

PRESIDENTIAL DECREE no. 209 of 27 October 2011

Regulations establishing ecological protection zones in the north-west Mediterranean, the Ligurian Sea and the Tyrrhenian Sea. (11G0252)

[\(GU n. 293 del 17-12-2011\)](#)

text in force as of: **1-1-2012**

THE PRESIDENT OF THE REPUBLIC

Having regard to article 87 of the Constitution;

Having regard to Law no. 349 of 8 July 1986, establishing the Ministry of the Environment and provisions in matter of environmental damage;

Having regard to Presidential Decree no. 816, of 26 April 1977, containing provisions regulating the application of Law no. 1658 of 8 December 1962, authorising adherence to the convention of territorial sea and the contiguous zone adopted in Geneva on 29 April 1958, and enforcing such convention;

Having regard to Law no. 979 of 31 December 1982 containing provisions on the protection of the sea;

Having regard to article 17, paragraph 1, of Law no. 400 of 23 August 1988;

Having regard to the Convention of the United Nations on the Law of the Sea, with Appendices and final act, signed in Montego Bay on 10 December 1982, as well as the Agreement on the application of Part IX of the same Convention, with Appendices, signed in New York on 29 July 1994, ratified and enforced by Law no. 689 of 2 December 1994, and in particular Part V (exclusive economic zone);

Having regard to Law Decree no. 42 of 22 January 2004, containing the code of cultural heritage and landscape, pursuant to article 10 of Law no. 137 of 6 July 2002, as integrated and amended by Law Decree no. 157 of 2006; Having regard to Law no. 61 of 8 February 2006, establishing ecological protection zones beyond the external boundary of the territorial sea, and more specifically article 1, paragraph 2;

Having regard to Law Decree no. 202 of 6 November 2007, enacting Directive 2005/35/CE of the European Parliament and Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements;

Having regard to Law no. 157 of 23 October 2009 which regulates the protection of the underwater cultural heritage in ecological protection zones, established pursuant to Law no. 61 of 8 February 2006 and, more specifically, article 4;

Having regard to agreements on the protection of the marine environment and the underwater cultural heritage, including: the Convention on the prevention of marine pollution by dumping of wastes and other matter signed in London on 29 December 1972,

enforced on 30 August 1975, ratified by Law no. 305 of 2 May 1983, and the related Protocol pursuant to Law no. 87 of 13 February 2006; the Convention for the protection of the Mediterranean Sea from pollution, adopted in Barcelona on 16 February 1976, enforced on 12 February 1978 and related Protocols, ratified by Italy through Law no. 30 of 25 January 1979; the RAMOGE Agreement signed in Monaco on 10 May 1976 and ratified in Italy through Law no. 743 of 24 October 1980; the International Convention for the prevention of pollution from ships (MARPOL Convention 73/78) ratified by Law no. 662 of 29 September 1980, and subsequent changes, amended by protocol adopted in London on 17 February 1978, and enacted by Law no. 438 of 4 June 1982; the Convention on biodiversity signed in Rio de Janeiro on 5 June 1992, ratified by Law no. 124 of 14 February 1994, and in particular Decision IX/20 (Marine and coastal biodiversity) establishing protected marine areas beyond the national jurisdiction, adopted at the 9th Conference of the Parties to the Convention held in Bonn (Germany) from 19 to 30 May 2008; the Agreement on the conservation of cetaceans of the Black Sea, the Mediterranean and the contiguous Atlantic area, with Appendices and final act signed in Monaco on 24 November 1996, enforced on 1 June 2001, ratified by Italy through Law no. 27 of 10 February 2005; the International Agreement for the creation of a marine mammal sanctuary in the Mediterranean Sea signed in Rome on 25 November 1999, ratified by Law no. 391 of 11 October 2001; the UNESCO Convention on the protection of underwater cultural heritage adopted in Paris on 2 November 2001, ratified by Italy through Law no. 157 of 23 October 2009, ratifying and enforcing the Convention on the protection of the underwater cultural heritage, with Appendix, adopted in Paris on 2 November 2011, and regulations to align domestic legal regulations to the provisions of the Convention;

Having regard to relevant European Union environmental regulations, including: «Habitat» Directive 92/43/CEE of the Council of 21 May 1992 on the conservation of natural and semi-natural habitats and of wild flora and fauna, implemented by Presidential Decree no. 357 of 8 September 1997, amended and integrated by Presidential Decree no. 120 of 12 March 2003; Directive 2002/59/CE «Establishing a Community vessel traffic monitoring and information system» and related implementation Law Decree no. 196 of 19 August 2005; Directive 2005/35/CE of the European Parliament and of the Council of 7 September 2005, 2005 on ship-source pollution and on the introduction of penalties for infringements, enacted through Law Decree no. 202 of 6 November 2007; Directive 2008/56/CE of the European Parliament and of the Council of 17 June 2008, establishing a framework for Community action in the field of marine environmental policy); Directive 2009/123/CE, which amends Directive 2005/35/CE on ship-source pollution and on the introduction of penalties for infringements;

Having regard to Council Framework Decision 2005/667/GAI of 12 July 2005, aimed at strengthening the criminal-law framework for the enforcement of the law against ship-source pollution;

Having regard to EC Communication COM (2006)216 of 22 May 2006 «Halting the loss of biodiversity by 2010 and beyond» and the related «EU Action Plan to 2010 and beyond»;

Having regard to the Note by the Ministry of Foreign Affairs, Secretariat General, Unit for Diplomatic Disputes and Treaties, prot. MAE-Sede-Cont/050/P/0422197 of 20 November 2009 which communicated the list of the terrestrial coordinates fixing the temporary unilateral boundary of the ecological protection zone and the colour maps indicating the position of the boundary lines;

Having regard to Note by the Ministry of Foreign Affairs, Legal Office, prot. 304554 of 17 September 2010, relating to the Italian boundary of the Ecological protection zone;

Having regard to the preliminary resolution of the Council of the Ministries adopted at the sitting of 7 October 2010; Having heard the Ministry of Cultural Heritage and Activities;

Having heard the opinion expressed by the Consulting Section for legal regulations of the Council of State, at the sitting of 25 November 2010, where clarifications were requested;

having regard to the Note by the Ministry for the Environment, the Land and the Sea no. 14871/UL of 16 May 2011 whereby the requested clarifications were provided to the Council of State;

Having heard the opinion of the Consulting Section for legal regulations of the Council of State, at the sitting of 9 June 2011, whereby, after accepting a number of comments, a favourable opinion is expressed to proceed with the measure;

Having regard to the acceptance of the comments contained in the opinion expressed by the Consulting Section for legal regulations of the Council of State, at the sitting of 9 June 2011;

Having regard to the resolution of the Council of Ministries, adopted October the 6th 2011;

Upon proposal by the Minister for the Environment, the Land and the Sea, together with the Minister of Foreign Affairs;

Issues

the following regulations:

Art. 1

Establishing the Ecological protection zone in the north-west Mediterranean, the Ligurian Sea and the Tyrrhenian Sea

1. Article 1 of law no. 61 of 8 February 2006 establishes the Ecological protection zone in the north-west Mediterranean, the Ligurian Sea and the Tyrrhenian Sea, in accordance with the Convention of the United Nations on the Law of the Sea, signed in Montego Bay on 10 December 1982, starting from the external boundary of Italy's territorial sea, excluding the Strait of Sicily and up to the limits specified in article 2.

Art. 2

External boundaries

1. Pursuant to paragraph 3, of article 1, of Law no. 61 of 8 February 2006, waiting for the delimitation agreements with France and Spain, the external boundaries of the ecological protection zone are defined by the list of points, referred to datum WGS 84, and the segments that join each point to the next one of the following list: 1. 43°34'36"N - 007°41'00"E; 2. 43°25'00"N - 007°42'36"E; 3. 43°05'00"N - 007°55'00"E; 4. 43°18'00"N - 008°26'00"E; 5. 43°40'00"N - 009°00'00"E; 6. 43°19'00"N - 009°35'00"E; the boundary of territorial waters follows up to point: 7. 42°11'42"N - 009°54'30"E; 8. 41°33'24"N - 010°25'00"E; 9. 41°24'42"N - 009°42'54"E. At point 1 of the France-Italy treaty for the maritime boundary of the Strait of Bonifacio, according to the France-Italy agreement of 1986, the boundary of the treaty follows up to point 6 of the France-Italy treaty: 10. 41°14'30"N - 008°46'00"E; 11. 41°23'00"N - 008°16'00"E; 12. 41°45'30"N - 006°56'00"E; 13. 41°15'30"N - 005°54'00"E; 14. 41°05'00"N - 006°00'00"E; 15. 40°49'00"N - 006°04'00"E; 16. 40°30'00"N - 006°14'00"E; 17. 40°03'00"N - 006°21'00"E; 18. 39°25'00"N - 006°17'00"E.; 19. 38°48'00"N - 006°06'00"E; 20. 38°48'00"N - 008°09'27"E; the boundary of territorial waters follows up to point: 21. 38°40'00"N - 008°43'12"E; 22. 38°40'00"N - 010°52'00"E; 23. 37°50'24"N - 011°50'18"E; the boundary of territorial waters follows from this point onwards.

2. The external boundaries, as defined in the above list of points and segments, are reproduced in the geographical map attached to this decree of which it is an integral part (Appendix 1).

Art. 3

Protection measures for the environment, marine ecosystems and underwater cultural heritage

1. The ecological protection zone delimited in accordance with article 2 is subject to Italian legal regulations, European Union law and International Conventions in force which Italy adheres to, in particular, as regards: a) prevention and repression of all kinds of ship-source pollution, including off-shore platforms, biological pollution due to the dumping of ballast waters, where prohibited, pollution from waste incineration, prospection, exploration and exploitation of sea bottoms and atmospheric pollution, also concerning ships with foreign flag and foreign subjects; b) protection of biodiversity and marine ecosystem, and more specifically marine mammals; c) protection of cultural heritage found on the sea bottom.

2. The provisions contained in this article do not apply to the ships listed in article 3, paragraph 3, of the International Convention for the prevention of pollution from ships (MARPOL Convention 73/78) ratified by Law no. 662 of 29 September 1980 and subsequent changes, amended by protocol adopted in London on 17 February 1978, enacted by Law no. 438 of 4 June 1982.

Art. 4

Controls and penalties

1. In the ecological protection zone defined in article 2, the Italian Authorities have jurisdiction in terms of controls and investigations into possible infringements and application of the provided penalties, in accordance with Italian legal regulations, European Union law and International Conventions in force, which Italy has signed and adhered to as a Party.

Art. 5

Operational procedures

1. The operational procedures of the regime to apply to the ecological protection zone identified pursuant to article 2 are defined, on a case-by-case basis, by decree of the Ministry for the Environment, the Land and the Sea having heard the other administrations concerned.

This decree, provided with the Great Seal, shall be recorded in the official register of legal regulations of the Republic of Italy. This decree shall be obeyed and enforced by any person to whom it applies.

Rome, 27 October 2011

NAPOLITANO

Berlusconi, President of the Council of Ministries

Prestigiacomo, Minister for the Environment, the Land and the Sea
Frattini, Minister of Foreign Affairs

Countersigned by the Keeper of the Seals: Parma

Recorded with the State Auditors' Department on 30 November 2011.

Control Office in charge of verifying deeds of the Ministries of Infrastructures and Transport, register no. 15, sheet no. 309.
