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## Law No. 9/2026

### The New Regulatory Framework on the Security of Underwater Activities

#### 1. Background and Rationale of the Legislative Intervention

Law No. 9 of 26 January 2026, entitled "*Provisions on the Security of Underwater Activities*", has introduced a **comprehensive intervention** in a field that had hitherto been regulated in a fragmented manner, establishing a unitary regulatory framework for civil activities carried out in the underwater domain.

In academic literature and in strategic policy fora, the underwater environment is increasingly described as a "*near-domain*" of a functional nature, characterised by **infrastructure-related and technological interests of primary importance**, notwithstanding the absence of a formal legal recognition comparable to that of airspace or cyberspace.

The so-called *Underwater Act* fills a regulatory gap, representing a systemic legislative intervention which, in light of the growing economic and strategic relevance of the seabed, aims to strengthen **security, institutional coordination and the protection of critical infrastructures**.

The reform is situated within a European and international context in which the underwater environment is increasingly affected by high-technology human activities—such as the laying and maintenance of submarine cables, energy pipelines, offshore installations and underwater vehicles—and, at the same time, by new forms of infrastructural vulnerability. From this perspective, Law No. 9/2026 constitutes the normative outcome of a policy trajectory already underway, as evidenced by the **2023–2025 Sea Plan** and by the parliamentary debate, which highlighted how the traditional dispersion of powers and responsibilities had become progressively unsustainable, both in terms of national security and administrative efficiency.

The Underwater Act is also consistent with the most recent initiatives of the European Union and NATO aimed at strengthening the protection and resilience of submarine critical infrastructures, particularly in light of the risks that have emerged in recent years at the geopolitical and infrastructural level.

## 2. Scope of Application and Objectives

The framework introduced by the Act applies to **civil underwater activities** carried out:

- in internal waters and the territorial sea;
- on the continental shelf and within the exclusive economic zone;
- and, limited to infrastructures of national interest, also on the high seas.

Military, law-enforcement and civil protection activities, as well as tourist, recreational and sporting activities, are **expressly excluded** and continue to be governed by the relevant sector-specific legislation.

The objectives of the legislative intervention may be traced back to three main strands:

- i) **the formal recognition of the “underwater dimension”** as an autonomous field of public intervention;
- ii) **the strengthening of coordination** among the competent public administrations, in a sector traditionally characterised by a multiplicity of overlapping competences;
- iii) **the protection of national interests**, with particular regard to submarine energy and digital infrastructures.

## 3. The Agency for the Security of Underwater Activities

Within the new governance framework, a central role is assigned to the **Agency for the Security of Underwater Activities** (i.e., *Agenzia per la Sicurezza delle Attività Subaquee* – “ASAS”), established as a public body endowed with legal personality and vested with regulatory, administrative and accounting autonomy.

From a functional standpoint, ASAS is placed within the Presidency of the Council of Ministers and is conceived as a **technical-operational structure** supporting political steering and policy direction. Its primary function is to act as a coordination hub among the various public administrations involved in the governance of the underwater dimension, facilitating information sharing and the adoption of coherent policy approaches.

The Director General, appointed by decree of the President of the Council of Ministers—who retains powers of high-level direction and coordination of policies relating to the underwater domain—serves as the Agency’s sole executive head and ensures its operational functioning in accordance with the strategic guidelines defined at the political level.

The institutional model set out in the establishing legislation does not correspond to that of independent administrative authorities, but rather to that of **agencies**. ASAS is not designed as an entity autonomous from political direction; instead, it is conceived as a body functionally integrated within the Executive. This is evidenced by a number of **defining features**, including the absence of statutory guarantees of independence, the presence of a single-headed governance structure (the Director General) appointed by the President of the Council of Ministers, and the Agency’s close integration with public

administrations already operating in the maritime and security sectors (such as the Navy, the Harbour Master's Offices and the Guardia di Finanza).

From this perspective, the closest institutional comparator is the **National Cybersecurity Agency**, which is likewise placed within the Presidency of the Council of Ministers and entrusted with technical coordination functions in an emerging strategic domain.

More generally, ASAS may be classified within the model of so-called "mission-oriented administrations", established to oversee emerging strategic functions through flexible organisational arrangements that are closely aligned with political direction.

#### **4. The Main Functions Attributed to ASAS**

The Agency's powers are articulated along several lines, which may be summarised into **five main functional areas**:

- **international coordination and external outreach**, through liaison with the institutions of the European Union and with international bodies competent in underwater matters;
- **security and management of operational interferences**, through the coordination of civil underwater activities and the prevention of interference with military or law-enforcement activities;
- **targeted authorisation powers**, limited to specific cases (such as submerged navigation by foreign-flag civil submarines or the launch of underwater vehicles from foreign-flag vessels);
- **technical regulation**, with regard to the requirements applicable to underwater vehicles, professional qualifications and the registers of operators;
- **research, training and the dissemination of a culture of safety**, in cooperation with universities, research bodies and the industrial sector.

ASAS operates in close coordination with public authorities that already hold competences in the sector—including the Navy, the Harbour Master's Offices (Coast Guard), the Guardia di Finanza and the Civil Protection Service—without replacing them, but rather by enhancing their operational and informational contribution.

The legislature has, in fact, opted for a model based on coordination and inter-institutional cooperation, without conferring upon the Agency general substitute powers, thereby preserving the competences of the administrations already active in the field.

## 5. Operational Implications

The Underwater Act is expected to have a significant impact on the activities of companies and operators active in the fields of energy, telecommunications, underwater works, offshore technologies and applied research.

In particular, the new regulatory framework introduces **obligations relating to communication, coordination and the management of interferences**, which will require a more structured approach to the planning of underwater activities and a **continuous dialogue with ASAS**, which is set to become the primary institutional point of reference for the sector.

In this context, the ability to operate in a compliant, coordinated and transparent manner may represent a **competitive advantage**: the security of the underwater domain may thus come to be regarded not merely as a regulatory constraint, but as a structuring factor in investment decision-making.

Accordingly, underwater security is increasingly expected to influence project design and investment choices at an early stage, becoming integrated into compliance frameworks, risk management processes and industrial planning.

## 6. Final Remarks

Overall, Law No. 9/2026 marks a significant step towards the construction of a more **mature public governance framework for the underwater domain**, laying the foundations for a body of underwater law capable of integrating security, technological development and the protection of critical infrastructures.

The new framework builds upon a **maritime institutional system** characterised by established competences and mature operational practices, which the reform seeks to enhance and coordinate in a systemic manner.

A defining feature of the recent legislative intervention lies in the centrality of **information flows**, based on the collection, validation and sharing of data relating to the underwater environment and to underwater activities.

The legislature has also sought to enhance the **role of private operators** as qualified counterparts of the public administration, within a cooperative framework aimed at risk prevention and operational safety. From this perspective, particular importance attaches to the link between underwater security, research and technological innovation, with potential positive spill-overs in terms of the development of high-value skills and industrial solutions.

The practical effectiveness of the new regulatory framework governing the underwater environment will largely depend on the implementation phase and on ASAS's ability to operate as a platform for **coordination and synthesis** within a context characterised by a plurality of actors operating at multiple levels and in a continuously evolving domain.

Undoubtedly, the new regulatory framework opens up opportunities for reflection and specialised legal assistance in the areas of planning, authorisations, compliance and risk management for operators and investors active in the underwater sector.

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