

Accord Pelagos  
relatif à la création en Méditerranée  
d'un Sanctuaire pour les mammifères marins

15<sup>ème</sup> Comité scientifique et technique  
11 et 12 septembre 2023



Accordo Pelagos  
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XV Comitato scientifico e tecnico  
11 e 12 settembre 2023

**Pelagos\_CST15\_2023\_Inf06**  
**English**  
**Distribution : 14/07/2023**

# **PRELIMINARY REPORT ON REGULATIONS IN PLACE ON THE POWERBOAT RACING AND JET SKIS IN THE PELAGOS SANCTUARY**

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### **1. Italian territorial waters**

This section includes an overview on the Italian regulatory framework on Jet Skis and offshore powerboat racing.

#### ***1.1 Jet skis***

The Jet Skis is considered a particular type of construction intended for recreational navigation by the Italian “*Codice della nautica da diporto*” (Pleasure boating code), adopted by the Legislative Decree n. 171 of July 18, 2005). Article 3(1)(h) of this Legislative Decree defines as “Jet Ski” any watercraft with a hull measuring less than four meters in length, with a propulsion engine using a water jet pump as its primary source of propulsion and intended to be conducted by one or more persons seated, standing, or kneeling on the hull.

The “Pleasure boating code” also provides the general rules regarding the conduct of Jet Skis in Italy and the limits applicable to the related activities. In particular, in order to drive a Jet Ski, a person must:

- be above eighteen years of age.
- have the special license for the conduct of watercrafts.

General rules regarding the circulation, provide that Jet Skis can circulate:

- only at daytime, weather conditions allowing.
- respecting the distance of one mile from the coast (1.85 km).
- observing a general speed limit or the specific one provided by the local Port Authorities.
- complying with the local regulations, like the ones regarding landing and departure during the summer season.

It must be noted that Port Authorities and Municipalities can also issue local Ordinances capable of regulating the traffic and use of Jet Skis.

#### ***1.2 Powerboat racing in the Italian Pelagos Sanctuary***

Following up from Article 9 of the Pelagos Agreement - which states that “*the Parties are united in seeking to regulate and, if necessary, ban speed boat racing within the Sanctuary*” - Italy prohibited the offshore powerboat racing within the Italian Pelagos Sanctuary. This provision was inserted directly in the Pelagos Agreement ratification law (Italian Law n. 391 of October 11th, 2001).

On this regard, the Italian Ministry of Environment issued a specific Report<sup>1</sup> on the implementation in Italy

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<sup>1</sup> See PELAGOS\_COP5\_Inf16, which can be downloaded at:

of the Recommendation COP4/REC9 “*Sensibilizzazione Comunicazione Stato dell’arte delle Sottoscrizioni della Carta di Partenariato tra i Comuni rivieraschi del Santuario e l’Autorità nazionale per la Parte italiana*”.

In this document, issued in the aftermath of the IV COP of the Agreement held in Monaco in October 2009, it can be read that the Italian Party ratified the Agreement setting a ban on speed boat racing all over its territorial waters, and the ban has been “*punctually applied by this competent Central national Authority to date in these waters with reference to any type of speed boats, including jet skis*”; compliance with the ban has been ensured by the Port Authorities.

Indeed, from a double-check - both on central and regional level - with the Italian Motorboat Federation (competent for Jet Ski racing), it was confirmed that the Port Authorities do not allow any form of Jet Ski racing within the Italian territorial waters of the Pelagos Sanctuary.

## **2. French territorial waters**

The objective of this contribution was to make a recognition of the state-of-the-art of the regulatory framework in place in French territorial waters, with the view to assess any possible regulatory options in line with Article 9 of the Pelagos Agreement (the Parties are united in seeking to regulate and, if necessary, ban speed boat racing within the Sanctuary).

### **2.1 Jet skis**

Jet ski belongs to the “Motorized nautical vehicle” (VNM) category. VNM is therefore defined by the French law as a “*watercraft with a hull length of less than 4 meters equipped with an internal combustion engine that drives a turbine constituting its main source of propulsion, and designed to be operated by one or more persons sitting, standing or kneeling on the hull rather than inside it*”.

The VNM category also includes watercrafts with an electric engine (with the exception of the internal propulsion unit) (Division 240, art. 240-1.02 II-3). Those watercrafts with a hull length bigger than 4 meters are considered as ships under the French law. A ship is a “*floating craft, built and equipped for maritime navigation for trade, fishing or leisure and assigned to it*”. (art. L5111-1 and art. D. 5111-1 C. transp.).

Any VNM with a minimum of 2 seats can navigate up to 6 miles from a shelter (11 km), the others remain limited to 2 miles (3.7 km) (Division 240, art. 240-2.12). A ‘shelter’ is defined as “*any place on the coast that the watercraft and the practitioner can approach, on which they can find refuge and from which they can leave without assistance*”.

There is a regulatory measure set up by an Order (*Arrêté 172/2021 du 6 juillet 2021 de la Préfecture maritime de la méditerranée encadrant différentes pratiques dans la mer territoriale et les eaux intérieures françaises de méditerranée*) aiming at ruling some activities and practices within the territorial waters, mostly with the view to offer general protection from noisy interferences and to preserve people safety.

Namely, the article 4 of the Arrêté relates to the preservation of public tranquility at sea from interferences originated by noise emissions, stating as it follows: “*The emission of noise by a boat above the surface of the sea must be limited to that corresponding to its normal mode of navigation*”.

Jet skis are prohibited within the Port-Cros National Park waters.

## **2.2 Powerboat racing in the French Pelagos Sanctuary**

French law does not prohibit the powerboat racing competitions.

The only existing rule refers to the French ratification law of the Pelagos Agreement (Décret 2002/1016 du 18 juillet 2002), which article 9<sup>2</sup> makes it operative with regard to a concertation among the Parties to take further action towards the ban.

A regulation to prohibit any jet ski racing activity in French Mediterranean Marine Protected Areas is planned for approval in summer 2023. In case of approval, racing activities for other speedboats bigger than 4 meters long - would still be possible under previous authorization as before. This regulation would be integrated as a new article in the Order 172/2021 (*Arrêté 172/2021 du 6 juillet 2021 de la Préfecture maritime de la Méditerranée encadrant différentes pratiques dans la mer territoriale et les eaux intérieures françaises de Méditerranée*).

## **2.3 Additional French regulations**

Disturbances caused by noise emissions for leisure or recreational purposes within 3 miles of the shore, both for the safety of other vessels and for public tranquility and the marine environment, shall be considered as neighborhood noise. The unusual character of the disturbance can be condemned: as soon as it exceeds the normal inconveniences resulting from life in society (three parameters are considered: duration, intensity, repetitive nature of noise) (art. R1336-5 du *Code de la santé publique*).

Also, an Interministerial Order (*Arrêté interministériel du 3 mai 1995 modifié relatif aux manifestations nautiques en mer*) applies to “*any activity carried out in maritime waters or having an impact on them and likely to call for specific measures of organization and supervision to ensure the safety of participants, spectators and the protection of the environment*” (art. 1.2). Under this regulatory measure:

- Nautical events must be organized in a way compatible with safety, environmental protection, and the interests of all users (art. 2)
- Any nautical event must be previously declared (art. 5).
- The Maritime Prefect (*Préfet Maritime*) may prohibit or suspend the running of a nautical event, in particular whenever it has not been declared, when the declaration has been filed in disregard of the deadlines, when the measures adopted by the organizer are not in conformity with those provided for

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<sup>2</sup>Article 9 Décret 2002/1016: “*Les Parties se concertent en vue de réglementer et, le cas échéant, interdire dans le sanctuaire les compétitions d’engins à moteur rapides.* »

in the declaration, or when the nautical event may be detrimental to the safety of persons and the environment (art. 6).

- The declaration must be done at least 2 months before the planned date, in the following cases: for events requiring an authorization, a derogation from the regulations in force, or special police measures; events for which a Natura 2000 impact assessment is prescribed; and events likely to significantly affect a Natura 2000 site. In all other cases, the declaration must be done at least 15 days prior to the date of the event. By delegation of the Maritime Prefect, the Departmental Director of Territories and the Sea or the Delegate for the Sea and the Coast confirms receipt of the declaration, provided that the regulatory, safety and environmental conditions are met. For events subject to authorization, the instruction requires the opinion of the Interregional Director of the Sea.

### **3. Monegasque territorial waters**

#### ***3.1 Jet skis***

All rules concerning maritime activities to be held in Monegasque waters are in the '*Code de la mer*'. This code regulates navigation, mooring, Marine Protected Areas, fishing, yachting, and shipping.

Jet skis fall under the same rule as pleasure yachting for the Monegasque administration.

In a more general way, the '*Code de la Mer*' currently in force as a result of the Law n° 1.198 of 27th March 1998, considers and rules all water sports under the Chapter IV, Title III "*La protection du milieu marin*", which states that the Government shall issue, in a case-by-case way, Orders to specify:

1. all conditions for navigation in inland waters, territorial waters, and all protected maritime areas within their boundaries;
2. all conditions for water sports and fisheries in the previously named waters;
3. the conditions for any other activity likely to harm water ecologic quality within the previously named waters.

Finally, the art. L.750-1 of the '*Code de la mer*' states that sea bathing and water sports, as well as any kind of water sport racing event, shall be previously assessed for health and security reasons.

#### ***3.2 Powerboat racing in the French Pelagos Sanctuary***

At the moment, no ban is in place on powerboat racing nor speed navigation activities over 300 meters from the coastline and areas subject to specific navigation rules.

As a consequence of security concerns, as well as environmental reasons, the Monegasque authorities have not authorized powerboat racing in the Monegasque waters since few decades.

Some new race projects with speed electrical boats have been recently mentioned, but nothing has been decided until now, also because the impacts of electric fueled engines on marine environment and Cetacean

populations are at the moment unknown, while only their contribution to the decrease of polluting emissions in air are clear.

### ***3.3 Additional Monegasque regulations***

Monegasque authorities ask speed boats (i.e., the sea shuttle running between Ventimiglia and Monaco) to adopt techniques in order to prevent collision with Cetaceans (such as the Repecet system). Also, the same concern is kept in mind in the framework of the bilateral negotiations with French authorities about a shuttle project between Nice and Monaco.

Moreover, a specific Order (*Ordonnance Souveraine n° 7.414 du 29 mars 2019*) states rules with referral to limited areas of Le Portier and Le Larvotto.