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Comparative Analysis of the Use of the Maritime Public Domain in Nautical Tourism in Croatia, Greece, Italy, France and Spain

Abstract

Nautical tourism represents a significant component of the blue economy in Mediterranean countries such as Croatia, Greece, Italy, France, and Spain. Collectively, these states account for a substantial share of European marina infrastructure, yet their governance frameworks and modes of utilization of the maritime public domain for nautical tourism vary considerably. Although all five countries legally recognize the sea, seabed, and coastal zones as inalienable public goods subject to special protection, their practical implementation differs significantly. The results of this study demonstrate the absence of a uniform Mediterranean model for managing the maritime public domain in the context of nautical tourism. To address this complexity, the authors propose three conceptual indices: (1) the Real-Estate Intensity Index (REI), (2) the Legal Flexibility Index (LFI), and (3) the Public Access Index (PAI). These indices are designed to quantify the degree of real estate integration.

Keywords: public domain, nautical tourism, blue economy, Mediterranean countries

1. Introduction

Across the Mediterranean, nautical tourism has become one of the most dynamic forms of coastal tourism and an important pillar of the European blue economy, particularly in countries such as Croatia, Greece, Italy, France and Spain. Together, these five states account for a substantial share of European marina capacity, charter fleets and yacht itineraries, and are frequently presented as success stories characterized by increasing numbers of vessels, berths and revenues. However, recent research on nautical tourism and coastal ecosystems suggests that this quantitative narrative is incomplete. Behind record figures lie pronounced spatial and seasonal concentrations, infrastructural bottlenecks and mounting pressures on sensitive habitats such as seagrass meadows, as well as tensions between the public ownership of the maritime domain and increasingly capital-intensive marina developments.

This paper employs a qualitative comparative legal and institutional methodology. The analysis is based on a systematic review of constitutional provisions, sector-specific maritime and port legislation, concession regimes, and relevant policy documents governing the maritime public domain in five Mediterranean countries examined. Rather than pursuing quantitative benchmarking, the study focuses on identifying structurally relevant legal and governance patterns that shape the use of maritime public domain for nautical tourism.

To enhance analytical clarity and comparability for an interdisciplinary readership, the study synthesizes complex national legal frameworks into a limited set of stylized variables and conceptual indices, while preserving the specific characteristics of each legal system.

Throughout the paper, terminology has been standardised to ensure cross-jurisdictional consistency, while extensive legal descriptions have been streamlined to improve accessibility for non-legal audiences.

2. Analysis of the use of the maritime public domain in Croatia, Greece, Italy, France and Spain

All main Mediterranean nautical countries Croatia, Greece, Italy, France and Spain recognise the sea, seabed and shore as part of a maritime public domain. In legal terms, this means that coastal areas essential for navigation, ecosystem functioning and public enjoyment are public property subject to special protection, outside ordinary commerce and available for use only under public-law titles such as concessions or authorisations.[11–14,21–28] Yet the practical uses of this maritime public domain for nautical tourism differ markedly.

2.1. Legal and institutional specific features of public domain and concessions in the Republic of Croatia

The distinctive features of Croatian nautical tourism cannot be understood without reference to the legal regime of the maritime public domain. The Constitution and the Maritime Domain and Seaports Act (*Zakon o pomorskom dobru i morskim lukama*, MDSPA) classify the sea, seabed and parts of the coast defined as maritime domain as inalienable public goods outside commerce (*res extra commercium*).^[11–13] Private ownership of maritime domain is excluded; what may be granted is a limited real right of use – a concession – under specified conditions and for a defined time period.^[12]

For nautical tourism, this framework has several consequences:

- Concession-based access to space and infrastructure. Marinas, dry marinas, anchorages, moorings and storages operate on maritime domain based on concessions awarded by competent authorities (state or counties, depending on port category and importance). Concessions grant the right to construct, use and manage infrastructure, but do not transfer ownership of the land or seabed; superstructures generally become part of the public domain and revert to the state at the end of the concession.^[11–14]
- Duration and renewal of concessions. The MDSPA, in conjunction with the Concessions Act, does not prescribe a uniform duration for all economic-use concessions, but requires that the concession period be determined on the basis of feasibility studies to ensure amortisation of investments and reasonable return.^[12–14] In practice, many first-generation marina concessions (especially for ACI marinas) were granted for periods of approximately 30 years, with numerous expiries approaching in the second half of the 2020s and early 2030s. This “2030 horizon” has become a key concern for operators and financiers.
- Planning and multi-level governance. The new MDSPA reinforces planning instruments, such as maritime-domain management plans, to be adopted by regional and local authorities, and emphasises integrated coastal governance.^[12,14] While this is a step towards more strategic management, it also increases complexity for investors, who must align projects with multiple layers of spatial, environmental and sectoral regulation.
- Limits on real-estate and hospitality development. Given the public-domain status of maritime public domain and related spatial-planning rules, Croatian marinas are generally less integrated into large real estate and resort developments than many Italian, Spanish or Greek counterparts.^[11–14,24,27] Hotels and apartments are typically located on adjacent land outside the maritime domain or under separate regimes, which constrains marina operators’ ability to capture non-nautical value directly on the maritime domain.
- Classification and statistical opacity. The evolution of regulations on nautical ports has been characterised by frequent changes in definitions and categories, and imperfect alignment between legal classifications and statistical reporting.

[8] This adds opacity to how capacities and performance of different types of facilities are tracked, complicating evidence-based planning.

The result is a “port-centric” model of nautical tourism development: marinas and related facilities are key nodes of activity and value creation, but they are embedded in a public domain regime that limits certain forms of integration with real estate and urban development and subjects’ investment decisions to complex concession procedures.

2.3. Greece: public seashores, tourist ports and state-led concessions

In Greece, the seashore and beach are part of the public domain belonging to the State. Act 2971/2001 consolidates this regime, stating that coastal zones are public property and that the State bears responsibility for their protection and management. [25] Public use of the seashore and beach is guaranteed, with only specific private uses allowed under strict conditions (e.g. concessions for umbrellas, sunbeds, small facilities).

Nautical infrastructure is governed by a specialised legal layer. Act 2160/1993 on tourism, and subsequent amendments, define tourist ports (marinas, yacht harbours, moorings) and allocate competencies for their siting, operation and administration, primarily to the Ministry of Tourism and related agencies.[18,25] In practice, long-term concessions for major marinas are increasingly managed through HRADF, which tenders projects such as Alimos Marina and the new mega-yacht facility in Corfu to private consortia under 30- to 40-year concessions that combine berths with onshore commercial and hospitality components.[17,18,25]

The Greek model thus combines a strict public-domain regime for seashores and beaches with a specialised tourist-port framework that enables substantial private investment under concession, particularly in flagship marinas.

2.3. Italy: *demanio marittimo* and entrepreneurial tourist ports

In Italy, the coast and sea areas used by ports and marinas belong to the state maritime public domain (It. *demanio marittimo*), recognised in the Civil Code and detailed in the *Codice della Navigazione*. The maritime administration may grant concessions for the occupation and use of maritime public property and territorial sea areas for specified periods, provided that public use is compatible.[26]

The key instrument for tourist ports is the Presidential Decree DPR 509/1997, which establishes a special procedure for granting concessions over maritime public property for the construction and operation of facilities dedicated to recreational boating.[26] Concessions can be granted for long periods (often 30–50 years) and typically cover both water surfaces and substantial land areas, allowing integrated developments that combine berths, shipyards, hotels, apartments, retail and leisure facilities.

Administrative competences for tourist ports have been progressively devolved to regions, which can tailor concession policies and planning frameworks to local needs. [24,26] Large private and corporate operators, including boatbuilding groups and international marina chains, are active in acquiring and managing concessions, reflecting a strongly entrepreneurial approach to using the *demanio marittimo* in nautical tourism.

2.4. France: *Ports de plaisance* as public service on the *domaine public maritime*

France's *domaine public maritime* is defined in the *Code général de la propriété des personnes publiques* (CG3P). Articles L2111-4 and following specify that the natural maritime public domain comprises the seabed and subsoil between the outer limit of the territorial sea and, landward, the seashore; the seashore is defined by the extent of the highest normal tides.[27] This domain is inalienable and imprescriptible.

Ports de plaisance are treated as public-service facilities implanted on the public domain. They are usually owned by municipalities, inter-municipal bodies or regions and managed either directly or through delegated-service contracts (Fr. *délégations de service public*) or temporary-occupation authorisations (AOT) granted to private or mixed operators.[21,22,27] Marina managers are subject to public-service obligations, including continuity of service, equal treatment of users and compliance with environmental rules.

Concessions for the port domain can last up to 50 years under the *Code des transports*, but are subject to EU rules on concessions and periodic retendering. [24,27] Many marinas are physically open to the urban fabric, with promenades, public spaces and mixed-use facilities around the basins. France thus maintains strong public control over the maritime domain while allowing private operation under public-service constraints.

2.5. Spain: *Dominio público marítimo-terrestre* between protection and intensive use

Spain's coastal regime is primarily defined by the Coastal Act (Sp. *Ley 22/1988 de Costas*) and its subsequent amendments. The purpose of this legislation is to define, protect, use and police the maritime-terrestrial public domain (Sp. *dominio público marítimo-terrestre*, DPMT), which encompasses the seashore, beaches, territorial sea and certain inland waters. The DPMT is state-owned, inalienable and designated for public use, with strict limitations on private occupation.[28]

Ports and marinas operate at the intersection of this coastal regime and the port system governed by the consolidated Port Act (Sp. *Real Decreto Legislativo 2/2011*). Commercial ports of general interest fall within the state port system (Sp. *Puertos del Estado* and the regional port authorities), whereas many smaller fishing and

recreational ports (Sp. *puertos deportivos*) fall under the jurisdiction of the Autonomous Communities. [24,28]

Marinas located within the DPMT are typically developed and operated through long-term concessions covering both water areas and adjacent land designated for buildings and services. This framework has facilitated the development of real-estate-intensive marina projects, particularly in the Balearic Islands and along major urban waterfronts. At the same time, the *Ley de Costas* and its implementing regulations place strong emphasis on ensuring public access, maintaining setback zones and environmental protection. [23,28]

3. Comparative synthesis and conceptual indices

In comparative terms, there is no single “Mediterranean model” of using the maritime public domain for nautical tourism. Instead, we observe five distinct but related uses:

- **Croatia:** port-centric, high-CDI model based on inalienable maritime domain, time-limited concessions focused on core berthing, and relatively modest integration with real estate on the maritime domain. [6–8,11–14,26,27]
- **Greece:** dual regime of strict public ownership of seashore and beaches, combined with specialised tourist-port legislation and HRADF-led concessions for flagship marinas, allowing significant private investment and mixed-use developments.[17,18,25]
- **Italy:** entrepreneurial *demanio marittimo*, where long-term concessions for tourist ports under DPR 509/1997 enable integrated marina–real-estate complexes linked to a strong domestic boating industry.[19,20,24,26]
- **France:** public-service model of ports *de plaisance* on the *domaine public maritime*, with local public owners and private or mixed operators working under public-service obligations and increasingly strict environmental agendas. [21,22,27]
- **Spain:** coastal-protection-cum-concession model, in which a strong DPMT framework coexists with long-term port and marina concessions often featuring high REI and intensive waterfront redevelopment.[23,24,28]

To structure this diversity, the article introduces three additional conceptual indices alongside CDI: the **Real-Estate Intensity (REI)**, the **Legal Flexibility Index (LFI)** and the **Public Access Index (PAI)**.⁵ REI captures the extent to which marina business models rely on onshore commercial and real-estate components; LFI reflects the degree to which the legal regime allows long, secure and development-oriented private rights on the maritime public domain; PAI indicates how open marinas and adjoining waterfronts are to the general public.

The proposed indices do not represent precise quantitative measurements but analytical tools designed to facilitate structured comparison across heterogeneous legal

systems. Their purpose is to translate complex legal institutional arrangements into comparable dimensions that are meaningful for both legal scholars and researchers in maritime governance, spatial planning and nautical tourism economics.

Table 1 summarises, in stylised form, how the five countries score qualitatively on these indices.

Table 1. Stylised comparison of legal institutional regimes and conceptual indices

Country	Maritime-domain regime (simplified)	Typical concession pattern	REI (qualitative)	LFI (qualitative)	PAI (qualitative)
Croatia	Pomorsko dobro (inalienable public domain, <i>res extra commercium</i>)	Time-limited concessions, moderate durations, limited scope for real estate on domain	Low	Moderate	Medium–high (in law), mixed in practice
Greece	Public seashore & beach; tourist-port regulation	Long concessions for flagship marinas via HRADF; complex licensing for others	Medium (higher in flagship marinas)	Medium–high (for tourist ports)	Medium (strong public-use principles, but many fenced marinas)
Italy	<i>Demanio marittimo</i>	Long, development-oriented concessions under DPR 509/1997	High (integrated marina–real-estate projects)	High	Variable (from open urban marinas to semi-private resort ports)
France	Domaine public maritime, public-service ports	Public or para-public ownership, delegated management (DSP, AOT), long but constrained concessions	Medium	Moderate	High (open waterfronts, promenades)
Spain	<i>Dominio público marítimo-terrestre</i> (DPMT)	Long concessions in state/regional ports, including marinas with real-estate components	High	High	Medium–high (strong legal safeguards, but pressure in luxury hubs)

The stylised comparison highlights how differing legal conceptions of the maritime public domain systematically shape concession security, real-estate integration, and public accessibility, thereby influencing national models of marina-led coastal development.

4. Conclusion

Croatia's legal framework establishes a strict public ownership regime based on time-limited concessions primarily focused on marina operations, thereby limiting real estate development within the maritime domain. Greece combines this strict public domain approach with specialized legislation for tourist ports, enabling long-term, state-led concessions that foster significant private investment and support integrated marina-hospitality projects. Italy adopts an entrepreneurial model, characterized by extensive long-term concessions covering both marine areas and adjacent land, facilitating integrated marina-real estate complexes supported by a robust domestic boating sector. France treats marinas as public service facilities managed predominantly by local authorities, with private operators permitted under public-service contracts that emphasize environmental compliance and public access. Spain balances a strong coastal protection legal regime with long-term concession licenses that allow intensive real estate development, particularly in high-value areas like the Balearic Islands.

By combining detailed national legal analysis with a stylised comparative framework, this paper bridges doctrinal legal discussion and applied maritime governance, offering a synthesis that can inform both policy design and future empirical research.

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