

SPECIALLY PROTECTED AREAS WITHIN THE CONTEXT OF THE
MEDITERRANEAN ENVIRONMENTAL PROGRAMME

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ABSTRACT

SPECIALY PROTECTED AREAS WITHIN THE CONTEXT OF THE MEDITERRANEAN ENVIRONMENTAL PROGRAMME

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The enclosed and semi-enclosed seas are the most severely degraded and fragile ecosystems which necessitates immediate political responses. The problems encountered in relation to biological decline and habitat loss requires a special attention due to their unique value for the whole marine and coastal systems.

The main purpose of this thesis is to analyze the contribution of the Mediterranean Environmental Programme to the protection and the preservation of the natural resources and biodiversity with a special focus on Turkey.

The Mediterranean Environmental Programme which was launched in 1975 with an Action Plan and conducted through an umbrella convention which addresses this issue through the SPA/BD Protocol.

In line with the SPA/BD Protocol over 750 areas are designated as specially protected areas and 25 areas as SPAMIs throughout the Mediterranean.

Turkey as a Contacting Party to the 1995 Barcelona Convention and the SPA/BD Protocol, declared specially environmental protected areas which amount to 12.842,46 km².

This thesis argues that the Mediterranean Environmental Programme provides a dynamic and flexible tool for the Mediterranean countries to address marine related problems including the biodiversity and protected areas. Whereas the ultimate success of the cooperation lies in effective implementation at national level which depends on the will of the decision makers, practitioners and the various other stakeholders; the responsive characteristics of the legislative and administrative processes.

Key words: regional approach, the Mediterranean Environmental Programme, biodiversity, SPAs, Turkey.

ÖZ

**AKDENİZ ÇEVRE PROGRAMI BAĞLAMINDA ÖZEL KORUMA
BÖLGELERİ**

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Kapalı ve yarı kapalı denizler en ciddi şekilde tahrip edilmiş ve kırılgan ekosistemler oldukları için acil siyasi çözüme ihtiyaç duyulmaktadır. Eşsiz değerlerinden dolayı tüm deniz ve kıyı sistemleri için biyolojik çeşitliliğin azalması ve habitat kaybı ile ilişkili olan problemler özel bir ilgi gerektirmektedir.

Bu tezin amacı, Akdeniz Çevre Programı'nın Türkiye üzerine özel bir vurgu yapılarak, doğal kaynakların ve biyoçeşitliliğin korunması ve muhafazasına olan katkısını incelemektir.

1975 yılında eylem planının kabulü ile başlatılan Akdeniz Çevre Programı, şemsiye bir sözleşme ve ek protokollerle yürütülmektedir. Bu Program altında, biyolojik çeşitlilik ve koruma alanları konusunu Özel Koruma Alanları ve Biyoçeşitlilik Protokolü ele almaktadır.

Özel Koruma Alanları ve Biyoçeşitlilik Protokolü doğrultusunda Akdeniz'de, 750'den fazla alan özel koruma alanı; 25 alan ise Akdeniz Açısından Önemli olan Özel Koruma Alanı olarak belirlenmiştir.

1995 Barselona Sözleşmesi ve Özel Koruma Alanları ve Biyoçeşitlilik Protokolü'ne taraf olan Türkiye; toplamda 12.842,46 km² yüzölçümüne sahip alanı özel çevre koruma bölgesi olarak ilan etmiştir.

Bu tez, Akdeniz Çevre Programı'nın biyoçeşitliliği ve koruma alanlarını içeren deniz bağlantılı problemler açısından bölge ülkelerine dinamik ve esnek bir araç sağladığını ileri sürmektedir. Bu sebeple, işbirliğinin nihai başarısı, karar alıcıların, uygulayıcıların ve çeşitli diğer paydaşların kararlılığında ve yasal ve idari süreçlerin çözüm getirici özelliklerine dayanan ulusal düzeyde etkili bir uygulamada yatmaktadır.

Anahtar kelimeler: bölgesel yaklaşım, Akdeniz Çevre Programı, biyoçeşitlilik, özel koruma alanları, Türkiye.

To my beloved family

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LIST OF ABBREVIATIONS

APSA	Authority for the Protection of Special Areas
BD	Biological Diversity
CBD	Convention on Biological Diversity
CIESM	La Commission Internationale pour l'Exploration Scientifique de la Méditerranée
CITES	Convention on International Trade of Endangered Species
COP	Conference of Parties
DGPNP	Directorate General for the Protection of Natural Properties
EEC	European Economic Community
EIA	Environmental Impact Assessment
EPASA	Environmental Protection Agency for Special Areas
EU	European Union
FAO	Food and Agriculture Organization
GBO	Global Biodiversity Outlook
GEF	Global Environment Facility
GEMS	Global Environmental Monitoring System
GFCM	General Fisheries Commission for the Mediterranean
ICZM	Integrated Coastal Zone Management
IUCN	International Union for the Conservation of Nature
LAS	League of Arab States
MAP	Mediterranean Action Plan
MPA	Marine Protected Areas
MCSD	Mediterranean Commission on Sustainable Development
MEDPOL	Coordinated Pollution and Monitoring Programme in the Mediterranean
NFP	National Focal Point
NGO	Non-Governmental Organization
OAU	Organization of African Union
PAP	Priority Action Programmes
RAC	Regional Activity Center
RAC/SPA	Regional Activity Center for SPAs
RCU	Regional Coordinating Unit
SEPA	Special Environmental Protection Areas
SPA	Specially Protected Areas
SPAMI	Specially Protected Areas of Mediterranean Importance
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
WCED	World Commission on Environment and Development

CHAPTER I

INTRODUCTION

Environmental problems pose a significant threat for the humanity and the life systems on the Earth. Owing to rapid economic and population growth; advances in the fields of communication and transportation and due to the developments in science and technology, the environmental problems have been intensified significantly in the second half of the 20th century.

The environmental problems in marine space require attention due to their severity, complexity and intensity besides the problems encountered in the terrestrial and atmospheric areas. The marine environment, especially enclosed and semi-enclosed seas deserve a special attention due to various environmental stresses generating from various military and non-military uses. In fact, the protection of the oceans and seas has a simple logic; “The majority of humankind, as is well known, lives near the coasts, and by poisoning the ocean we are poisoning ourselves. We must save the seas to save ourselves”¹.

It is well known that, today, there are too many environmental threats such as pollution, invasive of alien species, overexploitation however, the most substantial threat is accepted as the biodiversity loss, because it forms the basis of life on Earth. The dimension of the biodiversity loss is at critical levels in marine environment which makes its conservation and protection obligatory. There are various measures regarding the conservation of biodiversity but establishing protected areas come to the fore as these areas seem to be the “only hope we have of stopping many threatened or endemic species from becoming extinct”².

¹ Elisabeth Mann Borgese, **The Oceanic Circle: Governing the Seas as a Global Resource**, USA, United Nations University Press, 1998, p. 35.

² N., Dudley, (edt.), “Guidelines for Applying Protected Area Management Categories”, Gland, Switzerland: IUCN, 2008, p. 2. <http://www.iucn.org>, accessed at: 22 June 2011.

Since the early 1970s, initiatives for the protection of the oceans and seas accelerated across the whole world. The United Nations (UN)³ Conference on Human Environment⁴ can be considered as a turning point. The 1972 Stockholm Declaration⁵ which identifies common principles of environmental politics for further action incorporates a special provision on marine environment.

Stockholm Declaration Principle 7 provides that:

“States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.”⁶

The Recommendations for Action also stress the significance of the marine environment and provides a marine strategy for future action. In Recommendation 86⁷, the necessity of regional agreements regarding all kinds of pollution especially in semi-enclosed seas owing to their vulnerabilities to marine problems was emphasized. It was recommended that governments would take early action to adopt effective national measures for the control of all significant sources of marine pollution, including land-based sources, and concert and coordinate their actions regionally and where appropriate on a wider international basis.

The United Nations Environment Programme (UNEP) was established with the Resolution 2997 (XXVII) of UN General Assembly on 15 December 1972. After two years of its establishment, it launched the Regional Seas Programmes in 1974, which was based on a regionalist approach on protecting the environment and managing natural resources.

³ Hereinafter the UN.

⁴ Hereinafter Stockholm Conference.

⁵ A/CONF 48/14 Rev.1, The Declaration on Human Environment, 1976, Preamble, <http://www.un-documents.net/unche.htm>, accessed at: 5 May 2011.

⁶ *Ibid.*,

⁷ Action Plan for the Human Environment, Recommendation 86. <http://www.un-documents.net/unche.htm>, accessed at: 5 May 2011.

In the wake of and following the Stockholm Conference, the concern for the oceans and seas was translated into policies predominantly by the Third UN Conference on the Law of the Sea⁸. The UN Convention on Law of the Sea (UNCLOS) set down the legal framework for the rules regarding the protection of the marine environment in chapter XII which give responsibilities⁹ to the contracting parties' including cooperation on a regional basis where appropriate. Part IX of the UNCLOS is important for the content of this thesis as it has provisions regarding the enclosed and semi-enclosed seas as well.¹⁰

In the "Our Common Future" report prepared by the World Commission on Environment and Development¹¹ in 1987 (also known as "Brundtland Report"¹²) the oceans were considered to play a vital role in terms of life-support systems; climate; lives of animals and plants; the total balance of life on Earth as well.¹³ The interconnectedness of oceans and thus the need for cooperation at all levels were also stressed in the report. The Brundtland Report underlined the necessity of regional approaches which should be realized through the establishment of regional institutional mechanisms and ocean regimes.¹⁴

The main significance of the Brundtland Report lies in the fact of its elaboration of the sustainable development concept which should also be applied to various uses of the oceans. In the light of this approach conservation of marine environment was incorporated into the agenda of the United Nations Conference on Environment and Development (UNCED)¹⁵ which was held in Rio de Janeiro in

⁸ The First United Nations Conference on the Law of the Sea was held in Geneva, in 1958. The Second United Nations Conference on the Law of the Sea was held in Geneva, in 1960. The Third United Nations Conference on the Law of the Sea was started in 1973 and continued until 1982 which was concluded with the adoption of the United Nations Convention on Law of the Sea. H. Pazarcı, *Uluslararası Hukuk Dersleri: II. Kitap*, 7. Bası, Turhan Kitabevi, Ankara, 2003, p.289-293.

⁹ Şule Güneş, "Birleşmiş Milletler Deniz Hukuku Sözleşmesi ve Deniz Çevresinin Korunması", *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, Cilt 56, Sayı 2 (2007), p. 17.

¹⁰ UNCLOS, Part IX.

¹¹ The UN General Assembly convened the World Commission on Environment and Development (WCED) in 1983 chaired by Ms. Gro Harlem Brundtland, Prime Minister of Norway. The report prepared by WCED was presented to the UN General Assembly in October 1987. <http://www.unescap.org/esd/environment/rio20/pages>, accessed at: 5 May 2011.

¹² Hereinafter Brundtland Report.

¹³ Brundtland Report, part 3, chapter 10-1, paragraph 4.

¹⁴ *Ibid.*, part 3, chapter 10-1, paragraph 16.

¹⁵ Hereinafter the UNCED.

1992, and reflected to the outcomes¹⁶ of the conference as well. Agenda 21 and Rio Declaration on Environment and Development are noteworthy of further detail as they presented comprehensive conservation principles regarding marine environment and conservation of biodiversity.

The Section II of the Agenda 21¹⁷ entitled “Conservation and Management of Reosurces” contains a special chapter (17) on the “Protection of the Oceans, all Kinds of Seas, Including Enclosed & Semi-enclosed Seas, & Coastal Areas & the Protection, Rational Use & Development of their Living Resources”. Agenda 21, integrity of marine environment and the crucial roles of oceans and all seas for the life on Earth were reiterated and seven programme areas¹⁸ were identified and for each programme area, the basis for action, objectives and activities were set forth¹⁹.

The necessity to establish effective institutional mechanisms and to strengthen regional cooperation and coordination through UNEP *Regional Seas Programmes*; regional and sub-regional fisheries organizations and regional commissions is also emphasized.²⁰

In the Chapter 15 “Conservation of Biological Diversity” of the Section II, objectives, activities and means of implementation regarding the measures for the conservation of biodiversity were laid down. The overall aim of this chapter is stated as “to improve the conservation of biodiversity and the sustainable use of biological resources, as well as to support the Convention on Biological Diversity (CBD)”²¹.

¹⁶ UNCED had five outcomes; Agenda 21, the Rio Declaration on Environment and Development, the Statement of Forest Principles, the United Nations Framework Convention on Climate Change (UNFCCC) and the United Nations Convention on Biological Diversity (CBD).

¹⁷ Agenda 21 contains detailed proposals for action in social and economic areas (such as combating poverty, changing patterns of production and consumption and addressing demographic dynamics), and for conserving and managing the natural resources that are the basis for life — including oceans. The document is very long (800 pages) and covers all areas of sustainable development. http://www.un.org/esa/dsd/agenda21/res_agenda21_00.shtml (5 May 2011)

¹⁸ Integrated management and sustainable development of coastal areas, including exclusive economic zones; marine environmental protection; sustainable use and conservation of marine living resources of the high seas; sustainable use and conservation of marine living resources under national jurisdiction; addressing critical uncertainties for the management of the marine environment and climate change; strengthening international, including regional, cooperation and coordination; sustainable development of small islands.

¹⁹ Agenda 21, Section II, Chapter 17.

²⁰ *Ibid.*, Section II, Chapter 17-1(f).

²¹ *Ibid.*, Section II, Chapter 15, introduction. Hereinafter the CBD.

According to the Agenda 21, the main reason behind biodiversity decline is the human activities. As a result of these activities a serious threat towards the human development occurred therefore urgent actions are needed to conserve biodiversity with a view of sustainable management and use. In addition, effective national and international cooperation is required for the in-situ protection by enabling the participation and support of local communities for the success.²²

The main objectives were developing national strategies on the conservation of biodiversity and integrating these strategies into national development strategies; taking appropriate measures for providing intergenerational equity; recognizing and fostering the traditional methods and the knowledge of indigenous people.²³

In order to achieve these objectives some activities were defined in which all related parts of the society make cooperation. In terms of protected areas, Agenda 21 mention that “in situ measures should include the reinforcement of terrestrial, marine and aquatic protected area systems and embrace, inter alia, vulnerable freshwater and other wetlands and coastal ecosystems, such as estuaries, coral reefs and mangroves” and “in areas adjacent to protected areas environmentally sound and sustainable development shall be promoted with a view to furthering protection of these areas”.²⁴

Additionally, Agenda 21 encourages international and regional cooperation. According to that, it stresses the strengthening support for international and regional instruments, programmes and action plans concerned with the conservation of biological diversity and the sustainable use of biological resources which indicates that the Mediterranean Environmental Programme is among these programmes. In order to achieve the objectives of the Agenda 21, financing and cost evaluation; scientific and technological means; human resource development; and capacity-building were underlined as means of implementation.

Considering all these strategies developed for protection and preservation of the marine environment, there is a need to analyze of the strengths and weaknesses of

²² *Ibid.*, Section II, Chapter 15, introduction.

²³ *Ibid.*, Section II, Chapter 15, objectives.

²⁴ *Ibid.*.

these cooperative efforts in order to evaluate their overall impact on the marine environment.

The main objective of this thesis is to focus generally on the Mediterranean Environmental Programme and to develop answers to the question to what extent this programme have the potential to transform the environmental conditions in a positive way. Secondly to identify the impact of political and institutional measures taken in the field of biological resources through the Protocol on Specially Protected Areas and Biological Diversity both throughout the Mediterranean region as well as with respect to Turkey.

The Mediterranean Environmental Programme, the first of the Regional Seas Programme under the auspices of the UNEP was chosen to be studied which is at the same time, the most comprehensive effort regarding the protection of the Mediterranean Sea. The second chapter starts with analyzing the geographical characteristics and the environmental problems encountered in the Region led to a regional regime in the Mediterranean. In this regard, as the UNEP had a key role in building this regional regime its role will be elaborate. During the regime building and evolution the role of the epistemic community especially their active role in translation of “Mediterranean Awareness” into political will deserves to be mentioned. In a region which was marked by grave economic, technical and scientific disparities, divergent social and political interests and ongoing political conflicts and strains, convergence of the differences of the Mediterranean states can be attributed to the active role played by the epistemic community²⁵.

The Mediterranean Environment Programme, comprises of two phases; Mediterranean Action Plan (MAP)²⁶ Phase I started in 1975 and Mediterranean Action Plan (MAP) Phase II started in 1995 and is still continuing. The legal structures of these phases were underpinned by umbrella convention and its Protocols. So, also in the second chapter of this thesis, the process of forming the legal structure from MAP Phase I to MAP Phase II that was shaped by the

²⁵ Şule Güneş, “Mediterranean Environmental Programme”, in: E. Özhan (edt.), **Proceedings of the Seventh International Conference on the Mediterranean Coastal Environment MEDCOAST 05**, Kuşadası, 25-29 October 2005, p. 98.

²⁶ Hereinafter MAP.

framework of umbrella conventions (“Convention for the Protection of the Mediterranean Sea against Pollution”²⁷ which was amended as the “Convention for the Protection of the Marine Environment and the Coastal Region”²⁸) and their differences in line with especially the UNCED outcomes will be discussed. In addition to the legal framework, the other aspects of the two phases will be elaborated.

Throughout the third chapter, the measures concerning biodiversity loss taken at international, regional and national levels will be analyzed. The third chapter starts with the significance of biodiversity and protected areas. As biodiversity loss constitutes a global issue the efforts taken at international level will be evaluated within the framework of the CBD²⁹ as it is the most comprehensive convention on biodiversity. The CBD regulates the biodiversity issue very broadly covering the terrestrial, marine and coastal areas, however, the CBD analysis will be confined to marine and coastal protected areas and biodiversity. Thus, the focus of this thesis will be confined to measures on marine and coastal areas and the establishment of protected areas.

The significance of the biodiversity (the Mediterranean Sea is home nearly 8% of known species and is recognized as one of the world’s 34 biodiversity hot spots³⁰) and threats will be identified in the Mediterranean. After that, the legal mechanism under the Mediterranean Environmental Regime shaped by the “Protocol Concerning Mediterranean Specially Protected Areas”³¹ and its amended version, the

²⁷ Hereinafter 1976 Barcelona Convention. “Convention for the Protection of the Mediterranean Sea against Pollution”, 1976. <http://www.unepmap.org/index.php?module=content2&catid=001001004>, accessed at: 3 July 2011.

²⁸ Hereinafter 1995 Barcelona Convention. “Convention for the Protection of the Marine Environment and the Coastal Region”, 1995. <http://www.unepmap.org/index.php?module=content2&catid=001001004>, accessed at: 3 July 2011.

²⁹ The CBD signed in 1992 was one of the outcomes of the UNCED. It entered into force on 29 December 1993. Today, there are 193 parties to the CBD which makes it the most comprehensive convention regarding biodiversity.

³⁰ Luisa Colasimone (edt), “Focus on Biodiversity”, **MedWaves**, Issue: 59, (October 2010), p. 2. <http://www.unepmap.org/index.php?module=content2&catid=001011005>, accessed at: 7 June 2011.

³¹ Hereinafter SPA Protocol. “Protocol concerning Mediterranean Specially Protected Areas”, 1982. <http://www.unepmap.org/index.php?module=content2&catid=001001001>, accessed at: 3 July 2011.

“Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean”³² will be comparatively elaborated.

Regarding the implementation of the SPA and the SPA/BD Protocols, throughout the Mediterranean scale, a general analysis of the practices will be provided.

Being a coastal country of the Mediterranean Sea and a party to the SPA/BD Protocol, Turkey’s policies need to be assessed as an example of national implementation of this regional regime. In this part of the third chapter, Turkey’s biodiversity policy in terms protected areas within the context of the SPA/BD Protocol will be examined besides Turkey’s general policies and legislative in biodiversity issue as it is crucial for achieving regional implementation. Turkey’s studies on the European Union’s (EU) biodiversity policy and protected areas network (Natura 2000) will be briefly discussed; because this issue constitutes an important part of EU legislative alignment in the accession period of Turkey which also influence the national strategies on biodiversity issue.

In the conclusion chapter, the result of the analysis will be discussed and the strengths and weakness of the elements of this regional regime will be examined. Lastly, recommendations will be put forth for a better governance of the biodiversity issue within the context of the Mediterranean Region as well as in Turkey.

Throughout the research, the special attention was given to the analysis of both primary sources such as official documents, legislation, reports of international and regional organizations as well as secondary sources; books and articles written by the scholars. In analyzing Turkey’s role in national implementation, interviews were realized with experts from administrative bodies.

³² Hereinafter SPA/BD Protocol. “Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean”, 1995.
<http://www.unepmap.org/index.php?module=content2&catid=001001001>, accessed at: 3 July 2011.

CHAPTER II

MEDITERRANEAN ENVIRONMENTAL PROGRAMME

2.1 Introduction

2.1.1 The General Characteristics of the Mediterranean Region

The Mediterranean is a region where too many empires have clashed and collapsed. Because of its geostrategic position at the intersection point of the Europe, Asia and Africa, the region witnessed many civilizations throughout history.

The geostrategic significance of the Mediterranean Sea is generally ascribed to its connection with the Indian Ocean (via Suez Canal) and to the Atlantic Ocean (via Gibraltar Strait) which makes it a key sea route for the transportation of the Caspian and the Middle East oil.³³ When one keeps in mind that an enormous part of world trade is conducted by maritime transport, the exceptional importance of this communication becomes obvious, particularly with regard to countries whose imports and exports are almost exclusively affected by sea routes.³⁴

The Mediterranean region has unique geographical characteristics. It is a semi-enclosed sea connected to the Atlantic Ocean by the Gibraltar strait, to the Black Sea by the Turkish straits and to the Red Sea with the Suez Canal.

The Mediterranean sea is comprised of smaller sea bodies such as; Alboran Sea, Balearic Sea, Ligurian Sea, Tyrrhenian Sea, Adriatic Sea, Ionian Sea, Aegean Sea and Sea of Crete. It is bordered by 21 countries; Spain, France, Monaco, Italy, Slovenia, Croatia, Bosnia & Herzegovina, Montenegro, Albania, Greece, Turkey, Syria, Lebanon, Israel, Egypt, Libya, Tunisia, Algeria, Morocco, Cyprus (Greek

³³ Elisabeth M. Borgese, David Krieger, **The Tides of Change: Peace, Pollution and Potential of the Oceans**, New York, Mason Charter, 1975, p. 202.

³⁴*Ibid.*, p.198.

Cypriot Administration of Southern Cyprus) and Malta. The total population of these countries is approximately 460 million³⁵ which two-third of it lives in urbans.

In addition to its richness in terms of small seas, the Mediterranean basin is relatively rich for its rivers³⁶ but which is at the same time a negative factor contributing to the pollution of the Mediterranean Sea. The major rivers in the basin are; Po, Ebro, Nile, Orontes, Rhone, Aude and Segura. Apart from these, there are too many rivers like Isonza, Neretva, Struma, Tiber flowing into the Mediterranean Sea.

Map 1 The Mediterranean Basin



Source: <http://www.worldatlas.com>

³⁵ UNEP/MAP-Plan Bleu: “State of the Environment and Development in the Mediterranean”, UNEP/MAP-Plan Bleu, Athens, 2009, p. 1. www.unepmap.org , accessed at: 9 July 2011.

³⁶ For more information see: <http://www.euratlas.net/geography/europe/rivers/index.html> , accessed at: 8 June 2011.

The Mediterranean is a warm and relatively dry region, so the rate of evaporation from its surface is high.³⁷ Water loss which exceeds the input of water through runoff and precipitation is mainly compensated by the flow of Atlantic surface waters through the Strait of Gibraltar.³⁸

“There is no surface return system from the east to the west, but a return of Mediterranean water takes place via intermediate and deep water flowing from east to west and spilling over the sill of Gibraltar into the Atlantic.”³⁹

The estimated turnover time for Mediterranean waters is 80 years. The basic nature of the Mediterranean circulation system includes components of strong vertical convections that determine the distribution of salinity and produce vertical recycling of nutrients and other dissolved substances.⁴⁰

Its climate is intermediate between temperate and tropical, with two seasons; cool and moist from October to April, and hot and dry in the other half of the year. The preponderance of rainfall comes in the winter, with so little in the summer that many streams are intermittent.⁴¹

“Provençal Basin, Upper Adriatic and the Aegean are accepted as the lungs of the Mediterranean. These lungs are important as they constitute the oxygen content of the Mediterranean. As it is a semi-enclosed sea, what affects these lungs also affects the Mediterranean.”⁴²

³⁷ Donald Hughes, **The Mediterranean: An Environmental History**, California, ABC-CLIO, 2005, p. 3.

³⁸ UNEP-Regional Seas Programme, http://www.unep.org/regionalseas/programmes/unpro/mediterranean/instruments/r_profile_med.pdf, accessed at: 7 April 2011.

³⁹ *Ibid.*

⁴⁰ L. Jetic (et.al), “State of the Marine Environment in the Mediterranean Region”, UNEP Regional Seas Reports and Studies, No. 132, 1990, s. 3.

<http://www.unep.org/regionalseas/publications/reports/RSRS/pdfs/rsrs132.pdf>, accessed at: 13 May 2011.

⁴¹ *Ibid.*, p. 5.

⁴² Özden Sav, **Akdeniz: Deniz Çevresinin Korunması ve Bölgesel Bir Düzenleme Örneği**, Birinci Bası, Ankara, Turhan Kitabevi, 2001, p. 61.

2.1.2 The Environmental Problems in the Mediterranean

Currently, there are various environmental problems that the Mediterranean Region encounters. Aside from the environmental problems defined in the Protocols of the 1995 Barcelona Convention, there are different environmental issues and threats in the region.

There is no doubt that the major triggering factor behind environmental degradation is the population growth. Today the world's population is over six billion and is still increasing. When it is thought that the resources of the world are finite; with the growing demands of the humanity, it is obvious that people are going to come across lack of resources in the very near future. The increase in population has adverse consequences for the environment. "The sharp numerical increase of the world population, the urgent development needs of many countries and the rising standards of living have accelerated the exploration of the sea, the seabed, and the subsoil thereof for the purpose of a larger and more complete use of the natural riches beyond they hold"⁴³. As a result of this exploration and use, the oceans and seas of the world have badly affected and problems emerged. Actually, population is a more critical problem in developing countries as these countries cannot achieve to implement policies reducing birth rates. Therefore, the effects of environmental degradation in the oceans and seas are mostly felt in these coastal and developing countries. This is also valid for the coastal countries of the Mediterranean Sea; today %40 of the total population (nearly 185 million people)⁴⁴ living near coastal areas is one of the leading factor that leads to environmental problems in the Mediterranean region. The major effect of the population growth is the pollution problem stemming from land-based and sea-based activities.

Shipping related activities constitute another environmental threat in the Mediterranean Sea. The Mediterranean Sea is the major route for the transportation of oil from the Caspian Region, Middle East and North Africa to the Europe and North America. "30% of the international sea-borne trade volume originates or is directed to the Mediterranean ports and 20-25 % of the world's sea-borne oil traffic

⁴³ Borgese, *loc. cit.*, p. 199.

⁴⁴ "State of the Environment and Development in the Mediterranean", *op. cit.*, p. 1.

transits the Mediterranean.”⁴⁵ Apart from oil transportation, hazardous materials are also transported from the same route. According to Greenpeace, approximately 220,000 vessels of more than 100 tonnes cross the Mediterranean Sea each year—about one third of the world’s total merchant shipping; these ships often carry hazardous cargo, which if lost would result in severe damage to the marine environment.⁴⁶

The introduction of alien species is another important problem in the Mediterranean. “These species can enter to Mediterranean via ballast waters of ships or accidental escape into the estuaries and the sea and they often out-compete the local species for resources and interbreed which leads to destruction of ecosystems and extinction of native species”⁴⁷.

Land-based pollution also constitutes a challenge for the Mediterranean. Pollution from land-based activities arises from the idea that water bodies are considered as dumping grounds. So, sewage discharges, agricultural pesticides, industrial contaminants etc. are introduced to the seas. This pollution affects the balance of the ecosystem and as these discharges may have hazardous ingredients, so they can also poison the marine species and also the people who eat fisheries. Rivers pouring into the Mediterranean basin contribute to the pollution of the Mediterranean Sea. Major Mediterranean Rivers (Ebro, Rhone, Po and Nile) drain geological terrains far removed from the present coastline. “Although few in number these major fluvial sources account for very large volume of sediment injected into the system”⁴⁸.

An important sub-factor of land-based pollution is related with tourism activities. It is well known that, one of the main sources of income for Mediterranean coastal countries is tourism. The Mediterranean region is one of the world’s popular tourist destinations not only in terms of its beautiful beaches but also in terms of its

⁴⁵ UNEP, **Mediterranean Region**.
www.unep.org/regionalseas/programmes/unpro/mediterranean/instruments/r_profile_med.pdf,
accessed at: 11 June 2011.

⁴⁶ <http://www.greenpeace.org/international/campaigns/oceans/marine-reserves/the-mediterranean/mediterranean-other-threats>, accessed at: 14 June 2011.

⁴⁷ **Mediterranean Region**, *op.cit.*.

⁴⁸ *Ibid.*.

historical sight-seeings. It is estimated that, annually over 30% of international tourists come to the Mediterranean Sea.⁴⁹ However, besides this attractive and profitable feature, tourism activities cause environmental degradation. Lands and forests in coastal areas are allocated to big touristic hotels. This situation leads an enormous pressure on coastal areas and on marine environment. The major results of tourism are pollution and habitat destruction.

Another source of marine pollution originates from offshore activities. These activities mainly include the exploration and exploitation of the seabed and subsoil of the continental shelf for oil and gas. However, there are also other offshore activities such as disposal of sewage, garbage, wastes and hazardous materials. All these activities have negative impacts on the Mediterranean marine environment.

By the impact of pollution, the ecosystems and biodiversity in the Mediterranean Region is in decline. The Mediterranean Sea is one of the most diverse marine environments in the world; with less than 1% of the world's ocean area, the Mediterranean is home for nearly 8% of known species and is recognized as one of the world's 34 biodiversity hot spots⁵⁰. Its flora diversity is outstanding with 15000 to 25000 species, 60% of which are unique to the region. The sea contains at least 7% of all the marine species known worldwide⁵¹. About one third of the Mediterranean fauna is endemic⁵². According to the International Union for the Conservation of Nature (IUCN)⁵³ Red List of Threatened Species; 1912 species of amphibians, birds, cartilaginous fishes, endemic freshwater fishes, crabs and crayfish, mammals, dragonflies and reptiles have been assessed to date in the Mediterranean region. About 19% of these species are threatened with extinction:

⁴⁹ State of the Environment and Development in the Mediterranean, *op.cit.*, p. 188.

⁵⁰ Colasimone, *op.cit.*, p. 2.

⁵¹ *Ibid.*, p. 4.

⁵² A., Cuttelod, (et.al), "The Mediterranean: A Biodiversity Hotspot under Threat" in: J.-C. Vié, C. Hilton-Taylor and S. N. Stuart (eds), The 2008 Review of the IUCN Red List of Threatened Species., IUCN Gland, Switzerland, 2008, p. 2.

http://cmsdata.iucn.org/downloads/the_mediterranean_a_biodiversity_hotspot_under_threat.pdf, accessed at: 8 June 2011.

⁵³ Hereinafter IUCN.

5% critically endangered, 7% endangered and 7% vulnerable. At least 16 irreplaceable species are already extinct, including some endemics.⁵⁴

Lastly, the climate change issue is significant as it is linked with various other environmental problems. The main expected outcome of climate change is the increase in the temperature values and the rise of sea levels. As a result of this rise, the soil of the coastal areas becomes salty thus eliminating the possibility of making agriculture. In addition the freshwater reserves are decreasing due to the salinization of ground waters. These consequences will cause negative impacts on the biodiversity as well. It is estimated that Europe will be less threatened by sea-level rise than many developing country regions. However, due to their special geographical characteristics, coastal ecosystems of especially enclosed and semi-enclosed seas such as the Baltic, the Mediterranean and the Black Sea will be the most affected ones. Therefore it is necessary to take measures concerning this issue, as too many people live near coastal areas in the Mediterranean region.

Surely, these problems are not new in the Mediterranean region however the significance lies in the fact that they started to threaten the future of the well being of the Mediterranean Sea. All these problems raised the awareness of the Mediterranean countries at the beginning of the 1970's. The people of the Mediterranean countries comprehended that their prosperities depend on the region's natural richness.⁵⁵ The ongoing scientific researches on marine environment also contributed to the rise of awareness as well.⁵⁶ However, "the main idea behind this effort to protect Mediterranean comes from the idea of a shared Mediterranean heritage, in French words "*l'idée Méditerranéenne*" which means "common identity""⁵⁷.

When the MAP I was introduced and the 1976 Barcelona Convention was signed, as pollution was conceived as the main environmental problem, the responsive measures were confined to pollution only. This situation changed corresponding to the changing nature of the environmental problems which necessitated sustainable development-oriented policies taking into account socio-

⁵⁴ Cuttelod, *op.cit.*, p. 3.

⁵⁵ Sav, *op.cit.*, p. 75.

⁵⁶ *Ibid.*, p. 75.

⁵⁷ *Ibid.*, p. 62.

economic factors at the beginning of the 1990s. Correspondingly, the original set up of the Mediterranean Environmental Programme experienced a transformation from MAP Phase I towards MAP Phase II in 1990s.

2.1.3 The role of the UNEP in Mediterranean Environmental Politics

2.1.3.1 The UNEP as an International Actor in Environmental Politics

One of the outcomes of the Stockholm Conference was the establishment of the UNEP. The UNEP is widely accepted as the principal international environmental organization. At the very outset, its mission was declared as “to facilitate international cooperation in the environmental field; to keep the world environmental situation under review so that problems of international significance receive appropriate consideration by governments; and to promote the acquisition, assessment and exchange of environmental knowledge”⁵⁸ which later turned out to be defined as to “provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations”⁵⁹. The UNEP renewed its initial mission by putting sustainable development and intergenerational equity among its main objectives which can be accepted as a reflection of harmonizing the latest developments in environmental politics.

The UNEP’s headquarter is located in Nairobi which makes the UNEP as the only global UN agency located in a developing country. “Its basic functions may be classified as the dissemination of information, the cultivation of understanding, and collaboration with the environmental programs of other agencies”⁶⁰. The UNEP also undertakes initiatives in collaboration with national governments and nongovernmental organizations (NGO)⁶¹.

The role of the UNEP is to be “the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of

⁵⁸ David Hunter, James Salzman, Durwood Zaelke, **International Environmental Law and Policy**, New York, Foundation Press, 2002, p. 219.

⁵⁹ <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=43> , accessed at: 13 July 2011.

⁶⁰ Keith L. Caldwell, **International Environmental Policy : From the 20th Century to the 21st Century**, Durham, Duke University Press, 1996, p. 83.

⁶¹ Hereinafter NGO.

the environmental dimension of sustainable development within the UN system and that serves as an authoritative advocate for the global environment”⁶². However, its role has been always accepted as coordinating and catalytic.

The UNEP has a significant role in promoting environmental law such that it develops a lot of hard law and soft law documents. According to the Brundtland Report, the UNEP provided the initial impetus by bringing governments together to develop flexible legal frameworks within which further agreements can be negotiated to address various environmental problems as needs require and politics allow.⁶³ Over the last 25 years, more than 40 multilateral environmental treaties have been negotiated under UNEP’s guidance and for many of these conventions UNEP function as the Secretariat.⁶⁴ In addition to these, the UNEP hosted a variety of multinational conferences, programmes and plans covering different environmental problems in different areas.

The UNEP’s financial resources are provided by various sources; the regular budget for the activities of the UN, the Environment Fund (the main source of funding) which is voluntary and was established to provide additional financing for environmental programs, trust funds which are extra-budgetary resources, and counterpart contributions which are also extra-budgetary resources can be stated as the major sources.⁶⁵

UNEP’s monitoring activities are important as they made substantial contributions to identify the state of the global environment and the threats facing it. The monitoring system, Earthwatch system, included a Global Environmental Monitoring System (GEMS) which comprised of thousands of scientists all over the world and contributed to assessment of the health of ecosystems on a continuing basis.⁶⁶

⁶² UNEP, “The Role of International Organizations in the Development of Environmental Law: A Case of UNEP”.

<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=222&ArticleID=2990> , accessed at: 5 July 2011.

⁶³ Brundtland Report, *op. cit.*, Chapter 10, Part 1, 1(38).

⁶⁴ Hunter, *op.cit.*, p. 222.

⁶⁵ *Ibid.*, p. 221.

⁶⁶ *Ibid.*, p. 224.

From the very outset, the UNEP consults the governments, creates a platform to discuss their views and finds a common point. In this process, the UNEP calls for the experts and takes their opinions. Despite its successes, it also argued that, there are shortfalls especially in financing system and administrative capacity of the UNEP that have to be improved.⁶⁷ In order to work more efficiently and effectively to reach the ultimate aim, the UNEP has developed a Medium-term Strategy covering the period 2010–2013. This Strategy focuses on six thematic priorities for strengthening the capacity of the UNEP: climate change; resource efficiency; disasters and conflicts; environmental governance; harmful substances and hazardous waste; and ecosystem management.⁶⁸

2.1.3.2 The Role of the UNEP in the Regional Seas Programme

Although being an international environmental organization, the UNEP has also conducted regional initiatives. In this point, the UNEP's Regional Seas Programme deserves a special attention, due to the model designed for the Mediterranean extended all over the world and inspired the other regional seas programmes.

The first session of the UNEP Governing Council was held with the intention to translate the recommendations into policy actions in 1973. During this session, some priority fields were identified to be addressed with action plans such as oceans, energy, conservation of nature, wildlife and genetic resources of which their degradation or deterioration posed threats to human health and human beings.⁶⁹

In the light of these concerns, the “Action Plan for the Human Environment: Programme Development and Priorities” covered the issue of “oceans” and defined some tasks such as assisting nations; stimulating international and regional agreements for the control of all forms of pollution; developing a programme for the monitoring of marine pollution in which the concern was generally about the

⁶⁷ *Ibid.*, p. 219-226.

⁶⁸ For more information on Medium Term Strategy see: http://www.unep.org/pdf/Overview_folder.pdf, accessed at: 19 December 2011.

⁶⁹ UNEP, “Report of the Governing Council on the Work of its First Session”, New York, 1973, p. 3. http://www.unep.org/resources/gov/prev_docs/73_06_GC1_report_%20K7309025.pdf, accessed at: 20 June 2011.

enclosed or semi-enclosed seas like the Mediterranean, the Baltic and the Persian/Arabian Gulf as they were much more vulnerable to adverse impacts of various environmental activities.⁷⁰

The third session of the UNEP's Governing Council held in 1975 determined that the ocean environment would be one of its concentration areas. In that session, there was a huge support for the programmes and strategies in relation to oceans and regional approach. Action taken for the Mediterranean was thought to be a model for other seas like the Caribbean. Also by giving the Mediterranean as an example, the need to appeal all countries to adhere to international and regional conventions for the protection of the marine environment was underlined.⁷¹ So, the importance of this session was that UNEP begun to make progress and to be seen as a model for the other enclosed or semi-enclosed seas.

Upon these developments, the Regional Seas Programme was launched in 1974 by the UNEP. Since its establishment, the Regional Seas Programme has been expanded remarkably being the Mediterranean as the pioneer for the subsequent regional programmes. Today, there are 18 Regional Seas Programme⁷² (UNEP administered, non-UNEP administered and independent) where more than 140 countries participate.

Surely there were many factors behind establishing regional regimes in the seas; however, Caldwell explained very well the impetus of the regional approach as:

“The Regional Seas Programme is premised on the belief that countries of each region share a common interest in safeguarding their marine environment and have a mutual need for sustainable utilization of marine resources. Coastal waters, estuaries, and enclosed and semi-enclosed seas suffer the earliest and most severe degradation from the effects of urbanization, industrialization, agriculture, transportation, and

⁷⁰ *Ibid.*, p.42-43.

⁷¹ UNEP, “Report of the Governing Council on its work of its Third Session”, Nairobi, 1975, p. 36-37. <http://www.unep.org/Documents/multilingual/Default.asp?DocumentID=93>, accessed at: 23 June 2011.

⁷² Mediterranean (1975), Red Sea and Gulf of Aden (1976), ROPME Sea Area (1978), the Caribbean (1981), East Asian Seas (1981), South-East Pacific Region (1981), West and Central Africa (1985), South Pacific (1982), Eastern Africa (1985), Black Sea Region (1992), North-West Pacific (1991), South Asian Seas (1991), North-East Pacific Region (2001). There are six independent programmes which the UNEP involves as a partner; Arctic Region, Antarctic Region, Baltic Sea, Caspian Sea and North-East Atlantic Region.

other human activities, while concurrently containing ecosystems that are among the highest in biological productivity. These waters are therefore logical starting points for combating marine pollution. The regional approach allows specific priorities, needs, and capabilities to be taken into account in the formulation of action plans designed to cope with the environmental problems of the oceans as a whole.”⁷³

The Regional Seas Programme set its aims as “to address the accelerating degradation of the world’s oceans and coastal areas through the sustainable management and use of the marine and coastal environment, by engaging neighboring countries in comprehensive and specific actions to protect their shared marine environment”⁷⁴. The Regional Seas Programmes function through an Action Plan. In most cases the Action Plan is underpinned with a strong legal framework in the form of a regional Convention and associated Protocols on specific problems. In this point, it can be said that “the Regional Seas Programme is unique in that it has evolved a framework that can be transferred successfully from one region to another, while still tailoring environmental activities to the needs and priorities of greatly differing regions”⁷⁵.

Actually, the main achievement of this programme is related with adopting a regional approach towards a global problem. There is no doubt that, it is very hard to find a common point for the problem in an international field where the number of the states is high. However, when the number of parties is low, the achievement can be reached more easily like in the Regional Seas Programme. Apart from that, the Regional Seas Programme constitutes an example for the necessity of regional approach because “regional and sub-regional cooperation is crucial for the development and implementation of actions aiming at protecting and managing the marine environment, where regions are sufficiently close to each other; trans-boundary considerations are needed”⁷⁶.

⁷³ Caldwell, *op. cit.*, p. 180.

⁷⁴ <http://www.unep.org/regionalseas/about/default.asp>, accessed at: 1 May 2011.

⁷⁵ Peter Hulm, “The Regional Seas Programme: What Fate for UNEP’s Crown Jewels?”, *Ambio*, Vol. 12, No. 1, (1983), p. 4.

⁷⁶ P. Akuwumi, T. Melvasalo, “UNEP’s Regional Seas Programme: Approach, Experience and Future Plans”, *Marine Policy*, Vol. 22, No. 3, (1998), p. 229.

With all these driving forces at the table, the Regional Seas Programme started with the Mediterranean Environmental Programme in 1975.

2.2 Building and Evolvement of the Mediterranean Environmental Regime

2.2.1 The Role of Epistemic Community

In the late 1960s, the concern for the degradation of the Mediterranean marine environment was started to be pronounced loudly by scientific elites which was reflected through international organizations. Correspondingly, the necessity to cooperate appeared to be a national political discourse. The evolvement of cooperative ethic in the region started with early works of General Fisheries Council for the Mediterranean (GFCM) which is a subcommittee of the Food and Agricultural Organization (FAO).⁷⁷ The GFCM played an important role in the Mediterranean by taking decisions in its sessions regarding cooperation in combating marine pollution. When the year comes to 1974, the UNEP's Governing Council decided to establish a regional programme for the protection of the Mediterranean marine environment coincided with the efforts of the GFCM. But there occurred a problem concerning the assignment of the leadership for launching the Regional Seas Programme; while Egypt, Israel, Lebanon, Libya, Malta, Tunisia, Turkey and former Yugoslavia supported FAO; France, Italy, Monaco and Spain supported an initiative under the UNEP⁷⁸. As a result of this, the UNEP was assigned to conduct the leadership of the Mediterranean Environmental Programme in 1974 with the support of the various institutions such as FAO, the World Bank, the European Investment Bank, and World Health Organization etc.

The UNEP declared the Mediterranean Region as the first region of the Regional Seas Programme. Under this initiative, the Mediterranean Environmental

⁷⁷ Güneş, *loc. cit.*, p. 98.

⁷⁸ Aldo Chircop, "The Mediterranean: The Lessons Learned", in Mark, V. J. (ed.), **Maritime Building**, Kluwer Law International, 2011, p. 31.

Programme was launched in 1975 which currently involves 21 countries bordering the Mediterranean Sea as well as the EU.⁷⁹

It is widely believed that the role of epistemic community⁸⁰ was impressive during regime building in the Mediterranean. Epistemic communities are “transnational networks of knowledge based communities that are both politically empowered through their claims to exercise authoritative knowledge and motivated by shared casual and principled beliefs”⁸¹. This means that the claims of these communities make them politically strengthened and common casual and principled beliefs galvanize them.

Since the decision-makers have a limited knowledge on technical aspects of the environmental problems, the assistance of experts in this field is necessary. Correspondingly, “decision-makers should consult specialists for policy advice, or they must delegate responsibility to them”⁸².

“The members of this community played an active role in translation “Mediterranean Awareness” into political will in a region which is marked by grave economic, technical and scientific disparities; divergent social and political interests and ongoing political conflicts and strains where any possible cooperative effort was considered only a dream”⁸³.

As a consequence of this role of the epistemic community, “countries became more supportive of the Mediterranean Environmental Programme, became more constructive participants at international meetings, and introduced more efficient and comprehensive pollution control policies which often supported by increased national funding”⁸⁴.

⁷⁹ Albania, Algeria, Croatia, Cyprus (Greek Cypriot Administration of Southern Cyprus), the EU, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Tunisia and Turkey.

⁸⁰ For detail information see; Daniel Bodansky, Jutte Brunnée, Ellen Hey, Oxford **Handbook International Environmental Law**, Oxford, Oxford University Press, 2007, pp. 719-807.

⁸¹ Peter M. Haas, “Obtaining International Environmental Protection through Epistemic Consensus”, **Millennium - Journal of International Studies**, No: 19, (December 1990), p. 349.

⁸² *Ibid.*, p. 350.

⁸³ Güneş, *op. cit.*, s. 98.

⁸⁴ Peter M. Haas, “Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control”, **International Organization**, Vol. 43, No. 3 (Summer, 1989), p. 388.

2.2.2 From MAP Phase I Towards MAP Phase II

Mediterranean Environmental Programme comprises of two phases; MAP Phase I; 1975-1995 and MAP Phase II started in 1995 and is still continuing.

The first phase was started in 1975 with the adoption of the MAP I by 16 countries⁸⁵ and the European Economic Community (EEC). The main objectives of the MAP I were “to assist the Mediterranean countries; to assess and control marine pollution; to formulate their national environment policies; to improve the ability of governments to identify better options for alternative patterns of development and to optimize the choices for allocation of resources”⁸⁶. All these objectives were aimed to be put into practice through the 1976 Barcelona Convention and its related protocols which addresses various aspects of the environmental issues in the Mediterranean Region.

The MAP I was based on four aspects;

- “Integrated Planning of the development and management of the resources of the Mediterranean Basin,
- Co-ordinated programme for research, monitoring, and exchange of information and assessment of the state of pollution and of protection measures,
- Framework convention and related protocols with their technical annexes for the protection of the Mediterranean environment,
- Institutional and financial implications of the Action Plan.”⁸⁷

Under each of these aspects, priorities were considered and recommendations were given in order to constitute a sound management system for protecting the region.

⁸⁵ Algeria, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Spain, Syria, Tunisia, Turkey, Yugoslavia.

⁸⁶ UNEP-MAP, <http://www.unepmap.org/index.php?module=content2&catid=001001>, accessed at: 4 April 2011.

⁸⁷ Hereinafter MAP I. “The Mediterranean Action Plan”, 1976, p. 1, <http://www.unepmap.org/index.php?module=content2&catid=001001002>, accessed at: 1 July 2011.

The first aspect of the MAP I was integrated planning (socio-economic) which was also taken place in the second phase, including two lines of activities; Blue Plan and Priority Actions Programme (PAP).

An intergovernmental meeting held in Split in 1977 the Blue Plan mandate was established, specifically assigning it with:

- “putting at the disposal of political leaders and decision-makers all information that will enable them to develop plans likely to ensure sustained optimal socio-economic development without degrading the environment
- helping governments of coastal states in the Mediterranean region to increase their knowledge of the joint problems they have to face, both in the Mediterranean Sea and in their coastal areas”.⁸⁸

The Blue Plan has three phases; Phase I between 1980-1984, Phase II in 1987 and Phase III in 1988 all of which proposed regional projections for development and environmental degradation to be made until 2025⁸⁹ under the current phase of the MAP.

“The PAP consisted of projects with an action-oriented including training and technical assistance in favor of sustainable socio-economic development. The objective of the PAP was the establishment of a permanent network of cooperation among the Mediterranean coastal states regarding practical actions for progressive, inter-sectoral planning.”⁹⁰

The second component of the MAP I was the research and monitoring that was conducted via the Coordinated Pollution and Monitoring Programme in the Mediterranean (MEDPOL). MEDPOL was started in 1974 and had three phases of which the last phase fell under the second phase of the MAP; Phase I 1975-1980, Phase II 1981-1995, Phase III 1996-2005 that coincided with the MAP Phase II.

The focus of MEDPOL Phase I was on “enquiry and development of research capabilities of the parties and to enhance their potential to catch up with the routine

⁸⁸ <http://www.planbleu.org/planBleu/mandatUk.html> , accessed at: 1 June 2011.

⁸⁹ Güneş, *op. cit.*, p. 101.

⁹⁰ Chircop, *op. cit.*, p. 38.

monitoring and survey activities in the future”⁹¹. The focus of the Phase II was monitoring which the Phase III maintained, but at the same time monitoring assisted with the scientific and technical aspects of implementing legal responsibilities and management measures in the combating of pollution in the Phase III.⁹² This component of the MAP Phase I is accepted as successful because of the contributions of epistemic communities.⁹³

The third aspect of the MAP I was forming a framework convention and related protocols for the protection of the Mediterranean environment which will be explained in detail below.

The institutional framework of the Mediterranean Environmental Programme comprises of the Regional Coordinating Unit (RCU)⁹⁴ and the MAP Regional Activity Centers (RACs)⁹⁵ provide a sound mechanism such that it is also being shaped the institutional framework under the MAP Phase II with additional new mechanisms as well.⁹⁶ The UNEP RCU was established to function as the secretariat of the regime in Athens in 1982. In addition to this, six RACs were established in Mediterranean countries, of which each of them providing its own environmental and developmental expertise for the benefit of the Mediterranean community for the implementation of MAP activities.⁹⁷

Twenty years later from the adoption of the MAP I, the MAP II document was adopted and the MAP Phase II was started in 1995. While the main focus of the MAP Phase I was preventing pollution, the main focus of the MAP Phase II is sustainable development taking environment and development concerns into account as a result of the developments occurred at the beginning of 1990s at UNCED process. The outcomes of the UNCED (Rio Declaration and Agenda 21) inspired the Mediterranean Environmental Programme significantly. Agenda 21 was adapted to

⁹¹ Güneş, *op. cit.*, p. 100.

⁹² Chircop, *op. cit.*, p. 39.

⁹³ *Ibid.*, p. 38.

⁹⁴ Hereinafter RCU.

⁹⁵ Hereinafter RAC. *infra.*, footnote: 108.

⁹⁶ In the MAP Phase II, this new mechanisms will be the Mediterranean Commission on Sustainable Development (MCSDD).

⁹⁷ UNEP-MAP, <http://www.unepmap.org/index.php?module=content2&catid=001017> accessed at: 24 July 2011.

the Mediterranean Environment Programme as MED Agenda 21⁹⁸. In addition, the Mediterranean Commission on Sustainable Development (MCSD) was established in 1996 which indicates the reconciliation of environment and development reflecting the institutional aspect of the MAP Phase II. So, the MAP Phase II confirmed the “shift from a sectoral approach to pollution control to integrated coastal zone planning in the inappropriate management as the key tool through which solutions are being sought”⁹⁹.

Compared to the MAP I, the MAP II document seems to be more comprehensive. Also the objectives of the MAP I were extended with the MAP II as;

- “To ensure sustainable management of natural marine and land resources and to integrate the environment in social and economic development and land-use policies,
- To protect the marine environment and coastal zones through prevention of pollution, and by reduction and as far as possible elimination of pollutant inputs whether chronic or accidental,
- To protect nature and to protect and enhance sites and landscapes of ecological or cultural value,
- To strengthen solidarity among Mediterranean coastal states in managing their common heritage and resources for the benefits of present and future generations;
- To contribute to improvement of the quality of life.”¹⁰⁰

As it is seen, the new document has objectives regarding sustainable development and intergenerational equity concepts. Besides, preventing pollution, protecting nature and protecting and enhancing sites and landscapes of ecological or cultural value, which would be later realized with SPA/BD Protocol, were also identified as a problem to be solved. Lastly, contributing to improvement of the

⁹⁸ For detailed information on MED Agenda 21 see:

http://www.unepmap.org/index.php?module=library&mode=pub&action=results&_stype=3&s_category=&s_descriptors=Agenda%20MED%2021, accessed at: 19 November 2011.

⁹⁹ Chircop, *op. cit.*, p. 27.

¹⁰⁰ Hereinafter MAP II. UNEP-MAP, “Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean (MAP Phase II)”, 1995, p. 102. <http://www.unepmap.org/index.php?module=content2&catid=001001002>, accessed at: 4 June 2011.

quality of life which is the ultimate aim of the regime was a novelty introduced by MAP Phase II.

In line with the objectives stated above, the MAP II has been conducted under three aspects;

- “Sustainable development in the Mediterranean including integrating environment and development; conservation of nature, landscapes and sites; assessment, prevention and elimination of marine pollution; and information and participation
- Strengthening legal framework
- Institutional and financial arrangements”¹⁰¹.

Under integrating environment and development part; objectives¹⁰² were defined for socio-economic sectors (agriculture, industry, energy, tourism and transport) in order to integrate environmental policies into development policies.

Regarding conservation of nature, landscapes and sites, the 1995 Barcelona Convention and its SPA/BD Protocol was taken into account and a programme of activities was offered to the parties aimed at helping the parties in protecting and providing sustainable management of the natural and cultural Mediterranean heritage, with a view of contributing to the sustainable development of the region.¹⁰³ The Programme of activities¹⁰⁴ should be implemented by the Parties in coordination with and with the assistance of the MAP Secretariat and the RACs. However, activities would also be implemented in cooperation and coordination other networks such as the EU’s Natura 2000 network, or the NGOs if the assistance of the MAP Secretariat and the RACs were not deemed to be sufficient.¹⁰⁵

¹⁰¹ *Ibid.*, p. 103-130.

¹⁰² *Ibid.*, p. 103-106.

¹⁰³ *Ibid.*, p. 113.

¹⁰⁴ *Ibid.*, p. 113. Five types of activities were defined in order to perform the implementation of the SPA/BD Protocol; collection of data and periodic assessment of the situation; legal measures; planning and management ; public awareness and participation; and exchange of experience and strengthening of natural capabilities. All of these activities are incorporated into the SPA/BD Protocol which led them to gain legal basis.

¹⁰⁵ *Ibid.*, p. 113.

Another issue handled under the sustainable development is related with marine pollution like in the MAP I. The main objective was to eliminate pollution in the Mediterranean Sea rooting from land-based and sea-based activities. For realizing this, the MED POL programme was determined as the responsible structure in the assessment and prevention of pollution-related problems. However, this can be achieved by a strong institutional basis supported with financial and human resources in the states. So, the activities¹⁰⁶ concerning to create strong national institutional capacity were set down.

The support and involvement of the public in environmental problems is very important for the governments and for finding solutions to these problems. So, public information and public participation are essential in sustainable development policy. In order to provide this, the public should get information about the state of development and environment; environmental awareness of the public should be increased with campaigns; participation of the public should be stimulated; and the public should be trained with related educational programmes.¹⁰⁷

Concerning the last aspect, the MAP II would be implemented in line with the following institutional mechanisms;

- By Parties exercise the functions established by the Convention in the framework of ordinary and extraordinary meetings
- Coordinating Unit of the UNEP to ensure the Secretariat function of the UNEP
- RACs¹⁰⁸ responsible for carrying out specific activities.

¹⁰⁶ *Ibid.*, p. 126.

¹⁰⁷ *Ibid.*, p. 127.

¹⁰⁸ The RACs relating specific issues were defined in the articles of related Protocols. The first RAC, Regional Oil Comatting Centre (later changed as Regional Environmental Emergency Response Centre REMPEC) was established in Malta in 1976. The Blue Plan Regional Activity Centre (BP/RAC) was established in France, in 1977 at the same time with Priority Actions Programme Regional Activity Centre (PAP/RAC) in Split. (Within the entry into force of the Integrated Coastal Zone Management (ICZM) Protocol, PAP/RAC has been assigned as the RAC for the ICZM Protocol as well). The SPAs Regional Activity Centre (SPA/RAC) was established in Tunisia in 1981. The Secretariat of the Programme for the Protection of Coastal Historic Sites (100HS), based in France was established in 1987. In 1993, the Environment Remote Sensing Regional Activity Centre (INFO/RAC) was established in Italy. The Cleaner Production Regional Activity Centre (CP/RAC) was established in Spain, in 1995.

Map 2 RACs of the Mediterranean Environment Programme¹⁰⁹

Regional activity centres of MAP



Source: <http://www.planbleu.org>

- The MCSD for promoting sustainable development in line with Agenda MED 21.
- Ad hoc advisory groups to follow-up the implementation of the Protocols or of specific programmes
- National Focal Points (NFPs) responsible for the follow-up and coordination of MAP activities at national level.¹¹⁰

The budget would be financed by voluntary contributions from the Parties, contributions from supporting organizations and selected non-governmental sources, as well as contributions from clearly identified counterpart. In order to ensure the

¹⁰⁹ In addition to the six RACs, this map is also showing the locations of the Programme of 100 Historical Sites and the MEDPOL.

¹¹⁰ MAP II, *op. cit.*, p. 130-131.

effective coordination and funding of the MAP, the Mediterranean Trust Fund was established within the framework of the UNEP.¹¹¹

All of these aspects of the MAP I and MAP II were shaped with strong legal basis underpinned by umbrella conventions and its Protocols.

2.3 The Legal Framework: Barcelona Conventions

2.3.1 Treaty-Protocol Approach

Both the MAP I and the MAP II envisaged the adoption of a framework convention and additional Protocols as the legal foundation of the Mediterranean Environmental Programme. Throughout the MAP Phase I, the Parties adopted the 1976 Barcelona Convention and five additional protocols¹¹². In the second Phase of the MAP; 1976 Barcelona Convention was amended with the 1995 Barcelona Convention¹¹³; four Protocols¹¹⁴ adopted in the MAP Phase I were amended and two new protocols¹¹⁵ were adopted.

The treaty-protocol approach of the Mediterranean Environmental Programme constitutes one of the leading examples of law making methodology of international environmental law where “the general commitments of the contracting parties are

¹¹¹ *Ibid.*, p. 131.

¹¹² Protocol for the Prevention of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft (1976); Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in cases of Emergency (1976); Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (1980); Protocol concerning Mediterranean SPAs (1982); Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration of the Continental Shelf and the Seabed and its subsoil (1994). <http://www.unepmap.org/index.php?module=content2&catid=001001001> , accessed at: 4 July 2011.

¹¹³ Current parties to the 1995 Barcelona Convention are; Albania, Algeria, Croatia, Cyprus (Greek Cypriot Administration of Southern Cyprus), the EU, Egypt, France, Greece, Israel, Italy, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Tunisia and Turkey. (Lebanon has a pending notification from Spain.) For the status of the 1995 Barcelona Convention and its Protocols see Appendix of this thesis.

¹¹⁴ Protocol for the Prevention and Elimination of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea (1995) (Not yet in force), Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (1996), Protocol Concerning SPAs and Biological Diversity in the Mediterranean (1995), Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (2002). <http://www.unepmap.org/index.php?module=content2&catid=001001001> accessed at: 7 July 2011.

¹¹⁵ Protocol on the Prevention of Pollution of the Mediterranean Sea by Trans-boundary Movements of Hazardous Wastes and their Disposal (1996), Protocol on Integrated Coastal Zone Management in the Mediterranean (2008). <http://www.unepmap.org/index.php?module=content2&catid=001001001> , accessed at: 7 July 2011.

provided in the main treaty whereas the specific commitments on different aspects of the main issues are realized through additional protocols”¹¹⁶. The legal basis for the additional protocols was laid down in Article 21 of the 1995 Barcelona Convention as the parties may adopt additional protocols at a diplomatic conference in line with the Article 4(5) which stated; “the Contracting Parties shall cooperate in the formulation and adoption of Protocols, prescribing agreed measures, procedures and standards for the implementation of this Convention”¹¹⁷. This model which was quoted from the 1976 Barcelona Convention (Article 23) was laid down in Article 29 of the 1995 Barcelona Convention as;

“No one may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one of the protocols. No one may become a Contracting Party to a protocol unless it is, or becomes at the same time a Contracting Party to this Convention.”

Any Protocol to this convention shall be binding only on the Contracting Parties to the protocol in question.”¹¹⁸

The Parties also have right to adopt amendments of Barcelona Convention or its Protocols. In accordance with this, any party of the Convention may propose amendments to the Convention or Protocols at a diplomatic conference convened by the Secretariat. These amendments shall be accepted by three fourths majority vote of the Parties and will be submitted by the Depository State (Spain) to the all Parties for the adoption. Similar amendments were also valid for the annexes of the Convention and the Protocols. The procedure for proposal and voting is identical to the procedure above.¹¹⁹

¹¹⁶ Güneş, *op. cit.*, p. 99.

¹¹⁷ 1995 Barcelona Convention, *op.cit.*, Article 4 (5).

¹¹⁸ *Ibid.*, Article 29(1) and (2).

¹¹⁹ *Ibid.*, Article 22. This procedure was laid down in the 1976 Barcelona Convention in the Article 16.

2.3.2 Reasons behind the Regime Building Process

There were various reasons for regime building for the Mediterranean which were stressed in the two versions of the Barcelona Conventions. At the time of signature of the 1976 Barcelona Convention the first driving force¹²⁰ was that as a result of the economic, social, health and cultural values of the Mediterranean Sea Area, this common heritage must be preserved for providing intergenerational equity. The other driving force¹²¹ was particular vulnerability of the Mediterranean Sea to pollution because of its ecological characteristics. So as the existing international conventions could not cover all aspects and sources of marine pollution and could not meet the special requirements of the Mediterranean Sea put pollution problem at the focus of the 1976 Barcelona Convention and required “a coordinated and comprehensive regional approach for the protection and enhancement of the marine environment in the Mediterranean Sea Area”¹²².

Although some of these reasons were reiterated in the 1995 Barcelona Convention, there were also important different reasons behind the amendments realized by the 1995 Barcelona Convention.

The major difference of the 1995 Barcelona Convention from the 1976 Barcelona Convention was that the title of the new Convention contained the wording “coastal region” which reflected that a broader approach was adopted than the 1976 Barcelona Convention. Well known that the focus of the 1976 Barcelona Convention was only concerned with the protection of the Mediterranean Sea against pollution. However, the developments occurred at the beginning of the 1990s, especially the UNCED process and its outcomes were significantly affected MAP Phase II and it was understood that a more comprehensive approach was needed as the pollution problem began to lead negative impacts on the coastal regions of the Mediterranean Sea which required sustainable development approach in order to

¹²⁰ 1976 Barcelona Convention, *op.cit.*, Preamble, paragraph 1 and 2.

¹²¹ *Ibid.*, Preamble, paragraph 4 and 5.

¹²² *Ibid.*, Preamble, paragraph 6.

preserve and sustainably develop the Mediterranean for providing intergenerational equity.¹²³

In addition to the UNCED outcomes, international hard law and soft law documents the UNCLOS, the Declaration of Genoa were incorporated into the 1995 Barcelona Convention as well.¹²⁴

2.3.3 Signature, Ratification, Entry into Force and Withdrawal

The Signature procedure¹²⁵ of the 1995 Barcelona Convention and its Protocols which was the same with 1976 Barcelona Convention¹²⁶ was open to;

- “Any state invited as a participant in the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea held in Barcelona from 2 to 16 February 1976.
- Any state entitled to sign any protocol in accordance with the provisions of such Protocol.
- The EEC
- Any similar regional economic grouping at least one member of which is a coastal State of the Mediterranean Sea Area.”¹²⁷

The reason for opening 1995 Barcelona Convention and its Protocols for signature to any state entitled to sign any protocol is result of the wish for providing the participation of the States that are not coastal to the Mediterranean Sea.¹²⁸

By adding the wording of “at least one member of which is a coastal State of the Mediterranean Sea Area”, two important regional organizations; the Organization

¹²³ 1995 Barcelona Convention, *op. cit.*, Preamble, paragraph 2.

¹²⁴ *Ibid.*, Preamble 8, 9 and 10.

¹²⁵ *Ibid.*, Article 30.

¹²⁶ 1976 Barcelona Convention, *op.cit.*, Article 24.

¹²⁷ 1995 Barcelona Convention, *op. cit.*, Article 30.

¹²⁸ Sav, *op. cit.*, p. 83.

of African Unity (OAU) and the League of Arab States (LAS) were excluded from being a party”.¹²⁹

For entry into force, the Convention and its Protocols have to be ratified, accepted or approved by the Parties.¹³⁰ Apart from this, accession procedure¹³¹ for the States that could not participate to the 1995 Barcelona Convention and that could not sign 1995 Barcelona Convention was provided.¹³²

The 1995 Barcelona Convention shall enter into force on the same date as the protocol first entering into force.¹³³ Any Protocol to the 1995 Barcelona Convention shall enter into force on the thirteenth day following the date of deposit of at least six instruments of ratification, acceptance or approval or accession to such protocol.¹³⁴ The Convention shall also enter into force with regard to the States, the EEC and any regional economic grouping if they have compiled necessary formal requirements for becoming party to any other protocol not yet entered into force.¹³⁵

The withdrawal period for 1995 Barcelona Convention and its Protocols is any time after three years from the date of entry into force.¹³⁶ Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to this Convention; any Party which, upon its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.¹³⁷

Validity period of Barcelona Convention or the Protocols were not identified, but considering the close link between the Convention and its Protocols stressed above, it can be concluded¹³⁸ that the Convention will remain in force as long as at

¹²⁹ *Ibid.*.

¹³⁰ 1995 Barcelona Convention, *op.cit.*, Article 31.

¹³¹ *Ibid.*, Article 32.

¹³² Sav, *op. cit.*, p. 84.

¹³³ 1995 Barcelona Convention, *op.cit.*, Article 33(1). Entered into force on 9 July 2004.

¹³⁴ *Ibid.*, Article 33(3).

¹³⁵ *Ibid.*, Article 33(2). In accordance with this signature conditions and other procedures took place in Articles 31 and 32 (ratification, approval, acceptance, accession) of the 1995 Barcelona Convention, the current Parties are; Albania, Algeria, Croatia, Cyprus (Greek Cypriot Administration of Southern Cyprus), the EU, Egypt, France, Greece, Israel, Italy, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Tunisia and Turkey. (except Bosnia-Herzegovina and Lebanon.)

¹³⁶ *Ibid.*, Article 34(1).

¹³⁷ *Ibid.*, Article 34(5).

¹³⁸ Sav, *op. cit.*, p. 85.

least one protocol remains in force. Up to date, no party has withdrawn from the 1995 Barcelona Convention or its Protocols.

2.3.4 Geographical Coverage and the General Objectives

In the 1976 Barcelona Convention, the geographical coverage was defined as the Mediterranean Sea Area that “the maritime waters of the Mediterranean Sea proper, including its gulfs and seas bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits of Gibraltar, and to the East by the southern limits of the Straits of the Dardanelles between Mehmetçik and Kumkale lighthouses”¹³⁹.

This geographical coverage of the 1976 Barcelona Convention was designed as a consequence of the objections of some states including Turkey and was arranged due to the specific coordinates. Turkey requested the Marmara Sea to be excluded from the area of the Convention as the Marmara Sea is internal waters of Turkey and the Turkish Straits are under Turkey’s territorial domain.¹⁴⁰ This objection created a change in the coverage of the 1976 Barcelona Convention and it was stated that “except as may be otherwise provided in any protocol to this Convention the Mediterranean Sea Area shall not include internal waters of the Contracting Parties”¹⁴¹.

The general geographical application area of the 1995 Barcelona Convention is the same with the 1976 Barcelona Convention as;

“The application of the Convention may be extended to coastal areas as defined by each Contracting Party within its own territory.”¹⁴²

Any Protocol to this Convention may extend the geographical coverage to which that particular Protocol applies”¹⁴³.

¹³⁹ 1976 Barcelona Convention, *op.cit.*, Article 1(1).

¹⁴⁰ Sav, *op. cit.*, p. 81.

¹⁴¹ 1976 Barcelona Convention, *op.cit.*, Article 1(2).

¹⁴² 1995 Barcelona Convention, *op.cit.*, Article 1(2)

¹⁴³ *Ibid.*, Article 1(3). In line with the geographical coverage relating to the Protocols above, similar extension took place in the SPA/BD Protocol; the Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed

The general objective of the 1976 Barcelona Convention was “to prevent, abate and combat pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area”¹⁴⁴ which reflects the vulnerability of the Mediterranean Sea to the pollution necessitating a general aim for pollution prevention.

However, as the number of the environmental problems of the Mediterranean region has increased, there occurred a need to change the general objective and the approach in the 1995 Barcelona Convention which was widened to include the sustainable development as “to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so as to contribute towards its sustainable development”¹⁴⁵.

2.3.5 General Obligations of the Parties

Compared to the 1976 Barcelona Convention, the content of the general obligations that the Parties shall undertake under the 1995 Barcelona Convention was broadened due to the envisaged comprehensive approach towards the protection of the Mediterranean Region. To achieve the aim of the 1995 Barcelona Convention, the Parties shall “take appropriate measures to implement the MAP and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner. For the purpose of implementing the objectives of sustainable development the Contracting Parties shall take fully into account the recommendations of the MCSD established within the framework of the MAP”¹⁴⁶. It is clearly seen that, the issue is handled with an integrated approach by providing intergenerational equity and implementing the objectives of sustainable development. However, the approach regarding general obligations in 1976 Barcelona Convention was limited with pollution as the parties

and its Subsoil; and the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities. See: Sav, *op.cit.*, p. 81, footnote: 19.

¹⁴⁴ 1976 Barcelona Convention, *op.cit.*, Article 4(1).

¹⁴⁵ 1995 Barcelona Convention, *op.cit.*, Article 4(1).

¹⁴⁶ *Ibid.*, Article 4(2).

“shall individually jointly take all appropriate measures in accordance with the provisions of this Convention and those protocols in force to which they are party, to prevent, abate and combat pollution of the Mediterranean Sea area and to protect and enhance the marine environment in that area”.¹⁴⁷

For protecting the environment and contributing the sustainable development of the Mediterranean Sea Area, in 1995 Barcelona convention it was stated that the Parties shall take into account some principles and mechanisms which were developed and introduced by the UNCED process such as: the precautionary principle; polluter pays principle; environmental impact assessment¹⁴⁸ and integrated management of coastal zones¹⁴⁹ which did not exist in the 1976 Barcelona Convention. An important change brought by the 1995 Barcelona Convention was the emphasize on the conservation of biological diversity in a separate provision in line with the spirit of the CBD;

“The Parties shall, individually or jointly, take all appropriate measures to protect and preserve biological diversity, rare or fragile ecosystems, as well as species of wild fauna and flora which are rare, depleted, threatened or endangered and their habitats, in the area to which this Convention applies.”¹⁵⁰

While the Parties provide sustainable development under this Convention, they shall also pledge to promote within the international bodies considered to be competent, measures concerning the implementation of programmes of sustainable development; the protection, conservation and rehabilitation of the environment and of the natural resources in the Mediterranean Sea Area.¹⁵¹ This obligation is significant because the Parties shall not limit themselves only with this Convention, they should also take measures that will be beneficial for providing the sustainable development. These commitments were again confined to pollution in the 1976 Barcelona Convention.¹⁵²

¹⁴⁷ 1976 Barcelona Convention, *op.cit.*, Article 4(1).

¹⁴⁸ Hereinafter EIA.

¹⁴⁹ 1995 Barcelona Convention, *op.cit.*, Article 4(3).

¹⁵⁰ *Ibid.*, Article 10.

¹⁵¹ *Ibid.*, Article 4(6).

¹⁵² 1976 Barcelona Convention, *op.cit.*, Article 4(3).

Like in the 1976 Barcelona Convention¹⁵³, four types¹⁵⁴ of pollution; pollution caused by dumping from ships and aircraft or incineration; pollution from ships; pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil; and pollution from land-based sources were reiterated in the 1995 Barcelona Convention. However, a new type of pollution- pollution generating from the transboundary movement of hazardous wastes and their disposal¹⁵⁵- was also incorporated into the 1995 Barcelona Convention and a new Protocol¹⁵⁶ was adopted for this purpose.

As pollution problem necessitates an urgent intervention the obligation of the parties to make cooperation when pollution emergencies occurred in the Mediterranean Sea Area in the 1976 Barcelona Convention¹⁵⁷ was kept in the 1995 Barcelona Convention¹⁵⁸ which indicates that still, pollution problem constitutes one of the main focuses.

Besides, the parties shall cooperate in terms of formulation and adoption of protocols¹⁵⁹ and the parties may enter into bilateral or multilateral agreements, including regional or sub-regional agreements for achieving the general aim as long as they are consistent with the Convention and conform to international law.¹⁶⁰

2.3.6 Monitoring, Scientific and Technical Cooperation

The provisions of the 1976 Barcelona Convention regarding monitoring, scientific and technological cooperation¹⁶¹ in terms of marine pollution in the 1976 Barcelona Convention remained unchanged in the 1995 Barcelona Convention.¹⁶²

According to that, the Parties shall try to establish complementary or joint programmes including bilateral and multilateral levels in order to monitor pollution

¹⁵³ *Ibid.*, Articles from 5 to 8.

¹⁵⁴ 1995 Barcelona Convention, *op.cit.*, Articles from 5 to 8.

¹⁵⁵ *Ibid.*, Article 11.

¹⁵⁶ Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal.

¹⁵⁷ 1976 Barcelona Convention, *op.cit.*, Article 9(1).

¹⁵⁸ 1995 Barcelona Convention, *op. cit.*, Article 9(2).

¹⁵⁹ *Ibid.*, Article 4(5).

¹⁶⁰ *Ibid.*, Article 3(2).

¹⁶¹ 1976 Barcelona Convention, *op.cit.*, Articles 10 and 11.

¹⁶² 1995 Barcelona Convention, *op. cit.*, Articles 12 and 13.

in the Mediterranean Sea Area in cooperation with international bodies which they consider competent and they shall also try to establish a pollution monitoring system.¹⁶³ For this purpose, the Parties shall designate the competent authorities that would be responsible for pollution monitoring under their jurisdiction and if possible they shall participate to the international arrangements for monitoring of pollution beyond their national jurisdiction.¹⁶⁴

Apart from making cooperation mentioned above, the Parties shall directly or if appropriate through competent regional or other international organizations cooperate in the fields of science and technology and exchange data for the purpose of this Convention¹⁶⁵.

2.3.7 Information and Participation

Pointed out above, one of the new aspects in the MAP II was public information and participation which was also included in the 1995 Barcelona Convention as well. According to that, “the Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols”¹⁶⁶. In addition to this, “the Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate”¹⁶⁷. By this way, the 1995 Barcelona Convention provided the legal basis for the indispensable right of public to get information about the issues that would affect their lives and of participation in the decision-making process which did not take place in the 1976 Barcelona Convention.

¹⁶³ *Ibid.*, Article 12(1).

¹⁶⁴ *Ibid.*, Article 12(2).

¹⁶⁵ *Ibid.*, Article 13(1).

¹⁶⁶ *Ibid.*, Article 15(1).

¹⁶⁷ *Ibid.*, Article 15(2).

2.3.8 Treaty Bodies Responsible for the Operation of the Treaty Regimes

Both the 1976 and 1995 Barcelona Conventions operate through Treaty Bodies such as the Meeting of the Contracting Parties, the Secretariat and the Subsidiary Bodies.

In this point it is noteworthy to mention the Meeting of the Contracting Parties¹⁶⁸ which is the highest political body. For the permanent review concerning the implementation of the Convention and its protocols, the ordinary meetings of the Contracting Parties shall be held once every two years; the extraordinary meetings shall be held at any other time deemed necessary.¹⁶⁹ In these meetings some mandates were given to the Contracting Parties include: to review inventories on the state of marine pollution; to consider reports of the parties regarding the implementation of the Convention and its protocols; to adopt, review, and amend the annexes to this Convention and to the protocols; to make recommendations regarding the adoption of any additional protocols or any amendments; to establish working groups and any other functions related to achievement of the purpose of the Convention and protocols.¹⁷⁰ Clearly seen that, in line with this institutional component, the decision making processes of the regime were built around the biennial or extraordinary, intergovernmental review and plenipotentiary Meetings of the Contracting Parties to the Barcelona Convention.¹⁷¹

The responsible body for the following Secretariat functions is the UNEP. The basic function of the UNEP is to convene and prepare the meetings of Contracting Parties and Conferences. Other functions¹⁷² of the Secretariat are the same with the 1976 Barcelona Convention. The provisions¹⁷³ regarding Meetings of the Contracting Parties; reporting; adoption of additional protocols; amendment of the Convention or Protocols; annexes and amendments to annexes and rules of procedure

¹⁶⁸ *Ibid.*, Article 18, (1976 Barcelona Convention, *op.cit.*, Article 14).

¹⁶⁹ *Ibid.*, Article 18(1). (1976 Barcelona Convention, *op.cit.*, Article 14(1))

¹⁷⁰ *Ibid.*, Article 18(2). (1976 Barcelona Convention, *op.cit.*, Article 14(2)).

¹⁷¹ Chircop, *op. cit.*, p. 42.

¹⁷² 1995 Barcelona Convention, *op.cit.*, Article 17. (1976 Barcelona Convention, *op.cit.*, Article 13).

¹⁷³ *Ibid.*, Articles 18, 21, 22, 23, 24, 26, and 29.

and financial rules were kept totally same as in the 1976 Barcelona Convention. The Parties may adopt additional protocols at the request of two-thirds of the Parties.¹⁷⁴

There is another mechanism, the Bureau, which is new in 1995 Barcelona Convention. The representatives of the Parties shall form the Bureau elected in the meetings which their functions would be defined by in the Rules of Procedure adopted by the meetings.¹⁷⁵

The Parties shall invite observers from any state which is not a Party to the Convention and any international governmental organization or any non-governmental organization the activities of which are related to the Convention.¹⁷⁶ These observers do not have the right to vote, but they may present any information or report relevant to the objectives of the Convention.¹⁷⁷

Aside from these bodies, for each of the Protocol of the Barcelona Conventions, the RACs¹⁷⁸ were established in order to provide guidance for the implementation of these Protocols.

2.3.9 Implementation, Compliance and Dispute Settlements

The content and the format of the reports that have to be submitted to the UNEP Secretariat were defined by both 1976 and 1995 Barcelona Conventions. In the 1976 Barcelona Convention the content of the report should cover the measures adopted in implementation of the Convention and its protocols in such form and at such intervals as the Meeting of the Contracting Parties may determine.¹⁷⁹ The format of the reports¹⁸⁰ was kept same under the 1995 Barcelona Convention with a much broader content;

“(a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings;

¹⁷⁴ *Ibid.*, Article 21. (1976 Barcelona Convention Article 15).

¹⁷⁵ *Ibid.*, Article 19.

¹⁷⁶ *Ibid.*, Article 20(1).

¹⁷⁷ *Ibid.*, Article 20(2).

¹⁷⁸ *Supra.*, footnote: 108.

¹⁷⁹ 1976 Barcelona Convention, *op.cit.*, Article 20.

¹⁸⁰ 1995 Barcelona Convention, *op.cit.*, Article 26(2).

(b) the effectiveness of the measures referred to in sub-paragraph (a) and problems encountered in the implementation of the instruments as mentioned above.”¹⁸¹

This new content of the reports enables the parties to assess the benefits of the measures taken and defining problems encountered in the implementation, creates a forum where deficiencies and recommendations are discussed.

At this juncture a recent amendment in the reporting format needs to be analyzed. From 2008, the new reporting format on the 1995 Barcelona Convention and its Protocols was started to be used.¹⁸² This decision was taken at the Seventh Meeting on Reporting under the Barcelona Convention and its Protocols held in İstanbul, 2007. In this new format¹⁸³, a single report including information on both 1995 Barcelona Convention and its all Protocols has to be submitted to the meeting of the parties.

Also in this meeting, a new reporting cycle was proposed as three years instead of two years on the measures taken and their effectiveness; and one year instead of two years for technical data and other data. It was believed that this change would facilitate the reporting obligations of the parties; increase the flexibility of reporting and positively affect harmonization process with other relevant reports.¹⁸⁴ It was stated that the questionnaire format should be seen not only as a means of providing the necessary information for the Meeting of the Contracting Parties but it can be used by individual parties as a tool to review and analyze their ability to comply with

¹⁸¹ *Ibid.*, Article 26.

¹⁸² Interview with Aybars Altıparmak, expert from the Ministry of Forest and Hydraulic Works, 5 December 2011.

¹⁸³ UNEP/MAP, “New Reporting Format on the Barcelona Convention and its Protocols: Draft”, http://195.97.36.231/acrobatfiles/07WG314_3_Eng.pdf, accessed at: 6 December 2011.

According to this format; the report regarding 1995 Barcelona Convention comprises of the following parts: Status of Ratification, Bilateral, Sub regional, regional agreements, Multilateral agreements, Legal measures, Policy measures: Integrating the protection and conservation of the marine and coastal environment into development policies (Domestic strategy for sustainable development, Regional strategies adopted in the framework of MAP, ICZM and physical planning and Economic instruments), Allocation of resources for: Establishment of institutions, Establishment of Monitoring Programme, Public access to information, Other measures.

Under each part, some questions were addressed to the parties regarding specific articles of 1995 Barcelona Convention. The critical subjects come into the fore include; application of the precautionary and polluter pays principles; undertaking EIA activities; monitoring, promotion of integrated planning and management of the coastal areas; public participation; public access to information; and measures concerning the promotion of sustainable development and the integration of environment protection.

¹⁸⁴ *Ibid.*, p. 1.

the obligations and to define their deficiencies and requirements to meet these obligations as well.¹⁸⁵

Well known that to achieve the general objective any legal arrangement, full compliance is required. In the 1976 Barcelona Convention it was stated that; “the Contracting Parties undertake to cooperate in the development of procedures enabling them to control the application of the Convention and its Protocols”¹⁸⁶. However, this was amended with the 1995 Barcelona Convention which mentioned that the assessment of the compliance shall be made on the basis of periodical reports referred in Article 26 and any other reports submitted by the parties.¹⁸⁷ Also in the Meetings of the Contracting Parties shall recommend necessary steps for the full compliance and for promoting the implementation of the decisions and recommendation, if appropriate.¹⁸⁸

The mechanism for settlement of disputes in the 1995 Barcelona Convention is the same with the 1976 Barcelona Convention¹⁸⁹. According to that, if there emerges a dispute between the parties, firstly they try to find a settlement through negotiation or any other peaceful means of their own choice.¹⁹⁰ If they could not settle the dispute in these ways, the dispute shall be transmitted to arbitration under the conditions laid down Annex A of the 1995 Barcelona Convention.¹⁹¹

¹⁸⁵ *Ibid.*, p. 3.

¹⁸⁶ 1976 Barcelona Convention, *op.cit.*, Article 21.

¹⁸⁷ 1995 Barcelona Convention, *op.cit.*, Article 27.

¹⁸⁸ *Ibid.*.

¹⁸⁹ 1976 Barcelona Convention, *op.cit.*, Article 22.

¹⁹⁰ 1995 Barcelona Convention, *op.cit.*, Article 28(1).

¹⁹¹ *Ibid.*, Article 28(2).

CHAPTER III

CONSERVATION AND PROTECTION OF BIODIVERSITY IN THE MEDITERRANEAN REGION

3.1 Biodiversity as a Global Issue

3.1.1 The Significance of the Biodiversity

Biodiversity concept is identified in various documents in various ways. The CBD defines biological diversity as “the variability among living organisms from all sources including terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems”¹⁹². It is seen that the CBD not only covers terrestrial biodiversity but also marine and other aquatic biodiversity. This approach clearly indicates that biodiversity in the ecosystem should not be separated, thus should be handled as a whole with an integrated approach.

Biodiversity plays a key role in the functioning and ensuring the balance of ecosystems. It is indispensable for human beings as it provides oxygen, food, fresh water, stable climate, protection from natural disasters.

Biodiversity is important for medicines, agriculture, industry and tourism because of its economic value putting itself at the centre of development potential. It is estimated that 40% of global economy relates with biological products and processes, which amounts to 2,9 billion dollars, annually¹⁹³.

¹⁹² CBD, Article 2. (This definition accepted as a general definition such that it was used in regional conventions like the SPA/BD Protocol Article 1 of the SPA/BD Protocol). www.cbd.int , accessed at: 17 August 2011

¹⁹³ Murat Varlıbaşı, “Avrupa Birliği ve Türkiye’de Biyoçeşitlilik”, T. C. Ankara Üniversitesi Avrupa Toplulukları Araştırma ve Uygulama Merkezi 46. Dönem AB Temel Eğitim Kursu, 2010, p. 6.

Apart from that, the linkage¹⁹⁴ of biodiversity with the employment is also impressive. Jobs are linked to biodiversity directly through protected areas, and through the primary sectors (fisheries, forestry and agriculture) and indirectly through the provision of valuable ecosystem services such as nutrient cycling and water provision. The number of jobs that are directly or indirectly related with biodiversity and ecosystem services is important in developing countries and also in the EU. Today, a considerably larger proportion of jobs in developing countries (%35 of jobs) are highly dependent on ecosystem services*; in the EU, %7 of jobs depends on ecosystem services.¹⁹⁵

Biodiversity also constitutes a cultural asset¹⁹⁶, because many people ascribe intrinsic value to biodiversity and because it represents unexplored options for the future. Due to its cultural, spiritual, aesthetic and recreational value, biodiversity creates economic contributions in terms of tourism.

Above all, biodiversity is necessary for sustainability of lives and ecosystems on Earth. It is well known that nonrenewable sources on Earth are depleted. In this point, the protection and conservation of the biodiversity comes to the fore as it constitutes insurance¹⁹⁷ for the future generations.

¹⁹⁴ Nunes, P.A.L.D. (et. al.), “The Social Dimension of Biodiversity Policy: Final Report”, Venice/Brussels, February 2011, p. i.
<http://ec.europa.eu/environment/enveco/biodiversity/pdf/Social%20Dimension%20of%20Biodiversity.pdf>, accessed at: 18 August 2011.

*Ecosystem services are the benefits people obtain from ecosystems such as provisioning, regulating, supporting, and cultural services. Ecosystem services include products such as food, fuel, and fiber; regulating services such as climate regulation and disease control; and nonmaterial benefits such as spiritual or aesthetic benefits. For detail information see:
<http://www.maweb.org/documents/document.765.aspx.pdf>

¹⁹⁵ Nunes, *op. cit.*, p. i.

¹⁹⁶ Millennium Ecosystem Assessment, “Ecosystems and Human Well-being: Biodiversity Synthesis”, World Resources Institute, Washington, DC, 2005, p. 6. www.maweb.org, accessed at: 26 August 2011.

¹⁹⁷ Varlıbaş, *op. cit.*, p. 5.

3.1.2 Threats towards the Biodiversity

There are many threats on biodiversity stemming from human activities. Rapid increase in population as well as the dominating economic system and current production and consumption patterns has adverse impact on biodiversity¹⁹⁸.

Habitat loss constitutes a significant problem. As a response to the increased need for food; conversion of grasslands and forestlands into agricultural areas for cultivating crops causes substantial habitat losses. This situation is also same for the marine ecosystems such that “destructive fishing and coastal development leads to losses of coral reefs”¹⁹⁹. Fishing activities are sources of nutrition and as feed for aquaculture production. In line with the population growth increased demands for these will result in the overexploitation of fisheries. Estimations indicate that about 75% of the world’s commercial marine fisheries are either fully exploited (50%) or overexploited (25%).²⁰⁰

Climate change and global warming is another major problem which trigger the decline of the biological resources. Warmer temperatures have negative impact on biodiversity and ecosystems causing changes in species’ distributions, population sizes, increase in the frequency of pest and disease outbreaks. It is estimated that a 2°Celsius increase²⁰¹ in the surface temperature will have a harmful impact on ecosystem services worldwide.

Pollution is among the major threats for biodiversity. For instance, when an oil tanker makes an accident or it sinks; a huge amount of oil spills to the sea and spreads rapidly to the other seas and oceans by streams. Due to this situation, organisms in the seas and oceans are badly affected and mostly disappear. Similarly, pollution coming from land based activities like excessive fertilizer use leads to excessive levels of nutrients in both soil and water thereby contributing to the pollution.

¹⁹⁸ Millennium Ecosystem Assessment, *op. cit.*, p. 8. Global population doubled in the last 40 years and is expected to reach 8,1-9,6 billion by 2050.

¹⁹⁹ *Ibid.*, p. 8.

²⁰⁰ *Ibid.*.

²⁰¹ *Ibid.*, p. 10.

Invasive alien species is a problem in many areas but they are a major cause of extinction especially on islands and in freshwater habitats. As a result of invasion, biotic exchange occurs. Surely, there are measures to control pathways of invasive species; however, they need to be adequately regulated and improved.²⁰²

Biodiversity is one of the factors that contribute to tourism incomes. But at this point, there emerges a paradox. On the one hand, tourism incomes increase by way of biodiversity values; on the other hand meeting the growing demands of settlements for touristic places cause degradation of biodiversity.

All these natural or human activities pose a significant threat for the biological reserves which requires policy measures. As a response to these biodiversity related issues, measures are developed at international, regional and national levels through various political, social and economic mechanisms and legal instruments.

3.1.3 Measures Envisaged by the Convention on Biological Diversity

Seen obviously, threats to biodiversity constitute threats to our lives at the same time. So, it is imperative that some actions have to be taken immediately by governments. At international level, this action was taken with the CBD in 1992 which was accepted as a landmark for the conservation and protection of biodiversity globally. Here, it is noteworthy to tell that the CBD is the most comprehensive international treaty on biodiversity, besides various global and regional conventions²⁰³ related with different aspects of biodiversity issue.

The CBD appealed universal interest²⁰⁴ which inspired other agreements including the SPA/BD Protocol by introducing the sustainable use of biological resources for biodiversity conservation and a broad ecosystem approach. In addition, while accepting conservation of biodiversity as “common concern of humankind” it

²⁰² *Ibid.*, p. 53.

²⁰³ The most prominent conventions are; The Convention on Wetlands of International Importance especially as Waterfowl Habitat (known as the Ramsar Convention, 1971), The Convention for the Conservation of Antarctic Seals (1972), The Convention concerning the Protection of World Cultural and Natural Heritage (1972), The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973), The Convention on the Conservation of Migratory Species of Wild Animals (1979) (known as Bonn Convention), The United Nations Convention on the Law of the Sea (UNCLOS) (1982).

²⁰⁴ Currently, there are 193 parties to the CBD.

put down a critical point regarding the ethical values. This aspect of the CBD also implied a common responsibility to the issue on its paramount importance to the international community as a whole²⁰⁵. Apart from that, the CBD gave place to the concept of intergenerational equity by saying that the parties were determined to conserve sustainably use biodiversity for the benefit of present and future generations.²⁰⁶ By this way, the concept acquired a binding legal status for the Contracting Parties.

The CBD clarifies the link between biodiversity conservation and protected areas, setting down the protected areas approach at the centre of biodiversity conservation. Protected areas contribute to the conservation strategies of biodiversity. Local people living in or near these areas can continue traditional lifestyles that are often impossible elsewhere unless the areas are declared as protected area. This may alleviate poverty as well. Marine protected areas provide fish breeding grounds and thus ensuring the maintenance of fisheries. Terrestrial protected areas enable people to enjoy recreational areas by protecting cultural and spiritual values which are also beneficial for tourism incomes. Lastly protected areas are deemed to have a role in mitigating climate change by sequestering carbon and by buffering countries against impacts such as sea-level rise and extreme weather events.²⁰⁷

The CBD defines protected areas as:

*“Protected area” means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.*²⁰⁸

The CBD recognized protected areas as “a tool for *in situ*²⁰⁹ conservation that should be used in conjunction with other relevant provisions of the Convention”²¹⁰ which also became a model for regional conventions. Although the definition has

²⁰⁵ L, Glowka, (et.al.), “A Guide to the Convention on Biological Diversity”, IUCN Gland and Cambridge, 3rd printing 1999, p. 3. www.cbd.int, accessed at: 24 July 2011.

²⁰⁶ CBD, *op. cit.*, Preamble, paragraph 23.

²⁰⁷ K. J., Mulongoy, S.P., Chape (Eds), “Protected Areas and Biodiversity: An overview of key issues”, CBD Secretariat, Montreal, Canada and UNEP-WCMC, Cambridge, UK, 2004, p.16.

²⁰⁸ CBD, *op. cit.*, Article 2.

²⁰⁹ *Ibid.*, Article 8. In situ conservation means on-site conservation; the conservation mechanisms regarding biodiversity applied inside of the protected areas.

²¹⁰ Mulongoy, *op.cit.*, p. 11.

some ambiguities²¹¹ according to the article 8 of the CBD; *in-situ* conservation is recognized as an obligation for biodiversity conservation covering detailed rules concerning protected areas.²¹² It is provided that the parties shall establish protected areas or areas in which special measures would be taken. Here, the CBD brought rules on other areas apart from protected areas having special measures. For both of these areas, the parties would decide standards and guidelines on selection, establishment and management. Apart from that; biological resources within or outside protected areas shall be regulated or managed with a view to assure sustainable development. As the protection in these areas is not adequate, assuring sustainable development becomes also important for the areas adjacent to protected areas because the activities which occur in these areas may be critical to the protected area's success.²¹³

According to a guide²¹⁴ by the IUCN, it can be accepted that the CBD provided the catalyst to enable states to implement more effective biological conservation and to focus on a variety of mechanisms designed to enhance the establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity.

Like other multilateral environmental agreements, the CBD operates through treaty bodies, namely the Conference of the Parties (COP), the Secretariat and the subsidiary bodies. The COP²¹⁵ held in line with Article 23 of the CBD, is the highest decision making body which comprised of Contracting Parties to meet in regular intervals in order to review the implementation of the CBD. In these meetings, the Parties submit their national reports regarding the progress on the implementation. The 28th Decision of COP 7 held in 2004, is noteworthy because it was agreed that; “*the establishment and maintenance by 2010 for terrestrial and by 2012 for marine*

²¹¹ For detail analyze see: Glowka, *op.cit.*, p. 22-24.

²¹² CBD, *op. cit.*, Article 8 (paragraphs a, b, c and e).

²¹³ Glowka, *op.cit.*, p. 42.

²¹⁴ *Ibid.*, p. 22.

²¹⁵ CBD, *op. cit.*, Article 23. Up to date, eleven COPs were held: 1st COP in 1994; 2nd COP in 1995; 3rd COP in 1996; 4th COP in 1998; 5th COP in 2000; 6th COP in 2002; 7th COP in 2004; 8th COP in 2006; 9th COP in 2008; 10th COP in 2010 and 11th COP in 2011. <http://www.cbd.int> , accessed at: 2 August 2011.

areas of comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas that collectively, inter alia through a global network, contribute to achieving the three objectives of the Convention and the 2010 target²¹⁶ to significantly reduce the current rate of biodiversity loss”²¹⁷.*

These targets were incorporated into the goals defined by the COP 10 as to establish and strengthen national and regional systems of protected areas integrated into a global network as a contribution to globally agreed goals²¹⁸ which demonstrates us the key role of regional and national systems. Strengthening regional networks for the transboundary protected areas and cooperation for the neighbouring countries in these areas were defined as another goal²¹⁹.

As a matter of fact, the problem cannot be solved only by establishing protected areas. It is very important to prevent these areas from the adverse effects of threats. So, preventing and mitigating the negative impacts of key threats to protected areas was set down as another goal²²⁰ to be reached. Among other prominent goals; involvement of indigenous and local communities and relevant stakeholders²²¹; ensuring financial sustainability of protected areas and national and regional systems of protected areas²²²; strengthening communication, education and public awareness²²³; assessing and monitoring protected area status and trends²²⁴; and the contribution of scientific knowledge²²⁵ comes to the fore as they are vital in conservation policies.

Clearly seen, in the light of the provisions of the CBD, a variety of targets were put down by the parties; however, these targets gain meanings by reading data. Here,

* Emphasis is mine.

²¹⁶ This target was defined in the 6th COP.

²¹⁷ Seventh Ordinary Meeting of the Conference of the Parties to the Convention on Biological Diversity (COP7), 2007, 28th Decision, emphasis is mine.

²¹⁸ Tenth Ordinary Meeting of the Conference of the Parties to the Convention on Biological Diversity (COP10), Programme of Work, 2010, Goal 1.1, <http://www.cbd.int/programmes/pa/pow-goals-alone.pdf>, accessed at: 3 August 2011.

²¹⁹ *Ibid.*, Goal 1.3.

²²⁰ *Ibid.*, Goal 1.5.

²²¹ *Ibid.*, Goal 2.2.

²²² *Ibid.*, Goal 3.4.

²²³ *Ibid.*, Goal 3.5.

²²⁴ *Ibid.*, Goal 4.3.

²²⁵ *Ibid.*, Goal 4.4.

the results in the “Global Biodiversity Outlook (GBO)” 3report²²⁶ published by the CBD Secretariat including latest data on status and trends of biodiversity and on targets were used to consider whether these targets have been met. The GBO 3 includes boxes, tables and figures regarding the agreed subsidiary targets²²⁷ to 2010 target. In the report, it was stated that the 2010 overall target on the reduction of biodiversity loss has not been met at the global level. While none of the sub-targets can be said definitively to have been met, some have been achieved partially or at regional or national scales. However, despite the general failure, the 2010 biodiversity target has positive impacts and inspired actions at many levels. According to the report²²⁸, 170 countries prepared and implemented national biodiversity strategies and action plans and in terms of protected areas, the number and extent of them have been expanded, on both land and in coastal waters. Apart from that, environmental impact assessment (EIA) is more widely applied in most countries reporting that they have some measures in place for its use. In addition to these actions, most countries undertook activities related to communication, education and public awareness as well biodiversity monitoring, research and the development of databases. At the international level, financial resources have been mobilized and progress has been made in developing mechanisms for research, monitoring and scientific assessment of biodiversity. For terrestrial protected areas it was stated that %57 of the governments have protected areas equal to or above the 10% of their land areas. In marine protected areas, while their extent has grown significantly, a small proportion (less than a fifth) of marine ecoregions meet the target of having at least 10% of their area protected.

²²⁶ Secretariat of the Convention on Biological Diversity, “Global Biodiversity Outlook 3”, Montréal, 2010, 94 pages. <http://gbo3.cbd.int/>, accessed at: 5 August 2011.

²²⁷ For more information see: *Ibid.*, p. 18-19.

²²⁸ *Ibid.*, p. 17.

3.2 Biodiversity Issue and Protected Areas within the Context of the Mediterranean Region

3.2.1 The Problems Encountered in the Region

The Mediterranean is unique in terms of its biodiversity value. The Mediterranean Sea is one of the most diverse marine environments in the world; “with less than 1% of the world’s ocean area, the Mediterranean is home nearly 8% of known species. Its flora diversity is outstanding with 15000 to 25000 species, 60% of which are unique to the region. The sea contains at least 7% of all the marine species known worldwide”²²⁹. “About one third of the Mediterranean fauna is endemic”²³⁰. “About 19% of these species are threatened with extinction: 5% critically endangered, 7% endangered and 7% vulnerable. At least 16 irreplaceable species are already extinct, including some endemics. All these losses are driven by the threats towards biodiversity.”²³¹

Stated before, 460 million inhabitants are living in the Mediterranean basin, nearly 40% of who lives in the coastal zone. This number increases touristic activities especially during the half of the year; for instance “in 2007, coastal countries of the Mediterranean attracted nearly 275 million visitors”²³². It is obvious that this population makes an enormous pressure and negative effects on the habitat of the region.

In consequence of human-based activities, the marine ecosystem is degraded and pollution occurred as the sea is seen as a natural garbage. Also ship accidents are the main cause of pollution due to the oil spill. The Mediterranean Sea is the major route for the transportation of oil from Middle East and North Africa to the Europe and North America. 30 % of the international sea-borne trade volume originates or is directed to the Mediterranean ports and 20-25 % of the world’s sea-borne oil traffic transits the Mediterranean. Apart from oil transportation, hazardous materials are also transported from the same route. According to Greenpeace, approximately 220,000 vessels of more than 100 tonnes cross the Mediterranean Sea each year-

²²⁹ Colasimone, *op.cit.*, p. 4.

²³⁰ Cuttelod, *op.cit.*, p. 2.

²³¹ <http://www.iucnredlist.org> , accessed at: 21 July 2011.

²³² State of the Environment and Development in the Mediterranean, *op. cit.*, p. 9.

about one third of the world's total merchant shipping; these ships often carry hazardous cargo, which if lost would result in severe damage to the marine environment.²³³

Sure, the marine pollution is not the single kind of pollution in the Mediterranean Sea. "Approximately, 80% of the region's pollution comes from land-based sources, including agricultural wastes, airborne particles and river run-off carrying nutrients, pathogens, heavy metals, persistent organic pollutants, oil and radioactive substances"²³⁴.

Invasions of alien species are another cause for biodiversity loss in the Mediterranean. "56% of the 925 exotic species currently inventoried in the Mediterranean have established sustainable populations and continue to prosper. Almost half of these species have penetrated the Mediterranean through the Suez Canal, 28% via marine transport and 10% via aquaculture"²³⁵. According to the results of the Mediterranean Science Commission's (CIESM- La Commission Internationale pour l'Exploration Scientifique de la Méditerranée) Tropical Signals Programme²³⁶, 58 alien species were detected coming via Red Sea threatening public health and fisheries economy. These species engage in nutrient competition with local species of the Mediterranean. After that, a new environment was occurred leading an ecological change. As a result of this, some fish species are declining and new kinds of species emerge which lead to changes in fisheries economy. The other potential effects of alien species are; competition or predation, and subsequent replacement of native species; hybridizing with native species; introduction of pathogens and loss of habitats.²³⁷

Adverse effects of overexploitation of fish are densely felt in most of the Mediterranean countries. As a result of overexploitation, demands of countries cannot be met. The Mediterranean hardly supplies one-third of the demands from the

²³³ <http://www.greenpeace.org>, (22 July 2011)

²³⁴ Colasimone, *op. cit.*, p. 5.

²³⁵ State of the Environment and Development in the Mediterranean, *op. cit.*, p. 13.

²³⁶ <http://www.ntvmsnbc.com>, accessed at: 14 August 2011.

²³⁷ UNEP-MAP, "Information Note about the Strategic Action Plan for the Conservation of Marine and Coastal Biodiversity in the Mediterranean" (SAPBIO), Tunis, 2003, p. 5. <http://sapbio.rac-spa.org/>, accessed at: 6 August 2011.

countries bordering on it²³⁸. Disturbance or destruction of habitats, effects on non-commercial species like sea turtles, sea birds are other results of overexploitation.

Trade of endangered species leads to decline in these species. In this point, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which constitutes lists of banned species for trade became significant. However, although many Mediterranean countries are parties to CITES, the trade of endangered species is still widespread. Generally, these species are sold as souvenirs in most of the countries. Apart from that, they are also used in some traditional medicines particularly in the Far East²³⁹.

All these threats and their effects to biodiversity required urgent conservation actions in the Mediterranean region. Most common measures for eliminating this situation are; enforcement of legislations, sustainable management and the creation of marine and coastal protected areas and defining biodiversity hotspots to be taken into account.

According to criteria of hotspots²⁴⁰, today there are 34 biodiversity hotspots all around the world, mostly found in the coastal areas one of which is the Mediterranean. The map below shows how broad the Mediterranean hotspot as it is extending to the Atlantic Ocean.

²³⁸ *Ibid.*, p. 3.

²³⁹ *Ibid.*, p. 5.

²⁴⁰ The hotspot term is introduced into the literature by Norman Myers. There are two criteria for a place to be identified as hotspot: to contain at least 1,500 species of vascular plants as endemics and to have lost at least 70 percent of its original habitat.

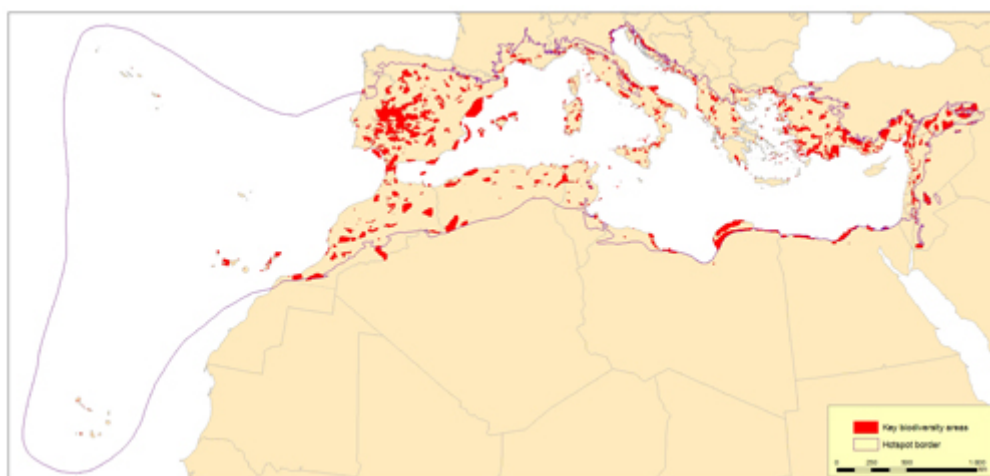
Map 3 The Mediterranean Hotspot



Source: <http://www.cepf.net>

In the Mediterranean hotspot, there are some key biodiversity areas that are conserved under the protected areas. The map below demonstrates the density of these areas in the hotspot which are mostly found in marine and coastal areas where the population is relatively high which necessitates urgent actions especially in these areas.

Map 4 The Key Biodiversity Areas in the Mediterranean Hotspot



Source: <http://www.cepf.net>

3.2.2 Protection and Conservation of the Mediterranean Biodiversity through the SPA and SPA/BD Protocols

3.2.2.1 Impetus behind the protocols

Being one of the hotspots of the world, the Mediterranean basin is protected under different international and regional legal mechanisms. In terms of regional initiatives, the most prominent one is the Mediterranean Environmental Programme.

Aforementioned, the 1976 Barcelona Convention was supplemented with Protocols addressing specific issues of the Mediterranean region. Biodiversity issue is regulated by the SPA Protocol which was amended in 1995 by the SPA/BD Protocol.

There were various reasons²⁴¹ for creating a protocol concerning protected areas. Due to the growing population, the negative impacts of increasing human activities led to degradation of the environment of the Mediterranean Sea Area. Besides, the special geographical characteristic of the Mediterranean which makes the region vulnerable to the environmental problems was also stressed among the factors for formulating a protocol on biodiversity. In the light of these in order to protect and improve the state of the natural resources and natural sites and their cultural heritage in the region, SPAs²⁴² including marine areas and their environment would be established. At this point, the parties shall make close cooperation.

This limited approach of the SPA Protocol towards the SPAs was widened with the SPA/BD Protocol such that first of all, in the new protocol²⁴³ besides the Mediterranean Sea Area, the negative impacts of human activities on littoral areas and ecosystems having dominant features of the Mediterranean were emphasized. The protection and improvement of the state of the natural and cultural heritage was reiterated but, a special stress on protection and conservation of threatened species were underlined thanks to the effect of the instruments adopted at the UNCED mainly the CBD which was also stressed in the new Protocol. The precautionary

²⁴¹ SPA Protocol, Preamble.

²⁴² Hereinafter SPAs.

²⁴³ SPA/BD Protocol, Preamble.

principle that was introduced with the CBD also took place in the SPA/BD Protocol. The necessity of close cooperation was emphasized once again; however, what was different from the SPA Protocol was that while making cooperation, the parties would consider their common but differentiated responsibilities which mean that countries having different social, economic and ecological differences were required to be treated differently.

3.2.2.2 Geographical coverage

With the SPA Protocol, the geographical coverage for establishing SPAs was defined as “the Mediterranean Sea Area and also where appropriate waters on the landward side of the baseline from which the breadth of the territorial sea was measured and extending, in the case of watercourses, up to the freshwater limit²⁴⁴ and wetlands or coastal areas designated by each of the parties.”²⁴⁵

When compared to the SPA Protocol, it will be seen that the geographical coverage of the SPA/BD Protocol was wider than the SPA Protocol such that in the SPA Protocol, the scope of the implementation was limited with the territorial waters of the countries. However, in the SPA/BD Protocol, in addition to the Mediterranean Sea Area, the new protocol would be applied to “the seabed and its subsoil; the waters, the seabed and its subsoil on the landward side of the baseline from which the breadth of the territorial sea was measured and extending, in the case of watercourses, up to the freshwater limit; and the terrestrial coastal areas designated by each of the Parties, including wetlands.”²⁴⁶ But as this coverage had the possibility to create sovereignty issues among the parties, two paragraphs were added in order to eliminate these probable conflicts;

“Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, the present and future claims or legal views of any State relating to the law of the sea, in particular, the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, freedom

²⁴⁴ Freshwater limit means “the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea-water”. Article 2(c) of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Pollution.

²⁴⁵ SPA Protocol, *op.cit.*, Article 2.

²⁴⁶ SPA/BD Protocol, *op.cit.*, Article 2(1).

of navigation on the high seas, the right and the modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State and the port State.

No act or activity undertaken on the basis of this Protocol shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.”²⁴⁷

3.2.2.3 General obligations

According to the SPA Protocol, the parties shall try to undertake all necessary actions in order to protect those areas. However, the establishment and protection of these areas did not seem to be adequate; so, if appropriate, the responsibility for restoring these areas were given to the parties. While establishing these areas, the parties must pay attention to conserve in particular; “sites of biological and ecological value; the genetic diversity, as well as satisfactory population levels of species, and their breeding grounds and habitats; representative types of ecosystems, as well as ecological processes; and sites of particular importance because of their scientific, aesthetic, historical, archaeological, cultural or educational interest”²⁴⁸. It is obvious that the parties undertook too many obligations added to the main obligation of the establishment of SPAs which proves that these areas are very essential in terms of conservation.

The similar objectives were set forth with the SPA/BD Protocol²⁴⁹ which was handled with a more different point of view such that the parties shall establish SPAs for protecting, preserving and managing in a sustainable way.²⁵⁰ The same mechanism²⁵¹ was adapted to the threatened or endangered species of flora and fauna which indicates a difference of the SPA/BD Protocol from the SPA Protocol in terms of making special emphasize on the biodiversity value and sustainable management of these areas.

²⁴⁷ *Ibid.*, Articles 2(2) and 2(3).

²⁴⁸ SPA Protocol, *op.cit.*, Article 3.

²⁴⁹ SPA/BD Protocol, *op.cit.*, Article 4.

²⁵⁰ *Ibid.*, Article 3(1)(a).

²⁵¹ *Ibid.*, Article 3(1)(b).

Apart from those, responsibilities on making cooperation with international organizations in order to conserve and sustainably use of biodiversity in the defined areas; identifying and compiling inventories of the components of biodiversity; adopting strategies, plans and programmes; and monitoring the components of biodiversity were given to the parties. As the parties have obligations under various regulations these measures shall be applied without prejudice to the sovereignty or jurisdiction of other parties or other states and any of these measures shall be in accordance with international law.²⁵²

3.2.2.4 Obligations concerning the SPAs and the Specially Protected Areas of Mediterranean Importance (SPAMIs)

One of the main obligations of the parties was defining protection measures for the SPAs that took part in both of the protocols.²⁵³ However, the SPA/BD Protocol gave much more detailed emphasize on the provisions²⁵⁴ to be applied in SPAs rather than the SPA Protocol.

According to the SPA/BD Protocol, the objective of SPAs is to safeguard;

“a) representative types of coastal and marine ecosystems of adequate size to ensure their long-term viability and to maintain their biological diversity;

b) habitats which are in danger of disappearing in their natural area of distribution in the Mediterranean or which have a reduced natural area of distribution as a consequence of their regression or on account of their intrinsically restricted area;

c) habitats critical to the survival, reproduction and recovery of endangered, threatened or endemic species of flora or fauna;

d) sites of particular importance because of their scientific, aesthetic, cultural or educational interest.”²⁵⁵

Protection measures²⁵⁶ which shall be applied in the SPAs were maintained and improved in the SPA/BD Protocol. However, planning and management measures

²⁵² *Ibid.*, Article 3(2) to 3(6).

²⁵³ Protection measures are set down in Article 6 in the SPA/BD Protocol and in Article 7 of the SPA Protocol.

²⁵⁴ SPA/BD Protocol, *op.cit.*, Article 7.

²⁵⁵ *Ibid.*, Article 4.

²⁵⁶ *Ibid.*, Article 6.

that the parties adopt in the SPAs in accordance with the rules of international law were given much more emphasize in the SPA/BD Protocol.²⁵⁷

Pursuant to the SPA Protocol, the choice of SPAs was a national decision. But, as the environmental problems do not respect borders; the choice of one country can easily affect other countries, thus causing international reflections. Article 6 of the SPA Protocol laid down probable situations when countries (being a party or not) decided to establish a protected area which would be transboundary. The main obligation in this process was that in any case, the countries shall consult each other and analyze the possible measures to be taken²⁵⁸. This consulting mechanism was strengthened by bringing efforts to make cooperation²⁵⁹ between the countries (being a party or not) in the SPA/BD Protocol.

The most important innovation of the SPA/BD Protocol was drawing up a list of SPAMI²⁶⁰ for promoting cooperation in the management and conservation of natural areas, as well as in the protection of threatened species and their habitats.²⁶¹ The SPAMI List included sites that “are of importance for conserving the components of biological diversity in the Mediterranean; contain ecosystems specific to the Mediterranean area or the habitats of endangered species; and are of special interest at the scientific, aesthetic, cultural or educational levels”²⁶². In these sites, the parties agreed to recognize the importance of these areas for the Mediterranean and to comply with the measures and to prohibit any activities that had the possibility to be contrary to the objectives of the SPAMIs.²⁶³

According to the SPA/BD Protocol the SPAMIs can be established in the marine and coastal zones subject to the sovereignty or jurisdiction of the parties like SPAs; and in addition, in the zones partly or wholly on the high seas.²⁶⁴ In this point

²⁵⁷ *Ibid.*, Article 7.

²⁵⁸ SPA Protocol, *op. cit.*, Article 6.

²⁵⁹ SPA/BD Protocol, *op. cit.*, Article 5.

²⁶⁰ Hereinafter SPAMI.

²⁶¹ SPA/BD Protocol, *op. cit.*, Article 8(1).

²⁶² *Ibid.*, Article 8(2).

²⁶³ *Ibid.*, Article 8(3).

²⁶⁴ *Ibid.*, Article 9(1). The parties that may submit proposals for the inclusion; the content of reports concerning the proposals; any revise of the List and the procedure for the inclusion were defined in the remaining paragraphs of this article. Amendments in the status of the SPAMI List had the same procedure regarding the inclusion into the List which was laid down in Article 10.

it is noteworthy to mention that the SPA/BD Protocol handled the protection and conservation of biodiversity in a comprehensive approach including a wider geographical area.

The general principles, common criteria and guidelines for the SPAMIs were set down in details in Annex I of the SPA/BD Protocol. According to these principles; firstly, the SPAMI shall be characterized by the conservation of natural heritage.²⁶⁵ Secondly, there was not a limitation for the total numbers of areas to be included in the List; however, the sites had to be chosen on a scientific basis and their qualities.²⁶⁶ Thirdly, the SPAMIs and their geographical distribution shall represent the Mediterranean region and its biodiversity; thereby represent the highest number possible of types of habitats and ecosystems.²⁶⁷ Fourthly, in terms of the establishment of transboundary SPAMIs and in the field of conservation and management of natural sites, the parties shall try to cooperate on bilateral and multilateral bases.²⁶⁸ Finally, the SPAMIs were intended to be a model for the protection of natural heritage of the region; with this aim, the SPAMIs were provided with adequate legal status, protection measures and management methods and means.²⁶⁹

In addition to the criteria defined in the Article 8(2), the areas that could be included in the SPAMI List must firstly have a regional value²⁷⁰. Furthermore, the following criteria should be used in evaluating the SPAMI site.

a) Uniqueness; area contains unique or rare ecosystems, or rare or endemic species.

b) Natural representativeness; the area has highly representative ecological processes, or community or habitat types or other natural characteristics. Representativeness is the degree to which an area represents a habitat type, ecological process, biological community, physiographic feature or other natural characteristic.

²⁶⁵ *Ibid.*, Annex I- A(a).

²⁶⁶ *Ibid.*, Annex I- A(b).

²⁶⁷ *Ibid.*, Annex I- A(c).

²⁶⁸ *Ibid.*, Annex I- A(d).

²⁶⁹ *Ibid.*, Annex I- A(e).

²⁷⁰ *Ibid.*, Annex I-B (2)

c) Diversity; the area has a high diversity of species, communities, habitats or ecosystems.

d) Naturalness; the area has a high degree of naturalness as a result of the lack or low level of human-induced disturbance and degradation.

e) Presence of habitats that is critical to endangered, threatened or endemic species.

f) Cultural representativeness; the area has a high representative value with respect to the cultural heritage, due to the existence of environmentally sound traditional activities integrated with nature which support the well-being of local populations.

Areas having scientific, educational or aesthetic interest must present a particular value for research in the field of natural sciences or for activities of environmental education or awareness or contain outstanding natural features, landscapes or seascapes for entering the SPAMI List.²⁷¹

Besides the fundamental criteria specified, a certain number of other characteristics and factors should be considered as favorable for the inclusion of the site in the List.²⁷² Apart from these, provisions concerning protection, planning and management measures of the SPAMIs were put forth in details.²⁷³

Another major difference of the SPA/BD Protocol from the SPA Protocol was the part entitled “Protection and Conservation of Species”. In this part of the Protocol, national measures and cooperative measures concerning the protection and conservation of species were laid down.²⁷⁴ As being a recent problem of the Mediterranean Sea, the introduction of non-indigenous or genetically modified species, some measures were defined.²⁷⁵

The other two differences of the SPA/BD Protocol were inventories and the EIA. Accordingly, each party shall compile detailed inventories on protected areas under their exercise and on species that are endangered or threatened.²⁷⁶ It is well known that some decisions may have adverse effects on the environment if they were

²⁷¹ *Ibid.*, Annex I-B (2) and (3).

²⁷² *Ibid.*, Annex I-B (4).

²⁷³ *Ibid.*, Annex I-D.

²⁷⁴ *Ibid.*, Articles 11 and 12.

²⁷⁵ *Ibid.*, Articles 13.

²⁷⁶ *Ibid.*, Articles 15.

not decided thoroughly. To prevent these effects a prior EIA may be beneficial in order to eliminate the effects of these decisions. In the light of these, the SPA/BD Protocol puts forward the EIA as;

“In the planning process leading to decisions on industrial and other projects and activities that could significantly affect protected areas and species and their habitats, the Parties shall evaluate and take into consideration the possible direct or indirect, immediate or long-term, impact, including the cumulative impact of the projects and activities being contemplated.”²⁷⁷

3.2.2.5 Respect to the Rights of Local People

Local populations living by the SPAs are indispensable for the protected areas as they earn their life from there. So, their knowledge on every detail of these areas can be a facilitating opportunity for the governments in taking decisions. The SPA Protocol stated that while implementing measures related with protected areas, the parties shall take into account the traditional activities of their local populations²⁷⁸. Thus, on the one hand parties protect the important areas of the Mediterranean; on the other hand, they undertake to respect and protect traditional lifestyles of local populations without prejudice to their lives and economic rights²⁷⁹. This role of local populations was also mentioned by the SPA/BD Protocol.²⁸⁰ However, the SPA/BD Protocol went a step further and envisaged the active involvement²⁸¹ of local populations in the planning and management of these areas.

3.2.2.6 Public Information and Education

Well known that having information about any kind of measures taken by the governments is the indispensable right of public as these issues have effects on the society. This was also one of the main focuses of the SPA Protocol²⁸² and of the CBD²⁸³. The SPA/BD Protocol maintained this issue and in line with these, it is underlined that the parties shall give appropriate publicity about all the processes

²⁷⁷ *Ibid.*, Article 17.

²⁷⁸ SPA Protocol, *op.cit.*, Article 9.

²⁷⁹ Sav, *op. cit.*, p. 166.

²⁸⁰ SPA/BD Protocol, *op. cit.*, Article 18.

²⁸¹ *Ibid.*, Article 7(2)(c).

²⁸² SPA Protocol, *op.cit.*, Articles 8 and 11.

²⁸³ CBD, *op. cit.*, Article 13.

concerning protected areas. Additionally, they shall endeavor to inform the public of the interest and value of SPAs and species, and of the scientific knowledge. Such information should have an appropriate place in education programmes.²⁸⁴

3.2.2.7 Scientific and Technical Research

Both in the SPA²⁸⁵ and SPA/BD²⁸⁶ Protocols, it was stated that the parties shall stimulate and develop scientific and technical research; however, the SPA/BD Protocol has enhanced the rules and gathered them under one article. Accordingly, the parties shall exchange scientific and technical information concerning current or planned research and monitoring programmes and the results thereof. They shall coordinate their research and monitoring programmes and try jointly to determine or standardize their procedures.²⁸⁷ In addition, the parties shall consult each other and with competent international organizations with a view to identify, plan and undertake scientific and technical research and monitor programmes.²⁸⁸ In technical and scientific research, the SPAMIs and species that are endangered or threatened shall be given priority.²⁸⁹

3.2.2.8 Mutual Assistance and Cooperation

Mutual assistance and cooperation were one of the provisions that took place in the SPA Protocol.²⁹⁰ When compared, it will be clearly seen that, the SPA/BD Protocol defined rules²⁹¹ for cooperation and assistance particularly by taking protected species and the SPAMIs into consideration. Besides, instead of the term “competent regional or other international organizations”, the SPA/BD Protocol gave place to the RAC/SPA as the body responsible for provisions regarding mutual cooperation and mutual assistance and the body that would be communicated in terms of emergency situations related with SPAs or protected species which was not mentioned in the SPA Protocol. Another thing to be cited is that the SPA/BD

²⁸⁴ SPA/BD Protocol, *op. cit.*, Article 19.

²⁸⁵ SPA Protocol, *op.cit.*, Article 10.

²⁸⁶ SPA/BD Protocol, *op. cit.*, Article 20(1).

²⁸⁷ *Ibid.*, Article 20(3).

²⁸⁸ *Ibid.*, Article 20(2).

²⁸⁹ *Ibid.*, Article 20(4).

²⁹⁰ SPA Protocol, *op.cit.*, Articles 12 and 15.

²⁹¹ SPA/BD Protocol, *op.cit.*, Articles 21 and 22.

Protocol envisaged financial assistance to the developing countries that did not also take place in the SPA Protocol.

3.2.2.9 Protocol Bodies Responsible for the Implementation of the Protocols

The most important institutional body is the Meeting of the Contracting Parties that shall be held in conjunction with the Ordinary Meetings²⁹² of the 1995 Barcelona Convention in order to provide the continuity of the system which enabled the sustainability and traceability of the implementation. These meetings are particularly aimed at keeping under review of the implementation of the protocol; making recommendations; adopting common guidelines and criteria; assessment of reports²⁹³ submitted by the parties; deciding on the inclusion of an area in the SPAMI List; and reviewing and amending the annexes of this Protocol.²⁹⁴ At this juncture, a new reporting format²⁹⁵ for the SPA/BD Protocol deserves to be mentioned. Starting from 2008, the parties should submit their reports in accordance with the new formats.²⁹⁶

As in the SPA Protocol, the SPA/BD Protocol reiterated the role of the NFPs. These NFPs would serve as liaison with the RAC/SPA on technical and scientific aspects of the implementation of the protocol that shall meet periodically to carry out the functions stemming from the protocol.²⁹⁷

²⁹² *Ibid.*, Article 26(1).

²⁹³ The content of these reports were set down in Article 23 of the SPA/BD Protocol.

²⁹⁴ SPA/BD Protocol, *op.cit.*, Article 26(2).

²⁹⁵ New Reporting Format on the Barcelona Convention and its Protocols: Draft, *op. cit.*, p. 54-71.

²⁹⁶ The new report format concerning the SPA/BD Protocol contains two parts including the followings,

Part 1: 1. Legal Measures related to the implementation of the SPA & Biological Diversity, 2. Establishment and management of SPAs, 3. SPAMIs, 4. Measures for the protection and conservation of species, 5. Conservation of the components of marine and coastal biodiversity, 6. Enforcement measures, 7. Effectiveness

Part 2: 1. Action Plan on Cartilaginous Fishes in the Mediterranean Sea, 2. Action Plan on Introduction of Species and Invasive Species in the Mediterranean Sea, 3. Action Plan for the Conservation of Cetaceans in the Mediterranean Sea, 4. Action Plan for the Conservation of Marine Vegetation in the Mediterranean Sea, 5. Action Plan for the Conservation of Bird Species inventoried in the Annex II of the SPA Protocol, 6. Action Plan for the Management of the Mediterranean Monk Seal, 7. Action Plan for the Conservation of Mediterranean Marine Turtles

Under these parts, it was requested from the parties to answer the questions. The prominent issues for the questions in Part 1 are related with Articles 2, 3, 6, 7, 11, 12 and 17 of the SPA/BD Protocol. Concerning Action Plans; questions were defined according to the description of the measures taken in the field of relevant Action Plan.

²⁹⁷ SPA/BD Protocol, *op.cit.*, Article 24.

Another institutional mechanism was the UNEP Secretariat, same in the SPA Protocol, which was the coordinating body in the implementation of the SPA/BD Protocol having detailed functions.²⁹⁸

The last institutional mechanism is the RAC/SPA was established in order to provide the whole implementation of the SPA and the SPA/BD Protocols in the Mediterranean in 1985. It is located in Tunis which is the only RAC out of the Europe's borders. The aim of the establishment of this RAC is to assist Mediterranean countries in the implementation of the SPA/BD Protocol.

The tasks and missions of the RAC/SPA can be divided into four groups²⁹⁹. The first group of its functions is related with the *coordination of activities* concerning the implementation of the SPA/BD Protocol. Under this function, the RAC/SPA implements the scientific and technical research programmes by giving priority to the research programmes on SPAMIs and the species in the annexes of the SPA/BD Protocol. Secondly, the RAC/SPA helps the parties in the preparation of management plans for protected areas and species; preparation of cooperation programmes in order to coordinate the creation, conservation, planning and management of SPAs, as well as the choice, management and conservation of protected species; and preparation of educational materials. Thirdly, it performs other tasks given by the action plans adopted in accordance with the SPA/BD Protocol. Fourthly, the RAC/SPA constitutes recommendations regarding guidelines and common criteria defined in the annex 1 of the SPA/BD Protocol. Finally, it creates and updates various databases on the matters of relevance to the SPA/BD Protocol.³⁰⁰

Another group of its functions is the *technical assistance* to the parties on identifying, establishing and managing protected areas, including the preparation of management plans for their marine parts; preparing and implementing National Action Plans; strengthening the parties' capacities to deal with issues relating to the conservation and management of Mediterranean biodiversity; exchanging scientific

²⁹⁸ *Ibid.*, Article 25.

²⁹⁹ RAC/SPA, <http://www.rac-spa.org/>, accessed at: 25 November 2011.

³⁰⁰ *Ibid.*.

and technical information regarding current and planned research and monitoring programmes and the results thereof.³⁰¹

Third group of the tasks that the RAC/SPA is carrying out is *capacity building*. Capacity building is carried out through training sessions, courses, study visits, field missions etc. Under this function, the RAC/SPA forms and implements training programmes towards the public; scientific, technical and managerial personnel. It also draws up training programmes regarding scientific research and the acquisition, utilization, design and development of appropriate equipment.³⁰²

The last group of the RAC/SPA's tasks is about *cooperation with national, regional and international organizations*. RAC/SPA is considered to be the lead MAP centre for cooperation with the regional and international governmental and non-governmental organizations concerned with the protection of biodiversity. Apart from these organizations, the RAC/SPA collaborates with the other MAP components and with all relevant parts concerning SPAs and biodiversity. In line with this, emphasis is given to the relations with national authorities in terms of NFPs; relations with other partners (UN bodies, international and regional conventions and agreements, IGOs, NGOs and the private sector).³⁰³

In addition to these tasks, the RAC/SPA prepares reports and technical studies that may be used for the implementation of the SPA/BD Protocol. Also, it carries out projects with states in order to effectively implement the SPA/BD Protocol. Up to date, two projects (MedMPA and Medposidonia) were completed; and currently two projects (MedMPAnet and SPAMIs in open seas) are underway.³⁰⁴

3.2.2.10 Legal Procedures on Signature, Ratification and Entry into Force

Any contracting party to the 1995 Barcelona Convention can sign the SPA/BD Protocol and the Protocol shall be subject to ratification, acceptance or approval. After the signature process it shall be open for accession by any state and regional

³⁰¹ *Ibid.*

³⁰² *Ibid.*

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

economic grouping that was party to the 1995 Barcelona Convention.³⁰⁵ The similar procedure was used in the SPA Protocol, too.³⁰⁶

The SPA/BD Protocol replaced the SPA Protocol and entered into force on 12 December 1999. Annex II (List of endangered or threatened species) and Annex III (List of species whose exploitation is regulated) of the SPA/BD Protocol were adopted in 1996 and amended by Decision IG.19/12 “Amendments of the list of Annexes II and III of the Protocol concerning SPAs and Biological Diversity in the Mediterranean” of the 16th Meeting of the Contracting Parties, in Marrakesh, Morocco, 2009.³⁰⁷ The amendments entered into force on 13 February 2011 were done in line with the Article 14 of the SPA/BD Protocol and Article 22 of the 1995 Barcelona Convention.

3.2.3 Implementation of the SPA and the SPA/BD Protocols

In order to have an insight about the implementation of the SPA/BD Protocol, it is noteworthy to analyze the Report³⁰⁸ on the Status of the Implementation of the SPA/BD Protocol published in the 9th Meeting of the NFPs held in Malta in 2009. The report includes countries’ data on legal measures; establishment and management of SPAs; SPAMIs; and other issues related with the provisions of the SPA/BD Protocol.

In the Report on the Status of the Implementation of the SPA/BD Protocol of the RAC/SPA, it was pointed out that, most of the contracting parties have implemented the SPA/BD Protocol considering the rules on scientific research in the SPAs; protection and management of endangered or threatened plant and animal species etc. Under the establishment and management of SPAs part of the report, it was underlined that the difficulties related to the policy framework, twelve of eighteen countries could be able to set up protected areas within the geographical coverage of the SPA/BD Protocol. For the elaboration and implementation of a

³⁰⁵ 1995 Barcelona Convention, *op.cit.*, Articles 29, 30 and 31.

³⁰⁶ SPA Protocol, *op. cit.*, Article 18.

³⁰⁷ 16th Meeting of the Contracting Parties,

<http://www.unepmap.org/index.php?module=content2&catid=001001001>, accessed at: 11 August 2011.

³⁰⁸ UNEP(DEPI)/MEDWG.331/3. “Report on the Status of the Implementation of the SPA/BD Protocol. <http://www.racspa.org>”, accessed at: 4 December 2011.

management plan for each SPA, five of eighteen countries reported that they have elaborated and implemented a management plan for each SPA. The main difficulty for this issue was reported as lack of administrative management.³⁰⁹

The involvement of the local communities in the process of managing protected areas was one of the main objectives of the SPA/BD Protocol. The report provides that seven out of eighteen Contracting Parties have taken these measures. The main challenges in this subject were administrative management and technical capabilities.³¹⁰

Regarding the SPAMIs, only three out of eighteen countries could able to establish SPAMIs, for the elaboration and implementation of a management plan for each SPAMI, only one country reported a positive answer. Financial shortages and administrative constraints constitute the major challenges of the Contracting Parties for the fulfillment of their obligations on SPAMIs, besides lack of strong political commitment.³¹¹

The SPA and the SPA/BD Protocols contributed to the increase in the number of protected areas such that; from the beginning of the MAP in 1975 until to the amendment of the Barcelona Convention in 1995, 122 protected areas were established representing a surface area of 17,670 km². Today, this number increases up to nearly 800 protected areas under the auspices of the Barcelona Convention representing over 144,000 km² of which nearly 2/3 are marine protected areas in the Mediterranean Region.³¹²

³⁰⁹ *Ibid.*, p. 5.

³¹⁰ *Ibid.*, p. 6.

³¹¹ RAC/SPA, "Specially Protected Areas in the Mediterranean: Assessment and Perspectives, Tunisia, 2010, p 7. <http://www.racspa.org> , accessed at: 4 December 2011.

³¹² *Ibid.*, p. 18.

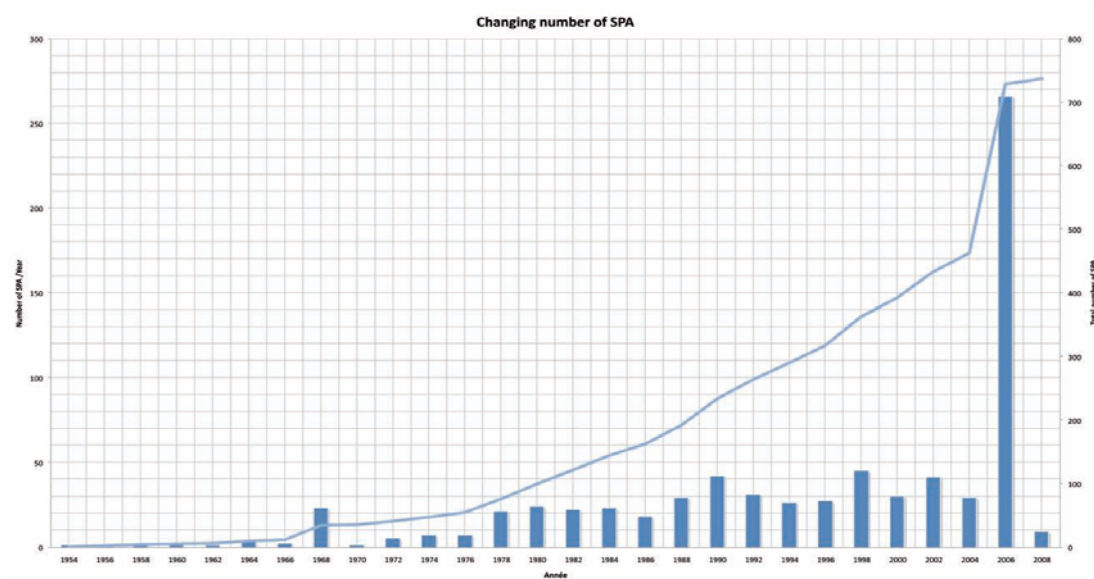


Figure 1: Changing Number of SPA

Source: “Specially Protected Areas in the Mediterranean Assessment and Perspectives” p. 21.

In terms of the number of SPAs for the countries of the Mediterranean Region, the figure below proves that Spain and France come the first and the second countries in having the highest number of SPAs.

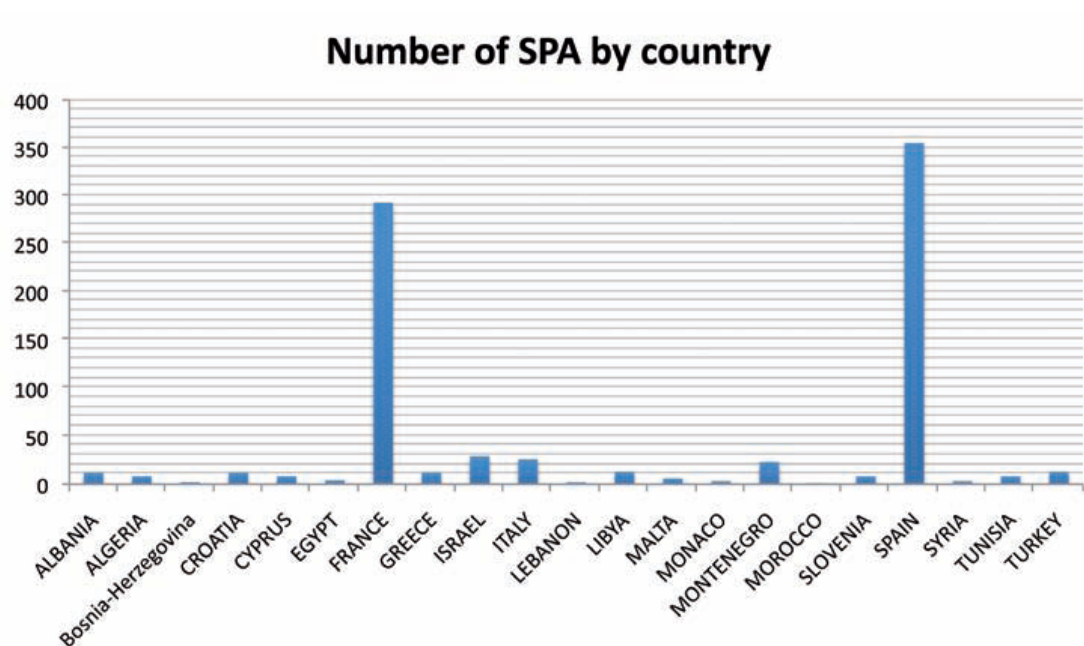


Figure 2: Number of SPA by Country in the Mediterranean

Source: “Specially Protected Areas in the Mediterranean Assessment and Perspectives” p.18.

However, the situation for the ranks of countries in the number of marine protected areas is different and noteworthy to analyze. The marine protected areas are generally established on the coastal sides which are the most densely populated places. The map below demonstrates the location of the marine protected areas. It is clearly seen that in the south-east of the Mediterranean there are no considerable number of marine protected areas except the ones established in Turkey.

Map 5 Marine Protected Areas in the Mediterranean



Source: Ameer Abdulla, (et.al), “Status of Marine Protected Areas in the Mediterranean Sea”, IUCN, Malaga and WWF, France, 2008, p. 39.

In order to give a definite number of marine protected areas on country basis, Spain is the leader, Italy comes in the second place and Israel comes in the third place. With 12 marine protected areas Turkey becomes an important country as it shares the 4th rank with France. Bosnia-Herzegovina, Libya and Montenegro are three countries that do not have marine protected areas.

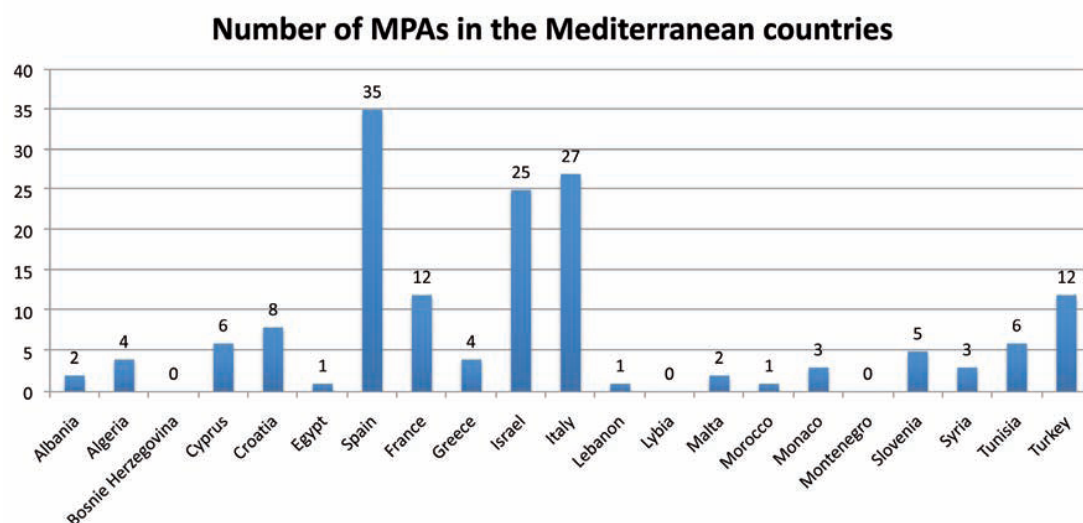


Figure 3: Number of MPAs in the Mediterranean Countries

Source: “Specially Protected Areas in the Mediterranean Assessment and Perspectives” p. 22.

The data above put forth the situation for the SPAs and marine protected areas; however, with the SPA/BD Protocol the SPAMI areas were included into the MAP as well. Currently, there are 25 SPAMIs³¹³ in the list, in which Turkey does not have. If to analyze on country basis, it is seen that again Spain is the leader country which is followed by Italy. The number of SPAMIs in these two countries constitutes more than 50% of the total number.

³¹³ Algeria: Banc des Kabyles Marine Reserve, Habibas Islands; France: Port-Cros National Park, Natural Reserve of Bouches de Bonifacio; Italy: Marine Protected Area of Portofino, Miramare Marine Protected Area, Plemmirio Protected Area, Tavolara-Punta Coda Cavallo Marine Protected Area, Marine Protected Area and Natural Reserve of Torre Guaceto, Marine Protected Area Capo Caccia-Isola Piana, Marine Protected Area Punta Campanella; Morocco: Al-Hoceima National Park; Spain: Alboran Island, Natural Park of Cabo de Gata-Níjar, Sea Bottom of the Levante of Almería, Maro-Cerro Gordo Cliffs, Natural Park of Cap de Creus, Medes Islands, Mar Menor and Oriental Mediterranean zone of the Region of Murcia coast, Columbretes Islands, Archipelago of Cabrera National Park; Tunisia: La Galite Archipelago, Kneiss Islands, Zembra and Zembretta National Park; France-Italy-Monaco: Pelagos Sanctuary for the Conservation of Marine Mammals. <http://www.racspa.org>, accessed at: 11 November 2011.

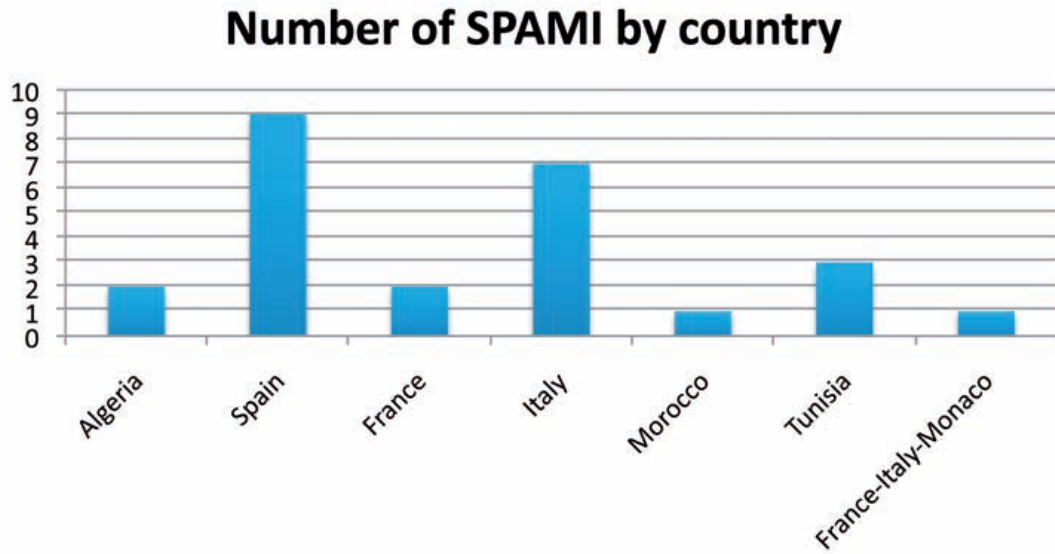


Figure 4: The Number of the SPAMIs by country

Source: “Specially Protected Areas in the Mediterranean Assessment and Perspectives” p. 25.

3.3 Implications of the SPA/BD Protocol in Turkey

3.3.1 Biodiversity Legislation in Turkey

Turkey, which is on the 9th rank in the continent of Europe in terms of biodiversity, has a significant richness of both flora and fauna such that among 37 different flora regions of the world, three of them are found in Turkey³¹⁴ and it is estimated that the number of animal species is over 80.000; and the number of plant species is over 11.000.³¹⁵

There are various reasons for this richness.³¹⁶ First and foremost, Turkey is situated at the intersection of three continents which led to three different climate conditions and constitutes of Europe-Siberia, Iranian-Turan, and Mediterranean biogeographic regions. In addition to the mosaic of three different climatic

³¹⁴ Ahmet M. Güneş, “Biyolojik Çeşitliliğin Avrupa Birliği Hukuku Çerçevesinde Korunması”, **TBB Dergisi**, No. 85, 2009, p. 75.

³¹⁵ <http://www.cbd.gov.tr> , accessed at: 24 November 2011.

³¹⁶ Ministry of Environment and Urban Planning, “National Biodiversity Strategy and Action Plan: 2007”, Tasarım Ofset, Ankara, 2008, p. 23.

conditions and ecological characteristics, being on the way of birds migratory routes increases this wealth of Turkey.³¹⁷

Ecosystem diversity in Turkey is impressive which includes agriculture, forest, mountain, steppe, wetlands, coastal and marine ecosystems. Among coastal areas, the ecosystems in the Eastern Mediterranean have a high variety of flora and fauna.³¹⁸ For example, Turkey's Mediterranean and Aegean coasts provide refuge for the endangered *Monachus monachus*, *Caretta caretta* and *Cheloniemydas*.³¹⁹ Significant degradation is recorded all the abovementioned ecosystems; step and coastal ecosystems are the most severely affected.³²⁰

However, according to the IUCN Redlist 2008³²¹, biodiversity in Turkey is in decline and species and subspecies are endangered.

In order to protect, preserve and control the decline of the biodiversity, various institutional and legal measures have been put into operation in Turkey.

Concerning the conservation and protection of the biodiversity, Turkish legislation comprise of constitutional articles³²²; laws and regulations besides to various international conventions which Turkey is a Contracting Party.

The main responsible public institution for nature conservation and biodiversity is the Ministry of Environment and Urbanization³²³. Mainly the Directorate General for Protection of Natural Properties (DGPNP)³²⁴ is responsible for the SPAs which will be elaborated in detail below. Besides, some other public institutions³²⁵ like the Ministry of Forest and Hydraulic Works, the Ministry of Food,

³¹⁷ <http://www.cbd.gov.tr>

³¹⁸ National Biodiversity Strategy and Action Plan: 2007, *op. cit.*, p. 27.

³¹⁹ <http://www.cbd.gov.tr>

³²⁰ *Ibid.*

³²¹ <http://www.iucnredlist.org/>, accessed at: 27 November 2011.

³²² Turkish Republic Constitution, published in the Official Gazette dated 9.11.1982 and numbered 17863. www.resmigazete.gov.tr, (30 November 2011)

³²³ The Ministry of Environment and Forestry was reconstructed and its name was amended as “the Ministry of Environment and Urban Planning” with Decree Having Force of Law num Having force of Law numbered 648 amended the Decree numbered 644 published in the Official Gazette dated 08.08.2011 and numbered 28028 in which the Directorate General for Protection of Natural Properties was established repealing the Environmental Protection Agency for Special Areas. www.resmigazete.gov.tr, accessed at: 30 November 2011.

³²⁴ This translation was made by the author. Hereinafter the DGPNP will be used.

³²⁵ Varlıbaş, *op. cit.*, p. 19.

Agriculture and Livestock; the Ministry of Culture and Tourism etc are responsible in different subjects under the conservation of biodiversity. The Constitution of the Turkish Republic³²⁶ does not directly include provisions concerning biodiversity. However, Articles 56 and 63 can be accepted as indicating the protection and conservation of biodiversity besides other elements of the environmental politics. The Article 56 of the Constitution puts the general approach of the policy as; “Everybody has right to live in a healthy and balanced environment. Improving the environment, protecting environment health and preventing the pollution of environment are the duties of the State and citizens.”³²⁷

In Article 63 of the Constitution provides that “the State ensures that historical, cultural and nature properties and assets are protected. With this aim, it shall take supportive and encouraging measures”³²⁸, the onus of protecting biodiversity is ascribed to the State.³²⁹

Apart from these articles there are also articles associated with the conservation of biodiversity regarding the protection and improvement of forests³³⁰; the protection of grasslands³³¹; utilization of shores³³²; and fight against erosion³³³.

Nature conservation and biodiversity policy is conducted through laws. In this point, the “Environment Act”³³⁴ worth mentioning as it lays down various aspects of biodiversity. According to the Article 9(a) of this Law; “Protection of biodiversity and ecosystem including this biodiversity is essential”. Rules for protection and use of biodiversity are defined by taking views of local authorities, universities, non-governmental organizations, and other related institutions.”³³⁵ It is obviously seen

³²⁶ Hereinafter the Constitution.

³²⁷ Turkish Republic Constitution, *op. cit.*, Article 56.

³²⁸ *Ibid.*, Article 63.

³²⁹ A. Güneş, *op. cit.*, p. 76.

³³⁰ Turkish Republic Constitution, *op. cit.*, Articles 169 ve 170.

³³¹ *Ibid.*, Article 45.

³³² *Ibid.*, Article 43.

³³³ *Ibid.*, Article 44.

³³⁴ Environment Act numbered 2872, published in Official Gazette dated 11.08.1983 and numbered 18132.

<http://mevzuat.basbakanlik.gov.tr/Metin.Aspx?MevzuatKod=1.5.2872&sourceXmlSearch=&MevzuatIliski=0>, accessed at: 30 November 2011.

³³⁵ *Ibid.*, Article 9(a).

that this paragraph can be accepted as a reflection of the provision³³⁶ in the SPA/BD Protocol which stimulate inclusion of all related parts in the public.

Article 9 (d) signifies the SPAs such as;

“For the purpose of making necessary arrangements with a view to ensure that, soil and water areas having an ecological importance at national and international level that are vulnerable to environmental pollutions and degradations; biodiversity, natural resources and cultural sources related with them reach to the next generations, the Ministerial Cabinet is authorized to determine and declare Special Environment Protected Areas; to define protection and usage principles that will be applied in these areas; and preparation and implementation of projects by which Ministry.”³³⁷

This paragraph of the Environment Act signifies the establishment of SPAs for the conservation of biodiversity such that institutional public body was defined as the responsible authority. It is stressed that the establishment of SPAs is not sufficient and that they have to be protected in a sustainable manner for the next generations as well.

Article 9(f) underlines that “it is essential of protection endangered and rare species in respect to provide sustainability of biodiversity and it is prohibited that these species cannot be traded in a way that is contrary to law.”³³⁸ This paragraph is critical as it underlines the main aim of the CITES.

Lastly, like in the CBD and the SPA/BD Protocol, Turkish Environment Law emphasizes the significance of education:

“With an aim to protect the environment and improve the environmental consciousness in the public opinion, it is essential that subjects related with environment shall take place in the formal education institutions under the Ministry of National Education starting with the preschool education.”³³⁹ This provision stresses the importance of education beginning from early ages which was also underlined both in the CBD and the SPA/BD Protocol.

³³⁶ SPA/BD Protocol, *op.cit.*, Article 19.

³³⁷ Environment Act, *op.cit.*, Article 9(d).

³³⁸ *Ibid.*, Article 9(f).

³³⁹ *Ibid.*, Article 9(1).

Apart from the Environment Law, conservation of biodiversity is ensured under the Law of National Parks³⁴⁰, Forestry Act³⁴¹, Act of Protection of Cultural and Natural Properties³⁴² likewise. In addition to these, in the EU accession process a “Draft Law on the Protection of Nature and Biodiversity”³⁴³ was prepared and is on the agenda of the Turkish Grand National Assembly.

The biodiversity policy of Turkey is also conducted via regulations and by-laws pursuant to the Articles 115 and 124³⁴⁴ of the Constitution, respectively. In general, these regulations are arranged in order to implement regional and international conventions or protocols. Other regulations are arranged for the implementation of the national laws.

The basis of Turkey’s biodiversity policy is the international and regional conventions that Turkey is a party; some of them are:

- World Heritage Convention³⁴⁵
- Ramsar Convention³⁴⁶
- CITES³⁴⁷
- CBD³⁴⁸
- 1995 Barcelona Convention³⁴⁹
- SPA/BD Protocol³⁵⁰

³⁴⁰ Act of National Parks numbered 2873 published in the Official Gazette dated 11.08.1983 and numbered 18132. www.resmigazete.gov.tr (26 November 2011)

³⁴¹ Forestry Act numbered 6831 published in the Official Gazette 08.09.1956 and numbered 9402. www.resmigazete.gov.tr (26 November 2011)

³⁴² Act of Protection of Cultural and Natural Properties numbered 2863 published in 23.07.1983 and numbered 18113. , www.resmigazete.gov.tr (26 November 2011)

³⁴³ *infra.*, p. 88.

³⁴⁴ These articles are related with the enacting of regulations and by-laws.

³⁴⁵ Convention Concerning the Protection of World Cultural and Natural Heritage, Turkey ratified this Convention on 14.02.1983, Official Gazette number; 17959.

³⁴⁶ The Convention on Wetlands of International Importance, especially as Waterfowl Habitat, Turkey ratified this Convention on 17.05.1994 Official Gazette number; 21937.

³⁴⁷ Turkey ratified this Convention on 20.06.1996 Official Gazette number; 22672

³⁴⁸ Turkey ratified this Convention on 27.12.1996, Official Gazette number; 22860

³⁴⁹ Turkey ratified this Convention on 22.08.2002, Official Gazette number; 24854

³⁵⁰ Turkey ratified this Protocol on 22.08.2002, Official Gazette number; 24854

3.3.2 The Contribution of the SPA/BD Protocol towards the Improvement of Turkey's Biodiversity Policies

Turkey ratified the SPA Protocol in 1988³⁵¹ and currently, it is a party to the SPA/BD Protocol which was ratified in 2002. In this point, before analyzing the obligations that Turkey undertake, it would be noteworthy to mention the reservation that Turkey asserted towards the SPA Protocol.

A reservation made by Turkey to the SPA Protocol was related to prevent the use of the current and future provisions of the SPA Protocol by the other Contracting Parties that would damage its existing rights and interests in the semi-enclosed seas and limit its innocent passage stemming from international customary law.³⁵²

Turkey made this reservation because it had a concern about Greece's possible activities in the Aegean Sea which may violate its rights as a result of the Article 7(c) of the SPA Protocol which foresees "the parties having regard to the objectives pursued and taking into account the characteristics of each protected area, shall in conformity with the rules of international law, progressively take the measure required, which may include; the regulation of the passage of ships and any stopping or anchoring". The SPA/BD Protocol incorporated new provisions to avoid conflicts concerning various aspects of the Law of the Sea.

"Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, the present and future claims or legal views of any State relating to the law of the sea, in particular, the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas, the right and the modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State and the port State.

³⁵¹ Turkey ratified this Protocol on 23.10.1988, Official Gazette number; 19968.

³⁵² Sav, *op.cit.*, p. 154, footnote: 276.

No act or activity undertaken on the basis of this Protocol shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.”³⁵³

Turkey has been undertaking its obligations regarding SPAs issue since the ratification of the SPA Protocol in 1988. The first indication of implementation of this Protocol is the establishment of the Authority for the Protection of Special Areas (APSA)³⁵⁴ in 1988 temporarily under the Prime Ministry in line with the Article 9(d) of the Environment Law as the responsible authority for issues regarding the protected areas.

The tasks of this body were defined with Decree Having Force of Law Numbered 383³⁵⁵ that has been amended in 1991 by a decree number 444³⁵⁶. With this new decree, the APSA was linked to the Ministry of Environment which was linked to the Prime Ministry at the very outset. It was linked to the Ministry of Environment and Forestry after these two Ministries were united on May 1, 2003.³⁵⁷ In 2006, the name of the APSA was changed as the “Environmental Protection Agency for Special Areas” (EPASA); in 2011, the EPASA was repealed and the DGPNP repealing the EPASA was established and its tasks were assigned with Decrees Having Force of Law Numbered 644 and 648.³⁵⁸

From the ratification of the SPA Protocol in 1988 to until 1990, the Council of Ministers declared twelve SPAs, nine of which are in the Mediterranean Basin (Fethiye-Göcek; Köyceğiz; Kekova; Göksu; Dalyan; Patara; Pamukkale; Gölbaşı; Foça; Ihlara; Datça-Bozburun; and Belek). In 2000, TuzGölü; in 2004 Uzungöl; and in 2010 Saros Bay were declared as Special Environment Protection Areas (SEPA)³⁵⁹ by the Council of Ministers. The table below demonstrates these SEPAs and their surface areas: The total surface area of these SPAs is 12842,46 km² covering nearly

³⁵³ SPA/BD Protocol, *op. cit.*, Articles 2(2) and 2(3).

³⁵⁴ Published in the Official Gazette dated 13.11.1989 and numbered 20341.

³⁵⁵ Decree Having Force of Law Numbered 383, published in Official Gazette dated 13.11.1989 and numbered 20341. www.resmigazete.gov.tr, accessed at: 24 November 2011.

³⁵⁶ Decree Having Force of Law Numbered 444, published in Official Gazette dated 21.8.1991, numbered 20967. www.resmigazete.gov.tr, accessed at: 24 November 2011

³⁵⁷ Law on the Organization and Tasks of the Ministry of Environment and Forestry numbered 4856, published in Official Gazette dated 08.05.2003 and numbered 25102. www.resmigazete.gov.tr accessed at: 24 November 2011.

³⁵⁸ Decree Having Force of Law Numbered 644, published in Official Gazette dated 04.07.2011 27894 (repeated). www.resmigazete.gov.tr accessed at: 24 November 2011.

³⁵⁹ Hereinafter SEPA.

1.6% of Turkey's surface area and nearly 1/8 of coastal length which means that only a small surface area is under protection in Turkey.

Table 1: SEPAs in Turkey

SEPA's name	Area (km ²)
Gökova	576,90
Köyceğiz-Dalyan	461,46
Fethiye-Göcek	805,37
Patara	197,10
Kaş-Kekova	257,83
Göksu Deltası	228,50
Belek	111,79
Foça	71,38
Datça-Bozburun	1.433,68
Pamukkale	66,56
Gölbaşı	273,94
Ihlara	54,64
TuzGölü	7.414,00
Uzungöl	149,10
Saros Bay	730,21
Total: 15	Total area: 12842,46 km ²

Source: www.ockk.gov.tr

Under the Decree numbered 383, the main aim of the APSA was stated as to protect environmental values of the areas which were and would be declared as SEPAs; to take all the measures in order to eliminate existing environmental problems; to identify protection and usage principles of these areas; to prepare their land use plans; and to revise and approve ex officio the plans and decision of plans in every existing scale.³⁶⁰

³⁶⁰ Decree Having Force of Law Numbered 383, *op. cit.*, Article 1.

The management and operational principles of the APSA are;

- “- To determine protection and usage principles in the SEPA by taking international protection conventions and environment legislation into account and to make new arrangements,
- To make any performances for protection in accordance with the aim of this decree; to make and have made researches and studies; if needed to cooperate with all governmental institutions and bodies and related associations and international organizations.”³⁶¹

The other tasks of the APSA are;

- “- To prepare maps for the areas without maps or to have them prepared.
- To project the infrastructure in SEPAs; to prepare designs and to ensure that they are constructed.
- To define the implementation control principles of land use plans and their revisions and to ensure the follow-up and coordination of the implementation.
- To protect and improve the productivity of land, coast, river, lake and sea resources of SEPAs and to make necessary research and analysis for the reconstruction of the depleted stocks.
- To contribute to the awareness of environmental protection in the community and to give environment protection training at all levels of the community in order to achieve permanent behavior changes and to carry out these activities in cooperation with other governmental institutions and organizations.”³⁶²

The general principles guiding the APSA are;

- “- The natural, historical, and cultural values of the SEPA's should be maintained, and the sustainability and improvement of these values should be provided.

³⁶¹ *Ibid.*, Article 1(a) and 1(b).

³⁶² <http://www.ockk.gov.tr>, accessed at: 25 November 2011.

- It is essential that people living in the settlements within the SEPA's be made aware of the environment.
- It is essential to cooperate with local people, local governments, universities, NGO's , and relevant institutions in SEPA's.
- It is essential that a wide information network be used with respect to decisions made about SEPA's.
- It is essential that international standards be implemented to all projects and operations developed in SEPA's.
- It is essential that the planning procedures of SEPA's be carried on according to an integrated planning framework.”³⁶³

From the tasks, principles and aims cited above, it can be clearly seen that the APSA was the only responsible body for all the issues relating the SEPAs. In doing this, it took into account not only national legislations but also international conventions which meant that it handled the issue in a wider perception.

The general principles are noteworthy to tell as they directly reflect the objectives of the SPA/BD Protocol. Like in the SPA/BD Protocol, the APSA gave utmost importance to the sustainability of the natural, historical and cultural values of the SEPAs.

Secondly the importance of cooperation with all relevant parts of the society especially with local people was emphasized which was among the main concerns of the SPA/BD Protocol.

As awareness is very vital in terms of environmental problems, creating the awareness of the people living in the settlements of the SEPAs was defined as a general principle of the body.

Aforementioned many times, the right of to get information about the decisions taken linked with environmental problems is important to provide the public support. So, the APSA also underlined this issue and proposed a wide information network to be used for public with respect to the decisions concerning the SEPAs.

³⁶³ *Ibid.*.

Cited above, there were legal changes in the status of the body concerned with protected areas. The last amendment was made in line with two decrees numbered 644 and 648. The Ministry of Environment and Forestry was divided into two as the “Ministry of Environment and Urban Planning” and the “Ministry of Forestry and Hydraulic Works” and the EPASA was excluded from the organization of the Ministry of Environment and Urban Planning with the Decree numbered 644.³⁶⁴ The organization and tasks of the Ministry of Environment and Urban Planning was identified by the Decree numbered 644 which was amended with the Decree numbered 648.

With the Decree numbered 648 an amendment was made and the DGPNP was established instead of the EPASA as one of the service units of the Ministry of Environment and Urban Planning.³⁶⁵ According to this new law, the tasks of the EPASA were assigned to the DGPNP. Prescribed by Article 10 of the Decree 648, Article 13(A) was incorporated into the Decree 644 to identify the tasks of the DGPNP. Apart from the tasks related with SEPAs, provisions concerning national parks, nature parks, wetlands, natural site areas, archeological sites were defined under this new DG.³⁶⁶

For the implementation of the Decree numbered 648, a circular was published on the tasks of the DGPNP.³⁶⁷ In this Circular, it was underlined that until a new arrangement, the administrative acts regarding SPAs and other issues are assigned to the 81 Provincial Directorates ensuring the continuity of the jobs without delay.

Apart from establishing an administrative body concerning the protected areas, Turkey tries to fulfill its other obligations under the SPA/BD Protocol such as preparation and implementation of Action Plans. Currently, Turkey conducts all the Action Plans adopted within the framework of the MAP.³⁶⁸ The content of these

³⁶⁴ Decree Having Force of Law Numbered 644, *op. cit.*, Article 6.

³⁶⁵ Decree Having Force of Law Numbered 648, Article 3.

³⁶⁶ *Ibid.*, Article 10.

³⁶⁷ Circular of the Ministry of Environment and Urban Planning numbered 2011/5 and dated 8.9.2011.

³⁶⁸ These action plans are: Action Plan for the managing of the Monk Seal in the Mediterranean, Action Plan for the conservation of Mediterranean marine turtles, Action Plan for the conservation of cetaceans in the Mediterranean Sea, Action Plan for the conservation of marine vegetation in the Mediterranean Sea, Action Plan for the conservation of bird species registered in annex II of the SPA/BD protocol in the Mediterranean, Action Plan for the conservation of cartilaginous fishes

national action plans³⁶⁹ varies according to the subject; however, they generally include objectives, priorities, implementation measures, recommendations and guidelines.

In addition, Turkey prepares management plans for the SEPAs and carries out monitoring programmes. Also, infrastructure studies like water quality are conducted in the SEPAs; and actions regarding species and habitats that are endangered are being taken.

Turkey conducts projects regarding SEPAs in cooperation with both RAC/SPA and other international organizations. For example MedPosidonia project was conducted with the RAC/SPA. Experts from RAC/SPA and Turkey made laboratory studies and monitoring studied by diving in pilot regions; Gökçeada and Mersin. According to the officials this project was very fruitful.³⁷⁰

Currently, Turkey is conducting the “Strengthening the system of marine and coastal areas of Turkey” project in cooperation with the United Nations Development Programme (UNDP) and Global Environmental Facility (GEF) which started in 2009 and will be finalized in 2013. The budget of the project is 6.220.000\$. The Project is being conducted in six regions where five of them are SEPAs; Fethiye-Göcek, Köyceğiz-Dalyan, Datça-Bozburun, Gökova, Foça and Ayvalık Islands Nature Park.³⁷¹ The expected outcomes of the project includes a more efficient management of existing marine and coastal protected areas; strengthening the institutional structure and capacity; coordination mechanism among institutions in order to manage and regulate economic activities; to develop financial planning and management systems for marine and coastal protected areas.³⁷²

(Chondrichthyans) in the Mediterranean Sea, Action Plan concerning species introduction and invasive species in the Mediterranean Sea, Action Plan for the conservation of the coralligenous and other calcareous bio-concretions in the Mediterranean Sea. <http://www.rac-spa.org/node/62#en4>, (27 November 2011)

³⁶⁹ For detail information about the content of these plans see: <http://www.rac-spa.org/node/62#en4>

³⁷⁰ Interview with Aybars Altıparmak, 5 December 2011.

³⁷¹ For detail information see: <http://www.dka.org.tr>

³⁷² *Ibid.*.

Another obligation of Turkey is to submit implementation and progress reports for the Protocol³⁷³ to the Meeting of the Contracting Parties. These reports contain detailed information both for the relevant articles in the Protocol and also the National Action Plans.³⁷⁴

Currently, there are 10 SEPAs in the Mediterranean coast of Turkey. However, there are not any SPAMIs established in accordance with the SPA/BD Protocol.³⁷⁵ Probably after the transition period, it will be possible for the DGPNP to reconsider Turkey's commitments with respect to preparation of SPAMI List as well.

It is known that the EU is a party to the SPA/BD Protocol. This Protocol is also a part of EU *acquis* as international conventions where the EU is a party to, also constitute a part of the EU legislation. So, aside from the legal arrangements, as being a candidate country to the EU, Turkey undertakes obligations stemming from the harmonization of the EU *acquis* in terms of the chapter "Environment" which was opened to negotiations on 21 December, 2009.

Therefore, it would be noteworthy to mention the EU's biodiversity and its protected areas policies as well. As loss and decline of biodiversity constitute a major challenge for the EU, the EU gives importance to the conservation of nature and biodiversity. In this framework, the EU adopts regulations, directives; publishes communications and strategy papers which constitute the main elements of its biodiversity policy.

The Natura 2000 network is the cornerstone of the EU's protected areas policy. The EU created the Natura 2000 network including the Mediterranean region which gathers all protected areas under one network in order to implement the provision regarding SPAs.

Natura 2000 is the EU-wide network of nature conservation areas to ensure the survival of Europe's most valuable species and habitats³⁷⁶ which also took place in

³⁷³ SPA/BD Protocol, *op. cit.*, Articles 23 and Article 26.

³⁷⁴ See footnote: 368.

³⁷⁵ Interview with Güner Ergun, Department Chief from the Ministry of Environment and Urban Planning, 15 November 2011.

³⁷⁶ EC, "Natura 2000" factsheet, ec.europa.eu/environment/nature/info/.../nat2000/factsheet_en.pdf, accessed at: 29 November 2011.

the strategy entitled “Our Life Insurance, Our Natural Capital: an EU Biodiversity Strategy to 2020”³⁷⁷ as one of the six targets were related with halting the deterioration in the status of all species and habitats.

Natura 2000 network was created in line with the Directive on the Conservation of Wild Birds³⁷⁸ (known as Birds Directive) and Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora³⁷⁹ (known as Habitat Directive). Thus, Natura 2000 network includes Special Protection Areas established under the Birds Directive and Special Areas of Conservation established under the Habitats Directive. According to the lists in the Annexes of these directives, member states form a list of sites that they want to be conserved and submit this list to the European Commission to be assessed for the inclusion in the Natura 2000 network.³⁸⁰ The management and protection issues in the Natura 2000 sites were laid down in the article 6³⁸¹ of the Habitats Directive.

The Natura 2000 network covers terrestrial, marine and coastal areas. Today, there are over 25,000 sites in the network which covers nearly 20% of the total European territory being the world’s largest network of SPAs. The network is divided into nine bio-geographical regions including the Mediterranean. The number reached to out of which 25,000 sites; 3,500 sites are located in the Mediterranean region which constitutes 14% of the total coverage.³⁸²

Highlighted above, as being a country that opened the chapter of “Environment” to negotiations, Turkey has to harmonize its nature policy with the EU legislation as well. One of the main obligations in this period is to adopt framework legislation on nature protection which was mentioned in 2011 Progress Report as; “No progress can be reported on nature protection. Framework legislation

³⁷⁷ EC, “Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on “Our Life Insurance, Our Natural Capital: an EU Biodiversity Strategy to 2020”, COM (2011) 244, Brussels, 2011, p. 11. [http://ec.europa.eu/environment/nature/biodiversity/comm2006/pdf/2020/1_EN_ACT_part1_v7\[1\].pdf](http://ec.europa.eu/environment/nature/biodiversity/comm2006/pdf/2020/1_EN_ACT_part1_v7[1].pdf), accessed at: 8 August 2011.

³⁷⁸ Directive 2009/147/EC of The European Parliament and of The Council of 30 November 2009.

³⁷⁹ Council Directive 92/43/EEC of 21 May 1992.

³⁸⁰ EC, Commission Working Document on Natura 2000, 2002, p. 2.

³⁸¹ For detail analyze of this Article see:

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf, accessed at: 16 October 2011.

³⁸² Natura 2000 factsheet, *op. cit.*.

on nature protection has not yet been adopted”³⁸³. The studies regarding the adoption on framework legislation are continuing.

At this juncture it is noteworthy to cite about the studies on the “Draft Law on the Protection of Nature and Biodiversity”³⁸⁴ which is conducted in line with the closing benchmark of the “Environment” Chapter under the EU negotiations. With this Draft, it is “aimed at the protection of biodiversity and the important national and international values in the land, coastal, aquatic and marine areas of Turkey; and redefining of the statues of protected areas in a clear and understandable way. Also it envisaged the establishment of the National Biodiversity Body and the creation of local biodiversity bodies; and the establishment of the Nature Protection Scientific Committee in order to provide scientific support to the Ministry of Environment and Urban Planning”³⁸⁵.

In the General Justification of this Draft Law, it was stated that the general protection approaches and the protection statues defined in the laws in force are limited with definitions of specific areas and species and other areas remained out of the definition. So, this Draft Law will fill this gap.³⁸⁶

Also in this Draft Law, a single statue is given to the protected areas in order to prevent differences among statues and eliminate the intervention on areas of responsibility of different units in the management of these areas.³⁸⁷

In addition, it was stressed that up to date, a natural network which enables linkages among protected areas, natural interaction and transition among living species could not be established. Thus, the Nature Protection Network should be established which aimed at ensuring the permanent security of wild animals and

³⁸³ EC, “Commission Staff Working Paper Turkey 2011 Progress Report”, SEC (2011) 1201, Brussels, 2011, p. 100. <http://www.ab.gov.tr> (2 December 2011)

³⁸⁴ As there was not any translation for the name of the Draft Law, the author made a translation for the name. Currently, this Draft Law is on the Agenda of Turkish Grand National Assembly. For detail information on the situation of the Draft Law see: http://www.tbmm.gov.tr/develop/owa/tasari_teklif_sd.onerge_bilgileri?kanunlar_sira_no=87082 , (24 December 2011)

³⁸⁵ *Ibid.*.

³⁸⁶ General Justification of the Draft Law on the Protection of Nature and Biodiversity <http://www2.tbmm.gov.tr/d23/1/1-0964.pdf> , accessed at: 24 December 2011.

³⁸⁷ *Ibid.*.

plant species and their specific populations; and their mutual interactions; and the protection and enhancement of their habitats.³⁸⁸

Another issue that took place in the 2011 Progress Report is related with Natura 2000. The expectation of the EU from Turkey to make a potential list of Natura 2000 sites has not been compiled, yet. But Turkey continues its studies by making projects³⁸⁹ regarding Natura 2000.

In terms of undertaking its responsibility defined by the “Environment” chapter, Turkey has still things to do. In this process, it should be kept in mind that, Turkey has both challenges and opportunities.³⁹⁰ However, the important thing is to overcome the problems and use the opportunities because “the protection of our biodiversity richness is both a long term investment and insurance for our natural live resources”,³⁹¹.

³⁸⁸ *Ibid.*.

³⁸⁹ A Twinning Project was made with Germany on the harmonization of Natura 2000. In 2012, a project will be started which aims to define criteria for Natura 2000 sites. (Interview with Aybars Altıparmak.)

³⁹⁰ For detail information on opportunities and problems see: Erdal Özudođru, A. Ergin Duygu, “Türkiye’nin Avrupa Birliđi ile Katılım Müzakereleri Sürecinde Natura 2000 Korunan Alanlar Ekolojik Ađı’nın Deđerlendirilmesi”, **Ankara Üniversitesi Çevre Bilimleri Dergisi**, Vol. 1, No. 1, 2009.

³⁹¹ *Ibid.*.

CHAPTER IV

CONCLUSION

This thesis aimed at discussing the extent of the role of flexible Mediterranean regime in the contribution to the solution of an international environmental problem, biodiversity loss; and the role of national implementation in this regional regime in Turkey. Turkey's experience with respect to the Mediterranean Environmental Programme has various positive reflections. It was the first comprehensive experience of Turkey on environmental diplomacy which served as a learning process for the environmental bureaucracy and the scientific community. This experience contributed throughout the regime building process for the Black Sea region where Turkey confidently took leading initiatives and steps for the establishment and consolidation of the institutional and legal structures of the Black Sea Environmental Programme³⁹².

In this thesis, the analysis was based on three parts; the Mediterranean Environmental Programme shaped by the 1976 and 1995 Barcelona Conventions; the structure of SPA and SPA/BD Protocols in terms of protecting biodiversity; and finally the contribution of national implementation to the SPA/BD Protocol were examined in relation to Turkey.

The Mediterranean Environmental Programme which has been continuing nearly 40 years was launched in 1975 as the first of the Regional Seas Programme with the initiative of the UNEP. The UNEP can be accepted as successful simply because for initiating such a lasting regional regime in the Mediterranean. The UNEP consulted closely with all the actors in the society to determine the scope and substance of a suitable action plan. This involvement of all related actors of the society was critical as it prevented disagreements on the measures taken. However, the main achievement of the UNEP was its catalyst role which gathered and

³⁹² Convention on the Protection of the Black Sea against Pollution (known as Bucharest Convention) was signed in 1992 and entered into force in 1994. The parties of the Convention are Turkey, Romania, Ukraine, Bulgaria, Georgia and the Russian Federation.

encouraged the Mediterranean countries to take common action for protecting their shared heritage some of which have ongoing political conflicts. The Programme caused these countries to feel themselves “brothers”³⁹³ who try to protect a shared Mediterranean heritage, in French words “*l’idée Méditerranéenne*” which means “common identity”³⁹⁴. The role of the UNEP in creating environmental awareness on the regions’ countries is significant.³⁹⁵

In addition to the strong legal basis, the existence of epistemic community is thought to bring success to the Programme. This epistemic community consisted of the UNEP officials, governments’ officials, members from other specialized agencies and scientists from different subjects of fields. In terms of the Mediterranean, the involvement of ecologists and marine scientists facilitated the process of getting support from their states on international efforts and for the introduction of strong pollution control measures.³⁹⁶ Although there were criticisms towards the role and effect of epistemic communities, in the Mediterranean regime, there is no doubt that epistemic communities knowing the technical part of issues and independent from political boundaries and institutional rigidities contributed the solutions of the Mediterranean problems.

The UNEP shaped the legal basis of the Mediterranean regime via umbrella convention and its related protocols. According to the UNEP, this was fundamental for the long-term viability of the regional programme as it provided a framework for harmonizing the national legislation; it provided a forum for regular consultation for the implementation of the programme; it established guidelines for coordinating environmental programmes and institutions; and it established a financial framework for continuous coordinated action for protection of the region.³⁹⁷ Also, this Treaty-Protocol approach enabled adaptation of the Mediterranean Environmental Regime to the continuous changing environmental conditions is impressive.

³⁹³ Patricia Bliss, “Review of the Mediterranean Action Plan”, *Ocean Management*, Vol. 3, 1978, p. 327.

³⁹⁴ Sav, *op. cit.*, p. 62.

³⁹⁵ Lawrence Juda, “The Regional Effort to Control Pollution in the Mediterranean Sea”, *Ocean Management*, Vol. 5, 1979, p. 148.

³⁹⁶ Peter M. Haas, *loc.cit.*, p. 384.

³⁹⁷ Akuwumi, *op.cit.*, p. 230-231.

The Mediterranean Environmental Programme operates through an Action Plan within a framework convention and Protocols. In the light of these, MAP Phase I was guided with the MAP I document and the 1976 Barcelona Convention and its five additional protocols. The features of the MAP I were integrated planning and development (Blue Plan and PAP); scientific assessment (MEDPOL); legal agreements (1976 Barcelona Convention and its Protocols); and institutional and financial implications (RCU and RACs). The overall concern of all these mechanisms was confined to combat against pollution.

In Meeting of the Contracting Parties, the deficiencies of the MAP Phase I were identified. This process led the Mediterranean countries to develop a new action plan, MAP II. The legal framework was also amended in line with MAP II. As in the 1976 Barcelona Convention, the treaty-protocol approach model was maintained in the 1995 Barcelona Convention which currently constitutes the strongest aspect of the regime.

However, due to the developments occurred at the beginning of 1990s, the pollution-oriented approach was transformed towards sustainable development-throughout the MAP Phase II. This was reflected in the MAP II document such as sustainable development; strengthening legal framework and; institutional and financial arrangements.

When it comes to compare two Barcelona Conventions various differences can be identified. The paradigm differences were reflected even to the titles of the two Barcelona Conventions. While the 1976 Barcelona Convention was entitled as “Convention for the Protection of the Mediterranean Sea against Pollution”, the title of the 1995 Barcelona Convention is “Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean”.

The incorporation of the sustainable development concept into the provisions of the 1995 Barcelona Convention was a significant difference compared to the 1976 Barcelona Convention as well. In line with a wider perception of the marine environmental problems including the coastal areas as well, the geographical coverage of the 1995 Barcelona Convention was also subjected to changes. Besides

these substantial amendments, the basic structures of the 1976 Barcelona Convention (meeting of the parties, monitoring, scientific and technical cooperation, treaty bodies) were kept and improved.

Both in 1976 Barcelona Convention and the 1995 Barcelona Convention, there were provisions concerning implementation, compliance and dispute settlements, the diplomatic means are preferred to provide the parties to comply with their commitments rather than imposing sanctions. Sanctions mechanism can be very essential in dissuading countries not to implement policies that can have negative impacts on environment. Today, these two deficiencies stand as main bottlenecks which avoid better implementation of the legal system.

The elements of the 1995 Barcelona Convention are significant for the achievement. In this manner, it can be said that public information and participation also contributed the success of the legal framework. Because, by giving information to the public on the environmental state in the field of application of the convention and its protocols and on the activities or measures, the shortcomings of the legal structure can be clearly set down and therefore measures can be taken according to the needs of the society. At this point, the participation of the public came to the fore. Giving opportunity to the public to participate in decision-making processes relevant to the field of application of the convention and its protocols may help to accelerate the decision-making process and accelerate the process as a result of public support.

The Meeting of the Parties as the highest decision making body for the 1995 Barcelona Convention is another significant element in terms of effective implementation of both the convention and its protocols. These biennial meetings of the parties have been the only regional forum where representatives from disputing countries could meet face to face.³⁹⁸ Apart from that, the subjects discussed in these meetings constitute the backbone of the legal system.

In implementing this legal structure, the UNEP publishes soft law documents in order to provide guidance to the countries in the implementation of the convention and the protocols. Also, as a result of obligation to cooperate, the countries come

³⁹⁸ Jon Berger Skjaereth, "The 20th Anniversary of the Mediterranean Action Plan: Reason to Celebrate?", **Green Global Yearbook**, 1996, p. 51.

together and hold working groups, meetings, conferences for coordinated action and exchange of views in the problems of the Mediterranean.

However, besides these strengths, the Mediterranean Environmental Programme embodies some weaknesses. Well known that the Mediterranean Environmental Programme includes the coastal countries of the Mediterranean basin. This feature can be beneficial as mentioned above but as the environmental problems do not respect borders, the adverse impacts of non-coastal countries to the environmental problems of the region have to be considered. In this point, it is clear that keeping participation limited with coastal countries may have the possibility to hamper the effectiveness of the solutions, thus different problems in the same geographic areas may require the participation of different countries to different degrees for effective solutions.³⁹⁹

Another major challenge which impedes the effective implementation of the Mediterranean Environmental Programme relates with financial constraints. The main financial sources of the UNEP and its programmes are comprised of voluntary contributions of the governments. This mechanism created problems mainly in the second half of the 1990s when many states and the UN reduced their supports owing to their financial crisis.⁴⁰⁰ It is known that solutions of the environmental problems require high budgets. In this point, forming a definite financing resource may alleviate the constraints in the implementation due to inadequate financing.

Lastly, it is well known that climate change will have adverse effects on the Mediterranean Sea and coastal regions. In the “Protocol on Integrated Coastal Zone Management in the Mediterranean” provisions regarding climate change effects were incorporated. However, when the effects of climate change are thought a separate protocol can be adopted.

Mentioned above, for addressing specific problems of the Mediterranean region, 1976 and 1995 Barcelona Conventions were supported with protocols. For biodiversity loss problem, the SPA Protocol was created under the 1976 Barcelona

³⁹⁹ Juda, *op.cit.*, p. 146-147.

⁴⁰⁰ For detail information see: Hunter, *op.cit.*, p. 217-230.

convention which was amended with the SPA/BD Protocol in line with the provisions of the CBD.

Biodiversity loss constitutes a significant problem for the future of life sustaining systems. As a result of rapid biodiversity decline all over the world, legal measures were taken at global level. There is no doubt that the most comprehensive measures were identified by the CBD. The CBD appealed universal attention in a very short period of time. Sustainability; common concern of humankind; intergenerational equity; common but differentiated responsibility and the precautionary are the guiding principles and concepts of the CBD that inspired the policy makers and practitioners in their effort to find responses to the decline of the biological resources. The establishment of protected areas is considered as an effective measure in conservation strategies of the biodiversity and CBD set global and regional targets for the protected areas which were influential at national and regional practices. Having one of the most diverse marine environments and being one of the 34 biodiversity hotspots of the world, the Mediterranean Sea requires effective measures on biological diversity as well. The 1982 SPA Protocol aims to promote cooperation of the Mediterranean states on this issue. Due to commitments of the Mediterranean states various natural, cultural and biological assets were taken under special conservation regimes in accordance with the SPA Protocol throughout the Mediterranean region. Though the implementation of the SPA Protocol was impressive, new perceptions and ideas pressurized the decision makers to incorporate new dimensions to the SPA Protocol. Inspired from UNCED process in general and CBD in particular the provisions of the SPA Protocol were subjected to change via the 1995 Protocol on SPA/BD.

Similar assessments done for Barcelona Conventions above in terms of strong legal structure can also be valid for the SPA and SPA/BD Protocols. As in the 1976 Barcelona Convention, the flexible structure of the SPA Protocol enabled fundamental amendments in line with the outcomes of the UNCED process, especially the CBD. The provisions of the SPA Protocol were amended with the SPA/BD Protocol. With the effect of the CBD, the deficiencies of the SPA Protocol were realized and the provisions regarding such as sustainable use of biological

resources; precautionary principle; public education, information and awareness; and the EIA has been incorporated into the SPA/BD protocol and paved the way for a more comprehensive management system for protected areas.

This flexibility provided the possibility to expand the scope of the SPA/BD Protocol beyond SPA's covering SPAMIs as well. The SPA and the SPA/BD Protocols had a stimulating impact over national policies on protected areas. The SPA and SPA/BD Protocols contributed to the increase in the number of SPAs such that; from the beginning of the MAP in 1975 until to the beginning of the MAP Phase II in 1995 there were only 122 SPAs, today there are over 800 SPAs which demonstrates that there is over six-fold increase.⁴⁰¹ This increase can also be accepted as a success of the SPA/BD Protocol in stimulating countries to establish more SPAs indicating that environmental consciousness was started to be spilled over. However, in establishing SPAMIs, the results do not seem very bright. From the entry into force in 1999 up to date only 25 SPAMIs were established most of which located in the northern Mediterranean Countries. The distribution profile of the SPAs is also similar; the countries having the highest number of SPAs are located in the north Mediterranean. At this point, it can be concluded that the southern Mediterranean that are mostly developing states face some difficulties in establishing the SPAs and SPAMIs. The reasons for this may be technical, administrative and financial constraints, so in order to overcome this problem, the cooperation between developed and developing countries shall be strengthened and improved. Maybe, some amendments considering socio-economic situations of developing countries can be done for facilitating the procedure of establishing protected areas.

Among the deficiencies of the implementation of the SPA/BD Protocol can be accepted as the lack of a network for the protected areas of the Mediterranean like the EU's Natura 2000 network which may be helpful for the interaction and monitoring of these areas. The studies for the establishment of a comprehensive and coherent Mediterranean network of coastal and marine protected areas by 2012⁴⁰²

⁴⁰¹ Specially Protected Areas in the Mediterranean Assessment and Perspectives, *op.cit.*, p. 18.

⁴⁰² During their 14th ordinary meeting (Portoroz, Slovenia, November 2005) the Contracting Parties to the Barcelona Convention invited the RAC/SPA to elaborate a programme of work for the development of marine protected areas (MPAs) aimed at supporting the Mediterranean countries to achieve the CBD's 2012 target by establishing a representative network of MPAs in the

were started but they have to be accelerated. As, this network requires reliable data; developing a reliable Mediterranean database on protected areas should be the priority of the Mediterranean countries.

Well known that the development of legal and institutional mechanism is not sufficient to attain the success, the system should be operated efficiently. There are important mechanisms defined in the SPA/BD Protocol which assist parties for the implementation. The RAC/SPA is the coordinating body to assist Mediterranean countries in the implementation of the SPA/BD Protocol and the NFPs serve as liaison units. Together with the RAC/SPA, they act as national coordinating bodies in order to promote the compliance of the Contracting Parties with their obligations under the SPA/BD Protocol. Apart from that, Meeting of the Contracting Parties shall be held in conjunction with the Ordinary Meetings⁴⁰³ of the 1995 Barcelona Convention in order to provide the continuity of the system which enabled the sustainability and traceability of the implementation of the SPA/BD Protocol. The ordinary meetings of parties are important because like in the COPs of the CBD, in these meetings binding decisions are taken for the maintenance and effective implementation of the SPA/BD Protocol. The 16th Ordinary Meeting held in Marrakesh (Morocco) in November, 2009 worth examining. In this meeting, a regional working programme⁴⁰⁴ for the coastal and marine protected areas in the Mediterranean including the high sea was proposed. This programme was drafted by the RAC/SPA for the “development of marine protected areas (MPAs) helping the Mediterranean countries to achieve the CBD’s 2012 targets by establishing a representative network of MPAs in the Mediterranean”⁴⁰⁵. In the 9th Meeting of the NFPs held in Malta in 2009, this draft program was adopted and submitted to the parties for their adoptions.

Mediterranean Sea. In 16th Ordinary Meeting held in Marrakesh (Morocco) in November, 2009, this programme was proposed and it was adopted in the 9th Meeting of the NFPs held in Malta in 2009. www.racpsa.org , (5 December 2011)

⁴⁰³ SPA/BD Protocol, *op.cit.*, Article 26(1).

⁴⁰⁴ UNEP(DEPI)/MED IG.19/8 Annex II, The actions taken under three steps were put down in details in the programme. In this programme, sets of criteria to help in the establishment of representative networks of MPAs in the Mediterranean Sea were identified. According to this, the first thing to be done in reaching this target was defined as designing an ecological network having three steps approach; identification of large scale ecological units, priority conservation areas, and identifying sites to develop true ecological networks.

Concerning the impact of the SPA/BD Protocol in Turkey it would be a sensible idea to evaluate the general strategies of Turkey in relation to biodiversity and protected areas. Turkey has different obligations under international and regional conventions and the EU's accession process. However, this situation leads overlapping and legal holes and prevents identifying a permanent national strategy. But, it must be kept in mind that international interaction always constitutes a positive dimension as long as certain sensitivity is provided, when national interests are in question. Turkey's legislation concerning the protection and conservation of biodiversity mostly depends to international agreements. In order to implement these agreements in internal law, national legislation is required. However, although an important number of international agreements were signed and published in the Official Gazette; necessary legal regulations were not completed yet. Also, the reservations of Turkey for these agreements can create problems in the implementation.⁴⁰⁶ Among the general constraints, funding and lack of rigid sanctions can be put forth. Additionally, as a result of Decrees numbered 644 and 648, coordination deficiencies and management problems occurred.⁴⁰⁷ The number and the total area of the SEPAs are very low when compared to Turkey's coastal area surface. Therefore, the number of these areas must be increased or the areas of these places must be extended.

For the EU accession process, the studies regarding the preparation of nature protection framework legislation and a list of Natura 2000 sites should be accelerated. At this juncture, "the recommendations of countries that experienced accessions processes may be helpful."⁴⁰⁸

In a nutshell, it must be admitted that, UNEP's regional approach to marine pollution enabled governments to identify and react to peculiarities and special problems of their region⁴⁰⁹ and led to the creation of protocols to cope with these problems. The commitment of the Mediterranean countries and their perception of a need to cooperate on the regional level can be accepted as one of the reasons for the

⁴⁰⁵ *Ibid.*, p. 99.

⁴⁰⁶ A. Güneş, *op. cit.*, p. 80-81.

⁴⁰⁷ Interviews with Aybars Altıparmak and Güner Ergun.

⁴⁰⁸ Özüdoğru, *op. cit.*.

⁴⁰⁹ Bliss, *op.cit.*, p. 318.

lasting of the Programme nearly 40 years.⁴¹⁰ However this perception among countries is not sufficient for the Programme to be regarded as completely successful. The success depends on the political agreement among countries and the willingness of the countries to implement the requirements of the Programme. In this regard, it should be noted that, as the countries in the Mediterranean basin have different socio-economic characteristics, the Programme may be restructured and reinforced by taking into account of countries' differences.

Therefore, in order to achieve the general objectives of the Programme, efforts shall be promoted in order to eliminate the shortcomings and to strengthen the effectiveness of the regional regime.

Regional regimes can contribute to the solution of an international environmental problem like biodiversity loss to a certain extent by constituting the legal basis of the regime, however, as the role of effective national implementation is significant for the regional implementation; the success lies at the commitments and willingness of the countries.

⁴¹⁰ *Ibid.*, p. 327.

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APPENDICES

Appendix A. Signatures and Ratifications Of The Barcelona Conventions and Its Protocols as At 13 May 2011

Contracting Parties	1976 Barcelona Convention 1/				1976 Dumping Protocol 2/			1976 Emergency Protocol 3/		
	Signature	Ratification	Acceptance of 1995 Amendments	Entered into force	Signature	Ratification	Acceptance of 1995 Amendments	Signature	Ratification	Entered into force
Albania		30.05.90/AC	26.07.01	09.07.04	-	30.05.90/AC	26.07.01	-	30.05.90/AC	29.06.90
Algeria		16.02.81/AC	09.06-04	09.07.04	-	16.03.81/AC	-	-	16.03.81/AC	15.04.81
Bosnia and Herzegovina		22.10.94(SU C)	-	-	-	22.10.94/SUC	-	-	22.10.94/SU C	01.03.92
Croatia		12.06.92(SU C)	03.05.99	09.07.04	-	12.06.92/SUC	03.05.99	-	12.06.92/SU C	08.10.91
Cyprus	16.02.76	19.11.79	18.07.03	09.07.04	16.02.76	19.11.79	18.07.03	16.02.76	19.11.79	19.12.79
European Union	13.09.76	16.03.78/AP	12.11.99	09.07.04	13.09.76	16.03.78/AP	12.11.99	13.09.76	12.08.81/AP	11.09.81
Egypt	16.02.76	24.08.78/AP	11.02.00	09.07.04	16.02.76	24.08.78/AP	11.02.00	16.02.76	24.08.78/AC	23.09.78
France	16.02.76	11.03.78/AP	29.03.01	09.07.04	16.02.76	11.03.78/AP	29.03.01	16.02.76	11.03.78/AP	10.04.78
Greece	16.02.76	03.01.79	10.03.03	09.07.04	11.02.77	03.01.79	-	16.02.76	03.01.79	02.02.79
Israel	16.02.76	03.03.78	29.09.05	29.10.05	16.02.76	01.03.84	-	16.02.76	03.03.78	02.04.78
Italy	16.02.76	03.02.79	07.09.99	09.07.04	16.02.76	03.02.79	07.09.99	16.02.76	03.02.79	05.03.79
Lebanon	-	08.11.77/AC	*	*	-	08.11.77/AC	-	-	08.11.77/AC	12.02.78
Libya	31.01.77	31.01.79	12.01.09	11.02.09	31.01.77	31.01.79	-	31.01.77	31.01.79	02.03.79
Malta	16.02.76	30.12.77	28.10.99	09.07.04	16.02.76	30.12.77	28.10.99	16.02.76	30.12.77	12.02.78
Monaco	16.02.76	20.09.77	11.04.97	09.07.04	16.02.76	20.09.77	11.04.97	16.02.76	20.09.77	12.02.78
Montenegro	-	19.11.07	19.11.07	19.12.07	-	-	-	-	-	-
Morocco	16.02.76	15.01.80	07.12.04	06.01.05	16.02.76	15.01.80	05.12.97	16.02.76	15.01.80	15.02.80
Slovenia	-	16.09.93/AC	08.01.03	09.07.04	-	16.09.93/AC	08.01.03	-	16.09.93/AC	15.03.94
Spain	16.02.76	17.12.76	17.02.99	09.07.04	16.02.76	17.12.76	17.02.99	16.02.76	17.12.76	12.02.78
Syria	-	26.12.78/AC	10.10.03	09.07.04	-	26.12.78/AC	11.04.08	-	26.12.78/AC	25.01.79
Tunisia	25.05.76	30.07.77	01.06.98	09.07.04	25.05.76	30.07.77	01.06.98	25.05.76	30.07.77	12.02.78
Turkey	16.02.76	06.04.81	18.09.02	09.07.04	16.02.76	06.04.81	18.09.02	16.02.76	06.04.81	06.05.81

Accession = AC

Approval = AP

Succession = SUC

* pending notification from Depository country

Contracting Parties	2002 Emergency Protocol 4/			1980 Land-Based Sources Protocol 5/				1982 SPAs Protocol 6/		
	Signature	Ratification	Entered into force	Signature	Ratification	Acceptance of 1996 Amendments	Entered into force	Signature	Ratification	Entered into force
Albania	-	-	-	-	30.05.90/AC	26.07.01	11.05.08	-	30.05.90/AC	29.06.90
Algeria	25.01.02	-	-	-	02.05.83/AC	-	-	-	16.05.85/AC	23.03.86
Bosnia and Herzegovina	-	-	-	-	22.10.94/SUC	-	-	-	22.10.94/SUC	01.03.92
Croatia	25.01.02	01.10.03	17.03.04	-	12.06.92/SUC	11.10.06	11.05.08	-	12.06.92/SUC	08.10.91
Cyprus	25.01.02	19.12.07	18.01.08	17.05.80	28.06.88	18.07.03	11.05.08	-	28.06.88/AC	28.07.88
European Union	25.01.02	26.05.04	25.06.04	17.05.80	07.10.83/AP	12.11.99	11.05.08	30.03.83	30.06.84/AP	23.03.86
Egypt	-	-	-	-	18.05.83/AC	-	-	16.02.83	08.07.83	23.03.86
France	25.01.02	02.07.03	17.03.04	17.05.80	13.07.82/AP	29.03.01(AP)	11.05.08	03.04.82	02.09.86/AP	02.10.86
Greece	25.01.02	27.11.06	27.12.06	17.05.80	26.01.87	10.03.03	11.05.08	03.04.82	26.01.87	25.02.87
Israel	22.01.03	-	-	17.05.80	21.02.91	19.06.09	19.07.09	03.04.82	28.10.87	27.11.87
Italy	25.01.02	-	-	17.05.80	04.07.85	07.09.99	11.05.08	03.04.82	04.07.85	23.03.86
Lebanon	-	-	-	17.05.80	27.12.94	-	-	-	27.12.94/AC	26.01.95
Libya	25.01.02	-	-	17.05.80	06.06.89/AP	-	-	-	06.06.89/AC	06.07.89
Malta	25.01.02	18.02.03	17.03.04	17.05.80	02.03.89	28.10.99	11.05.08	03.04.82	11.01.88	10.02.88
Monaco	25.01.02	03.04.02	17.03.04	17.05.80	12.01.83	26.11.96	11.05.08	03.04.82	29.05.89	28.06.89
Montenegro	-	19.11.07	19.12.07	-	19.11.07(AC)	19.11.07	11.05.08	-	-	-
Morocco	25.01.02	26.04.11	26.05.11	17.05.80	09.02.87	02.10.96	11.05.08	02.04.83	22.06.90	22.07.90
Slovenia	25.01.02	16.02.04	17.03.04	-	16.09.93/AC	08.01.03	11.05.08	-	16.09.93/AC	15.03.94
Spain	25.01.02	10.07.07	09.08.07	17.05.80	06.06.84	17.02.99	11.05.08	03.04.82	22.12.87	21.01.88
Syria	25.01.02	11.04.08	11.05.08	-	01.12.93/AC	11.04.08	11.05.08	-	11.09.92/AC	11.10.92
Tunisia	25.01.02	-	-	17.05.80	29.10.81	01.06.98	11.05.08	03.04.82	26.05.83	23.03.86
Turkey	-	03.06.03	17.03.04	-	21.02.83/AC	18.09.02	11.05.08	-	06.11.86/AC	06.12.86

Accession = AC

Approval = AP

Succession = SUC

Contracting Parties	1995 SPA & Biodiversity Protocol* 7/			1994 Offshore Protocol 8/			1996 Hazardous Wastes Protocol 9/		
	Signature	Ratification	Entered into force	Signature	Ratification	Entered into force	Signature	Ratification	Entered into force
Albania	10.06.95	26.07.01	25.08.01	-	26.07.01	24.03.11	-	26.07.01	18.01.08
Algeria	10.06.95	14.03.07	13.04.07	-	-	-	01.10.96	-	-
Bosnia and Herzegovina	-	-	-	-	-	-	-	-	-
Croatia	10.06.95	12.04.02	12.05.02	14.10.94	-	-	-	-	-
Cyprus	10.06.95	18.07.03	17.08.03	14.10.94	16.05.06	24.03.11	-	-	-
European Union	10.06.95	12.11.99	12.12.99	-	-	-	-	-	-
Egypt	10.06.95	11.02.00	12.03.00	-	-	-	01.10.96	-	-
France	10.06.95	16.04.01	16.05.01	-	-	-	-	-	-
Greece	10.06.95	-	-	14.10.94	-	-	01.10.96	-	-
Israel	10.06.95	-	-	14.10.94	-	-	-	-	-
Italy	10.06.95	07.09.99	12.12.99	14.10.94	-	-	01.10.96	-	-
Lebanon	-	22.04.09	22.05.09	-	-	-	-	-	-
Libya	-	-	-	-	16.06.05	24.03.11	01.10.96	-	-
Malta	10.06.95	28.10.99	12.12.99	14.10.94	-	-	01.10.96	28.10.99	18.01.08
Monaco	10.06.95	03.06.97	12.12.99	14.10.94	-	-	01.10.96	-	-
Montenegro	-	19.11.07	19.12.07	-	-	-	-	19.11.07	18.01.08
Morocco	10.06.95	24.04.09	25.05.09	-	01.07.09	24.03.11	20.03.97	01.07.99	18.01.08
Slovenia	-	08.01.03	07.02.03	10.10.95	-	-	-	-	-
Spain	10.06.95	23.12.98	12.12.99	14.10.94	-	-	01.10.96	-	-
Syria	-	10.10.03	09.11.03	20.09.95	22.02.11	24.03.11	-	22.02.2011	-
Tunisia	10.06.95	01.06.98	12.12.99	14.10.94	01.06.98	24.03.11	01.10.96	01.06.98	18.01.08
Turkey	-	18.09.02	18.10.02	-	-	-	01.10.96	03.04.04	18.01.08

* Annex II (List of endangered or threatened species) and Annex III (List of species whose exploitation is regulated) of the SPA & Biodiversity Protocol were in 1996 and amended by Decision IG.19/12 "Amendments of the list of Annexes II and III of the Protocol concerning SPAs and Biological Diversity in the Mediterranean" of the 16th Meeting of the Contracting Parties, Marrakesh, Morocco, 2009. The amendments entered into force on 13 February 2011.

Contracting Parties	2008 Integrated Coastal Zone Management (ICZM) Protocol 10/		
	Signature	Ratification	Entered into force
Albania		04.05.2010/AD	24.03.11
Algeria	21.01.08	-	-
Bosnia and Herzegovina	-	-	-
Croatia	21.01.08	-	-
Cyprus	-	-	-
European Union	16.01.2009-	29.09.10/AP	24.03.11
Egypt	-	-	-
France	21.01.08	29.10.09/AP	24.03.11
Greece	21.01.08	-	-
Israel	21.01.08	-	-
Italy	21.01.08	-	-
Lebanon	-	-	-
Libya	-	-	-
Malta	21.01.08	-	-
Monaco	21.01.08	-	-
Montenegro	21.01.08	-	-
Morocco	21.01.08	-	-
Slovenia	21.01.08	01.12.09/R	24.03.11
Spain	21.01.08	22.06.10/R	24.03.11
Syria	21.01.08	22.02.2011	24.03.11
Tunisia	21.01.08	-	-
Turkey	-	-	-

Adhesion= AD

Approval = AP

Ratification = R

Appendix B. Tez Fotokopisi İzin Formu

ENSTİTÜ

Fen Bilimleri Enstitüsü	☐
Sosyal Bilimler Enstitüsü	☒
Uygulamalı Matematik Enstitüsü	☐
Enformatik Enstitüsü	☐
Deniz Bilimleri Enstitüsü	☐

YAZARIN

Soyadı : ZORLU
Adı : EDA
Bölümü : ULUSLARARASI İLİŞKİLER

TEZİN ADI (İngilizce) : SPECIALLY PROTECTED AREAS WITHIN THE
CONTEXT OF THE MEDITERRANEAN ENVIRONMENTAL PROGRAMME

TEZİN TÜRÜ : Yüksek Lisans ☒ Doktora ☐

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir. ☐
2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir. ☒
3. Tezimden bir bir (1) yıl süreyle fotokopi alınamaz. ☐

TEZİN KÜTÜPHANEYE TESLİM TARİHİ: