

The Friendly Italian Marina Network



ASSOMARINAS
ASSOCIAZIONE ITALIANA
PORTI TURISTICI

ASSOCIATI



DELICROMAR CONFERENCE
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Until 1997 a new marina project needed on average more than 20 years and 45 different authorisations to be approved in Italy.

In 1995 Ucina made a relevant investment to activate a consultancy by well known legal advisors from Rome, Genova and Venice in order to generate a new law proposal on marina projects approval that could be suggested to the Italian government.

The basic principles of this proposal have been adopted by the ministry of transport which issued the law DPR 509 in 1997.

Article 2 of this law provides for the first time in the Italian legal system a definition of “infrastructure dedicated to leisure navigation”, dividing the infrastructure into 3 categories: touristic port, touristic landing, mooring point.

-Touristic port: movable and not movable structures built on land and sea in order to serve mainly nautical tourists and leisure navigation;

-Touristic landings: part of an existing commercial harbour dedicated to nautical tourists and leisure navigation;

- Mooring point: an area of the public domain and a water surface equipped with easily movable structures For the first 2 structures, the concession is issued by different maritime authority levels (local or central) according to the length of the concession; it is issued by the President of the Port Authority if the structure is located inside a port authority.

Article 3, 4, 5 define for the first time a standard procedure to be used when asking for a concession related to the first 2 types of structure: touristic ports and touristic landings.

A request and a preliminary project with the description of the environmental impact has to be sent to the local maritime authority, and to the municipality.

The maritime authority publishes the request in 20 days time, in order to collect comments and potentially competing requests.

Comments and competing requests are sent to the municipality by the maritime authority.

The Major then proceeds in organising a “one stop shop” in 30 days time, a meeting of all the authorities potentially involved, the Region, the Customs agency, the municipality, and all the others which have a public interest to protect in relation with the project.

At least 90 days time will be granted to the involved authorities to analyse the projects.

The authorities which become part of this joint effort sitting at the same table (Conferenza di servizi) can, only once in this fase, ask for modifications of the preliminary projects that have been submitted, The joint authorities can reject the projects, or select one of them, in order to open a second fase of judgement.

Within 15 days from the preliminary project approval, the Major has to invite the promoter to submit a final (not yet executive) project.

The involved authorities will then have at least 150 days time to analyse the papers of the last phase of the procedure before meeting again for the final verdict, and in case of positive result the concession will be issued within 30 days from approval.

Point b) of article 6 clarifies that the project can proceed even if it's not complying with the existing urbanistic plan of the municipality: in that case the joint authorities have the power to modify the plan with a "program agreement".

Point 3 of article 10 clarifies also that the concessionaire can ask for a prolongation of the concession if new relevant investments become necessary to adapt the port infrastructure to new needs or to preserve its functionality.

As a consequence of this legislative effort, marina investments flourished in Italy until 2010, until the effect of the global financial crisis and the burden of our sovereign debt started to be perceived in our country.

And since 2011, when a luxury tax on yachts has been enforced by the Italian government, nearly 40.000 boats have disappeared from Italian marinas.

Another problem was caused to marinas in 2007 by the decision of the government to increase lease fees for beaches and coastal areas.

The Ministry of Finance modified the calculation criteria pretending to apply them to all existing concessions, without taking into account that most of the Italian marinas had been built by private investors according to a written agreement with the state where the lease levels had to be kept until the end of the concession period, though being adapted to inflation.

Nearly 40 marinas had to appeal to court to avoid paying fees 10 times higher than expected, and the problem hasn't been legally solved yet, in spite of a majority of successful court cases.

The appeal procedure has reached the Italian Constitutional Court, for violation of constitutional principles of private investment protection.

In order to react to this heavy yachting branch crisis, the following new regulations have been obtained by Assomarinas and Ucina from the Italian government:

A) elimination of the luxury tax on yachts;

B) possibility of renting occasionally (for a maximum of 42 days per year) private yachts with a flat tax rate of 20%, in order to make boat maintenance more sustainable for owners;

C) creation of a national “electronic” yacht register, in order to avoid the need of doubling police controls on yachts and speed up all procedures;

D) creation of the new “marina resort” category to qualify marinas as “floating open-air resorts”, with a consequent v.a.t. reduction (10% instead of 22%) on mooring services for tourists sleeping on board.

*ITALIAN STATE LAW N.164-issued on 11th November
2014 Paragraph n. 32*

“The infrastructures that are organized to host tourists who are staying overnight on board of their boats on a water surface that is equipped for this purpose are included, according to the prerequisites described by the Ministry of Transport and Infrastructures (after having audited the Ministry for Tourism and Cultural Goods, among the structures for open-air hospitality...”.