# D 5.3.3 Development of training modules to disseminate the project results and knowledge

Prof Leopoldo Coen – “Comparative analysis of Italian and Croatian legislation on Watercare: critical issues and opportunities. Septenber 23rd 2021 - Joint Online Conference WATERCARE, ADSWIM, ASTERIS AND ECOMAP “Conversation on practices and methods for sustainable marine eco-system”

As the Subject is the analysis of Italian and Croatian legislation on the management of wastewater I prefer to illustrate the method I followed in my work and conclude with a few remarks

I divided the analysis in two steps.

First phase:

a) Background of the competences of the Region Friuli-Venezia Giulia

b) Outlook of the organisational structure of SII (water service) in Italy Integrated Water Service

It is of paramount importance to clearly outline the differences between the institutional architectures of Italy and Croatia before moving to more specific areas.

What relevant topics have emerged?

All activities relating to the purification of wastewater belongs to the subject-matter of “environment and ecosystem protection” under the Italian Constitution, art. 117 coma 2, point- s), which is an exclusive competence of the state., which means that the Italian regions have very few competence in this matter.

In Croatia legislative competence on this subject belongs to the state as well.

As far as legislative competence is concerned with regards to this subject, there exist no substantial differences between Italy and Croatia, nor between Italian ordinary-statute regions and special-statute regions, like Friuli-Venezia Giulia.

More significant differences exist at administrative level, especially as far as the organisational structure of the bodies responsible for the management of the water service are concerned.

Second phase.

This phase is devoted to outlining the regulation of the water system, with due regard being paid to the regulation of dumping activities and water purification.

There is no unitary regulation on the matter, which is thus to be reconstrued making reference to “regulatory trends” which concur in defining the regulatory outlook at issue to varying degrees.

“Regulatory trend” is to be understood as a collection of regulations which regulate in a coherent way a specific matter or sub-matter. By virtue of these, the matters regulated by regulatory trends have become relatively consistent in time.

For reasons of analysis, the following regulatory trends have been employed:

1) Water protection. The relevant directive at issue is Directive 200/60/EC, incorporated in Italy by Legislative Decree 152/2006, so-called Environmental Code, and in particular Part III, which regulates the SII, the integrated water service. In this case, regions exercise their autonomy in

organisational tasks, while the exercise of other competences (authorisations, checks and penalties) derivates from state law. Regional Law 11/2015 provides for the Region to adopt a Plan for Water Protection, adopted in 2018, which includes an interesting regulatory part.

Legislative Decree 152/2006, which is divided in six sections, each one implementing different EU directives in environmental matter. This is the reason why we call it “Enviromental code”.

Part 1: common rules and general principles

Part 2: strategic environmental evaluation (VAS), environmental impact assessment (VIA) and environmental integrated authorisation

Part 3: water and soil protection, fight against desertification, protection of waters from pollution and management of water resources

Part 4: waste management and reclamation of polluted sites

Part 5: air protection

Part 6: compensatory protection for environmental damages

The most important section of the legislation at issue in this project is found in Part Three. This section is quite substantial and complex and touches on the principal aspects of protection of the environment.

Part Three is structured in a substantial number of sections so as to offer a regulatory picture that is as exhaustive and coherent as possible. Two main points should be mentioned:

- Protection from pollution

- Management of water resources

It should also be recalled that the whole national territory is divided into hydrographic districts, which are in turn divided into hydrographic basins, to which public competences exercised by public authorities pertain.

With regards to the protection of water from pollution, legislation establishes the objectives of water quality and provides for the regulation of dumping and sewage networks. This part of the legislation is the one we are more interested in and should be analysed alongside the section dedicated to the "integrated water service" or, in other words, the system of public and private bodies that are involved in the supply, distribution and purification of water, as well as its return to the environment and the sea.

The public administration carries out its activities on the basis of plans whose scope includes the optimal territorial ambit, authorisations, checks, monitoring and of course sanctions in the case of violations. Sanctions may be either administrative or criminal, in more extreme cases.

Second trend

2) Directives and connected acts of incorporation within the national legal system regarding the presence of specific substances in water, for instance nitrates, and the use of muds left over by purification activities.

Third trend

3) The protection of the sea, marine environment and bathing waters as incorporated by the national legal system.

The comments made on the water protection directives can also be repeated in this case

In any case much attention must be paid to the annexes to the directives and therefore to the statutory laws that implement them.

Only part III of the Italian decree has eleven annexes.

Each contains technical standards: chemical formulas, mathematical proportions, etc. All these technical standards have a binding legal effect, which means that they constitute the fundamental part of the legal case.

Now, the activity is about wedging in a series of tiles in order to create a coherent and exhaustive picture.

The leeway of the region is quite narrow and ought to be exercised only with a view to developing the level of protection for the environment and water resources, by that meaning internal and subterranean waters and the sea, as the Constitutional Court has many times remarked in a jurisprudence which does, however, include some uncertainties.

The analysis shows that the degree of implementation of EU directives and compliance with state law is overall quite good in Friuli-Venezia Giulia, even though some infringement procedures – that have affected this region too – have been started by the Commission against Italy.

With regards to the remarks of the previous speaker on the presence of nutrients in the sea, mention should be made of what is provided for by art. 12 of Directive 200/60/EC with regards to the possibility of authorising alternative solutions different from the ones provided for in the Directive in exceptional circumstances.

This is a quite complex procedure which does not per se ensure success in the issuing of that authorisation. Nevertheless, this may be worth an analysis especially in the case of two states moving in the same direction.

At this point in the work, I believe that in a couple of months the reconstruction of a sufficiently complete picture will be ready.

Can direct links be established between Italian regions and Croatia?

According to what the Constitutional Court has affirmed many times, Italian regions may not exercise powers related to foreign policy in a direct way. They may, however, enter into relations of "international relevance", which should not compromise the foreign policy of the state as decided at central level, and which have, as their purpose, the promotion of cultural and trade exchanges or the carrying out of shared projects in social and environmental matters.

The main difficulty in such a relationship is caused by the fact that Croatia lacks a nut-2 tier of government. As such, relations would be unbalanced between regional bodies and a central state body that, in all likelihood, would not be keen on dealing with institutions that are not on its same rank.

A useful tool that may be employed for this purpose may be GECT, the European Group of Territorial Cooperation, which may be constituted of institutions that are nut-1, 2, and even 3. Recourse to GECT has already been made in cross-border projects on environmental protection.

As far as the Adriatic Sea is concerned, the Adriatic-Ionic initiative should be mentioned, although this is an intergovernmental forum.

2) Can it be conceived of a EU regulation that shifts from a homogeneous system in force for the whole of the Mediterranean to rules that are differentiated by virtue of different characteristics of different areas?

I have highlighted what is provided for by art. 12 of Directive 2000/60. This initiative, however, belongs to the member states, and the probabilities of success depend on the cohesion and cooperation among those states that share the same goals.