

# State-of-play of MSP directive implementation process

Focus on the role of the regions

*Northern Atlantic*

February 2019  
**Version 4**



Supporting Implementation of Maritime  
Spatial Planning in the Northern European Atlantic





European Commission  
Directorate-General for Maritime Affairs and Fisheries

**Grant Agreement: EASME/EMFF/2015/1.2.1.3/03/SI2.742089**

Component: C1.2 Development of Cooperation on transboundary MSP  
Sub-component: C1.2.2 Analysis of the Maritime Spatial Planning Process

**Deliverable Lead Partner:** Shom  
**Start Date of Project:** 01/01/17  
**Duration:** 24 Months  
**Version:** 4.0

Dissemination Level		
<b>PU</b>	Public	
<b>PP</b>	Restricted to a group specified by the consortium (including the Commission services)	
<b>RE</b>	Restricted to other programme participants (including the Commission services)	
<b>CO</b>	Confidential, only for members of the consortium (Including the Commission services)	

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(Grant Agreement NO. EASME/EMFF/2015/1.2.1.3/03/SI2.742089).

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## Document Information

<b>Deliverable Title</b>	State-of-play of the MSP implementation process
<b>Coordinator</b>	Dominique Carval
<b>Authors</b>	Damien Périssé, Lise Guennal, Dominique Carval
<b>Recommended Citation</b>	Périssé, D., Guennal, L., Carval, D. (2019). State-of-play of MSP directive implementation process - Focus on the role of the regions. Supporting Implementation of Maritime Spatial Planning in the European Northern Atlantic (SIMNORAT). CRPM. 20 pp. DOI: 10.5281/zenodo.2598470

## Version History (Example taken from D1: Overview Assessment)

<b>Date</b>	<b>Document Version</b>	<b>Reviewer</b>	<b>Revision</b>
15/11/2018	1.0	CPMR	Initial draft
18/01/2019	2.0	CPMR	Content revision
12/02/2019	3.0	CPMR	Content revision
21/02/2019	3.1	UAVR	Content revision
26/06/2019	4.0	CPMR	Final revision

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## **Acronyms**

EC: European Commission

GES: Good Environmental Status

IMP: Integrated Maritime Policy

MS: Member States

MSET: Ministry for the Solidarity and Ecological Transition

MSFD: Maritime Strategic Framework Directive

MSP: Maritime Spatial Planning

MRE: Marine Renewable Energies

SFPD: Strategic Façade Planning Documents

WFD: Water Framework Directive

## Introduction

As the societal vision of the sea shifted over the last centuries, human activities have spread out towards marine space, “conquering” these new territories to expand. Traditional as well as upcoming activities developed and continue to increase, struggling to control a slot of what was long considered as an endless and untouched land of water. Today, nevertheless, the sea has proven limited to host the numerous maritime activities unfolding in its width, and the growing demand for space and resources it requires. As a result, settled sectors such as fishing and navigation cross paths with forthcoming practices, like tourism or the extraction of marine aggregates. In the mix, also falls previously terrestrial or coastal activities making their way through the open sea, including aquaculture and marine renewable energies. Finally, various Marine Protected Areas came to light, with the intention of maintaining marine ecosystems and quality of our seas, adding to the board of the already conflicting maritime stakeholders.<sup>1</sup> The expansion of the above-mentioned human activities has substantially boosted Europe’s economy but, at the expense of increased competitiveness for space and pressure on the environment. Moreover, the collective character of the seas renders such expansion very difficult to control or monitor.<sup>2</sup> In that sense, and to encourage a sustainable use of marine space, environment and resources while fostering Blue Growth, the European Union has established a Framework for Maritime Spatial Planning in 2008, launching a joint roadmap for MSP setting the main principles of the MSP.

The Directive establishing a framework for maritime spatial planning was adopted on 23 July 2014, it commits Member States to define a planning strategy and develop maritime spatial plans by 2021. In doing so, EU Member States must adhere to a series of principles, including consultation of the relevant authorities. This paper will describe the state of play of MSP implementation in the European Union and especially within the three countries of the SIMNORAT project being France, Spain, Portugal together with regional implications.

To complement this state-of-play, this paper will address the role of the regions in the implementation process of the Directive and will analyse their concerns and proposed solutions. EU Coastal regional authorities can be considered as indispensable actors in the development and management of human activities at sea, in link with their regulatory powers, scope of competencies, and actions. The stakes of the Directive are in that sense of high importance for many regions whose economy is largely based on the maritime sector.

## 1- Frame of the Maritime Spatial Planning in Europe

### 1.1 Origins of the MSP Directive in Europe

Counting frontiers with two oceans and four seas, the marine area is one of Europe’s most valuable assets, playing a crucial role in its economy, growth, resources and natural heritage.<sup>3</sup> Noticing, “the high and rapidly increasing demand for maritime space for different

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<sup>1</sup> DE CACQUERAY Mathilde, [under the tutelage of] MEUR-FEREC Catherine, 2011, *La planification des espaces maritimes en France métropolitaine : un enjeu majeur pour la mise en œuvre de la Gestion Intégrée de la Mer et du Littoral*, University of Bretagne Occidentale, 553 p.

<sup>2</sup> *Policy Research Corporation*, Final Report, Exploring the potential of Maritime Spatial Planning in the Mediterranean Sea, February 2011.

<sup>3</sup> GILEK Michael and KERK Kristine, 2016, *Governing Europe’s Marine Environment. Europeanization of Regional Seas or Regionalization of EU Policies?*, Chapter 6, The Marine Strategy Framework Directive as a Catalyst for Maritime Spatial

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”, that the actual space at hand cannot answer to, EU’s policy makers soon recognised the necessity for “an integrated planning and management approach.”<sup>4</sup>

It is with the creation of the **Integrated Maritime Policy (IMP)**, in 2007, that the European Union made a first step towards Maritime Spatial planning. Built on two main pillars: environmental and economical, the IMP aims at responding to cross-sectoral issues that require the interaction and coordination of multiple stakeholders. Therefore, its main objectives are to foster cooperation and knowledge sharing, gathering tools for a coherent management of the seas, to tackle common challenges of growth and conservation.<sup>5</sup>

One year later, the **Marine Strategy Framework Directive (MSFD)** set the legislation for Member States to develop approaches considering the predominant environmental factor, at a national and regional level. The framework expressed the necessity for an ecosystem-based management and reaching Good Environmental Status (GES) of marine waters by 2020. Besides, the MSFD built another milestone for MSP in Europe, requiring submissively for MS “to undertake spatial measures (Article 13(4)) and spatial and temporal distribution controls and management coordination measures, including management measures that influence when and where an activity is allowed to occur.”

Finally, witnessing the urgency for “new management approaches, synergies, transnational coordination, visions, and actions”<sup>6</sup>, the European Union put together a Directive establishing a framework for **Maritime Spatial Planning (2014)** as part of the IMP and in line with the Europe 2020 Strategy for smart, sustainable and inclusive growth. Built as a supporting tool to attribute uses of maritime space and reduce conflicts, “MSP aims to balance the development of maritime activities and increase cross-border cooperation through transparency, clearer legislation, better coordination between administrations, and the early identification of impacts that can arise from the multiple uses of marine space. Thus, MSP is a public process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that are usually specified through a political process.”<sup>7</sup> Besides, following the MSFD, MSP means to be implemented through an ecosystem-based approach, providing GES, hence following criteria of sustainability and environmental protection. Nonetheless, it is relevant to note the choice of terminology, describing “maritime” instead of “marine” spatial planning, that “emphasizes the human use and thus economic importance of the marine environment (DE SANTO, 2010).”<sup>8</sup>

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Planning: Internal Dimension and Institutional Tensions, DE SANTO Elizabeth, 2016, published by Routledge, New York, 290 p., p.95

<sup>4</sup> *European Commission*, Directive of the European Parliament and of the Council of 23 July 2014, Establishing a Framework for Maritime Spatial Planning 2014/89/EU, Official Journal of the European Union, 2014.

<sup>5</sup> GILEK M., KERK K. and DE SANTO E., p.95, *op.cit.* And European Commission, *Maritime Affairs- IMP - MSP*, visited between the 14<sup>th</sup> – 28<sup>th</sup> November.

<sup>6</sup> PINARBAŞI Kemal, GALPARSORO Ibon, BORJA Ángel, STELZENMÜLLER Vanessa, EHLER Charles N., GIMPEL Antje, in *Marine Policy*, published by Elsevier, Decision support tools in marine spatial planning: Present applications, gaps and future perspectives, September 2017

<sup>7</sup> *Ibid.*

<sup>8</sup> GILEK M., KERK K. and DE SANTO E., p.96, *op.cit.*

## 1.2 European Maritime and Peripheral Regions and their potential role in MSP implementation

### 1.2.1 Regions regulatory powers

#### *1.2.1.1 Main regulatory powers of the regions*

With regards to the 4 Directives, MSFD, MSP and Birds/Habitats, their implementation are regulated by the States. However, regional authorities have their roles to play and some may even have regulatory powers to ensure some implementation aspects on the territories and the application of the national legal frameworks translating the EU directives.

**In France**, it is not strictly speaking regulatory skills but the “Document stratégique de Façade” resulting from the National Strategy of the Sea and Coast, in connection with the MSP Directive, should be taken into account in the Regional Plans of Development, for Sustainable Development and Equality of the Territories (SRADDET). Since the French law NOTRe (New territorial organization of the French Republic), the region Provence-Alpes-Côte d'Azur is the leading head on Biodiversity. This will therefore have an impact on the implementation of the Guidelines, especially for marine biodiversity.

**In the Atlantic area**, in France, the regional plan of development, for sustainable development and territorial equality (SRADDET), for which the Brittany Region wishes to develop a maritime component is covering the topics covered by the four directives cited. The Region has also acquired new skills in the areas of port management and water management. In Portugal, in autonomous regions like in the Azores and Madeira, the local administration has full power to regulate all four directives. In these archipelagos, the regional authority has the power to propose, create and manage its own protected marine areas within the limits of its Exclusive Economic Zone (EEZ) as well as the level of all terrestrial areas under its jurisdiction. It also has competence in the planning of its maritime space. With regard to the application of the relevant EU Directives within the territory of the Region, it has competence to adapt each of the national legislative instruments transposing each of the Directives concerned to its specifics. For example, the responsibility for the implementation and reporting of the MSFD and the MSP directives is the responsibility of the State, however, as regards to the waters adjacent to the Regional Authority of Madeira, corresponding to subarea 2 of the Portuguese EEZ, the responsibility is attributed to the Regional Government.

With regard to the management of coastal and maritime areas several sectors can represents sources of potential main issues to be addressed when planning or implementing the directives. Those conflicts can be related to the development of marine energies, maritime recreation, efforts to protect the coast from erosion and/or climate change, maritime transport, fishing and aquaculture activities.

Some of those concerns can be directly or indirectly managed by regional authorities, depending on their competencies and level of regulatory powers.

**In the Atlantic area**, the Brittany region, for example, underlines two types of activities. The mature activities including fishing, aquaculture, port activities, mining, maritime transport, etc.), and the activities in development (renewable marine energies, seaweed farming,

marine biotechnology, etc.). The environmental protection sector is also to be fully considered, as Marine protected areas are added to these activities.

In terms of conflicts, the definition of dredging sediment cladding area, the establishment of aquaculture production sites (mussel farming and seaweed farming) or the exploitation of marine aggregates are underlined in the Brittany region for example. In the Azores, offshore coastal aquaculture is an emerging activity, which impact needs to be evaluated.

In terms of challenges ahead, while Directives implementations are taking place, attention should be paid to the cohabitation of activities and uses. For example, the Management Plan for Marine Aquaculture in Madeira, contributes to the selection of areas of interest for aquaculture, its planning, the establishment of rules of occupation and management, and takes into account not only environmental issues and sustainable development of the activity, but also the interactions and possible conflicts with other activities arising, or planned, for the coastal spaces.

It is essential to maintain the major functionalities of marine ecosystems, to adopt a definition of clear rules for access to resources and spaces, and consider the environmental, but also social and economic aspects of the planning processes.

The climate change aspects, pollution and emergence to combat invasive species due to warmer waters or the entry of invasive marine species from the hulls and ballast waters of the growing number of vessels supplied by ports, are sources of concern, also in remoted areas like Madeira archipelago, as well as in the Azores. Marine litter is also a threat to marine biodiversity underlined in those wild Atlantic regions. In islands, coastal erosion is also a major subject that conflicts with traditional human occupation of the islands territories, since coastal protection and/or resettlement of populations are economically demanding, both economically and culturally.

The implementation of a planning has to be a long-term approach taking into account the progress of activities and reducing the uncertainty associated with access to resources and spaces for activities, this allows to project in time and to develop more robust economic models. The consideration of the land-sea interface in planning processes can be integrated by ensuring a continuum between planning exercises conducted onshore and at sea.

**Cross-border issues relating to the management of coastal and maritime areas can be identified along the coastline of the EU.** In the Mediterranean basin, specific areas can be identified as sensitive in terms of potential cross-border issues.

**In the Atlantic area,** some potential cross-border issues may rise in Spanish/France border area, as developed in one of the case study of SIMNORAT project.

Linked with the Channel area, the principle of cross-border issues linked to the management of coastal and maritime areas in Brittany concerns the access to English waters by the Breton fishing fleets. The subject began a few years ago with the creation of AMP in English waters and has recently been strengthened with Brexit. Moreover, although this does not concern Europe, it is also important to add the case of the Channel Islands with the Granville Bay Treaty on the allocation and access to fishing zones.

### *1.2.1.2 Policies conducted by the regions*

Some Regions are conducting their policies in addition to their national government's policy with regard to the implementation of the Directives. Below are some examples illustrating the level of contribution and commitment that some regions are dedicating.

In the Atlantic area, The Portuguese central government is committed to implement these Directives coordinating its action with the Regional government of Madeira and Azores archipelagos. In 2014, Portugal submitted to the European Commission the Monitoring Program and the Program of Measures for national marine waters under the Marine Strategy Framework Directive (Directive 2008/56 / EC of the European Parliament and of the Council of 17 June, Amended by Commission Directive (EU) 2017/845 of 17 May, DQEM), joining in one document the two programs for the four national marine subdivisions, Mainland, Subdivision of Madeira, Subdivision of the Azores and Subdivision of the Extended Continental Shelf. These management and monitoring programs are currently being implemented. In this way, the Regional Authority of Madeira complies fully with the obligations and objectives established by the MSFD. Portugal approved in April 2014, Law No. 17/2014 on 'marine spatial planning and management was approved as the fundamental law for MSP for all the Portuguese maritime space, including the continental shelf beyond 200 nautical miles. Its enabling legislation, Decree-Law No. 38/2015, entered into force on 12 March 2015, and develops the marine spatial planning and management fundamental law, defining, among others, the regime of maritime spatial planning instruments: i) Situation Plan with the identification of the protection and preservation areas of the maritime space, and the temporal and spatial distribution of current and potential uses and activities; ii) Allocation Plans for the private use of some areas or volume of the maritime not considered in the situation plan, The situation Plan for Mainland, Extended Continental Shelf and Madeira is already prepared and has faced 2 public consultations waiting now for the approval of the Council of Ministers. The Azores central government is finishing the Situation Plan for that region that, à posteriori, will integrate the PSOEM. Regarding the Habitats and Birds Directives, its application is in line with the national policy with the necessary adaptations and specific characteristics of an island territory, which constitutes a "Hot Spot" of biodiversity worldwide.

### **1.2.2 Other types of regional actions related to maritime and coastal areas issues**

Other types of action are undertaken by Regional authorities apart from regulatory powers. Some can have a role in seeking consensus among the actors of the territory concerning the definition of zones for the development of marine energies, marine leisure, or other activities.

Regional authorities can be facilitator to create links with other stakeholders and key players within the territory in the scope of the implementation of the MSFD, MSP, Birds and Habitats Directives. They can also link with citizens and civil society within this framework, this is an aspect particularly visible when addressing the conservation measures and strategies of their territory related to protected areas. Wherever it comes to create working group, consultation, networks, assembly or ad-hoc opportunities for exchanges, the regional authorities are key players in facilitating citizens awareness raising and reaching stakeholders of their territories.

### 1.3 The EU Directive 2014/89/UE: legal process and steps

The **EU Directive establishing a framework on Maritime Spatial Planning was adopted in 2014**, giving the sole responsibility to Member States of implementing Maritime Spatial plans<sup>9</sup> Accordingly, MS have to design and prepare the format and content of the MSP and identify the distribution of current and future activities and uses in their marine waters - taking into account their interactions. MSP should be “built upon existing national, regional and local rules and mechanisms”, ensuring a public participatory process as well as cooperation between Member State but also Third Countries, and include an environmental assessment considering land-sea interactions, for instance, through Integrated Coastal Management.<sup>10</sup>

In this respect, legal issues comprise the requirements for the MS to consult bordering states, especially regarding shared environmental impacts; the compatibility of spatial planning between land and sea, including coastal areas; the choice of the decision-making body, central or regional as well as the degree to which the legislation will cover both the seabed and the water column.<sup>11</sup>

Besides, MS must define the competent institutional authority in charge of **implementing the Directive**, this, by the **18 September 2016** where all the related national laws, regulations and administrative procurement necessary should have been put in place and brought into force. Throughout the process, there must be a constant sharing of information between MS and constant data collection. Moreover, MS have to send updates and reports of their MSP process to the Commission for progress monitoring.<sup>12</sup> Therefore “marine spatial planning should be a continuous, iterative, and adaptive participatory process, comprising a set of actions including research, analysis and planning, financing, implementation, monitoring, and evaluation of the plan” to ensure successful management.<sup>13</sup>

Finally, **all European MSPs must be completed** at the latest for the **31 March 2021**. As regards the implementation of these plans, not all MS stand equally. Indeed, some northern European countries are finished – *i.e.* Norway, Belgium, Germany, the Netherlands – or rather ahead – *i.e.* Lithuania, Poland, Latvia – while others seem behind - *i.e.* Italy. To help in that process, countries have at their disposal a set of existing instruments, including research projects, supporting MS capacities by developing guidelines, recommendations, sets of tools and data (*i.e.* SIMWESTMED, SIMNORAT, ADRIPLAN, etc.).<sup>14</sup>

## 2- MSP process implementation in Northern Atlantic area

### 2.1 MSP implementation process in France

The EU MSP Directive was integrated into French law by the order 2016-1687 of 8 December 2016. The Ministry for the Solidarity and Ecological Transition (MSET) is the national authority responsible for its implementation, which will be divided into four sea basins and

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<sup>9</sup> GILEK Michael and KERK Kristine, 2016, *Governing Europe's Marine Environment. Europeanization of Regional Seas or Regionalization of EU Policies?*, Chapter 3: Marine Governance: Institutional Capacity-building in a Multi-level Governance Setting, VAN TATENHOVE Jan P.M., 2016, published by Routledge, New York, 290 p., p.49

<sup>10</sup> *European Commission*, 2014, *op.cit.*

<sup>11</sup> *European Commission*, Legal aspects of maritime spatial planning, summary report, printed in Belgium, 2009.

<sup>12</sup> *Ibid.*

<sup>13</sup> PINARBAŞI, GALPARSORO, BORJA, STELZENMÜLLER, EHLER, GIMPEL, *op.cit.*

<sup>14</sup> PINARBAŞI, GALPARSORO, BORJA, STELZENMÜLLER, EHLER, GIMPEL, *op.cit.*

four Interregional Directorate for the Sea, respectively dealing with Eastern channel and North Sea; Northern Atlantic; Southern Atlantic and Mediterranean Sea basins. The law indicates the Strategic Façade Planning Documents as the main tools for MSP implementation. For each coastline, the SFPD are established under the authority of a couple of regional and maritime Coordinating Prefects while the Central Government coordinates the policies, report to the European Commission and inform neighbouring countries looking for coherence in their respective MSP plans.

In that respect, France shares maritime frontiers with Monaco, Italy and Spain. Bilateral agreements have been signed with Monaco as well as Italy – Strait of Bonifacio between Corsica and Sardinia completed in 2015 by a holistic agreement not yet implemented -, but overlaps exist in the Gulf of Lion due to disagreements in EEZ claims.

Currently SFPD are being reviewed nationally and internationally to be edited, therefore there are **no approved Maritime Spatial Plans in France**.<sup>15</sup>

## 2.2 MSP implementation process in Spain

In Spain, the Royal Decree 363/2017 of the 8 April established a national framework for MSP. Besides, the Spanish Law 41/2010 put down the principles for planning the environment through the implementation of Marine Strategies. The national authority in charge of MSP is the Ministry for the Ecological Transition, General Directorate for the Sustainability of the Coast and the Sea.

The Law 41/2010 created the Interministerial Commission of Marine Strategies under which was created the MSP-Working Group for the national process.

Strategic Documents for planning in five areas will be developed – Northern Atlantic; Southern Atlantic; Canary basin; Strait and Alboran; Levantine and Balearic. Strategic Documents will be used as main tools for MSP implementation by the General Directorate for the Sustainability of the Coast and the Sea.

After being drafted, the Strategic Plans will be assessed by the Interministerial Commission of Marine Strategies, which in turn needs the consent of the Committees of follow-up of the Marine Strategies, the autonomous communities, the Advisory Council on the Environment and the ministerial departments concerned.

Moreover, the knowledge and data to be used in the Maritime Spatial Plans will be produced by the research conducted under the Marine Strategies program.

The Council of Ministers will oversee approving the final version.

Today, **no Maritime Spatial Plans have been validated in Spain**.<sup>16</sup>

## 2.3 MSP implementation process in Portugal

Portugal started by developing its National Strategy in 2008 and released its Plano de Ordenamento do Espaço Marítimo (POEM) in relation to MSP, initiated by Ruling No.32277/2008.

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<sup>15</sup> *SIMWESTMED Project*, Initial Assessment MSP oriented, Western Mediterranean, Final version, September 2018 and European MSP Platform, MSP in the EU – Countries, visited between the 14<sup>th</sup> – 28<sup>th</sup> November.

<sup>16</sup> *SIMWESTMED Project*, *op.cit.* and European MSP Platform, *op.cit.*

The Portuguese national maritime space, considering the extended continental shelf, has a huge area (approx. 4 million km<sup>2</sup>), from which 1/3 approximately of the North east is Atlantic.

The Portuguese MSP fundamental Law No. 17/2014 on marine spatial planning and management was approved in April 2014 and was enabled in legislation through the Decree-Law No. 38/2015, in March 2015. The Order No. 11494/2015 established the beginning of the preparation and development of the Situation Plan (PSOEM) in 2015, currently being developed.

Since 2015, the Ministry of the Sea is responsible for maritime affairs in Portugal and the DGRM (Directorate General for Natural Resources, Safety and Maritime Services) is responsible for maritime spatial planning in Portugal Mainland and Extended Continental Shelf, and the autonomous regions of Azores and Madeira are responsible for their planning in their own EEZ. For the two autonomous regions, the competent authorities are the Regional Directorate for Planning and Environment, of the Madeira Regional Government, and The Regional Directorate for Maritime Affairs of the Azores Regional Government.

The Directorate General for Marine Policy (DGPM) is chairing the advisory committee assisting the preparation of the Situation Plan in the maritime zone between the baseline and the continental shelf beyond 200 nautical miles (with the exception of the national maritime space adjacent to the Madeira and the Azores archipelagos). The advisory committee is gathering public institutions from the Ministry of the sea, the Portuguese environmental agency (APA), Nature Institute for Nature Conservation and Forests institute (ICNF), representatives of municipalities, autonomous regions of Azores and Madeira and representatives of economic sectors. The advisory committee follows all the process from the beginning and provides its opinion about the maritime spatial plan.

The challenges are indeed to find the right balance of use of space between the current activities in the seas and the development of new and innovative activities such as renewable energies, as well as matching with the good environmental status to be reached in 2020 and respect good practices when putting in place activities. Both MSFD and MSP Directives are handled by the same administrative unit of the Directorate-General for Natural Resources, Safety and Maritime services.

Currently, Portugal is following its National Ocean Strategy 2013-2020 which is targeting a sustainable development of the economic sectors related to the ocean and guiding the Portuguese government action i to pursue promotion and increase of growth and competitiveness in its maritime economy.

Regarding stakeholders' engagement, the website [psoem.pt](http://www.psoem.pt)<sup>17</sup> is providing general and technical information, and the public can download the minutes of the technical working groups as well as sea in a geoportal the different layer of information regarding uses, activities, conservation areas, etc. A lot of work was done especially with the fisheries sector and workshops/meetings was organised with fisheries organisation to map the most

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<sup>17</sup> <http://www.psoem.pt/>

important areas for fishermen, with tourism sector and aquaculture sector among others. Public sessions were also organised to collect public views and concerns.

Main activities like fisheries, aquaculture, renewable energies, submarine cables, multipurpose platforms, scientific research, artificial reef, tourism, underwater and cultural heritage, are directly addressed by the plan. Deep-sea mining or offshore industries have are not directly addressed by the current PSOEM depending on the approval of an Allocation plan.

It has been established a geoportal where some information shall be soon available in English. The geoportal includes the geospatial and temporal representation and distribution of values, uses and potential activities; the identification of natural and cultural values of strategic relevance for environmental sustainability and intergenerational solidarity; and identifies constraints of public utility, safeguard and protection of natural and cultural resources and good practices of existing and potential activities. be available for public and economic sector stakeholders.

Some new MPAS were identified, and a specific decree law will be created for the establishment of a network of protected areas. As foreseen in these cases a strategic environmental assessment was performed, and an environmental report was produced after a very intensive work between the competent authorities and the University of Aveiro. The Portuguese competent authorities complete the second round of public consultation and the plan will be submitted to the Council of Ministers. A transboundary consultation was already done with Spain and Morocco.

The plans shall be approved in the respected allocated timing in the council of the ministries.

#### **2.4 Which place for the Regions in the MSP implementation processes?**

Regional authorities, or regions, are a territorial subdivision, corresponding to a level of administrative division, without the need for coherence from one country to another. As territorial collectivity, they can be endowed with legal personality and administrative powers and territorial competencies. ICZM and MSP together with the resilience of the coastal environment to climate change and the relation with socio-economic related human activities are very important issues for the regions. All activities taking place at sea have an impact on coastal areas in the regions. Regional authorities have a role in the management of human activities on coastal areas: through legal powers and influence, including their role in listening to citizens and convincing them about projects on coastal areas.

Depending on their competencies, the Regions can play a decisional role in the fields related to the sea and the coast in certain sectoral policies, such as economic development, regional planning, maritime and coastal tourism or biodiversity protection and management. They act especially within the scope of their competence in economic development and business support to encourage the development of sea-related activities. They also support traditional economic sectors - such as water-based activities, small-scales fisheries and aquaculture, and developing sectors, such as marine renewable energies or offshore wind sector.

Even if regional authorities are not formally involved as such in the MSP implementation process, coastal regions can play a significant role in the maritime and coastal governance processes. In addition, while facing MSP cross-borders challenges and issues, regional authorities can play a role of facilitators, as they are already engaged in interregional and

other multilevel cooperation processes. For instance, they are involved in bilateral cross-border cooperation, and work closely with Regions of other Member States in specific areas. In particular, they participate in territorial cooperation programs (Interreg A programs, macro-regional strategies, regional strategies by sea basin) financed by the European Commission under the European Regional Development Fund (ERDF). These programs cover specific areas, such as urban, rural and coastal development, or economic development.

In addition, the participation of regional authorities in networks such as the CPMR (Conference of Peripheral Maritime Regions), illustrates their desire to become involved in the fields related to maritime issues and to further influence decisions and initiatives taken at national and EU level. However, the involvement of coastal regions in the development and management of maritime and coastal activities and uses depends to a large extent on their degree of maritime and economic weight.

### **3- Future prospects and recommendations for the MSP directive implementation**

#### **3.1 Regions involvement in MSP Directive implementation**

Depending on each countries' implementation process, Regions can be involved in the marine strategy implemented in the framework of the MSFD, or in relation to the MSP Directive, they can be solicited for a maritime spatial planning plan, or for zone definitions relating to the Birds and Habitats Directives. Their involvement can however be different depending on the directives or differs depending on needs and requirements the transposition of the directives at territorial level imply. We can underline some examples showing the articulations between regional authorities and other governance levels and stakeholders in the implementation and management processes of coastal and maritime related EU Directives.

There are many disparities in the way regional authorities can be involved in Directives implementation. They can be directly involved, participating in national boards, and/or developing their own spatial plans in the case of MSP, or selecting, managing and monitoring protected areas in the case of Birds/habitats directives, or not concerned at all. However, in the case regional authorities are involved in the process, this is mainly in the case of the Habitats and Birds Directives, as those have a direct implementation and impact at territorial level and need direct inputs from this level, in the selection of areas for instance. As other Directives, MSFD and MSP are also still in the implementation process, further involvement will probably be needed along the life of their implementation, transposition and development.

#### **3.2 Effectiveness of maritime related directives in addressing coastal and maritime management issues**

**In France**, for the Habitats and Birds Directives, the implementation of which is older, the consultation led by the French State was shy. For the MSP Directive, no consultation was initiated to date in France, but the reflection starts. It is certain that the land-sea link will not have to be forgotten in the implementation of this directive because it is impossible to plan maritime activities without taking land-based land into account.

To summarize, those Directives are considered effective in terms of:

- Opportunities for collaboration with other countries

- Consultation/cooperation with multi-stakeholders
- When encompassed in an integrated approach towards management
- Empowering conservation policies
- When well-articulated at different governance levels
- When regional authorities have a know-how and already experimented planning tools

They can be considered less effective, and need improvement in:

- Evaluating the real impact/ achievement in environmental objectives
- Coordination, responsibilities and management at regional level which should be stronger
- For Birds and Habitats directives in particular, there should be an improvement in the assessment requirement and processes.
- Links with regional development and the application of the directives

### **3.3 Other key aspects to enhance the content and implementation of maritime and coastal related EU directives**

The main proposals regarding the improvement of the content and implementation of the 4 directives, MSP, MSFD, Birds and Habitats are targeting those following issues:

- **The involvement of the regions in decision-making and planning**

Regional Authorities should be more involved in decisional acts about the plans relatives to the Directives and in the final decisions about new proposals of SCI/SPAs.

Coordination among the different administrations should be improved, and competence distribution should be revisited. A harmonised approach towards the implementation of the Directives, including streamlining of definition of policy goals shall also be better considered.

In that sense, an intermediate level of governance is essential to discuss and define the actions to be implemented to meet the objectives pursued, and to monitor the projects carried out at local scale. It is important that this intermediate level of governance combines strategic scale (seafront) and operational scale of implementation (maritime administrative regions). The division by maritime sub-regions is an obligation of the European Union and it would be entirely coherent for the definition of maritime seafront to correspond to these sub-regions. In addition to the maritime sub-regions, the maritime seafront councils should be supplemented, at the level of the administrative regions and when the regional actors have expressed the wish, with regional conferences of the sea and coastal areas. While the action of the latter will focus mainly on territorial waters, the Maritime Facade Boards will ensure consistency of the action of the regions at the scale of the facade. This combination would allow a better consideration of territorial specificities and the land/sea gradient.

As an example, fifteen years ago, the Brittany region launched a truly voluntarist

policy for the development of maritime activities at a time when the seafaring field was completely absent from the competence of this institution. Over the years, the region has become more involved. In 2009 it instituted the Regional Sea and Coastal Conference, co-chaired by the President of the Regional Council, the Prefect of the Region and the Maritime Prefect. One of the notable successes of this conference was the possibility to reach a consensus on marine renewable energies planning. The MSP Directive is now a real opportunity as it can reinforce regional efforts for the development of maritime activities in the respect of the environment. However, the territories must be taken into account. The seafront encompassing Brittany and Pays de la Loire has no coherence, neither administratively, nor human, nor ecosystem-based. Either it is too small or too big. Depending on the activities to be considered in planning, the process cannot be done on the same. Moreover, it would be coherent to develop supraregional approaches, especially for activities involving a strong link with the coast. This is a claim from Brittany region, partly acquired today in the planning of marine renewable energies (MRE). The region is asking to be associated with some type of co-management in the planning of coastal activities. This is indeed very relevant as the region assumes competencies in the maritime field, such as management of port authorities, EMFF, support to MRE, nautical and shipbuilding sectors. MSP must imperatively integrate the scales of the issues it claims to take into account, otherwise it will be experienced as an administrative attempt to constrain the development of maritime activities and not to allow development in a conducive environment.

- **Financial issues.** Adequate funding for monitoring (which is expensive for marine habitat and species) should be ensured. Ensuring reliable and sustainable funding (not linked to specific projects) for monitoring the quality of the marine environment, the conservation status of species and habitats of Community interest, is an essential prerequisite for any protection of these species / habitats. It is necessary to allocate effective and realistic financial instruments to the EU Regions to enable them to achieve their commitments.
- **The use of adequate tools and knowledge.** The use of adequate tools is necessary, as to improve knowledge about natural socio-ecologic systems, activities and impacts. Further investment in scientific knowledge to address data gaps is needed.
- **Recognition of sea basins characteristics.** Recognizing the peculiarities of the Atlantic area compared to those of other European maritime regions.
- Not only favour the environmental aspect of sustainable development but also considering the **3 pillars of sustainability** and combine economic development policies (tourism, businesses, fishing, etc.) with environmental sustainability, to keep the income of future generations. The European Commission should be vigilant about the priorities adopted by the Member States in the application of these Directives.
- **Land-Sea interactions (LSI)** is considered by some regions as not sufficiently in the process of Directives implementation. An integrated vision of on MSP, ICM and LSI is needed, as natural processes and human activities taking place at sea and at land influence each other. Depending on their competencies and regulatory powers on

MSP, regions can also contribute in facilitating discussions between stakeholders and in addressing LSI.

- **Multi-stakeholders and local communities' involvement in policy decision-making:** The validation of policy documents and action programs by the communities must be done by deliberations of the assemblies to be sure that it causes a real political debate and not remain technical documents that are approved with little delay, by the technostucture, without taking the time to take into account the local political orientations. Further to this, local confidence in, and ownership of any conservation designation is critical to effective management and should be embedded in the designation process. It is obvious that marine nature conservation objectives can only be achieved in partnership with the local communities that are affected by them.
- **Pilot actions** need to be initiated, for example, from existing cases, to validate management models (urban planning, coastal defence, fisheries exploitation, etc.) that can meet the different needs (both current and future in relation to climate change in effect) of the sectors concerned.
- **Improve public awareness.** Awareness and education of the general public in relation to nature is also crucial.
- **Reporting mechanisms** under these instruments (plus the WFD, applied to coastal waters) need to be more compatible and simplified. The monitoring and reporting requirements and the complexity of the processes is a concern for small administrations.
- **Improve cross-borders cooperation:** common work has to be better conducted with neighboring countries, intercalibrating across national borders both regarding deciding on ecological status as well as measuring methods.

## Conclusions

The intensification of economic activities in the maritime and coastal areas in Europe, the need to prevent and adapt the coastline to climate change, the exploration and development of new maritime sectors (marine renewable energies, blue biotechnologies), have brought the need for new marine and coastal planning solutions.

The initiative of the European Directive on maritime spatial planning is a first step towards sustainable and adapted management but it has to be concerted and harmonized with the real needs of the territories. As this Directive represents the practical application of the EU's integrated maritime policy, it is a major challenge for the EU and a guideline for the development of its maritime area.

The complexity and scope of the application of this Directive leads the Member States to establish, according to their governance system and their objectives, appropriate methodologies for designing their planning and consulting stakeholders.

Indeed, the development of this maritime spatial planning on a European scale raises a number of challenges and reflections, notably concerning the problems of application in cross-border spaces, or the necessary questions between blue growth and the sustainable use of marine resources.

The challenges of development of the maritime sector, related to the necessary awareness of the ecological challenges, are also elements of reflection to be integrated into the methodologies of maritime spatial planning of the Member States.

Moreover, the impact of this planning on a European scale will not only concern the marine waters of the countries involved, but has an international dimension, including global governance of the oceans.

The goals of the MSP will have to succeed in connecting and making the voices of all stakeholders, both economic and institutional, heard in an integrated consultative process, before and after the implementation of the Directive by Member States.

The proposed analysis made possible to make a first state-of-play of the implementation of the Directive and to present more particularly the expectations of the regional authorities, who can also be the key actors for a successful implementation of this Directive.

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