**UNIVERSITY OF THESSALY**

Department of Planning

& Regional Development

**Coastline preservation in Greece**

**Introduction to the legal and institutional framework**

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**1. Introduction**

Greece has one of the highest percentages of coastal zones in Europe. Coastal areas and seashores are characterized as “public good” protected by the Article 24 of the Greek Constitution. This article defines them as elements of the natural environment which constitute a vulnerable ecosystem and which should be under special protection. Attention was also drawn in their development which should be “mild” and managed with caution (Council of State: 2993/1998).

Along the Greek coastline length of 15,000 km, the population density is more than double than the national average and the local development is mainly based on activities related to the sea. There is a constant increase in tourism, with major financial and social significance for the country, accommodated in construction which tends to be uncontrolled. Transportation infrastructure (harbors, ports, marines), fisheries, aquaculture activities and agriculture on coastal rural areas, are sectors of socioeconomic significance as well, which simultaneously exert pressure on the coastal environment.

The controversy of coexisting the need for high protection, together with the potential of economic development in Greek coastline, is reflected in the related legislation, the policies of implementing it, and the present reality. A web of legislative acts, produced by the central administration in the form of presidential decrees, ministerial decisions etc., tend to void the public character of the seashores. An approach of “economic” priority seems often to prevail, mostly under the pressure of political and financial actors seeking profit.

Before proceeding to the analysis of legislative frameworks, two definitions should be given about two terms which seem to constitute the main tools for legislating and policy-making related to coastal areas in Greece.

**“Seashore**” (or “foreshore” or “shoreline”, “aigialos” in Greek) is defined (Law 2971/2001, FEK 285A) as the area of the coast which might be reached by waves in their maximum capacity (maximum referring to the “usually maximum winter wave run-up” and of course not to exceptional cases, such as tsunamis etc.). According to another definition, **seashore** is the area that is above water at low tide and under water at high tide (in other words, the area between tide marks). Seashore is public, it cannot be included in urban or regional plans, and permanent constructions are not allowed on it. Alternatively, it can be used for recreation, and light, non-permanent constructions are allowed for recreational purposes (kiosks, beach bars etc.).

Assuming that the Greek legislation (L.2344/1940 and L. 2971/2001) considers that along the coastal area two zones produced by the physical phenomena (erosion /deposition /transportation etc.) can be defined, one zone closer to the shoreline and one zone at a distance from it, the zone between the pre-existing shoreline and the new shoreline, is defined as **“old seashore”** (or “old foreshore”).

**“Beach”** (“paralia” in Greek) is defined as a zone consequent to the seashore to an average width of 50m (Law 1337/1980, FEK 33A and Law 2971/2001, FEK 285A), meant to secure the communication between see and land, and it is public land. It is usually included in spatial plans of coastal settlements and rural areas, and it is used as free/open space (the definition includes roads, pedestrian routes, bicycle routes, green spaces etc.). Building squares and private properties on land start right after the outer boundary of the beach.

Seashores and beaches, according to L. 2971/2001 and the relative legislation, constitute the coastal zones. On the contrary the urban and land planning legislation many times assumes as coastal zone, the zone up to 5 Km from the shoreline.

**2. Evolution of legislative framework concerning seashores**

**2.1. Brief history of coastal zones until and under the implementation of L. 2344/1940**

Coastal protection was a well-known practice since the Roman era. Romans were considering seashore to be of public use (In Usu Publico) and were defining it in Roman Legal Code as a zone extended until the point where the winter waves reach. This definition was later adopted by the Byzantine Code of Law, while in the equivalent of the newly established Greek State[[1]](#footnote-1) the above definition was retained in Law 21-6-1837, which was the first one to deal with the particular issue. In this law it was also defined that seashore was public property.

The objectives and means of the public use of seashores were specified later, in article 7 of Law 2344/1940 where it was stated that besides the goal of maintaining communication between sea and mainland, seashores could also be disposed for utilization which could render benefit to the State.

The seashore is defined by this law as “the land area that surrounds the sea, which is washed off by the maximum but usual ascents of waves”, while, beach is defined as “the increasing the seashore land strip up to 20 m wide, running from the average level of seashore”.

Law 2344/1940 has been the main legal framework related to coastal protection and development for most of contemporary history of Greece. The conditions which made the implementation of such a law necessary were described in a causative report (Code of Law, 1940, 10/18 May 1940 A 154) and were the following:

A. There was a long lasting coexistence in seashore zones of constructions, some of which had to be demolished due to their negative effect on the quality of the surrounding environment, while for some others, the demolition would be harmful for the public benefit. A permanent basis of criteria and means for the management of constructions on the seashores was deemed necessary.

B. The definition of seashores and the designation of its boundaries were made by “ad hoc” court decisions. In this way, the implementation of definite policies on a national or regional level was impossible and coastal protection was ineffective.

C. The up to then legal provisions regarding the means of use and protection of seashores were very few and fragmentary, and as such, inadequate and “unscientific”. The new law was supposed to have an integrated approach concerning all issues related to seashores and coastal protection.

Law 2344/1940 was in effect for almost 61 years. According to it, seashores and beaches are “public goods” and they are public property. Ways were described according to which seashores and beaches can be used in order to serve transport, tourism and industry, as well as the terms of their allotment on lease to individuals. Criterion for the latter was the economic benefits of both the State and private actors, and the duration of the lease could not exceed 25 years. In its provisions, the development of coastal zones and the accruing economic benefits for the Greek State were given higher emphasis than the citizens’ right to enjoy it as a public good[[2]](#footnote-2). In assessing the effectiveness of L. 2344/1940 after more than 40 years of its implementation, it should be noted that there were no references to obligations of the State to protect the coastal areas as parts of the natural environment and as vulnerable ecosystems. Moreover, there was no reference to limitations on construction in coastlines, to land use controls, to protection from urban sprawl, or, in general, to planning regulations for these areas. Finally, it failed to specify the procedures and the technical means to draw boundaries to the seashores and beaches with acceptable accuracy[[3]](#footnote-3). This provoked long delays in defining coastline zones (in a fifty years’ period only in 1.700 out of 15.000 km of seashore, or in 11% of it, the coastline boundaries were set) (Ministry of Environment, Regional Development and Public Works, 1997; Geskou, 2002).

Tourist business which were given the right to use and exploit coastal areas were usually overstepping their legal rights, encouraged by the official policies which were giving them incentives and privileges.

Furthermore, it was recorded that in cases of compulsory expropriation of private properties which fell in the coastline boundaries, the procedure was usually not completed and the compensation was not paid to the owners due to lack of money from the State. This led in two categories of cases: either expropriations were cancelled after eight years of not being completed, or the whole procedure of setting boundaries would be indefinitely postponed.

**2.2. Legislation complementary to L. 2344/1940**

Thirty years after the enactment of L. 2344/1940, development in coastal areas was greatly intensified. Existing coastal settlements were expanded, new ones were created, tourist zones were established, and sporadic holiday houses, hotels, open bars, restaurants etc. filled up many parts of the coastal zone. Illegal construction was flourishing, and the threat to the quality or the environment of the seacoasts became evident. As a response to this threat, complementary legislative provisions of L. 2344/1940 were enacted, aiming to regulate seashore uses, development and management.

Most attempts to regulate coastal development were concentrated on setting longer distances from the seashore boundaries, after which, tourist development could be allowed. Since 2001 (L. 2971/01) any permanent construction, or any deed of purchase, or any modification in the frame of the urban planning etc., within a zone of 100 m from the shoreline, is prohibited, if the administrative determination of the foreshore, the beach and/or the old foreshore hasn't been completed.

The main pieces of legislation complementing L. 2344/1940 were L.D. 439/1970 “Complemental Clauses Concerning Seashore”, L.D. 393/1974 “Complementing L. 2344/40 concerning seashore and beach”, L. 360/1976 “Concerning Regional Planning and the Environment”, L. 1337/1983 “Concerning Urban Planning”, P.D. 234/1984 “Clauses Concerning the Public Sector”, L. 1650/1986 “Concerning the Environment and its Protection”, L. 2508/1997 “Sustainable Development of Cities and Communes of Greece, and Other Clauses”, L. 2742/1999 “Regional Planning and Sustainable Development, and Other Clauses”. The basic aims of the above legislative provisions were:

1. L.D 439/1970: Restricting construction beyond a 30 m distance from the seashore boundaries in coastal areas not designated as urban, and in old settlements preexisting of 1923. Furthermore, it provided for compulsory expropriations for the construction of access roads to the shore, with minimum width of 10m.
2. L.D 393/1974: Complementing article 24 of L. 2344/1940 concerning illegal constructions on the seashore, and the legal procedures for their demolition.
3. L.360/1976: Providing for Special Plans and Programs for the protection of the Environment, important part of which, were coastline zones. The latter were to be protected from exploitation initiatives, while their development was supposed to be in accordance to principles promoting the rational use of natural resources, and the interdependence of natural, economic, and cultural environment. This law, although very ambitious, soon became nugatory.
4. L. 1337/1983: The basic legal framework for Urban Planning in Greece. It includes land use and town-planning regulations relating to urban areas, as well as provisions for the designation of Development Control Zones (with land use restrictions) of two types: a. zones around urban areas, meant to guarantee smooth future urban expansions, and b. zones in areas meant to be protected (archaeological sites, high productivity agricultural lands, forest areas, military installations, and areas of high environmental value). Coastal areas are included in areas of high environmental value.

There are also special provisions concerning coasts:

a) Article 23, of thepresent, is setting restrictions in the erection of fences in areas within a zone of 500m from the shoreline in coastal areas not designated as urban and in old settlements existing before 1923. Paragraph 1 of L. 2344-1940 concerning seashore, is replaced in this law (by paragraph 5 of the same article) as follows “when seashore cannot due to its nature serve the purposes stated in L. 2344/1940, it may be widened through adding a strip of land, which is not allowed to be built, up to 50 m wide from the landward limit of the seashore”.

b) The creation (through the expropriation of privately-owned property for the public good) of public access routes to the sea and the shore.

c) Constructions inside the coastal zone were to be demolished.

These provisions satisfied the ‘sense of public justice’, but -with very few exceptions- they have not been implemented, mainly due to clientelism and corruption of local politics. Furthermore, only 20% of the seashore zone had been marked by officially approved boundaries until 1999, and these delays allowed for a rise in uncontrolled construction very close to the sea. Law 1337/83 was modified, completed, and integrated by Law 2508/1997. In the new law, provisions concerning coastal zones were retained without changes, and no new related provisions were introduced.

1. P.D 2346/1984: Setting exceptions in the prohibition of erection of fences in areas within a zone of 500m from the shoreline, for cultivation and other specific purposes, and prohibiting fences in a 50 m zone from the shoreline.
2. L. 1650/1986: Basic law on the environmental protection in Greece. Concerning coastal zone management, it presents a general framework of regulations, setting as its main target “to protect the coasts, the sea, and the river and lake banks as parts of the natural and cultural elements of an ecosystem, recognizing their ecological and aesthetic values”. There were no specific provisions for coastal areas, but they were subject to the general terms and regulations. Article 3 of this Law, classifies human works and activities in 3 categories according to their anticipated environmental impact, aiming to ensure environmental protection from human interventions. The procedure for the approval of environmental conditions and the Environmental Impact Assessment (EIA) study for these activities is also introduced by Article 4 of this Law.

Articles 3 and 4 were modified and replaced by L. 3010/2002, followed by the Joint Ministerial Decision 1593/2332/2002, describing works and activities thoroughly, including categories related to the coastal environment, such as marine, hydraulic and mining works and aquaculture. Obligations and restrictions for implementation of works within Natura 2000 sites were included on the latter as well. L. 4014/2011, to be discussed thoroughly subsequently, complements with Article 10 the procedure for Environmental Authorization for works and activities on Natura 2000 sites. The Ministerial Decision 1958/2012, which modifies the latter, features within these categories of works and activities the protection of beaches against coastal erosion, for the first time.

1. P.D. 55/1998: Regarding the “Protection of marine environment”, is setting prohibitions and restrictions for the disposal of pollutants, and obligations for tankers, harbors and oil facilities in order to prevent and address marine waters’ pollution.
2. L. 2742/1999: Legal framework concerning Regional Planning in Greece. According to its provisions, Regional Planning is implemented in three levels. At the national level, there is the General Framework for Spatial Planning and Sustainable Development (national territorial plan) and the Special Frameworks for Spatial Planning and Sustainable Development (sectorial territorial plans). The ones which have already been prepared and approved are the ones for Tourism, Industry, Renewable Energy Sources, and Aquaculture. The one concerning Coastal Zone Management is not yet prepared. At the regional level there are 12 Regional Frameworks for Spatial Planning and Sustainable Development (Regional Territorial Plans). References to coastal protection and management, besides the forthcoming Special Framework for Coastal Zone management, are made to the General Framework, to the Special Frameworks for Tourism and Aquaculture, and to 11 of the Regional Frameworks, since all but one of the Regions in Greece have a coastline.

**2.3. Comments on the implementation of L. 2344/1940 and the related legislative framework**

The legislative framework for the protection of coastal areas in Greece -which was in effect for 61 years- undoubtedly failed to fulfill its objectives. For some critics, also reflecting the majority of public opinion, the main inadequacies were to be found in the legislation itself. The fact that procedures and technical means, used to define coastline boundaries in L. 2344/1940 were not clear and detailed enough, was regarded as one serious reason for not restricting uncontrolled development and putting the public character of these zones in infringement. The consecutive pieces of legislation aiming at complementing L. 2344/1940, were fragmentary, restrictive, and in connection with the spatial and environmental planning of coastal areas. Some of them became nugatory soon, while others were gradually abolished. Consequently, many coastal areas were used beyond their capacity limits, and they suffered from environmental degradation.

A more in depth analysis, though, would find that inadequacies of legislation were only part of the problem. Coastal protection and management needed pragmatic policies and effectiveness at the operational level; and there were neither. With some notable exceptions, policies for coastal areas were not formulated, positive actions were not encouraged, and the protection and management of Greek coastal areas were restricted to legal restrictions and prohibitions. And even these, were nullified in the operational level, when confronted by strong economic interests, political pressure, and reactions of groups with specific interests. Additionally, adverse impacts occurred due to the distorted perception of part of politicians and the public alike, that coastal areas serve economic development, principally, and are a public good and natural resources, subsequently.

The beginning of the 21st century found the need to protect, plan, and manage the coastal areas of Greece more urgently than ever. Consequently, a new attempt was made towards this direction, by introducing a new law, L. 2971/2001, which is still in effect.

**3. The legislative regime of L. 2971/2001 “Concerning seashore and beach”**

The new law abolished the previous one and focused on the rational development of coastal areas. It acted on two directions: a) seashore should be protected as an environmental good, b) it should also be protected as a financial good, since financial and social development constitute a legal request of coastal areas’ residents whose activities were almost exclusively related to tourism. Besides, L. 2971/2001 was affected by European and international regulations and guidelines concerning coastal areas[[4]](#footnote-4).

L. 2971/2001 retained the definitions of the two zones defining beach setback, "seashore" ("aegialos") and "beach" ("paralia") (see definitions above). Building squares and private properties on land start right after the outer boundary of the beach. **Its width is set at up to 50 meters, which is today the range of the beach setback in Greece.** Furthermore, there is prohibition of fencing of coastal properties which are out of planned areas in a distance of 500 m from the coast.

The main targets of L. 2971/2001 were: a) defining seashores and beaches with priority to coastal areas with intense urban development, and to areas of high productivity where programs of economic and social development were to be carried out and b) achieving effective protection and management of coastal areas. In fact, though, these targets were put in doubt by special provisions of the same law, which listed a series of exceptions of the initial provisions.

**3.1. Special provisions**

The definition of seashore can be found in Article 1, according to which “seashore is defined as the zone of land adjoining the sea, affected by the maximum wave run-up on the coast” (wave climbing). Beach is “a zone of land adjusted to the seashore, up to 50 m width, used to connect land and sea”. Thus, coastal zone is defined as the zone separating the land from the sea, and its boundaries are marked by an imaginary line (Papapetropoulos, 2004: 179).

In article 2, seashores and beaches are characterized as public goods, property of the State, which protects and manages them. Moreover, it is clearly stated that according to the article 24 of the Greek Constitution, the protection of ecosystems of coastal zones is a responsibility of the State. Access to these zones is unlimited and they are used to promote environmental and social goals, for public interest. All types of construction on them are prohibited.

In articles 3, 4, 5 and 6, L. 2971/2001 focuses on specifications and procedures of demarcation of seashore boundaries, using modern technologies, and in shorter deadlines. The inclusion of any type of construction within an officially defined seashore zone is prohibited, and the pre-existing constructions are expropriated and fully compensated.

Properties on seashore are also expropriated[[5]](#footnote-5) (article 7). In the same article, though, exceptions are made for old settlements pre-existing of 1923, according to which, seashore cannot overstep the already existing zone of constructions (par. 5). Under this provision the coastal zone in old settlements is unprotected, and the magnitude of the potential damage can be perceived only after considering that there are hundreds of such settlements in Greece, and especially in the islands. Also, constructions on properties which were out of the coastal area but due to natural coastal erosion were gradually found “transposed” in it were legalized and exempted from demolition.

Legalization of illegal constructions is also provided by article 27, if these were used as hotels, industries, and fish-farming structures.

Furthermore, the leasing of seashores and beaches is allowed (article 14) for works related to trade, industry, land and sea transportation, or “other purposes serving the public good”. This provision is vague, and it lies on the judgement of administration’s jurisdiction to decide whether by leasing the coastal area for a specific purpose, public interest is served. Seashores and beaches can also be on lease for purposes of public security, national defence, protection of archaeological places, and protection of natural environment, if and only if their character as public good and their natural morphology are not altered (article 15). Any type of lease for any type of use might be recalled unilaterally by the administration.

From the above, one could conclude that L. 2971/2001 was initially considered as an innovative and effective legislative tool for the protection of coastal areas. In its provisions, coastal areas were considered as vulnerable ecosystems and their identity as public goods was stressed. The measures for unlimited accessibility to the coastal areas were also positively commented upon, as well as the clarity of expression of the responsibility of the State to provide protection and conservation for this sensitive environment. This was also in accordance to the article 24 of the Greek Constitution and to European and international directives. Modernization of the used technology, shortening of the procedures, the compulsory studies of environmental impact of any intervention, and the new administrative body (part of the Ministry of Finance) which was established to manage the coastal areas, were considered as assets of the new legislative framework.

Besides the above, there are, though, reasons to be critical to L. 2971/2001. There is no attempt to coordinate its provisions to urban, regional, and environmental planning. The vagueness of provisions concerning use of the coastal zone for commercial etc. purposes endangers its nature as a public good and might alter its characteristics in an irreversible way. There are already samples of “privatization” of sea coasts by hotels, which impose charges to the citizens who use the particular coast without being clients of the hotels. Leasing of seashores and beaches by municipalities to enterprises, which use them inconsiderately for dinning services and recreational purposes, are increasing in frequency. There is no provision for sufficient control mechanisms of coastal zones, and finally, illegal construction and uncontrolled development is even increasing.

Finally, consecutive reports of Citizen’s Advocate from the year 2000 and on, stated that the implementation of the above law was problematic, mainly due to the inability (or unwillingness) of municipalities to secure it. The spearhead of the problems had always been the illegal construction in seashores, which was spreading over time. It was also noted that L. 2971/2001 had no provisions for architectural heritage, parts of which happened to be in seashore zones, either as individual buildings, or as parts of traditional settlements (Citizen’s Advocate Report, 2000).

**3.2. Administrative Structure of Coastal Zones**

In the past, and especially in the 60s, the Greek Administration issued constituent acts and decrees for certain coastal areas, in order to intervene decisively in their management. They were defined as Touristic Public Land, their legal ownership belonged to the State, and they were managed by the Greek National Tourism Organization (EOT), responsible for the administration and management of touristic public domain, while maintaining the usufruct thereof. EOT in turn, established an organization for the management of public immobile property (Public Properties Company S.A.), to which it transferred the rights of exclusive management of Touristic Public Land. At the end of the line, Public Properties Company could “lease” these coastal areas to private entities, which were developing and managing them as profitable sources. Obviously, after all these arrangements, the constitutional character of coastal areas as “public good” was greatly distorted, and the legitimacy of issuing the relevant transactions was disputed as unconstitutional.

According to Law 2971/2001, coastal zones are public property belonging to the State, which has the responsibility for protecting and managing them. Management rights and responsibilities have been passed to local government and local organizations, such as the Municipal Port Departments and the Port Organizations Ltd, while the management from the municipalities is restricted only to the temporary, very restricted use of the foreshore, by the use of non-permanent objects only (summer umbrellas, deck-chairs, mobile cantinas etc.).

In further detail, the Minister of Finance decides on granting the rights of use of parts of the seashore, the beach, contiguous or adjacent sea space, or/and the seabed for projects serving commercial, industrial, transport, or other purposes. These decisions have to be also co-signed by other Ministries, these being:

* The Ministry of National Defence, consulting through the Hellenic Navy General Staff.
* The Ministry of Environment, Energy and Climate Change, also responsible for forwarding land use regulations and building conditions and restrictions in coastal areas, as well as, providing preliminary spatial approval and environmental terms approval for works and activities in coastal areas. Public works and technical measures against coastal erosion are approved with its assent.
* The Ministry of Rural Development and Food, also consulting on the construction of fishing shelter projects and generally projects in ports and rivers.
* The [Ministry of Development, Competitiveness, Infrastructure, Transport and Networks](http://www.ypoian.gr/), also responsible for administrating, siting, operating and controlling the ports and marinas, together with the seashore and the adjacent coastal zone, and consulting on concession of coastal zone for industrial, mining and similar uses.
* The Ministry of Education and Religious Affairs, Culture and Sports, assenting to public works and technical measures against coastal erosion and aquaculture activities.
* The Ministry of Shipping and the Aegean, also responsible through Coast Guard for policing coastal zone, ports and their overland zone. Public works and technical measures against coastal erosion and aquaculture activities are approved with its assent.

The Hellenic Public Corporation of Real Estate[[6]](#footnote-6) is the organization with administrative control of the coastal zone, in charge of management of seashores, and with responsibilities for providing relevant information to other authorities.

After the recent reorganization of local government (Law 3852/2010, “New Architecture of Local Government and Decentralized Administration – Kallikratis Programme”, each Region has in its jurisdiction the control and supervision of protective works and infill in coastal zones. Expropriations of private properties in coastal zones are compulsory and provided by the legislation, and responsibilities for expropriation procedures lie with the Departments of Urban Planning of the Municipalities. Also, all Legal Entities of Public Law grant their ownership rights on coastal land to the State, without any exchange. In areas covered by urban plan, the beach boundaries and the official boundaries of building squares cannot overlap. Traditional and historic buildings are excluded from demolition of constructions in the beach zone.

Organizations responsible for managing ports, harbors, shelters for fishing boats, tourist marinas etc. are the Port Departments and Port Organizations. Port Organizations Ltd. manages the ten most important ports in Greece. They prepare the Master Plan for the port area (coastal zone of a harbor) which is approved by a special committee with representatives of the municipality and related ministries and organizations. For implementing the Master Plan, Port Organizations can sign contracts with other public bodies (local authorities, ministries, chambers, cooperatives etc.) as well as with private bodies in Public – Private Partnerships. Master Plans for Port Organizations are prepared independently from General Development Plans of the Municipalities and/or the related City Plans. This has frequently been a serious impediment to implementation of spatial planning to the specific areas, since in cases of no cooperation between local authorities and Port Organizations, things are usually led to chaotic situations.

In 2009, the Port Organization of Piraeus leased its management and exploitation rights of port sectors of specific uses to a Chinese company named COSCO. Despite the initial reactions of some political parties, social groups and organizations, assessment of the three years of its function showed a considerable increase in economic activities of these sectors. Currently, there are announcements of plans for modifications in the current system of administration of ports (unification of organizations, joint management of several ports etc.), and prospective sales of ports to more foreign companies.

**3.3. Legislation complementary to L. 2971/2001**

The need for legislation complementary to L. 2971/2001 was anticipated only two years after its enactment. Among the reasons for it, were: the obligation which Greece had towards the European Union for the harmonization of the national legislation to the European directives, the political pressure towards new expansions to coastal settlements and establishment of tourist zones and related activities, and finally, the efforts to tackle the economic crisis in Greece by encouraging any possible private initiative for profit making activities –frequently at the expense of the environmental protection and sustainable development, as often was the case for coastal areas. The results of the above were that sporadic holiday houses, hotels, open bars, restaurants etc. kept on filling up many parts of the coastal zone, illegal construction kept on being business as usual, and the threat to the quality of the environment and the seacoasts kept on being evident. The new pieces of legislation which were introduced in order to face the above conditions had often contradictory objectives: they were trying to stop the degradation of the coastal environment by setting more severe restrictions and penalties, and at the same time, they were inventing by- passes of the restrictive legislation, in order to accommodate profit making initiatives, and political clientelism.

The most significant pieces of legislation complementary to L. 2971/2001 are:

1. L. 3199/2003: This law harmonizes the Greek environmental legislation with the Water Framework Directive (2000/60). It defines ‘coastal waters’ as the surface waters within a distance of 1 nautical mile from the seashore. The General Secretariat for Water in the Ministry of Environment, and the regional water authorities are responsible for designing and implementing the Regional Water Management Plans which are integral parts of the National Water Management Plan. An intensive monitoring program of water and ecological quality status is designed to classify all inland and marine ecosystems according to their ecological and chemical status. The program follows the basic principles of the WFD. Mitigation measures should be taken to protect or upgrade the status of each aquatic system.
2. P.D. 51/2007: Regarding the “determination of measures and procedures for integrated water protection and management, in compliance with the provision of Directive 2000/60: Establishing a framework for Community action in the water policy field”, constitutes the substantial harmonization with the National institutional framework of Directive 2000/60. The implementation of this Decree aims to establish the required framework of measures and procedures in order to achieve complete protection and rational management of water resources (inland surface waters, transitional and coastal waters) of the country (Article 1).
3. Joint Ministerial decision 51354/2641/Ε103/2010: Specifying quality standards for concentrations of certain pollutants and priority substances in surface waters, in compliance with the provisions of Directive 2008/10 of the European Parliament. The special Secretariat for Water determines the frequency of monitoring in sediment and/or biota, aiming to provide sufficient data for reliable analysis of long term trends.

Moreover, new legislation (L. 3894/10 and L.4146/13 for Strategic investments), adds further regulations and exceptions for the seashore.

**4. Other legal frameworks with special influence to integrated coastal zone management**

**4.1. The succession of Special Frameworks for Spatial Planning of Tourism** (KYA 24208/2009 FEK [1138 Β/11.06.2009](http://www.ypeka.gr/LinkClick.aspx?fileticket=v1z2MuVqGmE%3d&tabid=513), and KYA 67659/2013 FEK 3155 B/12.12.2013)

The most recent Special Framework for Tourism (KYA 67659/2013 FEK 3155 B/12.12.2013), which is a sectorial plan at the national level, has been discussed in the National Parliament, and was finally approved after three major revisions. It is very much related to coastal management, since tourism in Greece is mostly concentrated in coastal areas. According to it, the national area is categorized according to three criteria: a. the intensity of the tourist activity which they accommodate (three main categories), b. their geomorphology (three main categories), and c. the vulnerability of the natural resources of each area (four main categories). Coastal areas and islands are directly referred to, in the categorization according to geomorphological criteria, and are further subdivided in islands with highly developed or developing tourism, small islands with problems in their development (demographic, lack of infrastructure etc.), deserted or uninhabited islands, and coastal areas of the main land. Coastal areas of the main land are defined as the zones extending 350 m. from the seashore to the inland. Concerning directions and guidelines for tourist development in islands and coastal areas, there is encouragement for the development of organized and planned areas for touristic uses and for upgrading the quality of the hotel infrastructure. There is also encouragement for the provision and modernization of infrastructure aimed to serve types of tourism such as maritime tourism, diving, cruise, yachting, fishing, and ecotourism, and restrictions concerning densities (visitors/available space) in tourist areas. Finally, directions are given for revising the legislative framework of spatial planning towards greater efficiency and harmonization with the needs of “modern” tourism.

It is quite obvious that the general objectives of the above Special Framework are influenced by the conditions of the severe economic crisis of the last four years in Greece. Thus, economic development, recovery, and exploitation of the potential of tourism as a “steam engine” pulling the country to progress are high in its hierarchy of priorities. At the same time, sustainable development and protection of coastal zones from the invasion of massive, intense, and uncontrolled tourism seem to subside.

Here it is worth mentioning that the present framework came as a third revision of previous ones, which were much criticized as favouring mass tourism and creating serious threats for the environment. The previous Special Framework for Spatial Planning of Tourism was approved despite the fact that it was rejected by the majority of the Committee of Government Policy in the Sector of Spatial Planning and Sustainable Development at the consultation process. Among its provisions were that it increased the minimum distance between the zone of constructions and the seashore from 50m to 100 m, and in every plan for tourist development, 30% of building stock had to be for holiday houses. Criticism focused in the lack of integrated planning for tourism, and the excessive provision for holiday houses, while the sustainability principles were too weak. Great opposition was expressed against articles 9 and 10, concerning financial incentives for the construction of tourist residences in rural and coastal areas, something which would overload coastal areas with constructions beyond any means of maximum capacity.

Although this Special Framework for Tourism came into force with a Common Ministerial Agreement (KYA 24208/2009), it was heavily criticized right from the beginning of its implementation, and it was never really implemented. Presidential decrees and/or ministerial decisions for implementation of its clauses were not issued. Finally, some months later, at the end of 2009, there was a change of government and the new minister was keen on modifying it. Thus, a year after its enactment, the current special framework for tourism started being elaborated. The new framework was approved at the end of 2013 (KYA 67659/2013 FEK 3155 B/12.12.2013) and elements such as the increase of the minimum distance between the zone of constructions and the seashore, the excessive provision for holiday houses, and the financial incentives for the construction of tourist residences in rural and coastal areas, were not included among its clauses.

**4.2. Illegal constructions in Greece and the latest piece of a succession of related laws**

Urban and rural areas throughout the country have been suffering by the old and widespread phenomenon of illegal constructions. This has been the main and most visible factor of leading to environmental degradation. Some 93,000 legal and 31,000 illegal houses and apartments were constructed each year in Greece between 1991 and 2001. Most of them were in Attica and along the coastline (Technical Chamber of Greece, 2004).

The basis for the various laws concerning illegal constructions was Law 1337/1983, which was also the basis for the contemporary urban planning legislation in Greece. As seen above, this law provided for a legalization process of illegal constructions, it distinguished the types of illegal constructions which would be excluded –the ones in public land, forests, seashores, archaeological sites etc.- and it clearly set that illegal structures made after 1983 should be demolished. This was also embodied to the 1985 revision of the Constitution. Since then, though, various related laws were introduced, describing various cases in which demolition would not take place. The legislation which is in effect at the present in Greece, is Law 4178/2013. According to its provisions, acts of law directly or indirectly granting property rights on immobile property containing or consisting of illegal constructions, are forbidden or –if conducted- automatically nullified. The law also describes cases for which, there are exceptions to the above rule. Types of illegal constructions –characterized as “arbitrary”- excluded from the exceptions are the following:

* Illegal buildings or structures built on public property, and on open/public spaces.
* Illegal buildings or structures in preexisting adits/galleries.
* Illegal buildings that have been built on or too close to roads or streets and therefore pose a safety hazard to transport.
* Illegal buildings or structures on forestry land, seashores, beaches, or too close to coastlines, or riverbeds.
* Illegal buildings in other protected areas i.e. archaeological sites, historical sites, traditional UNESCO villages, NATURA areas, national parks etc.

Penalties and punishments are described, in the forms of fines, imprisonment, and expulsion from professional bodies, for the owner of the illegal structure but also for the engineers involved in their study and/or construction, the workers working in them, and the notary publics issuing legal acts granting property rights. Also, regarding the Environmental Authorization of works and activities, this Law proceeds in the formation of the Central Council of Environmental Terms and Conditions, aiming to consult on the outcome of Environmental Impact Assessments studies on specific cases.

It is worth mentioning that L. 4178/2013 was introduced in haste, since in April 2013, the Council of the State ruled that the previous law (Law 4014/2011) was unconstitutional in specific articles and in its whole, and thus, it had to be replaced. L. 4014/2011 introduced the absurd term, “regularization”, meaning that many categories of illegal constructions can be allowed to be used as legal for the next 30 years, provided that a penalty was deposited for this purpose. This was a bypass to the constitutional rule that illegal constructions cannot be permanently legalized after the implementation of Law 1337/1983, which set the –supposed- final procedures for legalization. In fact, the objectives of Law 4014/2011 –given the economic crisis in Greece- were directed towards fine collections, rather than dealing decisively with illegal construction. And this is also obvious to the objectives of the new legislation, although the very striking elements of the previous law were omitted.

**5. Judicial Remedies -The Decisions of the Council of the State**

In the existing jurisprudence in Greece, the sea and the coastal areas are dealt as a unified area of protection. They are characterized as a fragile ecosystem, the protection of which is provided by Article 24 of the Greek Constitution.

As legal circles claim, the Council of the State, through its decisions, is correcting, complementing, revising, harmonizing with E.U. directives, or nullifying pieces of legislation produced by government units and characterized by weaknesses, gaps, and fragmentation. This has also been the case about coastal protection and management.

From the enactment of L. 2344/1940 until now, the jurisprudence of the Council of Statehas been differentiated. In its first stage the general jurisprudence connected the residential development with the coastal area, since the then legislation didn’t include provisions about environmental protection. Its decisions mainly dealt with the article 24, of L. 2344/1940 and later on, it dealt with the provisions of L. 1337/1983.

As indicative examples are mentioned the decisions of the Council of Stateconcerning the distance between the buildings and the seashore line, the access roads to the coasts and the prohibition of fencing of coastal properties and building plots which are out of planned areas and settlement zones in a distance of 500 m from the coast.

In all these cases, the Council of the State set the distances of constructions from the seashore line in higher values than the ones provided by the legislation. It also passed a judgment about demolition of illegal constructions since they hindered the unimpeded access to the coast.

In 1975, the article 24 of the Greek Constitution was put into force, according to which seashores and beaches were subjects of special protection. The Council of the State accepted that the coasts constitute a vulnerable ecosystem and any construction on them deteriorated the natural environment. (Council of State: 3146/1998, 327/1999). Afterwards, the Court accepted that citizens should be given a free access to them and that whatever disturbs their natural destination is against the constitutional orders of article 24 (Council of State: 1585/1990).

Regarding the seashores, the jurisprudence accepted that it is a “public good” and it facilitates the human contact with the sea and the enjoyment of all other sea uses. (Council of State: 1585/1990, 3094/1989, 115/1987).

Moreover, the 2993/1998 decision accepted that *“the construction of a platform on the coast to be used by power boats is illegal, since its exploitation is part of a business activity and this activity is in contrast to the public good, and the enjoyment of the sea by the public without noise obstructions.”*.

Also, the Council of the State prohibited urban planning by the private sector in the islands, and the transformation of a public space to private property[[7]](#footnote-7).

Here it has to be noted that the Council of the State has ruled differently than the law -towards greater width of zone prohibiting buildings- in specific cases, with special characteristics. In these individual cases, the decisions of the Council of the State have to be followed. On the other hand, Law 2971/2001 has not been ruled as unconstitutional in its totality by the Council of the State, so it is still in force. Furthermore, in 1975, the article 24 of the Greek Constitution was put into force, according to which seashores and beaches were subjects of special protection. The Council of the State accepted that the coasts constitute a vulnerable ecosystem and any construction on them deteriorated the natural environment. (Council of State: 3146/1998, 327/1999).  Afterwards, the Court accepted that citizens should be given a free access to them and that whatever disturbs their natural destination is against the constitutional orders of article 24 (Council of State: 1585/1990).

This short report to the rich jurisprudence leads to the conclusion that the Council of the State supports full protection of the coastal areas. Seashores and beaches constitute public goods of high environmental value and any hindrance to their usage is unconstitutional. As it is implied from what has been described above, a law is declared as unconstitutional by the Council of the State only if the ruling/decision of the Council concerns the law in total. In these cases, the government has the obligation to stop the implementation of the law and nullify it immediately. There are many other cases, though, that the Council of the State issues a decision concerning a specific case of implementation of a law, and it bases its decision in unconstitutionality of elements of the related law. In these specific cases, for which the Council of the State has issued such a decision, the law is not implemented. There is no, though, automatic mechanism of nullifying the law in total, since the decisions concern only the specific cases of implementation, and not the law in total. In such cases it is up to the related Ministry to change the law -although it does not have a legal obligation to do so- so that individual citizens will not have to go all the way to the Council of the State to challenge the law for their individual cases. In many occasions the related Ministry acts accordingly and takes the initiative for legal revision, but in others it does not, and proceeds in replacing an "unconstitutional" legislation only after a specific decision of the Council of the State is issued, concerning the law in total. And this might happen quite a long time after decisions of CoS for individual cases of implementation start challenging the law.

**6. Policies and programmes concerning the management of coastal zone**

Greece has ratified most of International and European Conventions for the protection of the environment and coastal zones, but was not successful in implementing an effective strategy for their sustainable management. It is indicative that in the implementation of programmes of urban regeneration, environmental protection etc., (i.e. URBAN, INTERREG, TERRA) no national directions for the protection of coastal areas were issued. Moreover, the European directive about the integrated protection of coastal zones in Europe (30.5.2002) was embodied in Greek legislation after a grave delay[[8]](#footnote-8). As has been stated by the European Commission, the European Organization for the Environment, the United Nations’ programme for the Environment and the Mediterranean Action Plan (UNEP), the coastal and marine natural resources are continuously downgraded due to non-sustainable models of development which are adopted in most countries. In Greece, 30% of the coastal areas have been eroded to a great extent.

Finally, the financial development, the intensive construction, and the political conflicts about the coastal areas, restrict the possibility for applying principles and policies aiming at an effective and integrated management of the coastal areas.

**ICZM-related projects[[9]](#footnote-9)**

* Concerted Actions for the Management of the Strymonikos Coastal Zone

TERRA[[10]](#footnote-10), 1997 – 2000

* Programme for Integrated Coastal Zone Management. The case of Cyclades-Archipelago

LIFE[[11]](#footnote-11), 1997 – 2000

* Territorial Co-ordination Scheme for the Harbour System and Coast of Athens – “Posidonia Network”

TERRA, 1997 – 2000

* Information, Consultation, Requirements for the Sustainable Development of Magnesia’s Coastal Zone

LIFE, 1997 – 2000

* Integrated Management of the Coast of Epirus

TERRA, 1997 – 2001

* Integrated Coastal Zone Management for the Kavala Prefecture

TERRA, 1998 – 2001

* Strategies for Management and Co-operation in the Metropolitan and Peri-urban Coastal Zones of the Saronic Gulf – Athens

TERRA

**EU-funded projects**

* The ***BEACHMED-e*** project (France, Greece, Italy, Morocco, Spain and Tunisia)
* The ***CADSEALAND*** project (Greece, Italy)
* The ***COASTANCE*** project (Croatia, Cyprus, France, Italy, Greece and Spain)
* The ***ECASA*** project (Croatia, France, Germany, Greece, Italy, Norway, Portugal, Slovenia, Spain, Sweden and the United Kingdom)
* The ***ECOSUMMER*** project (Greece, Spain and the United Kingdom)
* The ***ENCORA*** project (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Monaco, the Netherlands, Poland, Portugal, Russia, Spain, Sweden, the United Kingdom and Ukraine)
* The ***HERMES*** project (Belgium, France, Germany, Greece, Ireland, Italy, Kenya, Monaco, the Netherlands, Norway, Portugal, Romania, Russia, Spain, Sweden, Turkey, the United Kingdom and Ukraine)
* The ***MedPAN*** project (Algeria, Croatia, France, Greece, Italy, Morocco, Malta, Slovenia, Spain, Tunisia and Turkey)
* The ***PEGASO*** project (Algeria, Belgium, Egypt, France, Greece, Croatia, Italy, Lebanon, Morocco, Romania, Spain, Switzerland, Tunisia, Turkey, the United Kingdom and Ukraine)
* The ***OURCOAST*** project (all coastal EU countries)
* The ***European Islands*** project

**7. Conclusions**

The evolution of legislation concerning the seashores and beaches, and the protection of the coastal areas, certainly constitutes a spatial, urban and environmental planning issue. In all the Introductory Statements accompanying pieces of legislation since L. 2344/1940, the significance of an effective and accurate definition of boundaries of seashores and beaches, and the protection of them as public goods of great environmental and social value is underlined. However, the fragmentation of legislation, the absence of rational policies, and the ineffectiveness in the operational level, fail to restrict illegal construction and inexorable financial exploitation, by putting, thus, at risk the protection of these vulnerable ecosystems.

According to the proposals made by scientists and scientific organizations, an integrated and sustainable management of the coastal area should include the following: a) securing unimpeded access to the coasts, and the viable management of the public resources, b) rational organization of human activities on coastal and sea areas through planning, c) sustainable management of coastal natural resources and protection of ecosystems, d) coordination of private and public sector for the management of coastal areas, e) participation of the interested parties in common actions related to the management of the coastal areas, in the context of a democratic planning and f) the active involvement of the public about the ecological, social, financial and cultural value of the coastal areas.

Finally, there should be a cross-sectional cooperation among all the involved organizations which exert policies on the coastal areas. There should be a framework concerning the basic keynotes[[12]](#footnote-12) which will allow the interpretation of laws by the administration in the frame of practicing its discretion.

**References:**

Beriatos E., (2007) "Seashore without the beach! “Nomosphysis, 2007, www. nomosphysis.org.gr/ Opinions, 2007.

Code of Law, 1940: Law 2344/1944, 10/18 May 1940 (A 154), p.243-251.

Doris E.F., (1980): “ Public Lands. Administration- Management- Disposal- Sale-Protection” Volume A, P.N. SAKKOULAS, p:41, 358-360, 140, 146, 236, 358,544.

Greek Technical Chamber, (2005):“Reports TEE”, Athens, 2005 [www.ota.tee.gr/content/TEE\_KTIMATOLOGIO/axones StratigikouKaiEpixirisiakouSxediasmou.pdf](http://www.ota.tee.gr/content/TEE_KTIMATOLOGIO/axones%20StratigikouKaiEpixirisiakouSxediasmou.pdf) .

Karageorgiou B., - Pehlivanoglou K., (2007) “Critical assessment on the new draft of Law for the seashore”, Law and Environment, 2/2007 p. 192-207.

Kratsa, R. (2008): “Protecting seashores of Europe from uncontrolled tourism” Sea industry, sea services and coastal areas contribute up to 40% to gross national product (GNP) of the European Union, while seashores and islands offer unique opportunities as regards research, environment, biodiversity, innovation and alternative tourism”. Nomosphysis, 2008, [www.nomospysis.org.gr/Opinions](http://www.nomospysis.org.gr/Opinions).

Papapetropoulos A., (2004) “Legal aspects of building in the seashore according to L. 2971/2001”, Law and Environment, 2/2004 p. 177-183.

SEPOX (Greek Organization of Urban and Regional Planners), (2007): “ February 2007, [www.sepox.gr](http://www.sepox.gr)

Stamatiou, E. (2003): “Courses of legislation concerning seashores – Spatial development – Provisions, overlooking and consequences concerning the coastal area” Aeixoros, 2003, **9** (22): 513-536.

Tatsis L., (2007): “Regional Planning, Environment and Development. Historical Evolution, Problems and Prospects” Nomosphysis 2007 [www.nomospysis.org.gr/Articles](http://www.nomospysis.org.gr/Articles).

The Greek Ombudsman (2000-2002): “ Annual Report” [www.synigoros.gr/](http://www.synigoros.gr/)

1. The contemporary Greek State was established at 1829, after gaining independence from the Ottoman Empire. [↑](#footnote-ref-1)
2. According to Article 20, L. 2344/1940, any construction on seashore carried out by Harbor Funds and belonging to the State, is used firstly for harbor purposes through its usage and exploitation and secondly for public purposes and public needs. [↑](#footnote-ref-2)
3. According to Article 2, L. 2344/1940 the setting of seashore boundaries was carried out through a topographic and hypsometric map, done by the technical services of the Ministry of Finance or other related departments of the public sector. This resulted to an ambiguous definition of seashore, since by using unverified data; there was a high possibility of inaccuracies. Quite often the boundaries were shown by the owners of neighboring properties who often tended to enlarge their properties in the expense of the coastline. [↑](#footnote-ref-3)
4. It concerns the proposal of the European Committee in October 2001 (Com/00/545 of 8 Sept. 2000), Rio Manifesto and Agenda 21 (article 17) concerning the management of coastal areas. [↑](#footnote-ref-4)
5. In this case, the law concerning common expropriations with a completion period of 4 years is not applied. Instead, the law about expropriations due to urban planning is applied, with expropriation period often longer than 8 years. As a result, many expropriations are suspended due to lack of money by the Municipalities. Accordingly, no seashore boundaries are set and construction cannot be controlled. [↑](#footnote-ref-5)
6. The Hellenic Public Real Estate Corporation (HPREC) was founded in 1979 as a private corporation based on L.973/79. It has one share that is owned by the Greek State. It is supervised by the Ministry of Economy and Finance, and operates within the framework of the Greek Founding Legislation and specifically Law 3429/2005. [↑](#footnote-ref-6)
7. Council of State, 253/1996: It nullified the Presidential Decree of the Ministry of the Environment, Urban and Regional Planning and Public Works on the grounds of illegally transforming public space to private property at S. Marina in Vouliagmeni, since it is against the article 24 of the Constitution, the Declaration of Stockholm, Rio and Agenda 21. [↑](#footnote-ref-7)
8. Grapsas, K., (2007): the process of the review in our country has been delayed considerably in contrast to other members of the European Union (United Kingdom, Spain) where the review was already in its final stages in 2004. [↑](#footnote-ref-8)
9. Source: Policy Research Corporation based on PAP/RAC, the Mediterranean ICAM Clearing House,

www.pap-medclearinghouse.org/eng/about\_ch.asp [↑](#footnote-ref-9)
10. TERRA was launched in 1997 in the context of the innovative actions financed by the Art. 10 of the ERDF regulation; TERRA was conceived as a laboratory for testing new approaches to and methodologies for spatial planning. [↑](#footnote-ref-10)
11. LIFE is the EU’s financial instrument supporting environmental and nature conservation projects throughout the EU, as well as in some candidate, acceding and neighbouring countries. [↑](#footnote-ref-11)
12. According to the relative recommendations of the Mediterranean Programme of Action of the United Nations, the keynotes are as following: a) viability principle, b) protection principle, c) principle concerning the cross-sectional approach and the provision for the enactment of managerial layouts and d) the principle concerning the ensuring of the publicity and the public access for decision making which have to do with the management of the coastal area. [↑](#footnote-ref-12)