

The Entelechy of the Port

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Abstract

The port includes a terrestrial zone and an aquatic one, corresponding to the seashore and internal waters, respectively, in the service of navigation. From the fifteenth century and on, the dominion of ports by European monarchs and the emergence of the territorial sea and of the cabotage gradually contributed to the expansion of the power of coastal states to the sea. Nowadays, there is a worldwide convergence in the controls on foreign-registered ships through port state control and in adaptation of port management regimes to a liberalized context. The port entelechy consists in hospitality for persons and ships, which is also offered by nature, illustrated by the hypolimnion region of lakes and seas as a shelter for biodiversity. The port in its Greek version (“limén”) and the hypolimnion share both etymological origin and operation. Besides, ports are combined with the right to the city and may be affected by deconstruction.

Keywords: Coastal Law, hospitality, port deconstruction, Port Law, Port Management, right to the city

Introduction

From a naturalistic point of view, the port is defined as an artificially or naturally sheltered body of water, which is suitable for facilitating the arrival or departure of ships¹. The noun “port” corresponds to the word “limén” (“λιμήν”), in both the ancient version and the modern one of Greek. An investigation on harbors faces various controversies, such as terminological ones. Indeed, it is difficult to take an approach to ports, as there is no adjective with the generic meaning of a person or an object relevant to them.

We suppose that the port consists in institution having a concrete maritime objective, related to public interest.

First of all, the current analysis refers to legal rules on ports, including those related to the European integration (A).

Then, it deals with this institution from the point of view of Port Management and Public Policy (B).

On account of these complementary specific subjects, afterwards it deepens some aspects of the topic, in the framework of the discussion on the presented material (C).

¹ This study is linked to “Axe 3. Protected sea” of the 2022-2026 research program of the Center of Maritime and Ocean Law, of the University of Nantes.

Then, it draws a final conclusion, which focuses on the aforementioned working hypothesis.

A. Port Law with emphasis on the concept of the port

The port is endowed with a long history, which goes back to the early days of human endeavors. In the 16th century, ports became instruments of power in the hands of the European monarchies, once their owners realized that the dominion of the ports allowed them to exercise jurisdiction over the land space of the ports, but also over the nearby territorial sea². And in the framework of this new approach the jurists, in particular those closest to the different Courts, deployed all their knowledge and constructed the necessary legal arguments to defend the rights of their respective monarchs and the interests of their nations of origin over the ports and the maritime areas adjacent to them, against the claims of the other kingdoms³. Those developments contributed to the fact that in the 17th century the territorial sea emerged as a new maritime zone and the modern period of the law of the sea rose. It is to underline that this century was marked by intense statism in maritime law, illustrated not only by littoralization in form of the emergence of territorial waters, but also by the inauguration of the privilege of maritime cabotage⁴. This is the case of the British legislation consisting in the Navigation Act of 1651. It is also notable that since the 19th century, littoralization in the classical sense, sometimes referred to as “coastal attractiveness”, has been a social trend, involving the transformation of the natural environment (anthropization) of the littoral⁵, including the ports.

The port is a public institution at the service of navigation, comprising a terrestrial zone and an aquatic one. More precisely, in case of a seaport, it is about of a specific part of the seashore as well as of internal waters, respectively, whilst the waters of a lake exemplify the concept of continental waters. The port is regulated by various sources of internal, unionist and international law. One of the special features of Port Law is that, unlike Maritime Law, few international conventions are primarily concerned with this branch, but those relating to Maritime Law often have an impact on port activities (e.g. detention of seized ships)⁶.

French domestic law has never filled the gap in the definition of “port”, although some countries, such as Colombia, do have a legal definition⁷. In the Italian legal order, the principle of the public-owned nature and state ownership of the port has been enshrined at first in the current Civil Code, which, in Article 822, lists it among the necessary state property. More precisely, the beach and ports belong to the state. Kinds of property specified in this subsection belong to the necessary (or natural) state property, because due to their natural aptitude to satisfy public interests they cannot but be owned by the state⁸.

² M. Serna Vallejo, *Jordá Fernández Antoni. Colección “Saturnino Bellido”, El derecho portuario en la historia: (de los orígenes a la codificación) I.a. ed. Tarragona: Autoritat Portuària de Tarragona, 2008. 317 pp. ISBN 978-84-9675-421-8, Anuario de historia del derecho español, pág. 579, <file:///C:/Users/User/Downloads/Dialnet-JordaFernandezAntoniElDerechoPortuarioEnLaHistoria-7981144.pdf>*

³ *Ibid.*

⁴ A. Maniatis, *Risques littoraux*, *Digesta Online*, 2024, <http://www.digestaonline.gr/pdfs/Digesta%202024/maniatis.pdf>

⁵ *Ibid.*

⁶ R. Rézenthel, *Chapitre 611. Particularités du droit portuaire*, in P. Chaumette (Dir.), *Droits Maritimes*, 4^e édition, Dalloz, 2021, p. 1304.

⁷ *Ibid.*, p. 1308.

⁸ Anonimo, *Dispositivo dell’art. 822 Codice Civile*, Brocardi.it, <https://www.brocardi.it/codice-civile/libro-terzo/titolo-i/capoo-ii/art822.html>

Besides, the 1942 Code of Navigation, in Article 28, includes ports more specifically among the maritime state property⁹. In that way, those entities exemplify the state property and therefore are located in the field of classical privileges of some legal goods, such as the inalienability, the exemption from usucapion and the non-expropriation.

From what has been said, it can be inferred that the Code of Navigation, in opting for the qualification of the port as a state property, implicitly turned down the alternative of qualifying the port as an "enterprise" or as "company unitarily structured" for the provision of a service and also characterizing it with an autonomous normativity with respect to that dictated for other state property (as it would perhaps have been appropriate in view of the peculiar characteristics of the port phenomenon)¹⁰. It is to clarify that the expression being used on the matter in Italian is "fenomeno portuale". The use of an adjective within this complex expression shows familiarity with this phenomenon, against the alternative of a periphrastic denomination, that could be "fenomeno di porto". The latter expression could be used in a broader context, to describe a phenomenon that originates from or is associated with a port, but not necessarily limited to port activities. It could include, for example, the influence of a port on a city or region. In this specific meaning, it is about a vocable comparable to the fact that in Italian, as it happens in other languages, there is the common practice to refer to a port city with the denomination "port".

It is to pay special attention to the fact that the European Economic Community initially had no policy on the maritime sector and the European integration has been marked by a very slow tendency of legal liberalization of the transport market. The European transport policy enshrined in the Treaty of Rome was only launched in 1986, notably with the opening up of the road sector to competition¹¹.

European institutions have shown a flagrant failure to develop a formal policy for the key transport sector for a very long time, for instance with regard to the liberalization of maritime transport, which was inaugurated with Council Regulation (EEC) 3577/1992, ensuring that this kind of transport within a Member State, namely purely national connections, can be offered by companies of other Member States.

This development towards liberalization, for which Greece proved to be the most reluctant country, is comparable to another one, relevant to the liberalization of port services. A historical process of 16 years led to the adoption of Regulation (EU) 2017/352 establishing a framework for the provision of port services and common rules on the financial transparency of the ports. The Regulation defines the port services, consisting in bunkering, cargo-handling, mooring, passenger services, collection of ship-generated waste and cargo residues, pilotage and towage, and is applicable to all maritime ports of the trans-European transport network.

For Greece, which was characterized as a "closed" market¹², till very recently, this is the case of Piraeus, Thessaloniki, Patras, Heraklion and Igoumenitsa. The regulation defines the conditions under which the freedom to provide the aforementioned categories of port

⁹ A. Fiale, *Diritto della navigazione (marittima e aerea)*, V Edizione Aggiornata al giugno 1992, Edizioni Simone 1992, p. 37.

¹⁰ *Ibid.*

¹¹ É. Foulquier, *Mondialisation des transports et dynamiques des espaces portuaires*, Questions internationales, N° 70 – Novembre-décembre 2014, p. 52.

¹² G. Vagelas, *A new era for the European Port Policy*, Naftika Chronika, No. 196, 01.2017 (in Greek), p. 97.

services applies, for instance the type of minimum requirements that can be imposed for safety or environmental purposes, the circumstances in which the number of operators can be limited and the procedure to select the operators in such cases¹³.

In general, in the matter of port authorities on international scale, the reforms carried out over the last few decades in most major seaports all testify to the dual functions of the port authority, which has become both the head of company and the representative of the state, under whose strict control it acts¹⁴. Furthermore, there is also a world convergence in the controls on foreign ships, to ensure compliance with international conventions, such as SOLAS, MARPOL and STCW, through the successful mechanism of port state control, which was formally established in 1982 with the signing of the Paris Memorandum of Understanding between 14 European countries.

B. Aspects of the port from a point of view of Management and Public Policy

The word ‘port’ comes from Middle High German ‘port’, which was borrowed from Old French ‘port’, itself borrowed from Latin ‘portus’, which meant harbor. It has also the meaning of a town or city, being endowed with a harbor or access to navigable water, where ships load or upload. For instance, Toulon is a French port. In a comparable way to the doctrine of the law of the sea ‘*The land dominates the sea*’, the word ‘port’ has been evolved into a nautical term, which is applicable on the structure of vessels. On the one hand, the noun ‘starboard’ concerns the side of a ship or aircraft, that is on the right, when one is facing forward. On the other hand, the vocable ‘port’ corresponds to the opposing side. The word ‘port’ in the sense of **the left side when looking forward** is first recorded in the High Court of Admiralty Examinations for 1543-44 in ‘*to lay the helm a-port*’, meaning ‘**to move the rudder to the starboard side, making the ship turn to the right**’¹⁵.

It is about a common expression, which forms part of the International Maritime Organization’s ‘Standard Marine Communication Phrases (SMCP), adopted by the 22nd Assembly in November 2001 as resolution A.918922) IMO Standard Marine Communication Phrases. This resolution recommends a wide circulation to all prospective users and all maritime education authorities. The set of phrases on the matter has replaced the Standard Marine Navigational Vocabulary (SMNV), adopted by the IMO in 1977 and amended in 1985, and is taught in the framework of the maritime education on international scale. In practice, the symmetric expressions of the terrestrial vocabulary ‘on the left’ and ‘on the right’ are not in use in the maritime professions, which are dominated by the alternatives ‘port’ and ‘starboard’, which depict inter alia the targeted direction of the vessel, either on its own or in combination with another one. For instance, the term ‘passing port to port’ is very common when two ships two ships meet opposite each other, namely moving in opposite directions.

The emergence of the expression ‘port’ is associated to the British maritime history. It is said that the passengers’ cabins of the correspondent vessels travelling from the metropolis to the region of South Africa had a view of the African mainland, and therefore of their home ports. This offer to passengers could break the monotony of such a long journey.

¹³ European Commission, *Ports*, https://transport.ec.europa.eu/transport-modes/maritime/ports_en

¹⁴ A. Gallais Bouchet, *La concession portuaire, outil incontournable et moderne de la gestion des ports*, Questions internationales, N° 70 – Novembre-décembre 2014, p. 71.

¹⁵ P. Tréguer, *Origin of the nautical terms ‘starboard’ and ‘port’*, word histories, <https://wordhistories.net/2016/11/21/starboard-port/>

However, another explanation is cited¹⁶. Before boats had rudders, they were steered by a board on the right side, which was known as a steerboard. Thus, it became the “steerboard side”. The left side then became the side on which to tie up in port, so as not to damage the steerboard when docking.

Besides, the English expression “port hole” derives from the maritime past of England¹⁷. Henry VI, who was the King of this country from 1422 to 1461 and from 1470 to 1471, wanted bigger guns on his ships, and ordered cannons too big to be tied on deck in the traditional manner. As a result, he commissioned a Frenchman to solve the problem, who then built doors in the sides of the ship that the cannons could be fired through whilst the French word for door is “porte”. So, the portholes passengers look through each day were originally built to fire a cannon through. While modern cruise ships have advanced lighting and ventilation systems, portholes are still a nostalgic and aesthetic point of reference in the framework of a cruise ship’s design. It is notable that in the 1960s people switched from ships to planes and ocean liner business was sent into a decline for various reasons, such as high fuel consumption, the inability to dock at shallow docks and windowless cabins with no regard to comfort¹⁸.

As for the question of spatial planning, port areas benefit from a few procedural exceptions. For example, at least in the French legal order, the ban in construction in the “hundred-meter” zone for commercial and fishing ports is not in vigor as long as the spatial planning in question requires proximity to the sea¹⁹.

More precisely, many Mediterranean countries, such as France and Spain, enforce setback zones of at least 100 meters from the coastline, to protect their coastlines. These zones are considered as crucial for maintaining healthy coastal ecosystems, against important dangers, such as flooding and erosion. It is to underline that setback zones of at least 100 meters are required by all signatory countries of the Protocol on Integrated Coastal Zone Management in the Mediterranean, which constitutes one of the protocols of the Barcelona Convention, officially known as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean.

This modern and important tool of regional international law has been ratified by the European Union, and several individual states, such as France and Spain. However, Greece, which has established the minimum protection limit of 30 meters at least for residencies²⁰, signed the protocol on 21 January 2008 but it has not ratified, yet. In this chain of ideas, it is notable that the sub-concession contract for the port of Kavala, ratified by the Greek Parliament through law 5112/2024, did not include any control tools from an environmental point of view, far from the spirit of the Barcelona Convention²¹. Besides, the Hellenic state has refrained from adopting a national special spatial plan for the coastal zone, namely for the coastal regions in general.

Not only ecological concerns are logical, but also the demand for environmental infrastructure of ports has been raised, due to the fact that novel international conventions

¹⁶ J. Morgan, *To The Bitter End: How Sailors Have Shaped the English Language*, OnboardOnline, 04th December 2020, <https://www.onboardonline.com/superyacht-news/features/to-the-bitter-end-how-sailors-have-shaped-the-english-language/>

¹⁷ *Ibid.*

¹⁸ Anonymous, *A History of Cruise Ships; From Past to Present*, Cruise Nation, 2014, <https://www.cruisenation.com/blog/cruise-lines/a-history-of-cruise-ships-from-past-to-present/>

¹⁹ R. Rézenthel, *Chapitre 631. Réalisation des aménagements portuaires*, in P. Chaumette (Dir.), *Droits Maritimes*, 4^e édition, Dalloz, 2021, p. 1356.

²⁰ T. Kokkinidis, *Greek Beaches : New Bill Allows Construction on the Coastline*, Greek Reporter, February 22, 2024, <https://greekreporter.com/2024/02/22/greek-beaches-new-bill-allows-construction-coastline/>

²¹ A. Maniatis, *Aménagement du littoral*, Digesta Online, 2024, <http://www.digestaonline.gr/pdfs/Digesta%202024/maniatis2.pdf>

have entered into force and preview port facilities of this category. This is the case of the 2004 Ballast Water Management Convention (BWM), which entered into force in a delay, just on 8 September 2017.

Besides, many challenges remain on the management of ports, on international scale. For instance, cooperation between port-related actors demands a conducive environment for innovation and data sharing characterized by trust, mutual benefits, and sustainable business and revenue models²². To improve their operating margins, generate revenue, and offer a better service to their customers, market players in shipping, ports, and logistics simultaneously pursue the following complementary strategies: a) cost control through horizontal integration, and b) service differentiation through vertical integration along the supply chain²³.

Ports and the shipping industry may face unprecedented controversies, such as the Suez Canal blockage, which occurred in March 2021. For the first time since the Canal was reopened in 1985, traffic was blocked. The *Ever Given*, a huge containership ran aground and blocked the canal for six days. This obstruction caused a major disruption, with over 369 ships waiting to pass through, and highlighted the vulnerability of global supply chains²⁴. Furthermore, ports are exposed to other controversies, either specific events of the maritime sector, such as insolvency of shipping companies, or general incidents. For the latter category, the COVID-19 crisis proved to be emblematic. For instance, the globalization of a cruise industry that calls in at a growing number of ports around the globe appeared to be unstoppable, with the COVID-19 pandemic the first major setback in almost a half-century²⁵.

Last but not least, port reforms have given private operators a growing role. Their activities are often limited to commercial operations, i.e. the provision of commercial services whilst in the majority of cases, functions concerning police, security, safety or environmental protection remain tightly controlled by public authorities at local, regional or national level²⁶. Besides, the French law of 4 July 2008 on port reform created the category of major seaports. The terminals and tools of the autonomous ports are transferred to private operators under concession regimes. More generally, under the impetus of internationalization and bodies, such as the World Bank and the United Nations Conference on Trade and Development, port authorities are resorting more and more systematically to the panel of concession regimes in parallel or as a replacement for old practices²⁷. In conclusion, beyond the specific features of each state and each port, there is a profound worldwide convergence in the adaptation of port management regimes to an economic and legal environment that has been liberalized²⁸.

²² Th. Noteboom, A. Pallis, J.-P. Rodrigue, *Port Economics, Management and Policy*, New York: Routledge, 2022, <https://porteconomicsmanagement.org/pemp/contents/introduction/i-4-emerging-issues-in-ports-and-maritime-shipping/>

²³ *Ibid.*

²⁴ T. Fadlon, O. Winter, Sh. Even, *The Blocking of the Suez Canal: Lessons and Challenges*, INSS Insight, No. 1460, May, 2021, <https://www.inss.org.il/publication/suez-canal/>

²⁵ Th. Noteboom, A. Pallis, J.-P. Rodrigue, *Port Economics, Management and Policy*, New York: Routledge, 2022, <https://porteconomicsmanagement.org/pemp/contents/introduction/i-4-emerging-issues-in-ports-and-maritime-shipping/>

²⁶ G. Guéguen-Hallouët, *Le rôle croissant du secteur privé dans l'activité et la gestion des ports*, Questions internationales, N° 70 – Novembre-décembre 2014, p. 68.

²⁷ A. Gallais Bouchet, *op. cit.*, p. 70.

²⁸ *Ibid.*, p. 74.

C. Findings Discussion

From the above-mentioned data, the following remarks have resulted:

a. A terminological pluralism relevant to the keyword "port"

The port concept is to such a pitch a point of reference, not only for the land context but also for the maritime one, that it has acquired since a long time a specific meaning, which belongs to the set of nautical terms promoted by the IMO. The non-interchangeable vocables "starboard" and "port" refer to the two halves of the vessel, whilst they are not affected by a mariner's orientation. Furthermore, in this chain of ideas, the vocable "port phenomenon" constitutes a remarkable tool. It has not gained territory in the legal vocabulary, as long as it has not been consecrated at legislative level, yet, in contradiction to other similar expressions, such as the "tourism phenomenon" in the Spanish pioneer legislation of 1960s, on tourism. However, it is to underline that it is about a doctrinal invention, which is in use, let alone in a very wide context, in various fields including the legal science. The word "port" in some languages, such as Italian, has gained important standards of flexibility, as it is the case of the existence of the correspondent adjective, being endowed with a generic meaning on the matter.

b. The privileged character of the port

The port is endowed with privileges under public law, such as the exemption of the "hundred-meter" ban in the French legal order. So, due to its public character, it has an official profile and illustrates the classical concept of public service, in terms of administrative law. For reasons of intense public interest, the polity has enabled port authorities with important rights and competences, many of which having the status of authentic legal privileges.

Once again, it is about the dual nature of a wide phenomenon, since there is a symmetry between, on the one hand, the increased powers and the consecrated privileges of the various port authorities and, on the other hand, the extreme lack of freedom or various restrictions on the rights of private individuals or legal persons under private law. This is true especially in the terrestrial zone of the port, which, if it were not classified legally as a "port", would be just a part of the seashore, consisting in a good devoted to the free use of the public.

c. A port-based approach to the maritime context

Both vocables "port" and "port phenomenon" illustrate the mainstreaming approach consisting in the central position of the port, in physical and metaphorical terms. This remark is valid, on the one hand, for its land universe, exemplified by the correspondent city or town, which itself is alternatively called port. It is also applicable, on the other hand, for the left side of the ship, which intrinsically symbolizes both the destination and the safety of the vessel.

In other words, various manifestations of civilization, such as urban centers and vessels, are port-centered, not only in terminological terms but also in academic and operational ones. This multifaceted interest for ports proves to be important for the everyday life of inhabitants of those urban centers as well as for shipping.

This approach results from the nature of things, in spite of the fact that the expression being used in the current study "port-based approach" is not widely recognized as a standard term, at least in the field of nautical sciences. It is applicable in the maritime context, of

both land and water environment, whilst the word “maritime” is itself suitable to depict a complex context on the matter, in full correspondence to the dual (terrestrial and aquatic) nature of the port.

d. Enhancement of the use of the terms “port” and “maritime”

In the current context of intense spatial zoning of the marine environment for economic scopes, in particular in connection with tendencies of privatization and commercialization, the sea is seen less as a marine space than as a maritime space, in a semantic shift that is far from neutral in that it evokes the humanization of nature and, in this case, of the sea, the development of human activities and the economic enhancement of spaces and their wealth²⁹. Such a trend is legitimized on the basis of littoralization, which is an important socioeconomic phenomenon on the coastal region of countries. A comparable vocable consists in “maritimization”, which at global level is considered to have begun in the mid-twentieth century³⁰. The opening to economic activities is not related uniquely to the mainstreaming term “maritime” but also to the keyword “port”. Indeed, ports have been associated, the last decades, to the trend of privatization, let alone in the current context of globalization.

e. Existence of entelechy of the port

The concept of entelechy refers to the realization of potential or the full expression of a thing’s essence. This word, invented by Aristotle, states the transition of matter from the inert to the active state, the taking of form (species, in ancient Greek) and the cause of that transition³¹. For example, the soul, according to the inventor, is the entelechy of the body, which means that the path from the body to the soul is the entelechy. Moreover, the final purpose of the seed that became a plant is expressed by the word “entelechy”, because the perfect - final form of the plant derived from the seed. In other words, entelechy means that a phenomenon has its own purpose as an internal part of its existence, intrinsically in a way, even in case it is not about a natural phenomenon, such as the transformation of a seed into a complete plant. When applying the idea of this philosophical term to a port, several interpretations could emerge, such as the following ones:

1. Functionality as a Hub of Trade and Transport

A port reaches its entelechy when it efficiently facilitates the movement of goods and people, supporting economic activity and connectivity. The European Union has recently attempted to consecrate and promote the modern principle of intermodality, but intermodal transport is regarded as more expensive, slower and less reliable than, for example, unimodal road transport³². It suffers from disadvantages, such as long delivery times, complexity, higher risk and lower reliability, mainly due to the absence of proper terminal infrastructure and low levels of investment in smart digital solutions that would streamline the management of multimodal transport flows³³. Rail connections should be modernized further whilst the case of Greece is problematic, especially as for the transport of

²⁹ N. Ros, *La spatialisation fonctionnelle des espaces maritimes*, ADMO Tome XLI-2023, p. 39.

³⁰ T. Lecoq, *Ports et transports. Une nouvelle géographie des mers et des océans*, Questions internationales, N° 70 – Novembre-décembre 2014, p. 11.

³¹ K. N. M. Kazamiakis, *Entelechy: A word “born” by Aristotle*, I efimerida ton syntakton, 05.07.20 (in Greek), https://www.efsyn.gr/stiles/apopseis/250738_entelechia-mia-lexi-poy-gennise-o-aristotelis

³² European Economic and Social Committee, *Future EU transport must tap into the potential of intermodality*, 01/07/2021, <https://www.eesc.europa.eu/en/news-media/news/future-eu-transport-must-tap-potential-intermodality>

³³ *Ibid.*

passengers by train, with the exception of the urban railway net of Attica. The failure of this domain is attributed to various factors, such as inter alia the problem relevant to safety, being associated with cases of impunity and the culture of impunity on the matter³⁴.

2. *Infrastructure and Capacity*

Another perspective could view the entelechy of a port as the optimization of its infrastructure and capacity. This includes having the necessary docks, storage facilities, and logistics systems operating at their peak, allowing for smooth and efficient operations. Such an approach is comparable with the strict sense of seaworthiness of ships, namely adapted to their specific maritime venture.

3. *Economic and Community Integration*

The entelechy might also encompass the port's role in the broader economic and social fabric of its region. A port could be considered to have reached its entelechy when it is fully integrated into the local economy, providing jobs, supporting industries, and contributing to the overall prosperity of the surrounding area. However, the operation of a port is also related to the question of its image, including the tourist image. It is to underline that the port is traditionally considered the cause of various bad associations in the collective subconscious, especially at the level of the local community. The negative perceptions range from minor problems in the daily practice, such as transport problems and heavy traffic near the port or even in the port area itself, to deviant behavior and criminality. So, the operation of the port is strictly related to a novel phenomenon with a philosophical and sociological background, such as the right to the city. This guarantee, mainly associated to social inclusion of minorities and low-income dwellers, was popularized by the French philosopher Henri Lefebvre in the 1960s and has since been adopted by various human rights organizations and urban policy frameworks. Unlike the common belief that it remains hypothetical in legal terms, article 31 of the 2008 Constitution of Ecuador recognizes it explicitly and regulates it, as follows:

«People have the right to the full enjoyment of the city and its public spaces, under the principles of sustainability, social justice, respect for different urban cultures and balance between the urban and the rural. The exercise of the right to the city is based on the democratic management of the city, on the social and environmental function of property and the city, and on the full exercise of citizenship».

Nevertheless, it is to signalize that the right to the city on international scale is frequently alluded to against tourist visits, in urban centers, and thus illustrates the 'pro-resident' principle of Tourism Law.

4. *Environmental Sustainability*

A relatively new entry in the framework of the question of entelechy of a port consists in its ability to operate in a sustainable way, in terms of the cultural and mainly the natural environment. On the one hand, as already mentioned, the port is a privileged institution, being exempted from ecological rules of Coastal Law, such as the ban on construction in the hundred-meter zone from the coastline. On the other hand, this institution should cope with its environmental standards, such as minimizing environmental impact, using green technologies, and contributing to the health of the marine and coastal ecosystems. Similar

³⁴ A. Maniatis, *The Unionist acquis in the field of tourism. Tourism and rail law study*, Our Knowledge Publishing, 2023, pp. 198-199.

remarks are valid in the matter of monuments and archaeological sites, in the terrestrial zone of the port, and also of cultural heritage in the internal waters, especially in the aquatic zone of the port. Port authorities must ensure the protection and preservation of underwater cultural heritage.

This overview of what could be the entelechy of a port is far away from the fundamental concept of safety, which has been omitted at least explicitly, although it is not fully inexistent at the doctrinal level³⁵. Safety and security constitute a set of symmetrical, indispensable goods, eloquently called with the single term ‘asphaleia’ («ασφάλεια») in Greek. Nevertheless, this set has been drastically hit in the domain of transport and also in the urban context, especially from the terrorist acts of 11th September 2001 and on, on international scale.

As far as Greece is concerned, the last years it has deteriorated in both material and symbolic terms its relationship with ports and their context whilst it invests deeply in the tourism market. A few recent cases are illustrative enough to highlight the retrocession of the tourist image and also the transgression of the human right to the city, which, anyway, remains unrecognized in the correspondent legal order.

First of all, in July 2023 a lot of stores of the public company ‘Hellenic Post’ closed permanently, as part of its reorganization plan, including the store of Seaside of Kalamata, located in the terrestrial zone of the port of this city. That means that both inhabitants and tourists are led to make use of the unique store available, which is not located very near this site. Furthermore, the Post building, a historical landmark which was seen by the passengers of the ships approaching the harbor, was marginalized, losing its identity. It is to underline that the post office was closed, as was the adjacent railway of Kalamata, known as the southernmost railway in Europe.

Besides, on 6 September of the same year a Greek passenger lost his life in the port of Piraeus while he attempted to board a ferry which was in the process of starting its departure, and he was thrown off the catapult, into the sea. At least till then, the competent staff of the Hellenic Coast Guard had adopted the practice of tolerating the departure of ferries without having closed fully the ship’s catapult, which is a clear violation of Maritime Law. Article 22 paragraph 14 of presidential decree 177/2000 establishes: ‘*The securing of the catapult and of the security door shall be carried out before the departure of the ship under the responsibility of the master*’. That practice creates a culture of impunity, which is similar to that of the aforementioned rail crisis in the same country, offends the right to safety and deteriorates the image of ports.

To sum up, the above-mentioned cases depict a problematic situation, which does not consist in the closure of a port, even partially or temporarily, but in its more or less latent marginalization at the expense of the public interest. It is not about merely a form of degradation, as it would be the case of pollution of the environment caused by private individuals or companies. This phenomenon, produced by formal decisions or practices of entities related to the public sector, could be called ‘port deconstruction’.

D. Conclusion

The conclusion drawn by the completed analysis confirms the working hypothesis, according to which the port consists in institution having a concrete maritime objective, related to public interest, given that it constitutes an official, public mechanism, legally

³⁵ A. Gallais Bouchet, *op. cit.*, p. 74.

established and regulated. The doctrine has signalized that the purpose of maritime ports is not limited to providing services to users³⁶. Indeed, they serve the dual phenomenon of navigation (maritime traffic and shipping), for public interest, consisting in safety, security and economic development, in conformity with the principle of environmental sustainability.

The present investigation has highlighted the fact that the port has a diachronic, intrinsic purpose, strictly related to the ideal of safety and security for both persons and ships, which consists in hospitality, a term omitted so far. Besides, the principle of hospitality is a taboo, not only in the port context. For instance, if just a few Constitutions have consecrated explicitly tourism, no Constitution has incorporated the human right to tourism, let alone hospitality, including the vocable ‘right to hospitality’. In other words, hospitality should be mentioned at constitutional level and incorporated as a general principle in various branches of law, such as inter alia Coastal Law, Port Law and Tourism Law.

The concept of the port as a public institution offering hospitality even to foreign-registered ships has been strengthened historically, after the Middle Ages in Europe, on the basis of the gradual enhancement of seaports and coastal states. From the fifteenth century and on, this is the case of important institutions and developments, such as the dominion of ports by European monarchs, the emergence of the territorial sea as a zone of sovereignty of the coastal country, and the introduction of the maritime cabotage. As long as coastal states with traditional military and maritime power become stronger in both legal and empirical terms, they could translate their force to expression of economic activities, such as fishery and shipping, and above all to hospitality, against natural and social dangers. Hospitality by nature constitutes a form of welcoming, inclusion and sheltering on behalf of a person or a social group that is endowed with sufficient material goods, such as residence, to a needy person.

Last but not least, aquatic abysses symbolize hospitality for species. In the vast isothermal zone, known as the ‘hypolimnion’, temperatures are extremely stable throughout this vast zone, ranging from 0.5°C to 4°C. The density of water is highest at 4°C and, as a result, the temperature at the bottom of a lake or ocean does not fall below 4°C (because the coldest waters are lighter), something that enabled life forms to survive during the coldest geological periods. Consequently, the sea or a lake has been a kind of real refuge for biodiversity, so these aquatic spaces have proved to be hospitable par excellence in situations that are not very favorable for the survival of life species. It is notable that the Greek word for port, namely ‘limén’, and the hypolimnion share both etymological origin and operation.

Hospitality is not only the entelechy of the port but also the offer of nature.

³⁶ *Ibid.*