

DIRECTIVES

DIRECTIVE 2014/89/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 July 2014

establishing a framework for maritime spatial planning

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2), 100(2), 192(1), and 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The high and rapidly increasing demand for maritime space for different purposes, such as installations for the production of energy from renewable sources, oil and gas exploration and exploitation, maritime shipping and fishing activities, ecosystem and biodiversity conservation, the extraction of raw materials, tourism, aquaculture installations and underwater cultural heritage, as well as the multiple pressures on coastal resources, require an integrated planning and management approach.
- (2) Such an approach to ocean management and maritime governance has been developed in the Integrated Maritime Policy for the European Union (IMP), including, as its environmental pillar, Directive 2008/56/EC of the European Parliament and of the Council ⁽⁴⁾. The objective of the IMP is to support the sustainable development of seas and oceans and to develop coordinated, coherent and transparent decision-making in relation to the Union's sectoral policies affecting the oceans, seas, islands, coastal and outermost regions and maritime sectors, including through sea-basin strategies or macro-regional strategies, whilst achieving good environmental status as set out in Directive 2008/56/EC.
- (3) The IMP identifies maritime spatial planning as a cross-cutting policy tool enabling public authorities and stakeholders to apply a coordinated, integrated and trans-boundary approach. The application of an ecosystem-based approach will contribute to promoting the sustainable development and growth of the maritime and coastal economies and the sustainable use of marine and coastal resources.

⁽¹⁾ OJ C 341, 21.11.2013, p. 67.

⁽²⁾ OJ C 356, 5.12.2013, p. 124.

⁽³⁾ Position of the European Parliament of 17 April 2014 (not yet published in the Official Journal) and decision of the Council of 23 July 2014.

⁽⁴⁾ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

- (4) Maritime spatial planning supports and facilitates the implementation of the Europe 2020 Strategy for smart, sustainable and inclusive growth ('the Europe 2020 Strategy'), endorsed by the European Council in its conclusions of 17 June 2010, which aims to deliver high levels of employment, productivity and social cohesion, including promotion of a more competitive, resource-efficient and green economy. The coastal and maritime sectors have significant potential for sustainable growth and are keys to the implementation of the Europe 2020 Strategy.
- (5) In its communication entitled 'Blue Growth: opportunities for marine and maritime sustainable growth', the Commission has identified a number of ongoing Union initiatives which are intended to implement the Europe 2020 Strategy, as well as a number of activities on which blue growth initiatives could focus in the future and which could be adequately supported by greater confidence and certainty for investors provided through maritime spatial planning.
- (6) Regulation (EU) No 1255/2011 of the European Parliament and of the Council ⁽¹⁾ supported and facilitated the implementation of maritime spatial planning and integrated coastal management. European Structural and Investment Funds, including the European Maritime and Fisheries Fund ⁽²⁾, will provide opportunities to support the implementation of this Directive for 2014-2020.
- (7) The United Nations Convention on the Law of the Sea of 1982 ('Unclos') states in its preamble that issues relating to the use of ocean space are closely interrelated and need to be considered as a whole. Planning of ocean space is the logical advancement and structuring of obligations and of the use of rights granted under Unclos and a practical tool in assisting Member States to comply with their obligations.
- (8) In order to promote the sustainable coexistence of uses and, where applicable, the appropriate apportionment of relevant uses in the maritime space, a framework should be put in place that consists at least of the establishment and implementation by Member States of maritime spatial planning, resulting in plans.
- (9) Maritime spatial planning will contribute to the effective management of marine activities and the sustainable use of marine and coastal resources, by creating a framework for consistent, transparent, sustainable and evidence-based decision-making. In order to achieve its objectives, this Directive should lay down obligations to establish a maritime planning process, resulting in a maritime spatial plan or plans; such a planning process should take into account land-sea interactions and promote cooperation among Member States. Without prejudice to the existing Union *acquis* in the areas of energy, transport, fisheries and the environment, this Directive should not impose any other new obligations, notably in relation to the concrete choices of the Member States about how to pursue the sectoral policies in those areas, but should rather aim to contribute to those policies through the planning process.
- (10) In order to ensure consistency and legal clarity, the geographical scope for maritime spatial planning should be defined in conformity with existing legislative instruments of the Union and international maritime law, in particular Unclos. The competences of Member States relating to maritime boundaries and jurisdiction are not altered by this Directive.
- (11) While it is appropriate for the Union to provide a framework for maritime spatial planning, Member States remain responsible and competent for designing and determining, within their marine waters, the format and content of such plans, including institutional arrangements and, where applicable, any apportionment of maritime space to different activities and uses respectively.

⁽¹⁾ Regulation (EU) No 1255/2011 of the European Parliament and of the Council of 30 November 2011 establishing a Programme to support the further development of an Integrated Maritime Policy (OJ L 321, 5.12.2011, p. 1).

⁽²⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

- (12) In order to respect proportionality and subsidiarity, as well as to minimise additional administrative burdens, the transposition and implementation of this Directive should to the greatest extent possible build upon existing national, regional and local rules and mechanisms, including those set out in Recommendation 2002/413/EC of the European Parliament and of the Council ⁽¹⁾ or in Council Decision 2010/631/EU ⁽²⁾.
- (13) In marine waters, ecosystems and marine resources are subject to significant pressures. Human activities, but also climate change effects, natural hazards and shoreline dynamics such as erosion and accretion, can have severe impacts on coastal economic development and growth, as well as on marine ecosystems, leading to deterioration of environmental status, loss of biodiversity and degradation of ecosystem services. Due regard should be had to these various pressures in the establishment of maritime spatial plans. Moreover, healthy marine ecosystems and their multiple services, if integrated in planning decisions, can deliver substantial benefits in terms of food production, recreation and tourism, climate change mitigation and adaptation, shoreline dynamics control and disaster prevention.
- (14) In order to promote the sustainable growth of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources, maritime spatial planning should apply an ecosystem-based approach as referred to in Article 1(3) of Directive 2008/56/EC with the aim of ensuring that the collective pressure of all activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while contributing to the sustainable use of marine goods and services by present and future generations. In addition, an ecosystem-based approach should be applied in a way that is adapted to the specific ecosystems and other specificities of the different marine regions and that takes into consideration the ongoing work in the Regional Sea Conventions, building on existing knowledge and experience. The approach will also allow for an adaptive management which ensures refinement and further development as experience and knowledge increase, taking into account the availability of data and information at sea basin level to implement that approach. Member States should take into account the precautionary principle and the principle that preventive action should be taken, as laid down in Article 191(2) of the Treaty on the Functioning of the European Union.
- (15) Maritime spatial planning will contribute, inter alia, to achieving the aims of Directive 2009/28/EC of the European Parliament and of the Council ⁽³⁾, Council Regulation (EC) No 2371/2002 ⁽⁴⁾, Directive 2009/147/EC of the European Parliament and of the Council ⁽⁵⁾, Council Directive 92/43/EEC ⁽⁶⁾, Decision No 884/2004/EC of the European Parliament and of the Council ⁽⁷⁾, Directive 2000/60/EC of the European Parliament and of the Council ⁽⁸⁾, Directive 2008/56/EC, recalling the Commission communication of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020', the Commission communication of 20 September 2011 entitled 'Roadmap to a Resource Efficient Europe', the Commission communication of 16 April 2013 entitled 'An EU Strategy on Adaptation to Climate Change' and the Commission communication of 21 January 2009 entitled 'Strategic goals and recommendations for the EU's maritime transport policy until 2018', as well as, where appropriate, those of the Union's Regional Policy, including the sea-basin and macro-regional strategies.

⁽¹⁾ Recommendation 2002/413/EC of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe (OJ L 148, 6.6.2002, p. 24).

⁽²⁾ Council Decision 2010/631/EU of 13 September 2010 concerning the conclusion, on behalf of the European Union, of the Protocol on Integrated Coastal Zone Management in the Mediterranean to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (OJ L 279, 23.10.2010, p. 1).

⁽³⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

⁽⁴⁾ Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (OJ L 358, 31.12.2002, p. 59).

⁽⁵⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽⁶⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽⁷⁾ Decision No 884/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network (OJ L 167, 30.4.2004, p. 1).

⁽⁸⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

- (16) Marine and coastal activities are often closely interrelated. In order to promote the sustainable use of maritime space, maritime spatial planning should take into account land-sea interactions. For this reason, maritime spatial planning can play a very useful role in determining orientations related to sustainable and integrated management of human activities at sea, preservation of the living environment, the fragility of coastal ecosystems, erosion and social and economic factors. Maritime spatial planning should aim to integrate the maritime dimension of some coastal uses or activities and their impacts and ultimately allow an integrated and strategic vision.
- (17) This framework Directive does not interfere with Member States' competence for town and country planning, including any terrestrial or land spatial planning system used to plan how land and coastal zone should be used. If Member States apply terrestrial planning to coastal waters or parts thereof, this Directive should not apply to those waters.
- (18) Maritime spatial planning should cover the full cycle of problem and opportunity identification, information collection, planning, decision-making, implementation, revision or updating, and the monitoring of implementation, and should have due regard to land-sea interactions and best available knowledge. Best use should be made of mechanisms set out in existing or future legislation, including Commission Decision 2010/477/EU ⁽¹⁾ and the Commission's Marine Knowledge 2020 initiative.
- (19) The main purpose of maritime spatial planning is to promote sustainable development and to identify the utilisation of maritime space for different sea uses as well as to manage spatial uses and conflicts in marine areas. Maritime spatial planning also aims at identifying and encouraging multi-purpose uses, in accordance with the relevant national policies and legislation. In order to achieve that purpose, Member States need at least to ensure that the planning process or processes result in a comprehensive planning identifying the different uses of maritime space and taking into consideration long-term changes due to climate change.
- (20) Member States should consult and coordinate their plans with the relevant Member States and should cooperate with third-country authorities in the marine region concerned in conformity with the rights and obligations of those Member States and of the third countries concerned under Union and international law. Effective cross-border cooperation between Member States and with neighbouring third countries requires that the competent authorities in each Member State be identified. Member States therefore need to designate the competent authority or authorities responsible for the implementation of this Directive. Given the differences between various marine regions or sub-regions and coastal zones, it is not appropriate to prescribe in detail in this Directive the form which those cooperation mechanisms should take.
- (21) The management of marine areas is complex and involves different levels of authorities, economic operators and other stakeholders. In order to promote sustainable development in an effective manner, it is essential that stakeholders, authorities and the public be consulted at an appropriate stage in the preparation of maritime spatial plans under this Directive, in accordance with relevant Union legislation. A good example of public consultation provisions can be found in Article 2(2) of Directive 2003/35/EC of the European Parliament and of the Council ⁽²⁾.

⁽¹⁾ Commission Decision 2010/477/EU of 1 September 2010 on criteria and methodological standards on good environmental status of marine waters (OJ L 232, 2.9.2010, p. 14).

⁽²⁾ Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156, 25.6.2003, p. 17).

- (22) Through maritime spatial plans, Member States can reduce the administrative burden and costs in support of their action to implement other relevant Union legislation. The timelines for maritime spatial plans should therefore, where possible, be coherent with the timetables set out in other relevant legislation, especially: Directive 2009/28/EC, which requires the share of energy from renewable sources in gross final consumption of energy in 2020 to be at least 20 % and which identifies coordination of authorisation, certification and planning procedures, including spatial planning, as an important contribution to the achievement of the Union's targets for energy from renewable sources; Directive 2008/56/EC and point 6 of Part A of the Annex to Decision 2010/477/EU, which require Member States to take the necessary measures to achieve or maintain good environmental status in the marine environment by 2020 and which identify maritime spatial planning as a tool to support the ecosystem-based approach to the management of human activities in order to achieve good environmental status; Decision No 884/2004/EC, which requires that the trans-European transport network be established by 2020 by means of the integration of Europe's land, sea and air transport infrastructure networks.
- (23) Directive 2001/42/EC of the European Parliament and of the Council ⁽¹⁾ establishes environmental assessment as an important tool for integrating environmental considerations into the preparation and adoption of plans and programmes. Where maritime spatial plans are likely to have significant effects on the environment, they are subject to Directive 2001/42/EC. Where maritime spatial plans include Natura 2000 sites, such an environmental assessment can be combined with the requirements of Article 6 of Directive 92/43/EEC, to avoid duplication.
- (24) With a view to ensuring that maritime spatial plans are based on reliable data and to avoid additional administrative burdens, it is essential that Member States make use of the best available data and information by encouraging the relevant stakeholders to share information and by making use of existing instruments and tools for data collection, such as those developed in the context of the Marine Knowledge 2020 initiative and Directive 2007/2/EC of the European Parliament and of the Council ⁽²⁾.
- (25) Member States should send copies of their maritime spatial plans and any updates to the Commission, so as to enable the latter to monitor the implementation of this Directive. The Commission will use the information provided by the Member States, and existing information available under Union legislation, to keep the European Parliament and the Council informed of progress made in implementing this Directive.
- (26) Timely transposition of this Directive is essential since the Union has adopted a number of policy initiatives that are to be implemented by the year 2020 and which this Directive aims to support and complement.
- (27) A landlocked Member State would be under a disproportionate and unnecessary obligation if it had to transpose and implement this Directive. Therefore, such Member States should be exempted from the obligation to transpose and implement this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Directive establishes a framework for maritime spatial planning aimed at promoting the sustainable growth of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources.

⁽¹⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

⁽²⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

2. Within the Integrated Maritime Policy of the Union, that framework provides for the establishment and implementation by Member States of maritime spatial planning, with the aim of contributing to the objectives specified in Article 5, taking into account land-sea interactions and enhanced cross-border cooperation, in accordance with relevant UNCLOS provisions.

Article 2

Scope

1. This Directive shall apply to marine waters of Member States, without prejudice to other Union legislation. It shall not apply to coastal waters or parts thereof falling under a Member State's town and country planning, provided that this is communicated in its maritime spatial plans.
2. This Directive shall not apply to activities the sole purpose of which is defence or national security.
3. This Directive shall not interfere with Member States' competence to design and determine, within their marine waters, the extent and coverage of their maritime spatial plans. It shall not apply to town and country planning.
4. This Directive shall not affect the sovereign rights and jurisdiction of Member States over marine waters which derive from relevant international law, particularly UNCLOS. In particular, the application of this Directive shall not influence the delineation and delimitation of maritime boundaries by the Member States in accordance with the relevant provisions of UNCLOS.

Article 3

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) 'Integrated Maritime Policy' (IMP) means a Union policy whose aim is to foster coordinated and coherent decision-making to maximise the sustainable development, economic growth and social cohesion of Member States, and notably the coastal, insular and outermost regions in the Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation;
- (2) 'maritime spatial planning' means a process by which the relevant Member State's authorities analyse and organise human activities in marine areas to achieve ecological, economic and social objectives;
- (3) 'marine region' means the marine region referred to in Article 4 of Directive 2008/56/EC;
- (4) 'marine waters' means the waters, the seabed and subsoil as defined in point (1)(a) of Article 3 of Directive 2008/56/EC and coastal waters as defined in point 7 of Article 2 of Directive 2000/60/EC and their seabed and their subsoil.

CHAPTER II

MARITIME SPATIAL PLANNING

Article 4

Establishment and implementation of maritime spatial planning

1. Each Member State shall establish and implement maritime spatial planning.
2. In doing so, Member States shall take into account land-sea interactions.

3. The resulting plan or plans shall be developed and produced in accordance with the institutional and governance levels determined by Member States. This Directive shall not interfere with Member States' competence to design and determine the format and content of that plan or those plans.

4. Maritime spatial planning shall aim to contribute to the objectives listed in Article 5 and fulfil the requirements laid down in Articles 6 and 8.

5. When establishing maritime spatial planning, Member States shall have due regard to the particularities of the marine regions, relevant existing and future activities and uses and their impacts on the environment, as well as to natural resources, and shall also take into account land-sea interactions.

6. Member States may include or build on existing national policies, regulations or mechanisms that have been or are being established before the entry into force of this Directive, provided they are in conformity with the requirements of this Directive.

Article 5

Objectives of maritime spatial planning

1. When establishing and implementing maritime spatial planning, Member States shall consider economic, social and environmental aspects to support sustainable development and growth in the maritime sector, applying an ecosystem-based approach, and to promote the coexistence of relevant activities and uses.

2. Through their maritime spatial plans, Member States shall aim to contribute to the sustainable development of energy sectors at sea, of maritime transport, and of the fisheries and aquaculture sectors, and to the preservation, protection and improvement of the environment, including resilience to climate change impacts. In addition, Member States may pursue other objectives such as the promotion of sustainable tourism and the sustainable extraction of raw materials.

3. This Directive is without prejudice to the competence of Member States to determine how the different objectives are reflected and weighted in their maritime spatial plan or plans.

Article 6

Minimum requirements for maritime spatial planning

1. Member States shall establish procedural steps to contribute to the objectives listed in Article 5, taking into account relevant activities and uses in marine waters.

2. In doing so, Member States shall:

(a) take into account land-sea interactions;

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