

The Italian and European normative picture

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1.1. European Union

With the coming into force of communitarian Directive 2000/60/CE on waters, the referring normative picture to the political of protection and sustainable use of the water resources has been remarkably modified. The Directive, that institutes a picture for communitarian action on water matter, has the purpose to assure the prevention and the reduction of the pollution, to promote the sustainable water use, to protect the atmosphere, to improve the conditions of the aquatic ecosystems and to mitigate the effects of the flooding and the drought.

The Directive Picture widens the field of application of the protection of the water resources to all kind of waters (superficial, subterranean, of transition and coastal) and defines its environment aims for every types of water body: its main objective is the attainment of the "good" qualitative level of all the water bodies within 2016. In the definition of the state of quality of each water body must be considered all the components which constitute it and namely the aquatic and earthly ecosystems associated to the body itself, hydromorphology, the chemical, physical and biological state of the water, the sediments and the biota. The monitoring of the water bodies environmental state represents the instrument for the planning of the interventions to put into effect on the water resources, as well as for the verification of the effectiveness of the adopted measures.

In the Directive the strategies are defined to characterize and protect superficial and inner waters, the transition waters, the coastal and subterranean waters, based in the first place on the control of the emissions of the drainage-basins. These last ones are defined as "the territory in which all the superficial waters flow through a series of torrents, rivers and eventually lakes flowing into the sea through one mouth, either estuary or delta".

The Directive picture prescribes to every State member the predisposition of a plan of management for every hydrographical district (unity characterized for the management of one or more drainage-basins) present in the own borders, to publish within 2009. This must comprise, between the other information, a synthesis of the most significant pressures and impacts made by the human activities on the state of superficial and subterranean waters.

1.2. Italy

The Italian law in water matter has had for a long period as object not the water resources, but the activities connected to them. In the first national norms, in fact, the worry to guarantee the various users is prevailing, apart from appraisals of

compatibility of the uses with the maintenance of fair qualitative as well as quantitative characteristics of the water bodies interested in the drawings.

The diversification of the economic and industrial activities, the anthropic development let alone the climatic variations have emphasized the imbalance between supply and demand of waters for the various uses. Therefore, the legislation has evolved itself passing from a particular management of the uses, whose presuppositions were in the conception of the good water like a resource with unlimited availability and therefore deprived of economic value (Regal Decree 1775/1933), to the total management of the resource.

The actual normative picture for the rational management of the water resources and the protection of waters is constituted, mainly, from three norms:

- a) Law 18 May 1989, n. 183, "Norms for the organizational and functional rearrangement of the defense of the ground";
- b) Law 5 January 1994, n. 36, "Provisions concerning water resources";
- c) Legislative Decree 11 May 1999, n. 152 "Provisions concerning the protection of waters from pollution and understanding of the Directive 91/271/CEE concerning the treatment of city reflow waters and Directive 91/676/CEE concerning the protection of waters from the pollution caused by nitrates coming from agricultural sources".

The purposes of **Law 183/89** are those of "assuring the defense of the ground, the reorganization of waters, the fruition and the management of the water patrimony for uses of rational, economic and social development, the protection of the environmental aspects connected to them".

It's a normative picture that considers the drainage-basin a unitary ecosystem that demands a government application that leaves out of consideration the territorial borders of the been involved administrative authorities. The main innovations are represented, under the profile of the reorganization of the functions of Public Administration, by the establishment, in the river basins of national relief, of the *Authorities of river basin* and, under the profile of the instruments, by the *Plan of drainage-basin* by means of which "are planned and programmed the actions and the norms finalized to the conservation, the defense and the valorization of the ground and the correct use of waters, on the base of the physical and environmental characteristics of the interested territory".

The **Law n. 36/94** continues on the aim, with a normative picture, to value and to rationalize the protection and the use of the water resources, aiming to one structural reform of the water field in Italy.

The presupposed of the reform are the overcoming of the extreme fragmentation of the water services, root cause of the diseconomies and dysfunctions of the field that have generated dishomogeneity and insufficiencies of the services. The aim is that one to guarantee, through the instrument of the integrated management of the cycle of distribution, purification and sewage, optimal levels of management and quality services for the customers.

Both the laws, 183/89 and 36/94, although regarding objects and different functions have the aim to exceed the fragmentation of the competences and the managerial disorder, obligating the various involved subjects to coordinate themselves and to integrate the vision of the different problems, deriving from the performance of the single norms of field, in a logic of simplification of the administrative procedures.

Law 36/94, in particular, considers every eventual managerial model subordinated to the individuation of *optimal territorial ambles* with which the Municipalities and the Provinces organize the integrated water service, with the aim at guarantee the management, according to economization, effectiveness and efficiency criteria.

The general tasks of this process are entrusted to the central organs of the State, while to the Regions and the Local Authorities compete the responsibility to define and to adopt the solutions and the organization models more adapt to the single territorial situations. To the Authorities of river basin compete the definition and periodic revision of the *water budget*, with the aim at assure the equilibrium between the availabilities of resources, or to find others in the reference area, and the requirements for the various uses, in the respect of the criteria and of the objects mentioned.

The Authorities of river basin, the Regions and the new Authorities are interrelate in a circuit of competences, information and functions that should guarantee the operation of the system in its complex, concurring the attainment of objects placed in being both by law 183/89 and by successive law 36/94.

With the coming into force of the **Legislative Decree n.152/99**, subsequently modified and integrated by the Legislative Decree n.258, 18 August 2000, also Italy has been aligned to the other European Countries with the actuation of a coherent and correct politic concerning the water patrimony management.

The foretold Decree includes communitarian Directives 91/271/CEE (treatment of city waters reflow) and 91/676/CEE (protection of waters from the pollution provoked by nitrates coming from agricultural sources) and anticipate some contents of communitarian Directive 2000/60.

The Decree modifies the previous norms on the field and defines the general discipline for the protection of waters, pursuing the aims of preventing and reducing pollution, reorganizing and improving the state of waters, protecting destined waters to particular uses, guaranteeing the sustainable uses of the resources and maintaining the natural ability to auto depuration of the water bodies, necessary to support animals' communities and wide and very diversified vegetables' ones.

The general discipline pursues the aims recalled in Table 1, whose fundamental points regard:

- The introduction of aims of specific and differentiate qualities for the water bodies, which have to be reached up within prefixed expirations (2008 and 2016) like main reference for the definition of the protection intervention;
- the integrated protection of the qualitative and quantitative aspects in the ambit of every drainage-basin correlated to an adapted control system and the complete review of the sanction system;

- the location of measures for the prevention and the reduction of the pollution in the vulnerable zones and the sensitive areas;
- the location of measures for the conservation, the saving, the re-use of the water resources.

The Decree, moreover, introduces interesting innovated instruments:

- the survey of the quality of the water bodies (monitoring and classification of waters keeping into consideration the environmental quality);
- true and own instruments of protection like the *Plan of Protection of the Waters*.

The main instrument for achieving the aim is constituted from the *Plan of Protection of the Waters* that contains, beyond to the participations to guarantee the attainment or the maintenance of objects, the necessary measures to the qualitative and quantitative protection of the water system (between which the limits to the drainage, the review of the authorizations and the concessions of derivation in action). Ulterior element of innovation is the fact that the PTA constitutes a *flat extract of field of the plan of river basin* to the senses of article 17, of law n. 183/89.

They are therefore the Authorities of river basin that, having talked with the Province and the Authorities of within (ATO), define preliminarily aims and priorities to river basin with which the Plans of Protection must be adhered.

The Regions have to get in touch with the Province and, with the adoption of eventual measures of safeguard, adopt the Plan and then finally transmit it to the river basin Authorities, that verify the conformity to the aims and to the priorities, expressing in the end a binding opinion and concurring to the approval of the Region, not after 31 December 2004.

The D. Lgs. 152/99 and s.m.i, therefore, places the bases for a different approach to the water resource pollution: in fact it moves the attention from the control of the single drainage to all the events that cause the water body pollution, integrating the quantitative with the qualitative aspects, in the end in a wider vision of the drainage-basin. In this new optical, it is no more sufficient to control the respect of the limits of the single drainage, but it is necessary to guarantee that the whole of the drainages in the same receiving body are not such to compromise the quality.

Such integrated approach, that arranges the environmental quality definitions and for specific destination of use and of values limiting the emissions, conforms to European politics in matter of protection of waters.

The more innovated aspects of the Decree regard, therefore, one new formulation of politics of reorganization and protection based on the concept of quality of the receiving water bodies and on the necessity to diversify the various actions based on characteristics of the territory (concept of sensitive areas and vulnerable zones), the introduction of specific and differentiate quality aims (environmental

and functional) for the receiving water bodies, a greater defense of subterranean waters and a greater attention to the correct and rational with use of waters.

In particular, paying attention to the concerning Directive 91/271/CEE about the treatment of city waters reflue, the D. Lgs. 152/99 and s.m.i. defines a series of temporal expirations for the conformation of the collettamento systems and depuration serving the "agglomerate". In such legislative context emerges the necessity on one side to guarantee a greater cover of the sewer and depurative service, on the other side to adapt to the existing systems for the attainment of the conformity to the new qualitative standards of the drainages and to the new environmental quality aims comprised in the norm for the receiving water bodies, to catch up within the dates of 2008 (for the "sufficient" state) and of 2016 (for the "good" state).

The aim of environmental quality regards the whole aquatic ecosystem, both under qualitative and quantitative aspects. In particular, it expresses the state of the water bodies in function of their ability to support wide and very diversified animal and vegetable communities, in the way that more are approached to the natural condition, that is to that condition in which do not exist meaningful ecosystem modifications and in which are maintained intact the abilities to auto depuration to forehead of pressures produced by anthrop activities. Such objective of environmental quality must be applied to all the water bodies and caught up within 31 December 2016.

With the cited Decree the protection of the water body is put in relation not only with the specificity of the features of the same one, but also with the safeguard of the water bodies pertaining to the same drainage-basin. Rivers, torrents, lakes, underground waters do not respect frontiers, but they are interconnected between themselves and, therefore, the drainage-basin constitutes the logical unity that has to be considered for their protection. The management of the drainage-basins must therefore be put into effect by means of the coordination of the several territorial administrations of the same river basin.

It is possible to derive from the panoramic legislative described, let alone from the European Directive Picture, the following coherent system of inspiring principles:

- water ambient, constituted from superficial and subterranean waters, coastal and of transition marine waters and from the aquatic and earthling ecosystem, it is considered like an single system pertaining to the drainage-basin or to many drainage-basins;
- the *Plans of river basin* and the *Plans of protection* must prevent and reduce the pollution, favor the reorganization of the polluted water bodies, improve and protect waters destined to specific uses and guarantee the sustainable availability of water of good quality for the priority uses and all the other uses; they must also individuate criteria that protect human life, the anthropic activities and the ground in occasion of extreme natural events;
- it is necessary pursuing the sustainable and durable use of the resources maintaining the natural ability of the water bodies to auto depuration in

support of wide and very diversified animal and vegetable communities associated to them, that is guaranteeing for all the water bodies a good environmental quality.

The *operative instruments* necessary in order to put into effect this politic of protection demand:

- the individuation of environmental quality aims for all the various water bodies typologies;
- the integrated protection of the qualitative and quantitative aspects regarding the single drainage-basins, on the base of articulates and constant monitoring programs;
- the integrated approach to the emissions' and of the drainages control on the base of fixed limits and of environmental quality reported to the receiving bodies;
- the individuation, in the sphere of the *Plans*, measures for the prevention and the reduction of pollution;
- the adaptation of the sewer, collettamento and depuration systems;
- the support to the conservation, the saving, the re-use and the recycle of waters.