise the existing laws with the **Proposal of the Law on concession**.

**Art. 26** *A management body, namely, a Legal person or a Concessionaire, should ensure fulfilment of the conditions stipulated by international and national acts regulating as follows: prevention of environmental pollution from vessels, protection of marine and coastal environment, and the civil responsibility for the damage done by pollution.*

*Within the port area, it is prohibited to let leak out and discharge from the vessel into the sea and on the seashore solid and liquid waste, oil and oily water, and cargo remains, as well as all other substances causing environmental pollution, except on the locations of plants, equipment and facilities for the reception and maintenance of these substances.*

**Finding and proposal:** The above-mentioned provision should be harmonised with the provisions of **Environmental law**. Also, the **Law on waste – or some other similar decree**, should define the way of waste disposal in the ports.

### **2.1.2. The Need for the Formulation of a Land-use Strategy, Plans and Programmes Covering Urban Development and Socio-economic Activities**

Unlike many other countries, Montenegro adopted a number of important strategic documents essential for its further development, as follows:

- National strategy for sustainable development of Montenegro (January 2007)
- Policy and strategy for the development of tourism in Montenegro until 2020 (June 2008)
- Spatial plan of special purpose areas for the public maritime domain (2007)

Thereby, the important strategy, namely, the **National strategy for integrated management of coastal zones in Montenegro (ICZM NS)**, is still not adopted.

As provided by *Art. 6 point f) of the Protocol on integrated coastal zone management in the Mediterranean*, it is required to formulate land-use strategies, plans and programmes covering urban development and socio-economic activities, as well as other relevant sectoral policies.

**Finding and proposal:** It is not necessary to prepare new strategies, but to harmonise the existing ones with the objectives and principles of the *Protocol on integrated coastal zone management in the Mediterranean*. It is required that all future strategies, programmes and plans to cover the use of coastal zones are in compliance with the above strategies. Chapters that follow will elaborate the relevant needs and guidelines on implementing changes of the above-mentioned strategies.

The basic starting point to ensure a sustainable, functional and economically efficient use of coastal zones is as follows:

- to preserve and restore endangered areas of natural, cultural-historic and traditional values of the coastal landscape and hinterland, and to encourage the natural restoration of coastal forests and autochthonous vegetation,
- to establish measures for the protection of land and sea environment, and in particular of potable water resources,
- to provide for freedom of access by the public to the shore, along the shore and public interest in its use, and in particular in the use of the public maritime domain,
- to preserve islands, in particular for agricultural activities, recreation, organised visits and research, and
- to make the development, in particular of the public infrastructure, conditional on the landscape values protection and conservation.

As for the **National strategy for integrated management of coastal zones in Montenegro (ICZM NS)**, it is recommended not to adopt it in the present form, but to incorporate in the strategy the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*. The strategy could be adopted after the revision of the same.

### **2.1.3. To Plan Carefully Economic Activities that Require Immediate Proximity to the Sea in a Way that the Use of Natural Resources is Minimised**

*Art. 9 of the Protocol on integrated coastal zone management in the Mediterranean*, provides for the obligations covering economic activities that have to be fulfilled in conformity with the objectives and principles set forth in this Protocol. As stated under point *1 a) and b)*, particular attention is to be accorded to economic activities that require immediate proximity to the sea,

taking into consideration the welfare of future generations and ensuring that the various economic activities minimise the use of natural resources.

As it has been mentioned before, Montenegro has adopted an important spatial plan, namely,

- Spatial plan of special purpose areas for the public maritime domain (2007)

**Finding and proposal:** The Spatial plan of special purpose areas defines all important activities relating to the economy and use of the coast. In conformity with *the Protocol on integrated coastal zone management in the Mediterranean*, particular restrictions will have to be legally determined aiming at verifying planning decisions, namely, the chapters 2.12. **RECOMMENDATIONS FOR INTEGRATED MANAGEMENT OF THE PUBLIC MARITIME DOMAIN OF MONTENEGRO.**

Further, in conformity with the provision of **Art. 162** of the **Law on land-use planning and building**, *the local self-management authorities undertake to harmonise the local planning documents with the above-mentioned law within a one-year period from the day of entering of this law into force.*

Having in mind the above mentioned, and in conformity with legal possibilities to be established respecting the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, the appropriate planning decisions will have to be made based on the relevant local-level planning documents..

The most important economic activity that requires immediate proximity of the sea is tourism. Montenegro adopted a strategic document entitled **Policy and strategy for the development of tourism in Montenegro until 2020.**

By the adoption of a **National strategy for sustainable development of Montenegro**, the issue of an unequal accommodation capacity pattern and an expressed pressure of investors on the coast and most attractive coastal locations emerged in relation to sustainable tourism development. Having this in mind, it is necessary to ensure instruments for the direct implementation of changed and/or new legal decisions covering the use of the coast in relation to the **Spatial plan of special purpose areas for the public maritime domain**, as well as the spatial local-level plans.

#### **2.1.4. The Need for the Implementation of an Environmental Impact Assessment for the Interventions related to Economy Planning in Coastal Zones**

As mentioned before, the provision of *Art. 9 of the Protocol on integrated coastal zone management in the Mediterranean* provides for the obligations that are to be implemented in relation to economic activities in conformity with the objectives and principles of this Protocol. As determined by *item 1, points d) and e)* of the mentioned article, it is necessary to ensure that the coastal and maritime economy is adapted to the fragile nature of coastal zones and to define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity. In conformity with the above mentioned, the provision of *Art. 19 of the Protocol on integrated coastal zone management in the Mediterranean* relating to the implementation of environmental impact assessment determines that it is necessary to ensure that the processes and related studies of environmental impact assessment for all projects take into consideration the specific sensitivity of the environment and the inter-relationships between the marine and terrestrial parts of the coastal zone.

Finally, taking into account the above-mentioned legislation that regulates the field of environmental protection, it is necessary to revise as follows:

##### **a/ Law on strategic impact assessment**

**("Off. Gazette of the Republic of Montenegro", No. 80/05)**

**Art. 5** *Strategic environmental assessment is mandatory for plans or programmes for the sectors of agriculture, forestry, fisheries, hunting, energy, industry, including mining, transport, tourism, regional development, telecommunications, waste management, water management, public maritime domain management, land-use or spatial planning, or land use. These plans*

*and programmes set the framework for the future development projects that are subject to environmental impact assessment and could affect protected areas, natural habitats and preservation of wildlife plant and animal species.*

**Finding and proposal:** This article requires revision in relation to the use of the coast and the sea.

#### **Public participation issue**

**Finding and proposal:** All provisions covering public participation should be revised in a way that the deadlines for and ways of informing the public (daily newspapers, the internet and alike) are clearly and undoubtedly defined. Also, it is necessary to define more clearly the role of interested public in relation to the role of decision makers. Further, it is necessary to define more clearly and in more detail the public discussion process.

#### **b/ Law on environmental impact assessment**

*("Off. Gazette of the Republic of Montenegro", No. 80/05)*

**Art. 3** *Environmental impact assessment is conducted for planned or ongoing projects that may have a significant impact on the environment or human health.*

*Environmental impact assessment is conducted for the projects covering the sectors of industry, mining, energy, transport, tourism, agriculture, forestry, water management and municipal services, as well as for all projects that are planned to be implemented in the protected natural domain and in the protected environment of non-movable cultural assets.*

**Art. 5** *By a regulation of the Republic of Montenegro (hereinafter: the Government) it has been determined as follows:*

- projects for which environmental impact assessment is mandatory;
- projects for which environmental impact assessment may be requested.

**Finding and proposal:** Interventions for which environmental impact assessment is conducted should be defined. When the sea and the use of the coast are concerned, the carrying capacity for interventions should also be assessed (hotels – number of beds or a spatial range). Thereby, interventions covering the nourishment of the sea must be included. Listed interventions must be related to certain spatial planning documents.

**Art. 21** *The relevant authorities will form a commission (hereinafter: commission for environmental impact assessment) to determine the scope and contents of a survey, as well as to evaluate it.*

**Finding and proposal:** To consider and define in more detail about who may and/or must be a member of the commission.

#### **Public participation issue**

**Finding and proposal:** All provisions covering public participation should be revised in a way that the deadlines for and ways of informing the public (daily newspapers, the internet and alike) are clearly and undoubtedly defined. Also, it is necessary to define more clearly the role of interested public in relation to the role of decision makers. Further, it is necessary to define more clearly and in more detail the public discussion process.

**c/ Ordinance on projects subject to environmental impact assessment** ("Off. Gazette of the Republic of Montenegro", No. 20/07)

**Finding and proposal:** The subject Ordinance distinguishes between the Projects for which environmental impact assessment is obligatory (List I) and Projects for which environmental impact assessment may be requested (List II). This Ordinance has to be changed in a way as to define interventions in the coastal area for which environmental impact assessment is obligatory, including by all means as follows:

- aquaculture (eventually, when the carrying capacity is concerned, to define interventions for List I and List II),
- tourism (eventually, when the carrying capacity is concerned, to define interventions for List I and List II),

- environmental impact assessment is obligatory for every nourishment of the sea,
- environmental impact assessment is obligatory for the use of mineral resources,
- environmental impact assessment is obligatory for the restoration of waste dumping sites,
- infrastructure (eventually, when the carrying capacity is concerned, to define interventions for List I and List II).

For particular interventions the obligatory environmental impact assessment is to be related to spatial plans. Namely, the interventions have to be planned prior to carrying out environmental impact assessment.

### **2.1.5. To Promote Specific Forms of Coastal Tourism**

Montenegro adopted a strategy entitled ***Policy and strategy for the development of tourism in Montenegro until 2020.***

**Finding and proposal:** The subject strategy is extremely well prepared. This strategy, as well as the ***Spatial plan for special purpose areas for the public maritime domain***, enables the development of various forms of coastal tourism.

When applying the above-mentioned tourism strategy, the provision of *Art. 9, point 2, item d) of the Protocol on integrated coastal zone management in the Mediterranean* should be taken into consideration, providing that, in conformity with the objectives and principles set forth in this Protocol, certain obligations should be fulfilled when carrying out economic activities. With regard to tourism, it is recommended to encourage sustainable coastal tourism that preserves coastal ecosystems, natural resources, cultural heritage and landscapes, as well as to preserve specific forms of coastal tourism, including rural and ecotourism, while respecting the traditions.

In conformity with the above mentioned, it is further necessary to take into account the priority actions, such as:

- modernisation of the entire tourist offer,
- selective approach to encouraging tourism development according to the criteria for the availability and quality of the tourist area,
- introduction of European standards and a quality tourist offer,
- establishment of spatial and functional norms and standards for family tourist associations,
- establishment of a relationship between tourism and cultural and natural heritage from the point of view of preservation, but, at the same time, of their activation in the function of tourism.

## **2.2. Preservation of Coastal Zones for the Benefit of Current and Future Generations**

The provision of *Art. 8 of the Protocol on integrated coastal zone management in the Mediterranean* determines the preservation of coastal zones for the benefit of current and future generations as one of the main objectives of integrated coastal zone management.

### **2.2.1. To Establish in Coastal Zones a Zone where Construction is not Allowed (this zone may not be less than 100 metres in width)**

In conformity with the objectives and principles of *the Protocol on integrated coastal zone management in the Mediterranean*, the provisions of *Art. 8* of this Protocol determine the protection and sustainable use of the coastal zone. As set out in *item 1, points a) and b)* of this article, it is necessary to establish in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. This zone may not be less than 100 metres in width. This measure may be adapted for projects of public interest, and in areas having particular geographical or other local constraints, especially related to population density or social needs.

In conformity with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, the so-called "construction ban" in the coastal strip of 100 metres width from the

waterline does not mean that the construction is completely prohibited in this area. Namely, the national legislation should identify this determination and stipulate, in accordance with this determination, the criteria under which the construction is allowed. Accordingly, it is to distinguish between the completion of the existing urban area construction from the creation of a new housing construction, notably tourist capacities. Also, it is necessary to identify and delimit areas in which in the coastal strip of 100 metres width from the waterline planning of new constructions is not allowed. However, taking into account specific conditions of a particular area, the following construction may be allowed: communal infrastructure and underground power lines, supporting catering-tourism establishments, buildings requiring proximity of the sea (shipyards, ports and alike), and management and maintenance of public areas.

The national legislation should be harmonised with the above provisions, enabling at the same time the implementation of the above-mentioned measure on allowed construction through the spatial plans for the use of the coastal zone.

A particularly important spatial planning document, which applies for the marine area, is the ***Spatial plan for special purpose areas for the public maritime domain (2007)***. The document provides a comprehensive outline of all experiences and current situation, including also the principles and recommendations for the further development of the coastal zone of Montenegro.

Apart from the textual part, the document includes maps in the scales 1:100.000, 1:25.000 and 1:10.000. As mentioned before, the document is a spatial plan putting forward, in a language of planners, the propositions determined by laws and by-laws.

In addition to the ***Spatial plan for special purpose areas for the public maritime domain***, new spatial plans to be passed by the Government of Montenegro and particular local self-management units are going to be implemented in the coastal zone.

The basic law in the field of physical planning is the ***Law on land-use planning and construction***. All regulations covering constraints in the way of using the coastal zone from the point of view of urban development, must be determined by the above-mentioned ***Law***, and/or by the ***Law on public maritime property***, and/or by a ***new particular regulation stipulating the conditions and a way of using the coastal zone***.

The above-mentioned regulations will be used for the preparation of the ***Spatial plan for special purpose areas for the public maritime domain***, as well as for the local planning documents (as stipulated by the provision of ***Art. 24*** of the ***Law on land-use planning and construction***).

*Local planning documents are:*

- spatial-urban plan of a local self-management unit;
- detailed urban plan;
- urban project;
- local study of location.

*The adoption of the spatial-urban plan of a local self-management unit is mandatory.*

**Law on land-use planning and construction**  
**("Off. Gazette of Montenegro", No. 51/08)**

Referring to the provisions of the ***Law on land-use planning and construction***, land-use planning means the *monitoring of the state of an area, definition of the purpose, conditions and ways of using an area through the preparation and adoption of planning documents, implementation of planning documents, and planning and arrangement of an area for construction.*

***Art. 7 Structures of general interest include state structures of general interest and local structures of general interest.***

**Finding and proposal:** It is necessary to define, either by the provisions of Art. 7, or by some new article, a protected coastal zone and the area this coastal zone encompasses, i.e. whether

this area, in relation to specific area conditions, includes only coastal territorial units or some other new area.

Also, this protected coastal zone should become an area of particular interest for Montenegro.

## **CHAPTER II LAND-USE PLANNING**

**Finding and proposal:** When the coastal zone is concerned, it is necessary to determine by the law the coastal zone planning guidelines of which the basic will be on:

- rational use and protection of natural assets,
- protection of cultural assets and values,
- well organised allocation and arrangement of a buildable area,
- protection and integrity of valuable coastal ecosystems, and sea water quality in bathing and recreational zones,
- protection of the quality and beauty of the built-up area, in particular in the coastal zone, including the protection of the narrower coastal strip from construction.

As determined by the provision of *Art. 8 point c) of the Protocol on integrated coastal zone management in the Mediterranean*, the Organisation should be informed about the national legal instruments providing for the above adaptations.

### **2.2.2. To Identify Areas in which Urban Development and Other Activities are Restricted, or where Necessary, Prohibited**

Particularly important is *Art. 8 of the Protocol on integrated coastal zone management* by which, in conformity with the principles and objectives of this Protocol, the propositions are provided for the protection and sustainable use of the coastal zone. Consequently, *item 3 point a)* sets out the necessity of identifying and delimiting, outside specially protected areas, open areas in which urban development and other activities are restricted, or where necessary, prohibited. This provision should be taken into consideration in relation to *Art. 3* on the limit of the coastal zone of *the Protocol on integrated coastal zone management in the Mediterranean*, defining that the seaward limit of the coastal zone may be less than the external limit of the territorial sea, while the landward limit is different, either more or less, from the limits of the territory of coastal management units.

Accordingly, the provision of *Art. 6* of the *Protocol on integrated coastal zone management in the Mediterranean*, defining general principles of integrated coastal zone management, and the provision of *Art. 8*, defining the protection and sustainable use of the coastal zone, identify and establish the limits within which it is necessary to define in more detail the rules for planning and management of the coastal zone.

**Finding and proposal:** As mentioned before, the legislation of Montenegro does not dispose of regulations for determination of the coastal zone management conditions and criteria. Therefore, adequate changes have to be made of the ***Law on land-use planning and construction***, and/or the ***Law on public maritime domain***, and/or a ***new particular regulation to determine the coastal zone management conditions and criteria***, should be passed.

Currently, the legislation of Montenegro defines as follows:

- seashore in the width of 6 metres (provision of *Art. 3* of the ***Law on public maritime domain***),
- a wider seashore, if so determined by the Assembly of Montenegro (provision of *Art. 3* of the ***Law on public maritime domain***),
- the public maritime domain, for which, in conformity with *Art. 21* of the ***Law on land-use planning and construction***, the ***Spatial law for special purpose areas for the public maritime domain*** is passed and implemented. All spatial plans related to the public maritime domain defined in this way are the state planning documents.

Following the above mentioned, it can be concluded that:

- the coastal zone of Montenegro is defined as an area territorially covering six coastal municipalities, i.e. Herceg Novi, Kotor, Tivat, Budva, Bar and Ulcinj, encompassing the total surface area of about 1,600 km<sup>2</sup>;
- in conformity with the legislation of Montenegro, the ***Spatial plan of special purpose areas for the public maritime domain*** determines the public maritime domain, as follows: *a landward limit of the public maritime domain of Montenegro starts at the municipality of Herceg Novi at the horn of Kobila, and passes the upper edge of the Vitaljina – Herceg Novi way to the bridge in the river Sutorina. The limit follows the upper edge of the way Njivice – Herceg Novi to the "Galeb" villa, goes along the promenade of "Pet Danica", and passes through Igalo and Herceg Novi to Meljina. From Meljina, the landward limit follows the old local way to the do Adriatic highway in Zelenica. Passing through Kumbor, Đenovići, Baošići and Bijela, the limit goes on by the upper edge of the local way Zelenika – Bijela to the exit on the highway. From Bijela, through Kamenar to Kostanjica the landward limit follows the highway. Following the local way Kotor – Lepetani, the limit goes through Morinj, Risan, Perast, Dobrota and Kotor. From Lepetani to Tivat, the limit follows the highway. At the Cultural centre, the limit turns from the highway and goes by the main road by the sea to the Army centre where it turns from the main road and passes by the fence of the repair complex to the highway. Further on, the limit follows the highway, along the fence of the military hotel, where it takes a path between the school centre and the hotel to the asphalted path through the park, and further to Pin. Taking the local way by the sea, the limit passes through Tivat to the settlement of Župa, where it enters the highway, proceeds to the airport of Tivat and then to the crossing for Kotor, where it proceeds for Krašići and Roso. From Roso to the horn of Platamuna, the limit follows the edge of the cliff, encompassing a bigger part of the horn Trašte. From the horn of Platamuni to the beach of Jaz, the limit follows the way of Platamuni – Jaz. From the beach of Jaz, the limit enters the Adriatic highway and follows the upper highway limit up to the tunnel. From the tunnel, the limit goes by the cliff edge to the Old town of Budva, and then along the walls of the Old town comes down to the promenade of "Slovenska obala". Further, the limit proceeds along the promenade to Bečići, passing to the end of the beach at Rafailovići where it enters the highway proceeding to the beach of Kamenovo. From the beach of Kamenovo, the limit follows the cliff edge to the beach of Pržno, passing along the edge of the beach. From Pržno, the limit follows the edge of the cliff passing through the Queen's beach and the beach of Miločer to Sveti Stefan. From Sveti Stefan to Petrovac, the limit follows the edge of the cliff encompassing the Drobni Pijesak beach and "AS" hotel. Through Petrovac, the limit follows the street by the sea to the end of the beach, then, along the cliff to Buljarica encompassing the beach of Lučice. The limit proceeds through Buljarice, along the edge of the beach to the end of Buljaričko field, and from there, by the edge of the cliff to the Black horn encompassing the beach of Čanj with the hotel complex. From the Black horn to Sutomore, the limit stretches along the local beach. At Sutomore, the limit follows the "Ivo Novaković" street to the Adriatic highway and then by the highway to the way by the beach of Žukotrljica. It follows the way to the bridge on the river Železnica, then, down the river to the promenade by the beach of Topolica. It follows the promenade to the complex of the Bar port, encompassing it entirely to the stream of Ujtin. From the stream of Ujtin to the beaches of Mali and Veliki Pijesak, the limit follows the edge of the cliff. In the hinterland of the beaches of Mali and Veliki Pijesak, the limit follows the local way up to the area of the rest centre, including the rest centre itself. From there, the limit stretches further following the cliff to the settlement of Kruče encompassing the beach of "Utjeha". Passing by the local way through the settlement of Kruče, the limit goes further along the cliff through the horn of Mavrijan, encompassing the cove of Valdanos and the Horn of Mandra, to the Old town of Ulcinj. Following the walls of the Old town and the street by the sea, the limit stretches along the Mala plaža beach and follows the way to the "Albatros" hotel. From the hotel, it passes the cliff to the tunnel leading to the channel of Porto Milena, and further, by the channel, to the salt pan complex of "Bajo Sekulić". From the salt pan, the limit follows the regional way Ulcinj – Sv. Nikola*

to the river Bojana. By the river Bojana, the limit stretches to the state border with Albania (based on the Law on public maritime domain, the landward limit of the public maritime domain is defined by a special Commission established by the decision of the Government of the Republic of Montenegro).

As proposed by the **National strategy for integrated coastal zone management in Montenegro (ICZM NS)**, it has been determined that *the Montenegrin littoral is traditionally considered as a morphological unit, i.e. the area from the sea to the peaks of the littoral mountain range (towards the sea oriented slopes of the mountain range of Orjen – Lovćen – Rumija) and a plateau at its foot.*

Finally, it is proposed that the protected coastal zone be the already established public maritime domain. As for all coastal municipalities, i.e. the rest of the municipalities outside of the limits of the public maritime domain, it is necessary to establish a protected coastal zone to which the criteria determined by a special regulation will be applied (the proposal is about 1,000 metres from the sea).

Therefore, it is necessary to determine, through the changes of the **Law on land-use planning and construction**, and/or the **Law on public maritime domain**, and/or **passing of a new particular regulation to determine the conditions and a way of using the coastal zone**, the protected coastal zone, i.e. its seaward and landward limits. As to the landward limit, it is proposed to use the limits of the already established public maritime domain + 1,000 metres as for the rest surpassing the limits of the public maritime domain. As to the seaward limit, 300 metres are proposed.

These legally established limits should be drawn into all spatial plans to be adopted, including the state and local-level plans. Thereby, it should be taken into account that also the coastline (6.0 metres or the one established by the Assembly of Montenegro) is drawn into spatial plans.

### **2.2.3. Limiting the Linear Extension of Urban Development**

As set out in the provision of Art. 8 of *the Protocol on integrated coastal zone management in the Mediterranean*, the protection and sustainable use of the coastal zone is determined in conformity with the objectives and principles of this Protocol, while item 3 point b) of this Article says that it is necessary to limit the linear extension of urban development.

**Finding and proposal:** It is necessary to establish, through the changes of the **Law on land-use planning and construction**, and/or the **Law on public maritime domain**, and/or **passing of a new particular regulation to determine the conditions and a way of using the coastal zone**, the protected coastal zone and to define the conditions for planning of the same, as follows:

- to limit the inter-connection of the existing urban areas;
- to prohibit the linear extension of urban areas along the coast;
- to plan new urban areas only outside of the determined coastal strip (depending on the specificities of the coast) except for the economic activities that due to their nature require immediate proximity of the sea (shipyards, ports and alike).

Thereafter, the above-mentioned provisions should, during the first revision, be incorporated into the **Spatial plan for specially protected areas for the public maritime domain**, as the basic implementation instrument. Also, by the preparation and adoption of all spatial plans relating to this spatial scope, legally determined decisions should be respected.

It is important to stress that the limitations will refer to future plans and projects, while new legal decisions will not affect the existing projects and plans that have been started by any activity.

### **2.2.4. Providing for Freedom of Access to the Sea and along the Shore**

As provided by Art. 8 of *the Protocol on integrated coastal zone management in the Mediterranean*, the protection and sustainable use of coastal zones is determined in conformity with the objectives and principles set out in this Protocol; also, the provisions of *item 3 point d)* provides for freedom of access to the sea and along the shore.

**Finding and proposal:** Through the changes of the *Law on land-use planning and construction*, and/or the *Law on public maritime domain*, and/or *passing of a new particular regulation to determine the conditions and a way of using the coastal zone*, it is necessary to ensure as follows:

- freedom of access to the shore,
- freedom of access along the shore,
- public interest in the use of the shore, and in particular of the public maritime domain.

**Regulations on requirements to be fulfilled by maintained and constructed bathing areas** ("Off. Gazette of Montenegro", No. 20/08)

**Finding and proposal:** It is necessary to change, or to delete, the provision of Art. 2 restricting freedom of access by non-hotel guests to the hotel bathing area.

### **2.2.5. Restricting Movement and Parking of Land Vehicles, as well as the Movement and Anchoring of Marine Vessels in particularly Fragile Natural Areas, Including Beaches**

According to point e) item 3 of the provision of Art. 8 of the *Protocol on integrated coastal zone management in the Mediterranean*, the movement and parking of land vehicles, as well as the movement and anchoring of marine vessels in particularly fragile natural areas, including beaches, should be restricted, or where necessary, prohibited.

**Finding and proposal:** As stated in previous proposals, it is necessary to take into consideration the above-mentioned provision of the *Protocol on integrated coastal zone management in the Mediterranean*, and/or through the changes of the *Law on land-use planning and construction*, and/or the *Law on public maritime domain*, and/or *pass a new particular regulation to determine the conditions and a way of using the coastal zone*, to establish the conditions for the movement and parking of land vehicles. These provisions should be implemented in a way that the access by the public (vehicular traffic and pedestrians) to the shore is ensured, but on the condition that parking lots cannot be located outside of urban areas, with the exception of areas next to natural beaches, and in no case within a 100-metre coastal strip (with the exception of settlements).

This provision will be implemented through spatial plans, including the state and local-level spatial plans.

#### **a/ Law on public maritime domain**

("Off. Gazette of the Republic of Montenegro", No. 14/92, 27/94, "Off. Gazette of Montenegro", No. 51/08)

**Art. 16** *Bathing area is a public maritime domain intended for bathing.*

*Bathing area may be natural, maintained and constructed.*

*Natural bathing area is considered an unenclosed water area and with water directly connected land area free for public access and for bathing.*

*Maintained bathing area is defined as an enclosed water area and with water directly connected land area equipped with dressing cabins, sanitary appliances, showers and other necessary equipment, free, on equal terms, for public access.*

*Constructed bathing area is considered an enclosed water area and with water directly connected land area, which is created by more significant investments and construction on the seashore, and equipped in a way as maintained bathing places.*

*The Republic management body authorised for tourism affairs stipulates the conditions to be fulfilled by maintained and constructed bathing areas.*

**Finding and proposal:** To connect newly planned maintained bathing areas with urban areas. To define permanent and temporary constructions to be built in the bathing area (i.e. catering establishments, swimming pools and alike) as regulated by a **Spatial plan of special purpose areas for the public maritime domain – Conditions for bathing areas**.

As for natural bathing areas, it is necessary to define that these areas are completely preserved in relation to a *status quo* of natural bathing area characteristics.

#### **b/ Law on ports**

**("Off. Gazette of Montenegro", No. 51/08)**

**Finding and proposal:** This law has to define locations outside of the port and settlements intended for anchoring of vessels; this regulation should be implemented through the provisions of the **Law on land-use planning and construction**. The capacities of anchoring locations should also be defined by a **Spatial plan of special purpose areas for the public maritime domain**, as well as by all other future spatial plans for the subject area (i.e. state and local-level spatial plans).

#### **2.2.6. To Legally Determine Land Policy Instruments and Measures Directly Connected to Planning of Coastal Zone Use**

In order to ensure one of important objectives of the *Protocol on integrated coastal zone management in the Mediterranean*, and that is the preservation of coastal zones for the benefit of current and future generations, land policy measures are of crucial importance.

Consequently, *the provision of Art. 20 of the Protocol on integrated coastal zone management in the Mediterranean* determines that for the purpose of promoting of integrated coastal zone management, reducing economic pressures, allowing public access to the shore, appropriate land policy instruments and measures directly connected to the process of planning, should be adopted. Further, it is necessary to adopt mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties.

**Finding and proposal:** When the reduction of economic pressure, and allowing public access to the shore is concerned, the above-mentioned provision will be established through regulations, and/or changes of the **Law on land-use planning and construction**, and/or the **Law on public maritime domain**, and/or a creation of **a new particular regulation defining conditions and a way of using the coastal zone**.

#### **a/ Law on land-use planning and construction**

**("Off. Gazette of Montenegro", No. 51/08)**

**Finding and proposal:** The basic point is the establishment of a protected coastal zone as an area of particular interest/importance for the Republic of Montenegro, and conditions for its use through the changes of the **Law on land-use planning and construction** and/or the **Law on public maritime domain** and/or a creation of a **new particular regulation defining conditions and a way of using the coastal zone**.

The instrument for the implementation of these regulations is a spatial plan, which is currently in effect. The supervision of interventions in this area is within the competence of the Government of Montenegro (the Government adopts a Detailed spatial plan and a State study on location) and a relevant Ministry, which gives its consent for the implementation of local-level plans.

**Art. 47** *Spatial plan of Montenegro and a Special purpose spatial plan is adopted by the Assembly of Montenegro. The Detailed spatial planned and the State study on location is adopted by the Government.*

**Art. 46** *The executive body of a local self-management unit puts forward to the Ministry a proposal for a local planning document for consent.*

*In the process of giving consent for the proposal from item 1 of this article, it is verified if the proposed local planning document is in conformity with the Ministry's opinion of the draft local planning documents, as well as with this law.*

*According to item 2 of this article, the consent is given within 30 days from the day of receipt of the local planning document proposal.*

*In case that the proposed local planning document is not in conformity with the Ministry's opinion and this law, the Ministry will within 30 days return the planning document to the executive body of self-government for revision.*

Crucial for the coastal zone management is the arrangement and preparation of land for building. To that end, following corrections have to be done:

**b/ Law on land-use planning and construction**  
*("Off. Gazette of Montenegro", No. 51/08)*

**Art. 58** *An urban lot must be accessed from a city or a public road.*

**Finding and proposal:** A lot defined as a construction lot must, in addition to the access from a city or a public road (easements on properties, private road) have a solved wastewater disposal and a possibility for realisation of a required number of parking places.

**Art. 63** *Preparation of a buildable land for construction means to equip land in a way as to enable the implementation of a planning document.*

*Preparation of a buildable land for construction encompasses the preparation of land for communal equipment and realisation of a communal equipment.*

**Finding and proposal:** Preparation of a buildable land for construction understands as follows:

- to ensure funds from the budget of self-management units and from other sources, for the preparation of a buildable land for construction,
- to provide projects and other documents,
- to settle property rights in accordance with the Law and special laws,
- to obtain acts needed for the execution of works related to preparation of a buildable land for construction,
- to execute, in conformity with particular regulations, construction works aiming at widening and/or improving communal or other infrastructure,
- to restore the terrain (draining, levelling, ensuring land and alike), and
- in order to co-ordinate construction, to encourage and organise co-operation of publically authorised legal persons with other entities in whose domain falls building of transport, power supply and telecommunication infrastructure, as well as building of health-service, educational, administrative and other public constructions needed for living and work in the local self-management unit.

Of particular importance is to define by the law the notion of a buildable land.

## **2.3. Sustainable Use of Natural Resources**

As defined by the provision of *Art. 5 of the Protocol on integrated coastal zone management in the Mediterranean*, one of the objectives of this Protocol is to ensure the sustainable use of natural resources, in particular with regard to water use.

### **2.3.1. Integrated Approach to Water Resources Management**

In conformity with the above-mentioned objective of the *Protocol on integrated coastal zone management in the Mediterranean*, the provision of *Art. 9* related to economic activities defines that it is necessary to ensure that integrated approach to water resources management is taken into consideration.

**a/ Law on water**  
*("Off. Gazette of the Republic of Montenegro", No. 27/07)*

**Finding and proposal:** A particularly good regulation concerning:

*This law applies to:*

- surface and underground water and salt water at the mouths of rivers entering the sea;
- mineral and thermal water;
- water asset;
- drinking water resources in the territorial sea;
- coastal sea water pollution from land-based sources.

As to sustainable use of coastal natural resources, it is necessary to regulate by law ways of wastewater disposal by using the decisions from the ***Spatial plan for special purpose areas for the public maritime domain – Wastewater disposal***.

**Finding and proposal:** To define elementary regulations, and/or through the changes of the ***Law on land-use planning and construction***, and/or ***Law on public maritime domain***, and/or a ***new special regulation to determine conditions and a way of using coastal zone*** in a way that a precondition for the construction in the coastal zone is to find solutions for wastewater disposal, as follows:

- to build a closed sewerage system with treatment (to determine that this regulation is mandatory for tourist zones, economic zones and alike),
- to connect ways of wastewater disposal with the complexity of intervention in the space,
- to define interventions that could be connected to septic tanks.

### **2.3.2. Integrated Approach to Waste Disposal in particular with a view to Environmentally Sound Waste Management**

Referring to the provision of *Art. 9 point 1 item c)* of the *Protocol on integrated coastal zone management in the Mediterranean*, it is necessary to ensure that waste disposal is acceptable with a view of environmentally sound waste management.

**Finding and proposal:** It is necessary to determine elementary regulations, and/or through the changes of the ***Law on land-use planning and construction***, and/or the ***Law on public maritime domain***, and/or a ***new special regulation to determine conditions and a way of using the coastal zone***, to determine that regarding the way of waste disposal (thereby, it is recommended to use decisions from the ***Spatial plan for special purpose areas for the public maritime domain – Solid waste treatment***), it is necessary to identify an area in which it is not allowed to develop storing, processing and waste disposal facilities, except if this development depends on natural conditions and terrain configuration.

This regulation should also be appropriately applied in the implementation of the ***Spatial plan for special purpose areas for the public maritime domain***, as well as in the preparation and adoption of all spatial plans, including state and local-level spatial plans.

#### **a/ Decree on environmental impact assessment projects**

**("Off. Gazette of the Republic of Montenegro". No. 20/07)**

**Finding and proposal:** When listing interventions, it should be stated that the restoration of waste dumping sites (legal and illegal) in the protected coastal zone, which will be defined by a special regulation, is subject to carrying out of a process of environmental impact assessment.

### **2.3.3. To Protect Fishing Areas, Aquaculture and Shellfish Areas in Development Projects**

In relation to economic activities, the provision of *Art. 9, point 2, items b) and c)* of the *Protocol on integrated coastal zone management in the Mediterranean* referring to fishing, sets out that in development projects, it is necessary to take into account the need to protect fishing areas, aquaculture and shellfish areas.

Taking into consideration the above mentioned, it is necessary to check planning provisions determined by the ***Spatial plan for special purpose areas for the public maritime domain – Sea fishing, Mariculture***, and to check the inter-relationship between these areas and other purpose areas (settlements, tourism, economy).

#### **a/ Law on sea fishing**

**("Off. Gazette of the Republic of Montenegro". No. 55/03, 40/04)**

**Art. 29** *The relevant Ministry identifies locations (bays, coves, river mouths and alike) and conditions for breeding of fish and other sea species with applying appropriate fish-breeding conditions, as proposed by a relevant scientific institution and based on the previously obtained consents issued by the ministries of: sea and transport; health and environment protection and land-use planning.*

*If the seashore will be used as a location from item 1 of this article, a consent of a legal entity authorised for the use of maritime domain is to be obtained.*

**Finding and proposal:** Locations for mariculture production should undoubtedly be determined by the ***Spatial plan for special purpose areas for the public maritime domain***.

#### **b/ Proposal for the Law on sea fishing and mariculture, October 2008**

##### **Chapter V. Mariculture**

**Finding and proposal:** The entire chapter should be revised in a way as to harmonise its provisions with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, meaning that the locations intended for mariculture production are undoubtedly determined by spatial plans, and that carrying capacities of a relevant area are established in relation to the need for environmental impact assessment.

It is of particular importance to direct mariculture production towards breeding of the blue fish as a big polluter.

Further, through the changes of the ***Law on land-use planning and construction***, and/or the ***Law on public maritime domain***, and/or a ***new special regulation to determine conditions and a way of using the coastal zone***, it is necessary to determine by an implementary regulation the spatial span where there is no blue fish breeding – the proposal is 300 metres from the coastline, and to implement this regulation through spatial plans.

#### **2.3.4. To Ensure that Fishing Practices are Compatible with Sustainable Use of Natural Marine Resources**

In relation to economic activities, i.e. fishing activities, the provision of *Art. 9., point 2, item b)* of the *Protocol on integrated coastal zone management in the Mediterranean*, sets out that it is necessary to protect fishing areas in development projects, and to ensure that fishing practices are compatible with sustainable use of natural marine resources.

##### **a/ Law on sea fishing**

*("Off. Gazette of the Republic of Montenegro", No. 55/03, 40/04)*

#### **b/ Proposal of a Law on sea fishing and mariculture – October 2008**

**Finding and proposal:** The above regulations will ensure that sea fishing activities are compatible with sustainable use of natural marine resources. Implementary regulations should be checked in relation to planning provisions defined by a ***Spatial plan for special purpose areas for the public maritime domain – Sea fishing***.

#### **2.3.5. Planning and Implementation of Environmental Impact Assessment for Aquaculture**

As provided by *Art. 8* of the *Protocol on integrated coastal zone management in the Mediterranean*, and in conformity with the objectives and principles of this Protocol, the protection and sustainable use of the coastal zone is determined in a way as to define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity. To that end, it is necessary as follows:

##### **a/ Ordinance on projects subject to environmental impact assessment**

*("Off. Gazette of the Republic of Montenegro", No. 20/07)*

**Finding and proposal:** When listing interventions, it should be stated that for mariculture (to define the carrying capacity) it is necessary to carry out environmental impact assessment. Depending on the carrying capacity, it is to distinguish between interventions for which environmental impact assessment is obligatory (List I) and interventions for which environmental impact assessment may be requested (List II).

#### **2.4. Preservation of Integrity of Coastal Ecosystems, Landscapes and Geomorphology**

As determined by the provision of *Art. 5* of the *Protocol on integrated coastal zone management in the Mediterranean*, the objective of integrated coastal zone management is, among others, to

ensure preservation of integrity of coastal ecosystems, landscapes and geomorphology. To that end, it is necessary to implement a number of activities relating to changing of the existing regulations and intervening in the legislation in force.

#### **2.4.1. Balanced Allocation of Uses in the Coastal Zone (to avoid unnecessary concentration of activities and urban sprawl)**

As provided by *Art. 6 item h)* of the *Protocol on integrated coastal zone management in the Mediterranean*, which determines the principles of integrated coastal zone management, the allocation of uses in the coastal zone should be balanced, and unnecessary concentration of activities and urban sprawl should be avoided.

**Finding and proposal:** The fulfilment of the above-mentioned objectives and principles of integrated coastal zone management is possible only through the implementation of spatial plans. Therefore, the first step is to define through the changes of the ***Law on land-use planning and construction***, and/or the ***Law on public maritime domain***, and/or a ***new special regulation to determine conditions for and a way of using the coastal zone***, the protected coastal zone of particular interest for the Republic of Montenegro, as well as to define conditions for / ways of using it. Thereafter, the next step is to put such a regulation in relationship with the ***Spatial plan for special purpose areas for the public maritime domain***. Namely, these regulations would refer to all future spatial plans, either state or local-level plans, dealing with the entire, or only parts of the protected coastal zone.

#### **2.4.2. To Encourage Sustainable Coastal Tourism that Preserves Coastal Ecosystems, Natural Resources, Cultural Heritage and Landscapes**

Referring to economic activities, the provision of *Art. 9, point 2, item d)* of the *Protocol on integrated coastal zone management in the Mediterranean* dealing with tourism activities determines that it is necessary to encourage sustainable coastal tourism that preserves coastal ecosystems, natural resources, cultural heritage and landscapes.

Montenegro adopted a strategy entitled ***Policy and strategy for the development of tourism in Montenegro until 2020***. This particularly well-prepared strategic document, as well as the ***Spatial plan for special purpose areas for the public maritime domain***, enables development of various forms of tourism.

Further development of tourism is the priority of Montenegro. Thereby, it should be taken into account that tourism development calls for considerable changes in the space. Construction of new tourism capacities necessitates changes on the coast, as well as changes of its natural characteristics.

**Finding and proposal:** By the preparation and adoption of all spatial plans (the state and local-level spatial plans) dealing with the protected coastal zone, it is necessary to take into account that planning of tourism capacities does not interfere with natural resources, cultural heritage and landscapes protection. Also, the inter-relationship between various uses of the coast should be taken into account so as to make further development of coastal tourism possible.

#### **2.4.3. To Ensure that the Coastal and Maritime Economy is Adapted to the Fragile Nature of the Coastal Zone**

In conformity with the objectives and principles of the *Protocol on integrated coastal zone management in the Mediterranean*, *Art. 9* of this Protocol determines that it is necessary to ensure that the coastal and maritime economy is adapted to the fragile nature of the coastal zone. With that regard, it is also necessary to define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity.

**Finding and proposal:** As mentioned before, after having established the protected coastal zone, it is necessary to define, primarily through the changes of the ***Law on land-use planning and construction***, and/or the ***Law on public maritime domain***, and/or through a ***new special regulation defining conditions and a way using the coastal zone***, the carrying capacity of that zone. The carrying capacity refers, first of all, to the possible occupation of the coastal zone

by further tourist and economic development of the relevant area. As for tourism activities, the above-mentioned provision should regulate the sorts, capacities, purposes and ways of using tourism facilities (i.e. density of use and to what extent a particular construction lot is built-up, sort and capacities of accompanying programmes and public areas that have to be defined proportionally to each construction phase, etc.).

Relevant instruments and measures for reducing economic activities pressure in the coastal zone should be envisaged. Thereby, only those economic activities that require immediate proximity to the sea should be developed. All data and recommendations included in the ***Spatial plan for special purpose areas for the public maritime domain*** are of particular importance.

All future economic activities foreseen by the state or local-level spatial plans should comply with the norms defined by a new regulation.

## **2.5. Prevention and/or Reduction of Effects of Natural Hazards**

As determined by *Art. 5 of the Protocol on integrated coastal zone management in the Mediterranean*, one of the objectives of integrated coastal zone management is to prevent and/or reduce the effects of natural hazards and in particular of climate change, which can be induced by natural or human activities.

### **2.5.1. Preliminary Assessment of the Risks Associated with the Various Human Activities and Infrastructure**

As determined by *Art. 6 of the Protocol on integrated coastal zone management in the Mediterranean*, the signatory parties to this Protocol shall be guided, among others, by the principle of preliminary assessments of the risks associated with the various human activities and infrastructure so as to prevent and reduce a negative impact on the coastal zone.

**Finding and proposal:** For the implementation of this principle, it is necessary to adopt a new regulation or change the existing one in a way as to define the protected coastal zone. As determined by *Art. 3 of the Protocol on integrated coastal zone management in the Mediterranean*, the seaward limit of the coastal zone is the external limit of the territorial sea, while the landward limit is the limit of the competent coastal units.

Also, if the seaward limit is less than the external limit of the territorial sea, and the landward limit is different, either more or less, from the limits of the territory of coastal management units, a Party shall, at the time of the deposit of its instrument of ratification, acceptance, approval, or accession to this Protocol, or at any subsequent time, communicate this to the Depository.

Finally, after the adoption of a regulation establishing the parameters and criteria, as well as defining the maximum carrying capacities for the use of a protected coastal zone, the above-mentioned regulation will be controlled through: the preparation of spatial plans as instruments for the implementation of such a regulation; and the need for the preparation of an environmental impact assessment for particular interventions within this zone. In this way, the risks associated with the various human activities and infrastructure so as to prevent and reduce a negative impact on the coastal zone will be assessed.

### **2.5.2. To Regulate, with regard to the Sea-use Activities, the Practice of Various Sporting and Recreational Activities, including Recreational Fishing and Shellfish Extraction**

As determined by *Art. 9 point 2 item d) of the Protocol on integrated coastal zone management in the Mediterranean*, the practice of various sporting and recreational activities, including recreational fishing and shellfish extraction, should be regulated, or where necessary, prohibited.

Since Montenegro has, unlike some neighbouring countries, the Public Enterprise *Morsko dobro* (*Morsko dobro* means "public maritime domain"), this enterprise shall approve and regulate, with regard to the sea-use activities, the practice of various sporting and recreational activities, including recreational fishing and shellfish extraction.

Also, the competences will be defined in relation to further development of the institutional coastal zone management.

### **2.5.3. To Regulate Utilisation of the Coastal Zone (Land and Sea) with regard to the Excavation and Extraction of All Sorts of Minerals**

*Art. 9 point 2 item e) of the Protocol on integrated coastal zone management in the Mediterranean* determines, among others, as follows: to subject to prior authorisation the excavation and extraction of minerals, including the use of sea water in desalination plants; and to regulate the extraction of sand, including on the seabed and river sediments or prohibit it where it is likely to adversely affect the equilibrium of coastal ecosystems.

**Finding and proposal:** After the protected coastal zone is defined, to determine through the changes of the **Law on land-use planning and construction**, and/or the **Law on public maritime domain**, and/or **a new special regulation defining conditions and a way of using the coastal zone**, an implementary regulation, which will determine the spatial span (or zones) within which it is not allowed to research or utilise minerals, except if there is a need for a particular sort of mineral, and with the exception of the research and utilisation of the sea salt, energetic mineral resources (oil and natural gas), and mineral and geothermal waters. Also, it is necessary to define areas within which the extraction of sand is prohibited and/or regulated by a special regulation, because it is likely to adversely affect the equilibrium of coastal ecosystems.

It is important to stress that in relation to legally determined regulations, the **Spatial plan for special purpose areas for the public maritime domain** should be revised.

The above mentioned should be taken into consideration by the preparation and adoption of new spatial plans, either at the state or local level.

### **2.5.4. To Establish, through Legislation, Measures to Ensure the Protection and Preservation of: Wetlands and Estuaries, Marine Habitats, Coastal Forests and Dunes**

*Articles 10 i 11 of the Protocol on integrated coastal zone management in the Mediterranean* determine the ways and measures to ensure, through legislation, the preservation of specific coastal ecosystems and landscapes.

**Nature protection law** ("Off. Gazette of Montenegro", No. 51/08)

**Finding and proposal:** To ensure, either directly through the **Nature protection law**, or indirectly through the preparation of spatial plans, implementation of measures for the protection and preservation of: wetlands and river estuaries, marine habitats, coastal forests and dunes.

### **2.5.5. To Establish, through Legislation, the Protection and Use of Islands**

The protection and use of islands is legally determined by the provision of *Art. 12 of the Protocol on integrated coastal zone management in the Mediterranean*. It is necessary to promote environmentally-friendly activities with the participation of the inhabitants in the protection of coastal ecosystems based on their local customs and knowledge. Further, it is necessary to take into account the specific characteristics of the island environment and the necessity for interaction among islands in national coastal strategies, plans and programmes and management instruments, particularly in the fields of transport, fisheries, waste and water.

**Finding and proposal:** It is necessary to delete from the provisions of the **Law on sea** the possible construction of artificial islands.

## **2.6. Achieving Coherence between the Public and Private Initiatives and between all Decisions at the National, Regional and Local Level, which Affect the Use of the Coastal Zone**

Pursuant to *Art. 5 of the Protocol on integrated coastal zone management in the Mediterranean*, one of the objectives of integrated coastal zone management is to achieve a coherence between the public and private initiatives and between all decisions at the national, regional and local level, which affect the use of the coastal zone.

### **2.6.1. To Regulate Participation of All Stakeholders in the Processes Relating to the National Coastal Strategy, Plans and Programmes**

**Finding and proposal:** All provisions dealing with the public participation should be revised in a way as to define more clearly the role of stakeholders and the public from the role of decision makers. Further, it is necessary to define more clearly and in more detail the public hearing procedure. Also, taking into consideration the complex nature of plans, it is recommended to determine a minimum number of days for holding of public hearings. The duration of a repeated public hearing may be 8 days. Also, it is recommended to determine a number of repeated public hearings and the topics to be discussed.

### **2.6.2. To Regulate Maritime Activities**

By the provision of Art. 9, point 2, item g) of the *Protocol on integrated coastal zone management in the Mediterranean*, it is determined that maritime activities can be conducted in such a manner as to ensure the preservation of coastal ecosystems in conformity with the rules of the relevant international conventions.

**Finding and proposal:** The implementation of relevant activities has been appropriately regulated by the provisions of the *Law on maritime and inland water navigation*.

### 3. Recommendations for Implementation of the Protocol on Integrated Coastal Zone Management in the Mediterranean

#### 3.1. Institutional Framework

Integrated coastal zone management is identified as a dynamic process of sustainable management and use of coastal zones, taking, at the same time, into consideration the fragility of coastal ecosystems and landscapes, diversity of coastal activities and uses and their inter-relationship, as well as maritime orientation of particular coastal activities and uses, and their impact on marine and coastal systems.

Pursuant to the provision of *Art. 7 of the Protocol on integrated coastal zone management in the Mediterranean*, it is necessary, for the purposes of integrated coastal zone management, to:

- ensure institutional co-ordination in order to avoid sectoral approaches,
- organise appropriate co-ordination between the various authorities competent for both the marine and the land parts of coastal zones in the different administrative services at the national, regional and local levels, and
- organise close co-ordination between national authorities and regional and local bodies in the field of coastal strategies, programmes and plans in relation to the various authorisations for activities that may be achieved through joint consultative bodies or joint decision-making procedures.

Further, *Part III on Instruments for integrated coastal zone management of the Protocol on integrated coastal zone management in the Mediterranean*, determines that it is necessary, among others, to:

- carry out integrated coastal zone management awareness-raising activities,
- organise educational programmes for training and education of the public on integrated coastal zone management, and
- co-operate constantly in the training of the scientific, technical and administrative personnel on integrated coastal zone management, aiming at establishing and enforcing the abilities for the development of scientific and technical research, promoting the centres specialised in integrated coastal zone management and training programmes for the local experts.

Also, *Part VI on Institutional provisions of the Protocol on integrated coastal zone management in the Mediterranean*, stipulates the obligation of creating an institutional framework at the national level to ensure functioning of this Protocol.

#### Recommendation

In order to ensure the implementation of a comprehensive and demanding process such as integrated coastal zone management, it is necessary to establish an **Agency** whose task will be to deal with integrated coastal zone management in an inter-disciplinary manner. Although Montenegro, unlike many other neighbouring countries, established a Public enterprise for management of the public maritime domain of Montenegro, a specialised Agency has to be established in order to ensure, among others, the appropriate participation of stakeholders in implementation of strategies, programmes and plans, as well as in the process of authorisation of activities of: the relevant territorial communities and public entities, economic factors, non-governmental organisations, social entities and interested public through the establishment of advisory bodies, public hearings, public polls and alike.

#### 3.2. Legal Framework

*The Protocol on integrated coastal zone management in the Mediterranean* assumes that the planning and management of coastal zones, as an irreplaceable ecologic, economic and social resource, is, with a view of the preservation and sustainable development, the priority of all

Mediterranean states, and a wider, due, in the first place, to the increase in anthropogenic pressure on the coastal zones.

All signatory parties to the *Protocol on integrated coastal zone management in the Mediterranean* are obliged to enable, through their national laws and the coastal strategies, plans and programmes, the implementation of the objectives and principles established by the *Protocol on integrated coastal zone management in the Mediterranean*.

Chapter 2 of this study entitled OBJECTIVES OF INTEGRATED COASTAL ZONE MANAGEMENT – PROPOSALS FOR ENSURING THESE OBJECTIVES THROUGH THE IMPLEMENTATION OF VALID REGULATIONS, analyses the strategies (present and those in preparation) and legislation (present and the future one) of Montenegro in relation to the obligations established by the *Protocol on integrated coastal zone management in the Mediterranean*. Therefore, the relevant recommendations are provided for particular domains.

Thereby, it has to be noted that all the obligations to be fulfilled in compliance with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, do not refer to current projects and plans, but only to the future ones.

### **3.2.1. Land-use Planning – Recommendations**

The domain of land-use planning is of particular importance since the land-use plans are identified as the basic instrument for the implementation of the *Protocol on integrated coastal zone management*. Pursuant to the *Law on land-use planning and construction, the land use is considered as a monitoring of the state of an area and definition of conditions for and ways of using an area through the preparation and adoption of planning documents, implementation of planning documents and arrangement of an area for construction*.

Provisions for the implementation of the *Law on land-use planning and construction* do not identify at all the protected coastal zone as a zone of particular interest for the state, nor they determine the criteria and guidelines for the construction in that zone.

#### *Recommendation No. 1 – an area of special interest for Montenegro*

It is necessary, either through the changes of the Law on land-use planning and construction, and/or the Law on public maritime domain, and/or through the creation of a new special regulation determining conditions and a way of using the coastal zone, to define the coastal zone and a protected coastal zone as an area of particular interest for Montenegro. It is assessed that it would be better to bring a **new regulation**.

#### *Recommendation No. 2 – coastal zone*

It is necessary, through a new regulation, to define the coastal zone, which may be:

- Var. a/: a coastal zone encompassing the territory of six coastal municipalities (i.e. Herceg Novi, Kotor, Tivat, Budva, Bar and Ulcinj, covering the total surface area of about 1,600 km<sup>2</sup>).
- Var. b/: a coastal zone traditionally considered as a littoral; this morphological entity encompasses an area from the sea to the peaks of the littoral mountain chain (to the sea oriented slopes of the mountain chain of Orjen – Lovćen – Rumija) and a plateau at its foot.

#### *Recommendation No. 3 – a protected coastal zone*

It is necessary to define, through a new regulation, the coastal zone, which may be:

- land: a maritime domain defined by the *Spatial plan of a special purpose area for the public maritime domain* + 1,000 metres landward as for the rest surpassing the limits of the public maritime domain, which is under the competence of the local self-management unit;
- sea: 300 metres seaward.

#### Recommendation No. 4 – a limited construction in the 100-metre coastal strip

In conformity with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, the so-called "construction ban" in the coastal strip of 100 metres width from the waterline does not mean that the construction is completely prohibited in this area. Namely, the national legislation should identify this determination and stipulate, in accordance with this determination, the criteria under which the construction is allowed. Accordingly, it is to distinguish between the completion of the existing urban area construction from the creation of a new housing construction, notably tourist capacities. Also, it is necessary to identify and delimit areas in which in the coastal strip of 100 metres width from the waterline planning of new constructions is not allowed. However, taking into account specific conditions of a particular area, the following construction may be allowed: communal infrastructure and underground power lines, supporting catering-tourism establishments, buildings requiring proximity of the sea (shipyards, ports and alike), and management and maintenance of public areas and eventually of public constructions.

Limits of construction should be defined through a regulation and implemented through spatial plans.

The *Law on land-use planning and construction* offers a particularly good solution according to which the coastal zone (now, the protected coastal zone) management plans are adopted by the Government, while for the other plans, the consent is given by the relevant Ministry.

#### Recommendation No. 5 – seashore

The seashore is defined as follows:

- seashore of 6 metres width (as determined by Art. 3 of the *Law on public maritime domain*), and
- seashore of a greater width, if so defined by the Assembly of the Republic of Montenegro (as defined by Art. 3 of the *Law on public maritime domain*).

The land policy will be created according to the above-mentioned definitions, and relevant seashore limits should be delineated into spatial plans.

#### Recommendation No. 6 – the basic guidelines for planning within the protected coastal zone

The basic guidelines for planning within the protected coastal zone would refer to the following:

- rational use and protection of natural assets,
- protection of cultural assets and values,
- well-organised allocation and arrangement of land,
- protection and integrality of valuable coastal ecosystems, and sea water quality in bathing and recreational zones,
- protection of the quality and beauty of the built-up area, in particular in the coastal zone, including the protection of the narrower coastal strip from construction,
- preservation and restoration of endangered areas of natural, cultural-historic and traditional values of the coastal landscape and hinterland, and to encourage the natural restoration of coastal forests and autochthonous vegetation,
- establishment of measures for the protection of land and sea environment, and in particular of potable water resources,
- to provide for freedom of access by the public to the shore, along the shore and public interest in its use, and in particular in the use of the public maritime domain,
- to preserve islands, in particular for agricultural activities, recreation, organised visits and research, and
- to make the development, in particular of the public infrastructure, conditional on the landscape values protection and conservation.

### Recommendation No. 7 – conditions for urban development planning

The basic conditions for urban development planning should be defined by a special regulation in a way as:

- to limit the inter-connection of the existing urban areas, and
- to prohibit the linear extension of construction areas along the coast (settlement, separated parts of settlements, and separated parts of other purpose areas).

This recommendation will be applied in the preparation of new plans, and the present situation will be established in relation to plans currently in force or being implemented.

### Recommendation No. 8 – planning of tourist capacities construction

A special regulation should be created so as to determine sorts, capacities, purpose and ways of using tourist facilities, such as:

- density of use,
- extent to which a particular construction lot is built-up,
- maximum capacities in relation to their purpose,
- sorts and capacities of accompanying programmes, and
- norms for public areas, which should be defined proportionally to each construction phase of accommodation capacities.

As to a limited construction within a 100-metre coastal strip, it is recommended to determine that when tourist facilities construction is concerned, then, there is no construction of tourist accommodation capacities within a 100-metre coastal strip.

### Recommendation No. 9 – planning of economic zones construction

Concerning the planning of economic zones, it is necessary to determine that new production economic zones can be planned only outside of the determined coastal strip (i.e. from 100 to 1,000 metres, depending on the specificities of the coast) except for the economic activities that due to their nature require immediate proximity of the sea (shipyards, ports and alike).

### Recommendation No. 10 – preparation of a buildable land for construction

Taking into consideration the construction on a buildable land, it is necessary to define, through the changes of the *Law on land-use planning and construction*, that a lot intended for construction must, in addition to the access from a city or a public road (easements on properties, private road) have a solved wastewater disposal and a possibility for realisation of a required number of parking places.

Further, it is necessary to define that the preparation of a buildable land for construction includes as follows:

- to ensure funds from the budget of self-management units and from other sources, for the preparation of a buildable land for construction,
- to provide projects and other documents,
- to settle property rights in accordance with the Law and special laws,
- to obtain acts needed for the execution of works related to preparation of a buildable land for construction,
- to execute, in conformity with particular regulations, construction works aiming at widening and/or improving communal or other infrastructure,
- to restore the terrain (draining, levelling, ensuring land and alike), and
- in order to co-ordinate construction, to encourage and organise co-operation of publically authorised legal persons with other entities in whose domain falls building of transport, power supply and telecommunication infrastructure, as well as building of health-service, educational, administrative and other public constructions needed for living and work in the local self-management unit.

Of particular importance is to define by the Law the notion of a buildable land.

Also, it is necessary to determine by complementary regulations that a constructed sewerage system is a precondition for construction in the coastal zone, including as follows:

- a closed sewerage system with treatment is constructed (to determine that this regulation is mandatory for tourist zones, economic zones and alike),
- ways of wastewater disposal are connected with the complexity of intervention in the space, and
- interventions are defined that could be connected to septic tanks.

It should be noted once again that in order to determine the above mentioned, it is necessary to adopt a new regulation. However, this new regulation will be applied only to new plans and projects, and will be incorporated in the first version of the *Spatial plan of special purpose areas for the public maritime domain*.

As for the National strategy for integrated management of coastal zones in Montenegro (ICZM NS), it is recommended not to adopt it in the present form, but to incorporate in the strategy the provisions of the Protocol on integrated coastal zone management in the Mediterranean. The strategy could be adopted after revision of the same.

Also, it is important to take into account that if the seaward limit is less than the external limit of the territorial sea, and the landward limit is different, either more or less, from the limits of the territory of coastal management units, a Party shall, at the time of the deposit of its instrument of ratification, acceptance, approval, or accession to this Protocol, or at any subsequent time, communicate this to the Depository.

### **3.2.2. Freedom of Access to the Shore – Recommendations**

Concerning freedom of access to the shore, a new regulation will determine that it is necessary to ensure as follows:

- freedom of access to the shore,
- freedom of access along the shore, and
- public interest in the use of the shore, and in particular of the seashore (as defined by Recommendation No. 4).

Namely, it is necessary to determine that the access by the public (vehicular traffic and pedestrians) to the shore is ensured, but on the condition that parking lots cannot be located outside of urban areas, with the exception of areas next to natural beaches, and in no case within a 100-metre coastal strip (with the exception of settlements).

### **3.2.3. Sea-use – Recommendations**

The sea is considered as a particularly important resource. Therefore, when implementing the *Protocol on integrated coastal zone management in the Mediterranean*, it is necessary to take into account the biological wealth and the natural dynamics and functioning of the intertidal area and the complementary and interdependent nature of the marine part and the land part forming a single entity.

Taking into account current regulations and objectives of integrated coastal zone management, it is necessary as follows:

- to define, through a special regulation, that the protected coastal zone includes 300 metres seaward;
- to delete from Art. 32 of the *Law on sea* ("Off. Gazette of Montenegro", No. 17/07, 06/08) possible construction of an artificial island since it is in contradiction with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*;
- to define, by the provisions of the *Law on ports* ("Off. Gazette of Montenegro", No. 51/08), an anchorage as the location in and/or outside of the port intended for a temporary anchoring of vessels during the tourist season;
- to define, by the *Law on ports* ("Off. Gazette of Montenegro", No. 51/08), the anchorage in and/or outside of the port or settlement intended for anchoring;

- to define, by the *Law on public maritime domain* ("Off. Gazette of the Republic of Montenegro", No. 14/92, 27/94, "Off. Gazette of Montenegro", No. 51/08), the difference between maintained and natural bathing areas. The newly planned maintained bathing areas should be connected with urban areas. To define permanent and temporary constructions to be built in the bathing area (i.e. catering establishments, swimming pools and alike) as regulated by the *Spatial plan of special purpose areas for the public maritime domain – Conditions for bathing areas*. As for the natural bathing areas, it is necessary to define that these areas are completely preserved in relation to a *status quo* of natural bathing area characteristics;
- to change, or to delete, the provision of Art. 2 of *Regulations on requirements to be fulfilled by maintained and constructed bathing areas* ("Off. Gazette of Montenegro", No. 20/08) restricting freedom of access by non-hotel guests to the hotel bathing area.

#### **3.2.4. Mariculture – Recommendations**

When mariculture is concerned, it is necessary as follows:

- to determine, by a new regulation, that the protected coastal zone includes 300 metres seawards and that blue-fish breeding is prohibited in this area;
- to revise the entire chapter on mariculture of the *Proposal of the Law on sea fishing and mariculture* in a way as to harmonise its provisions with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, meaning that the locations intended for mariculture production are undoubtedly determined by spatial plans, and that carrying capacities of a relevant area are established in relation to the need for environmental impact assessment.

#### **3.2.5. Utilisation of Mineral Resources – Recommendations**

Concerning mineral resources and their utilisation, it is necessary to define, by a new regulation, the conditions to be applied in the preparation of relevant plans and projects, as follows:

- to strictly control the use of seawater in desalination plants;
- to determine, by spatial plans, the spatial span (or zones) within which it is not allowed to research or utilise minerals, except if there is a need for a particular sort of mineral;
- the existing conditions are in function until the needed consents – concessions are in force;
- the exception is the research and utilisation of the sea salt, energetic mineral resources (oil and natural gas), mineral and geothermal waters, which can be freely developed in conformity with relevant regulations;
- to define areas where the extraction of sand is prohibited and/or specially regulated.

#### **3.2.6. Infrastructure – Recommendations**

Infrastructure is allowed to be built within the protected coastal zone, but the fragility of coastal zones should be taken into account. Also, a new regulation should determine that, where possible, big infrastructure systems are planned outside of these areas (i.e. the protected coastal zone). It is necessary to subject such infrastructure, facilities, works and structures to authorisation so that their negative impact on coastal ecosystems, landscapes and geomorphology is reduced or, where appropriate, compensated by non-financial measures.

In conformity with the objectives of the *Protocol on integrated coastal zone management in the Mediterranean*, it would be advisable (but not obligatory) to delimit in the protected coastal zone the construction of wind farms and solar collector (cell) fields.

Regarding the way of waste disposal, the new regulation should determine that (thereby, it is recommended to use the decisions from the *Spatial plan for special purpose areas for the public maritime domain – Solid waste treatment*), an area should be identified in which it is not allowed to develop storing, processing and waste disposal facilities, except if this development depends on natural conditions and terrain configuration.

### **3.2.7. Land Policy – Recommendations**

It is necessary to incorporate, in the proposal of the *Law on concessions*, the possibility of pre-emption on public maritime domain (the provision of Art. 3 of the *Law on public maritime domain*) in relation to the state and self-management units.

In this sense, provisions have to be elaborated taking into consideration the need for establishing mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties, and not creating a new private property on public maritime domain.

### **3.2.8. Environmental Impact Assessment – Recommendations**

Regarding the environmental impact assessment and the valid regulations, it is necessary as follows:

- To incorporate, in the provisions of the *Law on environmental impact assessment* ("Off. Gazette of the Republic of Montenegro", No. 80/05), that the strategic environmental assessment is obligatory for all activities and plans implemented within the protected coastal zone;
- Regarding the *Ordinance on projects subject to environmental impact assessment* ("Off. Gazette of the Republic of Montenegro", No. 20/07), it has to be changed in a way as to define interventions in the coastal area for which environmental impact assessment is obligatory, including by all means as follows:
  - aquaculture (eventually, when the carrying capacity is concerned, to define interventions for List I and List II),
  - tourism (eventually, when the carrying capacity is concerned, to define interventions for List I and List II),
  - environmental impact assessment is obligatory for every nourishment of the sea,
  - environmental impact assessment is obligatory for the use of mineral resources,
  - environmental impact assessment is obligatory for the restoration of waste dumping sites,
  - infrastructure (eventually, when the carrying capacity is concerned, to define interventions for List I and List II).
- For particular interventions the obligatory environmental impact assessment is to be related to spatial plans. Namely, in order to conduct environmental impact assessment the interventions have to be planned first. The environmental impact assessments should take into consideration the cumulative impacts on the coastal zone, paying due attention to their carrying capacities.
- All provisions dealing with public participation should be revised in a way as to define more clearly the role of stakeholders and the public from the role of decision makers. Further, it is necessary to define more clearly and in more detail the public hearing procedure. Also, taking into consideration the complex nature of plans, it is recommended to determine a minimum number of days for holding of public hearings. The duration of a repeated public hearing may be 8 days. Also, it is recommended to determine a number of repeated public hearings and the topics to be discussed.

### **3.2.9. Law on Natural and Cultural Heritage Protection – Recommendations**

It is necessary to incorporate, in the provisions of the *Law on natural and cultural heritage protection*, that in case of the underwater cultural heritage the preservation *in situ* is considered as the first option before any intervention. The underwater cultural heritage of coastal zones removed from the marine environment should be preserved in an adequate manner, and not traded as commercial goods. This should also be incorporated in the provisions of other regulations defining the treatment of underwater objects.

Finally, it is necessary to adopt, through the new regulation, the measures for the protection and preservation of natural heritage, as well as the ways of managing it.

#### 4. Timeframe for the Implementation of the Protocol on Integrated Coastal Zone Management in the Mediterranean

All signatory parties to the *Protocol on integrated coastal zone management in the Mediterranean* are obliged to enable, through their national laws and the coastal strategies, plans and programmes, the implementation of the objectives and principles established by the *Protocol on integrated coastal zone management in the Mediterranean*.

Of no less importance is the provision of Art. 8 point c) of the *Protocol on integrated coastal zone management in the Mediterranean*, stating that the Organisation should be informed about the national legal instruments providing for the adaptations related to establishing in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. This zone may not be less than 100 meters in width, and it may be adapted for projects of public interest, and in areas having particular geographical or other local constraints, especially related to population density or social needs.

Also, if the seaward limit is less than the external limit of the territorial sea, and the landward limit is different, either more or less, from the limits of the territory of coastal management units, a Party shall, at the time of the deposit of its instrument of ratification, acceptance, approval, or accession to this Protocol, or at any subsequent time, communicate this to the Depository.

In conclusion, it is necessary to define a timeframe for the implementation of the *Protocol on integrated coastal zone management in the Mediterranean* in the framework of the legislation of Montenegro, and its coastal strategies, plans and programmes.

##### Within a one-year timeframe:

- to adopt a special regulation defining the conditions for and ways of using the coastal zone,
- to change appropriately the *Law on land-use planning and construction* in relation to the coastal zone (protected coastal zone),
- to adopt a new revised *Law on concessions*,
- to change appropriately the *Law on strategic environmental assessment* and the *Ordinance on projects subject to environmental impact assessment*.

##### Within a two-year timeframe:

- to adopt a revised National strategy for integrated coastal zone management in Montenegro (ICZM NS),
- to revise a Spatial plan for specially protected areas for the public maritime domain.

##### Within a five-year timeframe:

- to revise all *special regulations* defining the conditions for and ways of using the coastal zone,
- to establish an **Agency** whose task will be to ensure integrated coastal zone management, as a comprehensive and demanding process, in an inter-disciplinary manner (the activities on realisation of this should start immediately),
- to adopt a *special regulation* defining the participation of the public in the processes of environmental impact assessment and adoption of spatial plans.

## 5. Conclusion

*The Protocol on integrated coastal zone management in the Mediterranean* is based on the fact that planning and management of the coastal zone, as an irreplaceable ecological, economic and social resource is, in view of its preservation and sustainable development, a priority of all Mediterranean countries. This is due to the increase of, in the first place, anthropogenic influences on this area.

The ICZM Protocol signatories are obliged to implement, through their legislation, and further, through the coastal strategies, plans and programmes, the objectives and principles established by the *Protocol on integrated coastal zone management in the Mediterranean*.

Although the legislation of the Republic of Montenegro is at an enviable level in relation to the legislation of the European Union, it does not identify at all the protected coastal zone as a zone of particular interest for the state, nor it determines the criteria and guidelines for the construction in that zone.

Also, unlike many other countries, Montenegro adopted a number of important strategic documents essential for its further development, as follows:

- National strategy for sustainable development of Montenegro (January 2007);
- Policy and strategy for the development of tourism in Montenegro until 2020 (June 2008); and
- Spatial plan of special purpose areas for the public maritime domain (2007).

Thereby, the important strategy, namely, the *National strategy for integrated management of coastal zones in Montenegro (ICZM NS)* is still not adopted.

Signing of the *Protocol on integrated coastal zone management in the Mediterranean* raised a big dilemma concerning the so-called "construction ban" within a 100-metre coastal strip and its implementation in relation to the already started plans and projects.

In conformity with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, the so-called "construction ban" in the coastal strip of 100 metres width from the waterline does not mean that the construction is completely prohibited in this area. Namely, the national legislation should identify this determination and stipulate, in accordance with this determination, the criteria under which the construction is allowed. Accordingly, it is to distinguish between the completion of the existing urban area construction from the creation of a new housing construction, notably tourist capacities. Also, it is necessary to identify and delimit areas in which in the coastal strip of 100 metres width from the waterline planning of new constructions is not allowed. However, taking into account specific conditions of a particular area, the following construction may be allowed: communal infrastructure and underground power lines, supporting catering-tourism establishments, buildings requiring proximity of the sea (shipyards, ports and alike), and management and maintenance of public areas and eventually of public constructions.

Also, it is important to stress that the above-mentioned limits of construction will be applied only to future plans and projects, while for the current projects and plans that have already started any of the relevant activities new legal decisions determined in conformity with the *Protocol on integrated coastal zone management in the Mediterranean*, will not be applied.

In the future, it will be necessary to adopt a new regulation to define the conditions for and ways of using the coastal zone. Also, the obligations following from the Protocol on integrated coastal zone management in the Mediterranean should be appropriately incorporated in all special regulations defining the conditions for and ways of using the coastal zone.

The new regulation should define three different lines, and these are:

- the line of the coastal zone encompassing the territory of six coastal municipalities, i.e. Herceg Novi, Kotor, Tivat, Budva, Bar and Ulcinj, covering the total surface area of about 1,600 km<sup>2</sup>, or the coastal zone traditionally considered as a morphological unity,

i.e. the area from the sea to the peaks of the littoral mountain range (towards the sea oriented slopes of the mountain range of Orjen – Lovćen – Rumija) and a plateau at its foot;

- the line of the protected coastal zone (land: a maritime domain defined by the *Spatial plan of a special purpose area for the public maritime domain* + 1,000 metres landward as for the rest surpassing the limits of the public maritime domain, which is under the competence of the local self-management unit; and sea: 300 metres seaward); and
- the line of the seashore, which has already been defined by the Law (seashore in the width of 6 metres, and a wider seashore, if so determined by the Assembly of Montenegro (provision of Art. 3 of the *Law on public maritime domain*)).

Pursuant to the above mentioned, it will be necessary to set detailed conditions and regulations for the development of all economic activities in these three areas, as well as to determine the conditions for using them. Special attention should be given to defining indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity.

Also, it is necessary to take into account that the spatial plans will be the basic instrument for the implementation of the *Protocol on integrated coastal zone management in the Mediterranean*. The fulfilment of this condition is already ensured by the current regulations. Namely, the supervision of interventions in this area is within the competence of the Government of Montenegro (the Government adopts a Detailed spatial plan and a State study on location) and a relevant Ministry, which gives its consent for the implementation of local-level plans. Thereafter, the *Spatial plan for specially protected areas for the public maritime domain* should, during the first revision, be harmonised with the provisions of the *new regulation to define the conditions for and ways of using the coastal zone*.

Regarding the *National strategy for integrated coastal zone management (NS ICZM) in Montenegro*, it is necessary to harmonise this strategy with the provisions of the *Protocol on integrated coastal zone management in the Mediterranean*, as well as with the provisions of the *new regulation to define the conditions for and ways of using the coastal zone*. Thereafter, the strategy will be adopted.

In order to ensure implementation of a comprehensive and demanding process such as integrated coastal zone management, it is of particular importance to initiate the activities for the establishment of an *Agency* whose task will be to ensure integrated coastal zone management in an inter-disciplinary manner.

Finally, the *Protocol on integrated coastal zone management in the Mediterranean* determines that the Organisation should be informed about the national legal instruments providing for the adaptations related to establishing in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. This zone may not be less than 100 meters in width, and it may be adapted for projects of public interest, and in areas having particular geographical or other local constraints, especially related to population density or social needs. Also, if the seaward limit is less than the external limit of the territorial sea, and the landward limit is different, either more or less, from the limits of the territory of coastal management units, a Party shall, at the time of the deposit of its instrument of ratification, acceptance, approval, or accession to this Protocol, or at any subsequent time, communicate this to the Depository.