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LEGAL STATUS OF THE REGIONAL ACTIVITY CENTRES (RACS) UNDER THE INSTITUTIONAL STRUCTURE OF MEDITERRANEAN ACTION PLAN (MAP)*

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ABSTRACT

One of the tools of Mediterranean Action Plan (MAP) for providing States to fulfill their obligations under the Barcelona Convention and its Additional Protocols is Regional Activity centres (RACs) in the framework of the Regional Seas Programme of the United Nations Environment Programme (UNEP). Yet today the UNEP-MAP system includes not only the conventional obligations of Contracting Parties but also the decisions taken by the Parties, the plans and programs and strategies they have adopted. The fulfillment

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of all these requires legal, institutional, technical, scientific and technological capacity. At this point, Regional Activity Centres support States to fulfill their obligations within the UNEP-MAP system and carry out important functions in their fields of work. Determining the legal basis for the work of Regional Activity Centres will clarify their functions in the implementation of the MAP and will shed light on the establishment and execution of similar centres in other fields.

Keywords: •Regional Activity Centres •Mediterranean Action Plan •International law

ÖZ

Akdeniz Eylem Planı (AEP) çerçevesinde, Devletlerin Barselona Sözleşmesi ve Ek Protokolleri kapsamındaki yükümlülüklerini yerine getirmelerini sağlamaya yönelik araçlarından biri, Birleşmiş Milletler Çevre Programı'nın (BMÇP) Bölgesel Denizler Programı çerçevesindeki Bölgesel Faaliyet Merkezleridir (BFM'ler). Günümüzde BMÇP-AEP sistemi, yalnızca Akit Tarafların konvansiyonel yükümlülüklerini değil, aynı zamanda Tarafların aldıkları kararları, benimsedikleri plan, program ve stratejileri de içermektedir. Tüm bunların yerine getirilmesi hukuki, kurumsal, teknik, bilimsel ve teknolojik kapasiteyi gerektirmektedir. Bu noktada Bölgesel Faaliyet Merkezleri, Devletlerin BMÇP-AEP sistemi kapsamındaki yükümlülüklerini ifa etmelerine destek olmakta ve kendi çalışma alanları çerçevesinde önemli işlevleri yerine getirmektedirler. Bölgesel Faaliyet Merkezlerinin çalışmalarının hukuki dayanağının belirlenmesi, AEP'nin uygulanmasındaki işlevlerine açıklık getirecek ve diğer alanlarda da benzer merkezlerin kurulmasına ve yürütülmesine ışık tutacaktır.

Anahtar Kelimeler: •Bölgesel Faaliyet Merkezleri •Akdeniz Eylem Planı •Uluslararası Hukuk

INTRODUCTION

Mediterranean Action Plan (MAP) was established in 1975 as a multilateral environmental agreement in the context of the Regional Seas Programme of the United Nations Environment Programme (UNEP)¹. Under the auspices of UNEP/MAP, a framework convention “The Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean”, and its seven Protocols, known as the Barcelona Convention system was adopted in 1995 which constituted a conventional environmental governance system². Thereby the coastal States of Mediterranean Sea have

¹ United Nations Environment Programme (UNEP) Mediterranean Action Plan (MAP), <<https://www.unep.org/unepmap/>> accessed 10 May 2023.

² 1995 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (hereinafter “Barcelona Convention”), Date of Adoption: 10/06/1995, 1102 UNTS 27.



agreed on an action plan including scientific, economic and political measures and initiatives for the protection of marine environment.

UNEP/MAP and the Contracting Parties to the Barcelona Convention – 21 Mediterranean countries and the European Union - have progressively built a uniquely comprehensive institutional, legal, and implementing framework for sustainability in the Mediterranean. Even though MAP system engages many actors in regional and international scale, its achievements depend on practice of the Contracting States' commitments. In this respect, regional activity centres (RACs) serve as implementation guide for the Parties carrying out activities under the action plan which was finally agreed by the Conference of the Parties (COP)³.

The term “activity centre” is generally used by national authorities to refer urban planning for multipurpose use of urban areas mostly with commercial and residential aims. The term activity centre is also used to designate areas for mixed-use developments in urban city strategies and plans at national scale⁴.

Under a broader perspective, activity centres have important role for the implementations of the actional plans at international, regional, subregional scales and as well as national scale. Indeed, implementation process of any action plans, programs or strategies require to promote the Mediterranean countries and related stake-holders to put into practice those plans actively.

Currently six RACs, operating from host Mediterranean countries, have been provided to guide Contracting Parties in the exchange of information, provision of technical expertise and assistance in the development and implementation of program and project activities as MAP components.

The establishment and the management of RACs under MAP mostly rely on the decisions of COP of Barcelona Convention. They have been engaged in several process from the participation in several meetings under the MAP system, technical services with Contracting States and non-governmental organizations,

³ UNEP Regional Activity Centres (RACs), <<https://www.unep.org/cep/who-we-are/regional-activity-centres>> accessed 10 May 2023.

⁴ “State Planning Policy 4.2 Activity Centres” in Planning and Development Act 2005, Western Australian Planning Commission, The Government of Western Australia, 2023 <https://www.wa.gov.au/system/files/2023-07/spp_4.2-activity-centres.pdf> accessed 27 December 2023.



social-economic analyses of a broad range of issues, reporting various steps taken after the adoption of the action plans, strategies and programs.

However, the legal framework for the establishment and the management of RACs under MAP system is not very clear. Every single activity centre has its own mandate and they have serious impacts on the implementation process of Contracting Parties and also have direct reflections on COP decisions. For example, some of the RACs works solely under the agreements between host government and UNEP, some of them established relying on a national regulation as it will be explained in this study. Similarly, some of the RACs serve for the implementation of a particular Protocol of Barcelona Convention, others are engaged in collective efforts with other Conventions or organizations like International Maritime Organization (IMO).

Considering the effect of the works of the RACs under MAP system, drawing the legal framework for the establishment and management of these centres and revealing the gaps and challenges would be noteworthy for benefit them functionally and establishment of new ones for upcoming issues related to protection of marine environment.

I. MATERIALS

As research methodology, the institutional structure of UNEP, action plans, strategies and programs adopted under the MAP system and the activities of six RACs which are notable representatives of the regional protection regime in Mediterranean Sea have been reviewed. Establishment and management process along with the activities of existing RACs have been considered in the framework of the decisions of Contracting Parties as well as the provisions of Barcelona Convention with its Protocols, the meeting reports and the recommendations of related bodies of MAP:

1. The Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC).
2. The Plan Bleu Regional Activity Centre (PB/RAC)
3. The Priority Actions Programme Regional Activity Centre (PAP/RAC)
4. The Specially Protected Areas Regional Activity Centre (SPA/RAC)



5. The Regional Activity Centre for Sustainable Consumption and Production (MedWaves)

6. The Regional Activity Centre for Information and Communication (INFO/RAC)

II. A QUICK LOOK TO THE BASIC PRINCIPLES OF MAP GOVERNANCE

Historically, protection of the Mediterranean as one of the priority targets was included in “Regional Seas Program” established by the UN Environment Program (UNEP) in 1974, with the participation of the riparian countries of Mediterranean Sea and the EU, which was followed by the creation of the Mediterranean Action Plan (MAP) in 1975. The “Convention on the Protection of the Mediterranean Sea Against Pollution” (Barcelona Convention), which was prepared to form the legal basis of the activities to be carried out within the framework of MAP, was adopted in Barcelona in 1976 and entered into force in 1978. In accordance with the decisions taken at the UN Environment and Development Summit held in Rio de Janeiro in 1992, the Barcelona Convention was expanded in 1995 to include coastal areas as well as the marine environment which is called as “second phase of MAP”. In this context, the name of the renewed Convention was changed to “Convention on the Protection of the Marine Environment and Coastal Zone of the Mediterranean” and entered into force in 2004⁵.

MAP has taken the accelerator role to direct and coordinate various actors in Mediterranean region in relation to marine environment. After realizing the evolution of the actors and marine environment in 30 years, MAP system has been faced new principles like good governance, enhanced participation, access to information and sustainable development which are needed to be integrated to institutional and operational structure. To ensure effective implementation of Barcelona Convention and its Protocols new entities were needed to be cooperated to MAP system. Good governance has brought universal norms and values to be applied on multiparty organizations including transparency, accountability, strategic vision, consensus, equity and responsiveness⁶. MAP

⁵ See web site of UNEP for more information <<https://www.unep.org/unepmap/>> accessed 10 May 2023.

⁶ Governance for Sustainable Human Development, An Integrated Paper on The Highlights of Four Regional Consultation Workshops on Governance for Sustainable Human Development,



Coordinator as well as the UNEP Secretariat undertook tremendous responsibility to guide parties to put into practice those principles in governance process⁷. This is why Coordinating Unit is known as the “Barcelona Convention / MAP Secretariat” and its activities is to be supported technically by the RACs in the framework of the mandates of each one of them in accordance with the decisions of Contracting Parties, provisions of Barcelona Convention and its Protocols⁸. In respect of legal matters, Coordinator submit its guidance and recommends to Contracting Parties and the RAC to ensure effective reporting and compliance system.

This reshaped governance structure of MAP naturally includes organization and coordination the work of the Mediterranean Commission on Sustainable Development (MCSD) as well as the RACs (including MED POL)⁹.

In accordance with the accountability principle, the Executive Coordination Panel (ECP) which was established in 2008, coordinates the activities of RACs and MEDPOL and promotes the transparency for the RACs’ and MEDPOL’s to the Contracting Parties. ECP is chaired by the Secretariat and members are the directors of each centre and MED POL¹⁰.

To promote transparency and effectiveness, coordination, and the activities of components of the MAP are supported by financial contributions which are made by Contracting Parties to the Mediterranean Trust Fund (MTF) under the

United Nations Development Programme {UNDP}, Philippines, 1997 <<https://digitallibrary.un.org/record/3831662>> accessed 10 August 2023.

⁷ According to Article 17 of the Barcelona Convention, UNEP provides secretariat services to the Contracting Parties through its MAP Coordinating Unit which was established in Athens in 1982 on the basis of a Host Country Agreement between Greece and UNEP. <<https://www.unep.org/unepmap/who-we-are/institutional-set>> accessed 10 August 2023.

⁸ 15th Ordinary Meeting of the Contracting Parties to the Barcelona Convention, Almeria (Spain), 15-18 January 2008 (COP15), UNEP(DEPI)/MED IG.17/10 Annex V, 148.

⁹ The Mediterranean Commission on Sustainable Development (MCSD) was established under the Article 4 of the Barcelona Convention as an advisory body to the Contracting Parties to assist them in their efforts to integrate environmental issues in their socioeconomic programmes and to promote sustainable development policies in the Mediterranean region and countries. <<https://www.unep.org/unepmap/who-we-are/institutional-set>> accessed 10 August 2023.

¹⁰ Anna Lizińska and Laurent Guérin, ‘Synthesis and Analysis on the Current Structure and Functional Organisation of the Barcelona Convention (UNEP/MAP) - Recommendations for Biodiversity Works and French Issues’ (2021) *PatriNat* (OFB-CNRS-MNHN) 12.



management of UNEP as trustee in accordance with approved financial rules and regulations¹¹.

The Secretariat regularly consult with “the Bureau” as another governing body which is composed by six rotating representatives of the Contracting Parties, selected during the Meeting of the Contracting Parties. The Bureau gives advisory opinion on the implementation of the program of work and successive status reports to the Secretariat¹².

Main governing body in MAP Barcelona Convention system is the meetings of Contracting Parties (COP) which are hold every two years to review the implementation of the Convention and its Protocols and take new Decisions. COP is the supreme decision-making body of the Barcelona Convention and its Protocols as a functional unit composed of representatives at the ministry level of the 21 Contracting Parties and the EU¹³.

Under the MAP institutional structure, Compliance Committee is another body worth to mention. Compliance Committee promotes compliance and address cases of non-compliance. The Compliance Committee was settled and the procedures on compliance under the Barcelona Convention and its Protocols were adopted in 2008 and amended in 2012 and 2013¹⁴.

III. THE ESTABLISHMENT AND MANAGEMENT OF THE RACS IN MAP SYSTEM

UNEP/MAP and the Contracting Parties to the Barcelona Convention – 21 Mediterranean countries and the European Union (EU) - have progressively built a uniquely comprehensive institutional, legal, and implementing framework for

¹¹ In accordance with Article 24 of the Barcelona Convention, Contracting Parties have established the Mediterranean Trust Fund (MTF) to ensure the effective coordination and funding of the Mediterranean Action Plan activities. Please see the Decision IG.21/15 on Financial Regulations and Rules and Procedures which was adopted in 18th Ordinary Meeting of the Contracting Parties to the Barcelona Convention (COP18) in Istanbul (Turkey), 3-6 December 2013.

¹² Lizińska and Guérin (n 10) 10.

¹³ Article 18 of The Convention was amended by the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean on 10 June 1995. The amended Convention entered into force on 9 July 2004. For the official texts and status of signatures and ratifications of the Barcelona Convention please see <<https://www.unep.org/unepmap/who-we-are/contracting-parties/barcelona-convention-and-amendments>>.

¹⁴ COP15 (n 8) Decision IG 17/2, paras. 2, 5, 7, 8, 9.



environmental sustainability in the Mediterranean. Activities, programs and projects implemented by the MAP Coordinating Unit and the MAP Components, including six RACs operating from host Mediterranean countries, aim to response evolving environmental challenges including climate change on marine and coastal ecosystems and coordinate Contracting Parties for development and environmental sustainability in Mediterranean region.

As one of the most important components of this organizational set up, the RACs have specific mandates to provide and develop essential expertise for the execution of the Convention for the common good of the Mediterranean¹⁵.

Most of the existing RACs are specialized institutions and initially organized at the national level. Therefore, national research organizations primarily ensure coordination between actors and sectors and build a consensus for different interest groups. Official authorities also benefit from these studies in development plans or strategies in their field of duty. At the national level, such complementary sub-national institutions shape, for example, emission reduction decisions and strategies or the emergency plans according to the local context and enable them to be put into practice.

Considering the existing RACs in MAP system dramatic differences on establishment and management process draw the attention.

There are few significant COP decisions reviewing the situation of existing RACs and elaborated the legal issues related to establishment and functioning of them.

First of them is meeting of parties in 1985 which Contacting Parties clearly recognized that the support of the international, regional and non-governmental organizations is essential for the full achievement of the goals of the Mediterranean Action Plan with Genoa Declaration¹⁶. The COP 1985 was significant since the status and functions of RACs had been elaborated first time after a systematic review of the legal and other decisions concerning the RACs over the years. Regional Oil Combating Centre (ROCC), Blue Plan, PAP/RAC

¹⁵ For the institutional set-up of UNEP/MAP please see <<https://www.unep.org/unepmap/who-we-are/institutional-set>> accessed 10 May 2023.

¹⁶ 4th Ordinary Meeting of the Contracting Parties to the Barcelona Convention (COP4), Genoa Declaration on the Second Mediterranean Decade, Genoa (Italy), 9-13 September 1985 <https://wedocs.unep.org/bitstream/handle/20.500.11822/4821/85ig56_5_genoadeclaration_Eng.pdf> accessed 10 August 2023.



and SPA/RAC were already had been established and functioning at that time being. However, uncertainty and diversity in each one of them in respect of their legal status was suggesting various operational problems. In spite of their different functions and capacities they actually aimed to bypass bureaucratic process of governmental agencies and carry out regional tasks with guidance of UNEP. This required a case by case elaboration of the RACs in each host countries. The Bureau determined a few basic principles to be abide by existing RACs structured under MAP as;

- The RACs are national institutions with regional role assigned to them by the Contracting Parties;
- The financial support to RACs is provided through projects signed between them and the Secretariat;
- The staff of RACs under such projects is recruited by RACs under prevailing staffing policies (salaries, social security, pensions, etc.) of the host country;
- Appropriate adjustment should made in the salaries of the internationally recruited staff of RACs;
- The recruitment of the international staff should be based on vacancy announcement circulated by the Mediterranean Unit to all MAP National Focal Points;
- It is expected that provisions will be made by the relevant national authorities of the host countries to exempt from taxes the equipment and, if possible, the salaries provided from resources of the MTF¹⁷.

During the Bureau meetings held in 2006 the legal and institutional status of existing RACs had been reviewed without any conclusion. Six activity centres had been established as of the 2006 which were REMPEC with United Nations official status, CP/RAC, INFO/RAC and SPA/RAC with the status of national agency/body, as an operational program the MED POL having an integrated status in MAP and the BP/RAC having NGO status¹⁸. The variety of existing RACs were complicating the coordination task of Secretariat. Therefore, the clarification of the institutional status of RACs were prioritized to harmonize their role and implementation capacity of Barcelona Convention and its

¹⁷ COP4, Regional Activity Centres of the Mediterranean Action Plan - their status and functions UNEP/IG.56/Inf.08, 7, para. 27.

¹⁸ Consultation Meeting on the Application of the Ecosystem Approach by the Mediterranean Action Plan, Ljubljana (Slovenia), 6-7 April 2006, UNEP/BUR 64/4.



Protocols. In this context, teasing the status of the RACs out of the UN as much as possible were seen as an option by Bureau members.

In 2008 mandate for RACs were handled one more time by Contracting Parties and minimum requirements to be met related to the mandate of each RAC were determined as follows:

- Long-term and horizontal goals and objectives, clearly identifying its role and the contribution to the implementation of the Barcelona Convention, its Protocols and Strategies;
- Scope of work including governing principles by which the RAC will operate with clear reference to cooperation with other RAC's, coordination by the MAP Coordinating Unit and the roles of the Focal Points' meetings, the MCSD and the Meetings of the Contracting Parties;
- Clear rules and procedures and related requirements/mechanisms to implement the principles¹⁹.

Under the basic principles addressed in COP 1985 and some guiding principles concluded by Contracting Parties in COP 2008 the “terms of reference” were rendered which required the designation the “MAP Focal Points” for each RACs²⁰. Thereafter, “Common Provisions for Host Country Agreements” were determined in 2017 and updated in 2019²¹. The separate status of REMPEC, integrated status of MEDPOL and the decisions of COP related to legal and institutional status of per RAC over the years since 1985 will be examined hereinafter.

1. REMPEC - The Mediterranean Regional Centre for Emergency Action against Accidental Pollution (ex) Regional Oil Combating Centre for Mediterranean Sea (ROSS)

REMPEC was originally established and started to operate in 1976 as “Regional Oil Combating Centre” (ROCC). There was no formal agreement between host government in Malta even though the governmental authorities recognized and supported the operations. Its mandate was extended to include “hazardous

¹⁹ COP15 (n 8) Decision IG.17/5: Governance paper, Annex V, 151.

²⁰ COP15 (n 8) Decision IG.17/5: Governance paper, Annex V, 153.

²¹ 17th Ordinary Meeting of the Contracting Parties to Barcelona Convention (COP17) Paris (France), 8-10 February 2012, Decision IG.20/13 Governance, Annex I; 21st Ordinary Meeting of the Contracting Parties to Barcelona Convention, Decision IG.24/2 on Governance Annex IX.



substances other than oil” in 1987 and it became Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) in 1989.

ROCC had a peculiar status engaged to International Maritime Organization (IMO) and its officials were employed by UN while Blue Plan, PAP/RAC and SPA/RAC were conducted as projects implemented with the support of an organization under related national legislation²².

The employment process of staff of the ROCC were managed by requirements of each project in related coastal States which had approved by IMO. The projects taken by the Centre was conducted upon the documents signed between supporting organization and UNEP. Recruitment of the staff were made by IMO following an application invitation to member States of IMO²³. Three internationally recruited staff which were Director, Deputy Director and Technical Expert were subjected to the procedural rules of UN for the technical assistant Project personnel²⁴. Also, the international officers enjoy the diplomatic immunities and privileges before the national legal system. When it comes to locally recruited personnel, their status and salaries were relatively better than national employees in public sector. Although, the legal status of the ROCC had been excluded from others because of its connection with IMO during the - 80’s, the need for a separate agreement between UNEP and host government Malta was considered as a requirement by Contracting Parties to determine regional and institutional role of the Centre in COP 1985.

The Host Country Agreement was signed between IMO and Government of Malta in 1990 which formalized the establishment and operations of Centre within the administrative framework of the IMO and with the name of REMPEC²⁵. Ex ROCC and today’s REMPEC still has been administered by the IMO. Its objectives and functions were redefined in the 2002 Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Case of

²² Accordingly, the personnel of Blue Plan, PAP/RAC and SPA/RAC were not employed as UN Officer. COP4 (n 16) Regional Activity Centres of the Mediterranean Action Plan, their status and functions, UNEP/IG.56/Inf.08, 8, para. 29.

²³ *ibid.* para. 31.

²⁴ Staff Regulations of the United Nations and Staff Rules 200.1 to 212.7 applicable to Technical Assistance Project Personnel, 1 January 2002 <<https://hr.un.org/node/40295>> accessed 10 August 2023.

²⁵ Meeting of the Bureau of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols, Algiers (Algeria), 26-28 February 2013, UNEP/BUR/76/Inf.3, 4, para. 13.



Emergency, Combating Pollution of The Mediterranean Sea (Emergency Protocol)²⁶ and decisions of the Contracting Parties to the Barcelona Convention in 2009²⁷.

Emergency Protocol redefined the role and functions of the REMPEC as follows:

“‘Regional Centre’ means the ‘Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea’ (REMPEC), established by Resolution 7 adopted by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea at Barcelona on 9 February 1976, which is administered by the IMO and UNEP, and the objectives and functions of which are defined by the Contracting Parties to the Convention”²⁸

Under the Emergency Protocol, currently the main objective of REMPEC's is to contribute to the efforts to prevent and reduce pollution from ships and combating pollution in case of emergency. In this context, REMPEC supports Mediterranean coastal States to build national capacities for preventing, or acting, in the event of major marine pollution incidents and to facilitate cooperation between countries in combating accidental marine pollution from a range of hazardous substances, including oil²⁹.

REMPEC also assists the Contracting Parties in meeting their obligations under the Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil, which came into force on 24 March 2011 as well as Emergency Protocol³⁰.

²⁶ Protocol Concerning Cooperation in Case of Emergency was substituted by the Protocol Concerning Cooperation in Preventing Pollution from Ships and, in case of Emergency, Combating Pollution of the Mediterranean Sea (Hereinafter “Emergency Protocol”) by a decision of the Contracting Parties at the Conference of Plenipotentiaries held in Malta on January 2002. It entered into force on 17 March 2004.

²⁷ 16th Ordinary Meeting of the Contracting Parties to the Barcelona Convention, Marrakesh (Morocco), 3-5 November 2009 (COP16), Decision IG.19/5 on the Mandates of the Components of MAP.

²⁸ Article 1 (f) of Emergency Protocol.

²⁹ Lizińska and Guérin (n 10) 14.

³⁰ Barcelona Convention Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (hereinafter “Offshore Protocol”) was adopted on 14 October 1994, in Madrid, Spain. Eight Contracting Parties ratified the Protocol.



After entering into force of the Emergency Protocol, administration of IMO for the mandate of REMPEC in cooperation with UNEP/MAP was recognized in COP 2009³¹. There was already a factual relationship depending on projects between IMO and UNEP. Even if there was a Memorandum of Understanding (MOU) dated 1976 between Executive Director Mr. Tolba and Secretary-General Mr. Srivastava for the joint operations, neither the activities of REMPEC in the Mediterranean was included nor Barcelona Convention system was mentioned in the MOU. In 2012, UNEP elaborated a model host agreement which was approved by a COP decision related to governance³². However, REMPEC was not considered as subjected to this procedure because of its status under the administration of IMO. After the decision accepting the biennial Program of Work and Budget in COP 2013, IMO and UNEP sign a two year document. Accordingly, IMO was responsible for the operation of the REMPEC, implementation of related activities and administrative and financial issues on project basis³³.

Under these circumstances IMO negotiates and signs projects with donors and UNEP/MAP is only informed of their existence. Project documents are not shared with UNEP nor with MAP Coordinator. All liabilities related to implementation of any project is incumbent on IMO. Only responsibility of UNEP/MAP is financial management of contributions of Contracting Parties³⁴.

After the economic difficulties faced by Europe countries in 2010, the costs of REMPEC operations financed by MTF become one of the challenges of UNEP/MAP system. During the Bureau meeting in 2013 UNEP recommended to be informed about extra-budgetary co-funding agreements before signature considering the administrative independency of REMPEC in UNEP/MAP system while benefitting from MTF for over costing projects³⁵. The need for an institutional agreement between UNEP and IMO paying attention the related COP decisions indicating the roles, responsibilities and liabilities regarding the operation of the REMPEC was also underscored by UNEP³⁶.

³¹ COP16 (n 27) Decision IG.19/5.

³² Meeting of the Bureau (n 25) 3, para. 10.

³³ *ibid*, para. 11.

³⁴ *ibid*, para. 14.

³⁵ *ibid*, para. 22

³⁶ *ibid*, para. 25.



2. Plan Bleu (Blue Plan) for the Environment and Development in the Mediterranean (Plan Bleu)

Plan Bleu was basically an association named “MEDEAS” which was established in 1977 by a national legislation of France³⁷. The Centre exercises its activities in the legal framework of a non-government association governed by French law, called “Plan Blue pour l’environnement et le développement de la Méditerranée”. The Plan Bleu has conducted several studies emphasizing relationships between the environment and development in the Mediterranean region in application of the recommendations of the Contracting Parties to the Barcelona Convention. Thus, Plan Bleu acts as an international institution although its functions were drafted as an association governed by French private law³⁸.

Historically, it was 1980 that UNEP assigned the supporting organization function to this national association for a specific purpose of “Plan Bleu” for the Mediterranean issues which created ambiguity about the function to be focused³⁹. In the process of time, some financial issues emerged and MEDEAS delayed in meeting the expectations of UNEP in respect of Plan Bleu activities. After the negotiations between French authorities and UNEP, structural changes were launched in 1985. The governmental authorities took the responsibility to financially support MEDEAS by new agreements with another organization named CEFIGRE which had already been conducting projects with UNEP in 70’s⁴⁰. The financial difficulties and institutional uncertainties posed by Plan Bleu function basically raised from the fact that it was an innovation with an uncertain institutional structure.

When MAP was adopted by Mediterranean Countries in 1975, main objectives of MAP were to assist coastal States to assess and control marine pollution, to harmonize their national law and policies for to this end. This initial focus of MAP combined with the socio-economic realities of Contracting Parties in early 90’s which motivated all actors engaged in UNEP/MAP system particularly after

³⁷ COP4 (n 17) 4, para. 16.

³⁸ 12th Ordinary Meeting of the Contracting Parties to Barcelona Convention (COP12) Monaco, 14-17 November 2001, Evaluation of the Blue Plan Regional Activity Centre, 2.

³⁹ COP4 (n 17) 9, para. 33.

⁴⁰ International Training Centre for Water Resources Management (CEFIGRE) was created in 1976 jointly by the French Government and UNEP to meet the needs of the international community to ensure the control of water resources. It became a body of the International Office for Water in 1991. <<https://www.oieau.org/edito/histoire>> accessed 10 August 2023.



the Rio Conference in 1992⁴¹. Thereby the second phase of MAP aimed to reshape the action plan within the framework of sustainable development. Because all the activities carried out during the first phase of MAP revealed that the measures to be taken for the protection of the marine environment are in a dependency relationship with the socio-economic development policies of the countries⁴². Especially after the creation of MCS D in 1996, the MAP gave the Plan Bleu a considerable role to play in the MCS D studies including "... comparative evaluation of the current situation, carrying out an economic evaluation allowing the updating of the scenarios for 2025 and completing the retrospective and prospective analysis carried out in 1999"⁴³. In this way Plan Bleu served as a basis for future prospects through by its reports on state of environment in Mediterranean region taking into consideration the socio economic situation. However, development differences between Mediterranean Countries of EU and the others induced the relatively lack of usefulness of study results for all countries. This challenge was partly overcome by involvement of experts and consultants from all the countries in the region and collaborative works⁴⁴.

The idea of sustainable development to engage in Plan Bleu function required the participation of other coastal States in every stage. To make clearer the institutional structure, it was decided that CEFIGRE would carry on the administration of personnel, and the UNEP and Med Unit would control the budgetary issues. This made the Contracting Parties being more engaged the financial requirements through by their Focal Point status along with the Steering Committee⁴⁵. However, this new vision was needed to be identified properly on agreed documents.

⁴¹ Arsen Pavasovic, 'The Mediterranean Action Plan Phase II and the Revised Barcelona Convention: New Prospective for Integrated Coastal Management in the Mediterranean Region' (1996) 31(2-3) *Ocean & Coastal Management* 133.

⁴² Nesrin Algan, 'Akdeniz Eylem Planı Sürdürülebilir Kalkınma ve Türkiye' (1997) 17(1-2) *Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni* 37, 42.

⁴³ Evaluation of the Blue Plan Regional Activity Centre (n 38) 7.

⁴⁴ During the National Focal Points Meeting of Plan Bleu in 2017, developing countries asked Plan Bleu to work on a more communicative basis and share information effectively through by Focal Points. Report of the National Focal Points Meeting of Plan Bleu / Regional Activity Centre Nice, France, 25 & 26 April 2017, 6.

⁴⁵ COP4 (n 17) 9, para. 39.



3. Priority Action Program (PAP/RAC)

The Priority Actions Program Regional Activity Centre (PAP/RAC) was established in Split, which was located in Former Yugoslavia in 1980 by the decision of the Intergovernmental Meeting of 1977 to support the implementation of the Integrated Planning Component of the MAP in 1975⁴⁶. Today the Centre is hosted by Government of Croatia. Although it was established to assist in the implementation of the Integrated Planning Component of the Mediterranean Action Plan adopted in Barcelona in 1975 originally, its mandate was reformulated as to meet the need for the sustainable development of the Mediterranean coastal areas, with the guidance of Integrated Coastal Zone Management (ICZM)⁴⁷. Today its main objective is to contribute to the sustainable development of coastal zones and sustainable use of their natural resources on multidisciplinary basis within the context of the implementation of the Barcelona Convention with particular reference to the ICZM Protocol⁴⁸, including the related strategies, programs and decisions.

Although its establishment is based on inter-governmental basis, the supporting organization of PAP/RAC was a national institution named “The Town Planning Institute of Dalmatia” having an ordinary business organization status under Yugoslavia national law. However, it was not able to provide sufficient financial support for the activities of PAP/RAC. This is why it was decided in 1985 that Yugoslavia authorities needed to provide a foreign currency bank account in a domestic bank for the contracts between PAP/RAC and MTF as well as the salaries of foreign personnel. It was also expected from the national authorities to adjust fairly salary for local personnel and tax immunities⁴⁹. Being governed by national regulations was inducing unclarity and inconsistency for the regional mission of PAP/RAC. This situation demonstrated the need for an agreement between host government and UNEP. UNEP/MAP and the Croatian Ministry of Environment signed a Host Country Agreement in 1996 regulating the status of PAP/RAC within the Barcelona Convention system. However, this agreement

⁴⁶ Report of the Intergovernmental Meeting of Mediterranean coastal States on the Blue Plan Split (Yugoslavia), 31 January-4 February 1977. UNEP/IG.5/7, 21. See also Patricia A. Bliss, ‘Review of the Mediterranean Action Plan’ (1978) 3(3-4) *Ocean Management* 315.

⁴⁷ 5th Meeting of the Executive Coordination Panel (ECP), Tunisia, 26-27 February 2009, UNEP(DEPI)/MED ECP.5/6, Host Country Agreement Template and Mandates of MAP Component, 23.

⁴⁸ The Protocol on Integrated Coastal Zone Management in the Mediterranean, (hereinafter “ICZM Protocol”) was adopted in 2008 and entered into force in 2011.

⁴⁹ COP4 (n 17) 11.

has never been ratified by Croatian Parliament⁵⁰. After the Draft Host Country Agreement was adopted by the Contracting Parties in 2017⁵¹, UNEP recommended that this agreement should be signed by the Minister of Foreign Affairs to be more precise⁵². The Host Country Agreement has still not been signed or not published by UNEP⁵³.

4. The Specially Protected Areas Regional Activity Centre (SPA/RAC)

SPA/RAC had been created on a more ostensive ground based on a project document signed between UNEP and host Tunisian national authorities in 1985 to facilitate implementation of the Geneva Protocol Concerning Specially Protected Areas to Barcelona Convention⁵⁴. The supporting national organization was INSTOP which was engaged in joint projects with UNEP under MAP. The legal framework of the SPA/RAC is governed by a Host Country Agreement signed between UNEP and the Tunisian Government in 1991 and parties made an addendum in 2013⁵⁵.

Following the amendment of the 1995 Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA/BD Protocol), which came into force in 1999, replacing the Geneva Protocol, another significant instrument the “Convention on Biological Diversity” (CBD) entered into force in 1993⁵⁶. Thereby SPA/RAC has undertaken the mission to provide assistance to Mediterranean countries in the implementation of their commitments under the Barcelona Convention and SPA/BD Protocol, with a specific aim to develop

⁵⁰ 85th Meeting of the Bureau of the Contracting Parties, Report by the Secretariat on Specific Issues, 2 April 2018, UNEP(DEPI)/MED BUR.85/6/Rev.1, 13.

⁵¹ COP17 (n 21) Decision IG. 20/13.

⁵² 85th Meeting of the Bureau (n 50) 13.

⁵³ No information whether a Host Country Agreement is signed by parties or not by the date of August 2023.

⁵⁴ COP4 (n 17) 11, para. 41. The Protocol was adopted in Geneva in 1982 under the Convention for the Protection of the Mediterranean Sea against Pollution.

⁵⁵ 85th Meeting of the Bureau (n 50) 14.

⁵⁶ The Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (hereinafter “SPA/BD Protocol”) was adopted on 10 June 1995. The Protocol entered into force on 12 December 1999, replacing the Protocol Concerning Mediterranean Specially Protected Areas (adopted on 3 April 1982). The Annexes to the Protocol were adopted on 24 November 1996 and entered into force on 12 December 1999. Annex II was last amended on 20 December 2017 and amendments entered into force on 14 September 2018. Annex III was last amended on 6 December 2013 and amendments entered into force on 16 April 2015.



and promote the marine protected areas (MPAs) in the Mediterranean Sea with a particular focus on Specially Protected Areas of Mediterranean Importance (SPAMIs) and to reduce the loss of marine and coastal biodiversity⁵⁷. The role of SPA/RAC was quite new and the Centre was located in a developing country that it would need to take outside expertise from environmental institutions such as International Union for Conservation of Nature (IUCN) substantially⁵⁸.

Increasing importance of the wide range of MPAs to protect vulnerable species and ecosystems and to conserve biodiversity have pointed the role of SPA/RAC for Mediterranean Sea for the last thirty years. The Centre has conducted several programs including education, training of personnel, transfer of technology as well as scientific research projects concerned with the protection of marine areas and biodiversity. SPA/RAC also has led the MAP for cooperation with the regional and international governmental and non-governmental organizations⁵⁹.

Under the Barcelona Convention system, the Protocol of SPA/BD defines the role of SPA/RAC clearly that Contracting Parties should submit their proposals which could be included in the List of Specially Protected Areas for Mediterranean (SPAMIs) to the Centre as to its conformity with the common criteria set by Annex 1 to the SPA/BD Protocol. SPA/RAC transmit the proposal to the Secretariat to inform the other Parties. The final decision to include the area in the SPAMI list should be taken by COP⁶⁰. This procedural function of SPA/RAC has a direct effect on the decision of Contracting Parties through by its report on the conformity of the related SPAMI proposal. Although there might be objections based on political considerations of Contracting Parties during the meetings, the evaluations of the Centre would guide Parties on scientific evidence.

⁵⁷ 5th Meeting of the ECP (n 47) 19.

⁵⁸ COP4 (n 17) 12, para. 42-45. The project document for the support of the SPA/RAC was drafted in 1983 and signed in 1984 between UNEP and Tunisian Government. A subsidiary agreement with IUCN to provide scientific and technical support was signed in 1985 (UNEP, The Regional Activity Centre for the Mediterranean Specially Protected Areas: evaluation: of its development and achievements UNEP Regional Seas Reports and Studies No. 100, 1988, para. 4). IUCN, as a non-profit organization aims to find practical solutions to environment conservation and sustainable development challenges all over the world which conduct activities internationally in over 150 countries with a wide range of partners, including scientists and experts from States, governmental authorities and non-governmental organizations. <<https://www.iucn.org/about-iucn>> accessed 28 December 2023.

⁵⁹ 5th Meeting of the ECP (n 47) 21.

⁶⁰ Article 9 of SPA/BD Protocol.



Apart from its importance related to the determination procedure of protected areas under Barcelona Convention SPA/BD Protocol, SPA/RAC has also faced with financial and institutional issues. Host country agreement between Tunisian government and UNEP described the SPA/RAC as a local entity with a regional mission which means that the Centre is subjected to the national legal regulations of Tunisia which are designed for public institutions. As a result of this the international staff cannot benefit of the financial diplomatic privileges which are defined by Secretariat in a new Host Country Agreement Draft⁶¹. During meeting of Bureau in 2018, it was suggested to grant the status of an intergovernmental organization (without being a UN organization) to SPA/RAC, thereby, it could benefit from the above privileges and advantages and will not be constricted by the status of national public institutions which will facilitate its regional mission under Barcelona Convention⁶².

5. Regional Activity Centre for Sustainable Consumption and Production (SCP/RAC)

SCP/RAC was established by Catalonia Government in 1994 with the name of “Initiative Centre for Cleaner Production” as a new public limited company based on national law to encourage businesses to adopt practices and technologies in order to reduce industrial pollution⁶³. Although the national legal framework applicable to the company required it to be attached to the Department of Environment with its capital fully subscribed by the Government of Catalonia, it also allowed to be designated a RAC for MAP⁶⁴. After the submission of the proposal of Spain Government that the Centre for Cleaner Production of Barcelona become a RAC under MAP at the Extraordinary Meeting of the Contracting Parties in 1996, the Centre for Cleaner Production of

⁶¹ Host Country Agreement Draft formulated by UNEP/MAP Secretariat will be reviewed in following paragraphs.

⁶² 85th Meeting of the Bureau (n 50) 15.

⁶³ Article 35.2 of Act 4 of 29 March 1985 by agreement of the Government of Catalonia, dated 30 July 1998, authorized the establishment of the Initiative Centre for Cleaner Production Ltd., as a public limited company with its capital fully subscribed by the Government of Catalonia, and attached to the Department of Environment.

⁶⁴ 16th Ordinary Meeting of the Contracting Parties to Barcelona Convention, Marrakesh (Morocco), 3-5 November 2009 Additional information on legal, institutional and budgetary impact concerning CP/RAC decisions on Persistent Organic Pollutants (POPs), UNEP(DEPI)/MED IG 19/Inf.12, 2



Barcelona was established by decision of the Contracting Parties to the Barcelona Convention⁶⁵.

When it was first established as “The Regional Activity Centre for Cleaner Production” (CP/RAC) the objective of the Centre was to focus on promotion and dissemination of clean production for all industrial sector in Mediterranean countries. Over time its mandate has been expanded as to develop sustainable consumption and production actions as formally asked by Contracting Parties in COP 2008⁶⁶. Same year CP/RAC was also nominated as a regional centre for the Stockholm Convention on Persistent Organic Pollutants (POPs)⁶⁷. After COP 2008 Contracting Parties agreed that CP/RAC shall benefit the MAP Program of Budget for biennium through the Mediterranean Trust Fund (MTF) since the responsibilities, actions and costs of the Centre increased and required to improve financial resources. Thereby, Contracting Parties updated the name of the Centre to become the Regional Activity Centre for Sustainable Consumption and Production (SCP/RAC) as proposed by the Government of Spain in 2013⁶⁸.

Spanish Ministry of Environment and the Government of Catalonia have regularly negotiated and updated their collaboration agreement after that.

The term “sustainable” was engaged several treaties related to environmental management early in 21. Century particularly in the second phase of MAP as Barcelona Convention and its Protocols being in the first place⁶⁹. Unsustainable consumption and production patterns has a direct connection with various challenges faced by action plans, strategies, programs of work etc. Thereby the

⁶⁵ It was also covered by a cooperation agreement between the Department of Environment of the Government of Catalonia and the Ministry of the Environment and Rural and Marine Affairs of Spain, 5th Meeting of the ECP (n 47) 11.

⁶⁶ Meeting of the MAP Focal Points, Athens, Greece, 10-12 September 2013, Proposal for updating the name of the Regional Activity Centre for Cleaner Production according to its official mandate, UNEP(DEPI)/MED WG.387/18, 1.

⁶⁷ 5th Meeting of the ECP (n 47) 11. See also Stockholm Convention on Persistent Organic Pollutants (hereinafter “Stockholm Convention”), 2256 UNTS 119 <https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-15&chapter=27> accessed 10 August 2023.

⁶⁸ Meeting of Focal Points 2013 (n 66) 1.

⁶⁹ The Mediterranean Commission on Sustainable Development (MCSD) was established as an advisory body in 1996 by the Contracting Parties <<https://www.unep.org/unepmap/what-we-do/mediterranean-strategy-sustainable-development-mssd>> accessed 10 August 2023. Please see the provisions of Barcelona Convention and its Protocols referring sustainable development which are Article 4/1 of Barcelona Convention, Article 9 and 15 of ICZM, Article 3/4 of SPA/BD Protocol, Article 7/3 of Stockholm Convention.

SCP/RAC has become a leading body for Contracting Parties implementing their obligations. This shift from the promotion of cleaner production techniques to sustainable consumption and production was not anticipated by Spain or Contracting Parties in 90's. After updating the name of the Centre, the administrative and financial resources were reviewed to manage new activities and the conduct the projects⁷⁰.

SCP/RAC's financial resources -apart from host country funding- has mainly consisted of project-based collaborations mostly from EU that the Centre lacks financial support to recruit appropriate minimum number of permanent staff⁷¹. Principle source of funding for activities and staffing is not MTF yet. It was acknowledged during the National Focal Points meeting in 2021 that SCP/RAC faced with serious challenges to be able to conduct its functions according to the mandated assigned by the Contracting Parties in the next future because of its financial situation⁷².

Another challenge faced by SCP/RAC is long standing political issues between the Central Government of Spain and the Government of Catalonia which was eventually reflected to the negotiations between parties and UNEP for a Host Country Agreement to clear up the status of personnel⁷³.

6. The Regional Activity Centre for Information and Communication (INFO/RAC)

The INFO/RAC was established in 2005 by the decision of the 14th Meeting of the Contracting Parties and replaced the "Regional Activity Centre on Environment Remote Sensing" (ERS/RAC) which was approved as RAC by the 8th Meeting of the Contracting Parties in 1993.

The Centre has been hosted by Rome (Italy). Following the Italian proposal to strengthen the human and financial resources was adopted by the 13th Conference of the Parties, a Host Country Agreement had been signed and the Centre was established as a public law entity⁷⁴.

⁷⁰ COP18 Decision IG.21/9 (n 11) 166.

⁷¹ 13th Meeting of SCP/RAC National Focal Points, 1-3 June 2021, UNEP/MED WG.507/8, 1.

⁷² *ibid*, 3.

⁷³ 85th Meeting of the Bureau (n 50) 15.

⁷⁴ Report of the ERS/RAC National Focal Points Meeting, Palermo, 16-17 December 2004, UNEP(DEC)/MED WG.269, para. 8.



However, the host country agreement suffered from several constraints related to the mandate, the structure and the financial resources of the Centre as a public institution under national law. The Centre was working with MAP without a MOU with its host country. Lack of common language with similar technological centres in other countries and lack of a regional approach were the other problems faced by ERS/RAC⁷⁵. A proposal for a comprehensive reform related to the mandate of ERS/RAC from a strictly remote sensing function to a Information and Communication (IC) Services including personnel and financial requirements were adopted in 2005 and the name of ERS/RAC replaced with INFO/RAC⁷⁶.

Promotion of sharing information, raising public awareness and public participation to enhance decision-making processes at the regional, national scale are prevailing requirements for an effective cooperation for all multilateral agreements as well as the provisions of Barcelona Convention and its Protocols that INFO/RAC is expected to enhance the visibility of MAP⁷⁷.

The mandate of INFO/RAC is to establish an infrastructure for common information management to facilitate and support communication and information activities under MAP⁷⁸. In this respect, the new communications structure of second phase of MAP underscored the need for expertise and experience of INFO/RAC for an effective MAP network. The role of INFO/RAC's has evolved as an 'enabling partner' directly engaged in the MAP communications structure to conduct specific communication tasks and to establish a clear reporting structure which would provide a common strategy and effective execution across the MAP system⁷⁹.

However, the legal and institutional structure of INFO/RAC after replacing ERS/RAC has not been formalized yet that no host country agreement has been signed by Government of Italy. Thus, the Centre is subjected to the national

⁷⁵ *ibid*, para. 13.

⁷⁶ Report of the 16th Ordinary Meeting of the Contracting Parties to Barcelona Convention, Marrakesh (Morocco), 3-5 November 2009, 54.

⁷⁷ Please see the Article 12 and 26 of Barcelona Convention, Article 19 of SPA/BD Protocol, Article 12 of The Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal, Article 14 and 15 of ICZM.

⁷⁸ Report of the 16th Ordinary Meeting (n 76) 54.

⁷⁹ Report of the 17th Ordinary Meeting of the Contracting Parties to Barcelona Convention Paris (France), 8-10 February 2012, 283.

budgetary limitations and rules for the staff of Italy and not able to benefit from MTF.

IV. SHIFTING FROM NATIONAL TO REGIONAL

Under the Barcelona Convention system and the framework of UNEP/MAP the national centres were considered as appropriate to take regional role since they do not rely on MAP for financial resources which enable to prioritize more urgent issues. Additionally, regional projects promote transferring knowledge, expertise and technology from regional to national. MAP system requires existing financial and administrative competency and stability in a certain extent for the national activity centres for taking regional role. It was already agreed that “A national Centre must possess a recognized substantive and financial capability and cannot represent a mere administrative infrastructure or a physical location”. This competency in national level would guarantee a potential extra financial support from MTF for future projects⁸⁰.

Any Contracting Party making a proposal to host a RAC should demonstrate that related national institution was necessary for the development of Action Plan to start the establishment process of proposed RAC and should make a formal proposal. If Contracting Parties accept the proposal and they may agree to make financial contributions to operate related projects or not⁸¹. National centre undertakes the responsibilities required by program of work and policy decisions of Contracting Parties and the Bureau, and eventually it accept the supervision of National Focal Points, Steering Committee and Blue Plan and to be coordinated by UNEP⁸².

The operational principles of RACs were decided by Contracting Parties in 1985 were as follows:

- to establish regular contracts with counterpart national institutions;
- to collect and disseminate information;
- to serve as repository of state-of-the-art technology in their respective fields;
- to organize training courses, country missions, meetings;

⁸⁰ COP4 (n 17) para. 47-48.

⁸¹ *ibid* para. 49.

⁸² *ibid* para. 50.



- to recommend new programmes based on identified missing links or resource inadequacies;
- to co-operate with UN Specialized Agencies and inter-governmental organizations through joint projects and sometimes on the basis of letters of understanding⁸³.

Once RACs started to operate in 80's, they varied in respect of their establishment process, budget and employment conditions disjointly. However, the essential necessities desired by Contracting Parties have always been the financial independency, the host country contribution, the capacity to carry on regional role, an agreement between host country and UNEP for approving its establishment. After the COP decision to approve the establishment process, the activities of centres are conducted under the supervision and administrative control of UNEP and the Contracting Parties through by projects under the framework of MAP⁸⁴.

V. NEED FOR A HOST COUNTRY AGREEMENT

UNEP has always inclined to give to the RACs the status of intergovernmental organizations (without being a UN organization) and to formalize its operations specified in a Host Country Agreement, since this would facilitate the implementation of the RACs' regional mission in the Mediterranean⁸⁵.

Contracting Parties have recognized the fact that activity centres might evolve in the form of different entities as international, governmental and non-governmental organizations, research institutions or universities at different scales⁸⁶. Their legal status can vary from case by case, including the ones having the status of public entities or companies depending on their founding instrument. In every case RACs should have adequate financial and functional autonomy and capacity to meet their regional mandate⁸⁷. Accordingly, a host

⁸³ *ibid* para. 51.

⁸⁴ *ibid* para. 14.

⁸⁵ COP4 (n 17) 13.

⁸⁶ During the 93rd Meeting of the Bureau in 2022, Türkiye presented the proposal (UNEP/MED BUR.93/Inf.6) to strengthen the institutional setup of UNEP/MAP on Climate Change through the establishment of a new RAC for Climate Change (CCRAC). The proposal of Türkiye to host a new RAC on climate change will be negotiated in next Focal Points Meeting and then will be submitted to 23th Contracting Parties Meeting for a consensus which will be held in Slovenia at the end of 2023.

⁸⁷ 22nd Ordinary Meeting of the Contracting Parties to Barcelona Convention (COP22), Antalya (Türkiye), 7-10 December 2021, Decision IG.25/3 on Governance, 230. Also see COP16 (n 27) Decision IG.19/5.



country agreement should be adopted between the competent authority of host country at Ministerial level and UNEP. The host country agreement should identify following issues;

- The parties of the Host Country Agreement as UNEP and designated representative of the Host Country Government,
- The terms and conditions under which RACs will deliver their regional mandate pursuant to the Barcelona Convention and its Protocols and related decisions of the Meeting of the Contracting Parties.
- The regional role for the potential RAC as agreed by COP 16 Decision IG.19/5, COP 21 in Decision IG. 24/2, Annex IX.
- A clear description of the source of funding including the contribution of the Host Country Government (a separate financial management and accounting from MTF)⁸⁸.

CONCLUSION

The existing RACs offer a broad range of diversities from their status in national legal system to their establishment and mandate in regional scale. Their legal nature still pursues its ambiguities whether they are national or international entities, subjected to the public or private rules of law in respect of their finance, governance and management. As long as they are subjected to national law, the challenges related to the status of personnel and conducting its regional tasks as well as the financial lacks hold over. On the other hand, host country governments are competent to grant international status to RACs they hosted. The status of international organizations is determined by a multilateral treaty which is to be ratified by State Parties according to international law.

It is obvious from the decisions of Contracting Parties that RACs are expected to have their financial autonomy and functional-administrational capacity, not relying on MTF resources or UN staff. Even though the need for resource transfer from MTF or at least equal share of MTF budget among RACs were mentioned several times by host governments, RACs are expected to have

⁸⁸ COP22, Decision IG.25/3 (n 87) 230.



appropriate and differentiated financial sources of funding, including contributions from the Host Country⁸⁹.

In this context, it would be beneficial to adopt a host country agreement and update it on regular basis as suggested by UNEP and Contracting Parties. In addition to minimum requirement of this agreement such as the parties, the purpose, the mandate, the financial resources, a few other provisions related to recruitment and diplomatic immunities of personnel, potential projects and partnerships and the means of dispute settlement would make easier to build consensus on meetings related to the RACs and assist them to focus their mandate.

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⁸⁹ 21st Meeting of the Contracting Parties to Barcelona Convention, Naples, Italy, 2-5 December 2019, Inputs received by the Host Countries of the Regional Activity Centres on the proposed Minimum Common Provisions for Host Country Agreements, UNEP/MED IG.24/Inf.13.

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- 85th Meeting of the Bureau of the Contracting Parties, Report by the Secretariat on Specific Issues, 2 April 2018, UNEP(DEPI)/MED BUR.85/6/Rev.1