

The current status of Maritime Spatial Planning in Europe and some specific challenges countries my face during implementation

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ABSTRACT. The presentation provides an overview of the current status and content of MSP in the EU Member States. It shares good practices from other sea basins and what they can offer to the MSP process in the Black Sea Region. The focus is on specific challenges like a) the scope of the MSP Directive in relation to the MSFD b) organisation of authorities for the approval and licensing processes c) socio-economic aspects within MSP and d) the issue to conserve coasts and seascapes in relation to other sectors' interests and their integration into national maritime spatial plans. Examples provided on the EU MSP Platform website and the additional services that the Platform offers will be shown. The website is funded by EU Directorate General for Maritime Affairs and Fisheries (DG MARE) and features extensive searchable databases on MSP practices, projects, and funding programmes, as well as training opportunities and a continuously updated events page.

KEYWORDS. Maritime Spatial Planning Directive; Marine Strategy Framework Directive; EU MSP Platform; pilot plans; participatory planning.

I. INTRODUCTION

Maritime Spatial Planning (MSP) started off in Europe in Mecklenburg-Vorpommern (North Germany) in the year 2003, followed by national maritime spatial plans for the two Exclusive Economic Zones of Germany, as well as for the territorial waters of Belgium and the Netherlands. For Mecklenburg-Vorpommern and the Netherlands exist already first evaluation rounds and an evolution of the 1st and 2nd generation of plans is observable.

In the Baltic Sea several MSP processes were started. For instance, the BaltSeaPlan project conducted 8 pilot cases in Denmark, Germany, Sweden, Poland, Lithuania, Latvia and Estonia. Each pilot focused on different issues like weak databases, participatory planning or new research and mapping methods. Additional experiences with trans-boundary aspects have been gathered in projects like PartiSEApate. Often these experiences have been integrated into real national MSP processes.

More and more an increasing number of projects on MSP throughout Europe (funded by DG MARE or INTERREG) took place considering a range of topics. After all, even though MSP has to be implemented in each country individually and ,case' specific solutions are relevant, a lot of experience can be transferred and new knowledge co-generated by on-going processes.

Learning from practice is therefore one of the best approaches when starting a MSP process in a country. The EU MSP Platform [1], which is funded by the EU Directorate General for Maritime Affairs and Fisheries (DG MARE), for instance, provides a broad source of knowledge and can be approached when interested in topics like

- Data and monitoring
- Ecosystem based approach in MSP
- Cumulative Impact Assessment tools

- Sector specific aspects for MSP
- How to develop visions for MSP
- How to check whether you are on the right track => indicator handbook?
- What are the conflicts MSP is dealing with and which of them can be solved by MSP?
- With whom and how to consult on MSP with your neighbours (EU or not-EU)
- MSP for small areas
- MSP for islands
- How to do Strategic Environmental Assessments (SEAs) for MSP?
- How to create synergies between MSP and Marine Framework Strategy Directive (MFS) processes?
- Land-sea Interaction
- Socio-economic studies.

II. CURRENT STATUS OF MSP IN THE EU MEMBER STATES

Currently, 9 from 23 countries with coasts have adopted a national or sub-national plan and 8 countries are preparing plans on national or sub-national level. According to their governance structure, some countries have national plans only like Belgium, Lithuania, Malta or the Netherlands. Others have a mixed approach and developed national and sub-national plans like Germany with two national plans for their EEZs in the North and Baltic Sea and three plans for the territorial waters of the Federal States. In contrary, countries like Finland are developing sub-national plans for their regions and will not have one national MSP. Also the authorities responsible for MSP are differing between national and sub-national levels.

III. SOME CHALLENGING ASPECTS RELATED TO MSP

A. *Scope of the MSP Directive in relation to the MSFD*

Art. 2(1) of the MSPD states that the 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”. The aim was to avoid that the MSPD could require competence in terrestrial spatial planning. However, it does not exclude coastal waters per se from maritime spatial planning but possibly those falling under a Member State’s town or country plan. This has to be outlined in its legislation for maritime spatial planning and has to be taken into account by EU Member States, especially when dealing with the following questions:

- The legal definition of coastal waters
- The relation between sectorial spatial planning and regional planning
- The applicability of maritime spatial planning on those coastal waters, which underlie other types of planning (town and country planning) as well.

Examples of the theoretical application of Art. 2(1) of the MSPD can be found in Latvia and Sweden. Here planning of coastal waters is possible - although maritime spatial plans exist. Germany follows in specific cases a voluntary approach regarding the implementation of the MSPD. Spain does not have MSP legislation yet but provides an example for the sharing of competencies in coastal zones.

Within the **Latvian legislation** on MSP there is no indication on landward limits, but just the overall requirement that the principle of land-sea-linkage shall be implemented. Until now, the terrestrial planning excluded coastal waters, except port administrative areas. Here, coastal municipalities are responsible for ports etc. Although coastal municipalities are allowed to plan coastal water areas related to the recreational development since 2015, there are no plans

drafted or initiated on local levels that include coastal waters up to 2 km. Therefore, only the MSPD (and later on the implemented national MSP) is applicable for coastal areas. Theoretically, if coastal municipalities plan for recreational areas, a MSP would be subsidiary.

For regional planning in **Sweden** the lead agencies are the municipalities. Each of the over 80 municipalities with sea territory can practice MSP out to the territorial boundary (12 NM from the baseline). The plans are to be adopted by the municipal assembly. However, to prepare for the introduction of national marine spatial planning, the Government assigned the responsibility to the Swedish Agency for Marine and Water Management (SwAM) in 2014 to develop necessary competences in MSP and to collect information that may constitute planning evidence for MSP from the County Administrative Boards (CABs), national agencies and other bodies.

Currently, there are three marine spatial plans under development which will cover Sweden's EEZ and all areas in Swedish territorial waters *from one NM of the baseline seawards* that do not constitute private property. The MSPs shall guide public authorities and municipalities in the planning and reviewing of claims for the use of the areas covered by the plans. Therefore, theoretically, municipalities are still able to govern the coastal waters until the beginning of the territorial waters (1 NM of the baseline seawards) (Figure 1).

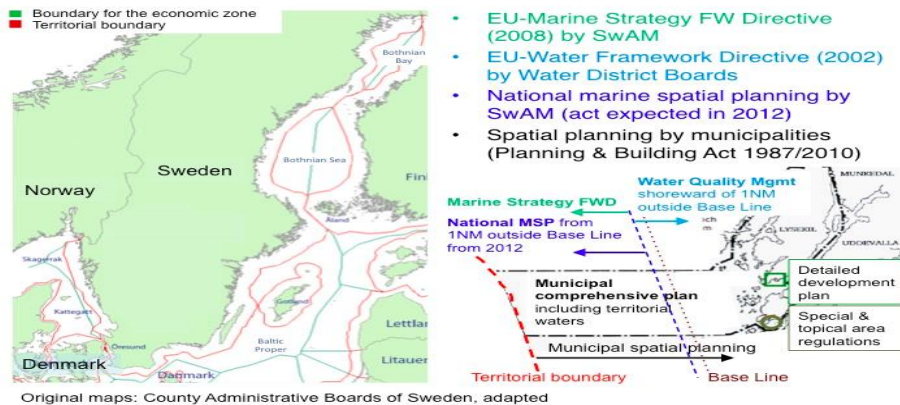


Fig. 1. The scope of municipal spatial planning and national spatial planning in Sweden.
Source: BaltSeaPlan report No 7 (2012)

However, none of the municipalities with sea territory has developed their own MSP yet. If they would do, these new MSPs have to be consistent with town and country plans including the sharing of competencies. Additionally, there is no example of an existing town or country plan, which would overrule the drafted MSPs.

In **Germany** town and country planning has been interpreted as (urban) land-use planning. There exist some smaller sections of marine waters, which have been included into community planning. In most cases these areas are around marinas or similar places. They are subject to municipal land-use plans and/or development building plans. For example, the land-use plan of Hamburg is relevant for parts of the North Sea around the Isle of Neuwerk. Here, the MSPD does not have to be applied. However, the German approach is, that also in these cases the spatial planning has to be implemented in conformity with the MSPD.

Spain is presently in the process of creating an instrument for marine spatial planning. However, it provides a theoretical example how competencies can be shared during the installation of a wind farm in a port area, i.e. an area with a specific country or town plan. Here competencies on the maritime area in the port area should be shared between the port authority

(responsible for the coastal area) and the Ministry of Industry (responsible for the wind farm planning).

B. Organisation of authorities for the approval and licensing processes

During MSP processes, questions can arise related to the authority competent for the approval, licensing and permitting of wind farms. Often more than one authority is involved, for example in a two-step process. Here it is important to indicate the respective responsibilities. In the following, the situation in Portugal, Spain, Poland and Estonia is outlined in more detail.

In **Portugal** the *Directorate General for Natural Resources, Safety and Maritime Services (DGRM)* is the competent authority for the licensing of the private use of maritime space. The legal regime is the same as of MSP [2]. The correspondent regional authorities of Azores and Madeira are also competent authorities in adjacent maritime space. The legal regime is not yet complete but the DGRM has licensed private uses.

In **Spain** the exploitation of the projects for electricity generation within the national maritime domain is regulated by the RD (Royal Decree) n.1028/2007, in which the administrative procedure is established to regulate the procedure for the authorizations of electricity generation produced in the national marine domain.

In **Estonia** the licensing procedure is presented in the Estonian Water Act [3]. The authority in charge of licensing is the *Estonian Technical Surveillance Board (TSB)*. In case an entrepreneur wishes to build an offshore wind park in Estonia, three options are possible:

Option 1 – MSP in place (currently the case around Hiiu island and in Pärnu Bay area):

Entrepreneur can only ask for a license for the areas designated in adopted MSPs.

If the wished area for Offshore Wind Farm (OWF) development is outside the MSP designated area, an entrepreneur must ask to change the MSP.

Option 2 – MSP on going:

If there is a wish to develop a marine area where MSP is on going, then a license can't be issued until the MSP process is finished.

Option 3 – MSP not existing and not started:

TSB can decide whether to begin a licensing procedure or not, based on the conditions set in the Water Act. Basically, the only possible reason not to start a licensing procedure is that it is clear and obvious that a license could not be issued after the procedure. But this is kind of impossible to prove for the TSB.

In **Poland** several permits have to be obtained by the investor. The key permit for the planned OWF is called location permit, or permission for the construction of artificial islands, installations and structures in the Polish maritime areas, which entitles the investor to use a given body of water (e.g. to conduct environmental studies). This permit does not mean, however, that the wind farm will be built in a particular place - this is only the first stage of the verification of the possibility of building such an investment in a particular place.

C. Socio-economic aspects within MSP

Also the issue of taking into account socio-economic aspects becomes more and more relevant during MSP processes. A variety of different approaches and methodologies focusing on and dependent of different aspects and research questions exists. In consequence, different approaches are using different types of data and backgrounds with different results like DG Mare studies [4][5] or projects like Plan4Blue or Baltspace with specific methodologies [6]. The question is how transferable these different methodologies are and how much can be learned from each project.

Until now, no one tool fits all sectors. Also, socio-economic aspects can be analysed from different perspectives, taking into account different forms of costs (economic, social, ecological as well as opportunity costs) and different groups of beneficiaries (supply side,

demand side). This results in different data availability and (mapping) methods. Also the time needed when applying a method can be challenging. Therefore, the complexity of the approaches should be made transparent showing underlying assumptions in a clear way.

So far, existing methods can be used for MSP in different ways. In the following, findings of a workshop [7] are:

- Adapt indicators of how the uses affect each other in economic terms to MSP needs and show how uses change the value of maritime space
- For *spatial* cost-benefit analysis a different set of data is needed. Today, data have to be taken “by hand” to be integrated as databases into the visualisation tool. There is no ready to use compilation available on portals like Eurostat. Therefore methodologies have to be developed to cope with this circumstance.
- An already existing fishery method (developed by Adam Mytlewski, MIR) could be adapted to other sectors to valorise the maritime space
- A combination of a method related to the valorisation of fisheries and to a spatial cost-benefit analysis could show the benefits of different economies on land and at sea and to understand the interrelations
- It would be an added value for all methodologies to take the dynamics of economy as well as the dynamics of governance and legislation into account.
- In the near future these findings should be taken up in more detail by planners and researchers to strongly integrate relevant socio-economic issues for assessing benefits of MSP for societies close to the coast or in the hinterland.

D. *Inter-linkage between MSP, nature conservation legislation and other sectors’ interests*

More and more sectors are moving into the marine realm, which provides opportunities to society but also causes pressure on the environment. Here, MSP can be a tool to mitigate opposing interests and incompatibilities between uses. Maritime planners also have to consider existing legislation and former designations of protected areas. However, EU countries are following different approaches to allow new uses while protecting marine resources.

In Europe, the environment is a key aspect throughout planning. However, also those ecological features, which are specifically protected under conservation legislation, including primarily the Habitats and Birds Directive [8] have to be taken into account. The Habitats Directive requires the protection of key species and habitats through a two pillar approach of designation of marine protected areas (MPAs) and specific measures addressing the species listed on Annex IV(a) of the Directive.

As a defined spatial element of conservation, in the Habitats and Birds Directive much emphasis is on the primary pillar, i.e. designation and inclusion of MPAs in planning processes in order to achieve conservation objectives. In most cases, MPAs have already been designated and are therefore incorporated into the MSP process when allocating areas for other activities (for example in **Germany**). Their status would not be expected to change through MSP, and the objectives of the MPA will be a consideration in planning activities which may interact with the site or its’ conservation features. Where MPAs are required, MSP can support their designation and understanding of objectives in relation to other interests.

Other countries take different approaches. **In Poland**, for instance, wind farms are not allowed in territorial waters in order not to disturb tourism development. Studies about visual assessments of off-shore wind turbines and the influence of distance, contrast, movement and social variables [9] supported the idea to preserve landscapes due to their importance for tourism. Their intrinsic value did not play such a strong role.

In the **UK** work has been done on seascape character assessment and the definition of marine character areas in Wales as an example for how this can be translated into planning policy [10]. Also in the UK the expansion of the offshore renewable industry has been accompanied

by changes in consenting regimes and the introduction of legislation designed to facilitate the development of nationally significant infrastructure projects.

The Planning Act 2008 introduced a new consenting regime for offshore wind farms over 100 megawatts, whereby the entire planning process for a project is overseen by one body, with the intention of streamlining the consenting process to enable Nationally Significant Infrastructure Projects to progress to determination more efficiently.

In addition to a changing consenting process, the responsibility for the provision of advice and guidance for offshore renewables was transferred to the Marine Management Organisation, which was established under the Marine and Coastal Access Act 2009. This organisation is responsible for licensing, regulating and planning marine activities in the seas around England so that they are carried out in a sustainable way [11]. All these changes to consenting and advice, together with a continuously evolving understanding of the marine environment and the effects of renewable energy developments, pose great challenges to the development of offshore renewables while trying to ensure a comprehensive approach.

In the German Federal State, **Mecklenburg-Vorpommern's** marine plan has so-called reservation areas for tourism: These are defined as "areas of sea where, depending on the elevation of the outer coastline (height above sea level), vertical structures could interrupt the uninterrupted view of the scenic landscape" [12]. Essentially, this excludes large parts of the territorial sea from offshore wind farming for aesthetic seascape reasons. The argument is that the seascape has special scenic qualities that are important for tourism, so the plan seeks to ensure (where possible, and bearing in mind the visibility of vertical structures) a mostly natural looking seascape, looking from land to sea and vice versa.

According to the **Scottish** Government during planning and installing wind farms several legal frameworks have to be taken into account like Flora Fauna Habitat directive, natural heritage convention, landscape directive, and technical considerations. Several guidelines have been published like 'Guidelines on the Environmental Impacts of Wind Farms and Small Scale Hydroelectric Schemes' including the 'Guidance on Siting and Designing Wind Farms' (2001, 2009, 2014). This document has to be used by offshore wind farm planners and landscape assessors. Developers and those involved in wind farm design should also refer to the Spatial Frameworks being developed by Local Authorities in response to Scottish Planning Policy (SPP).

Some of the countries, which have a MSP like Lithuania, the Netherlands, UK, Germany, Malta or Belgium also conducted a SEA to support the existing approaches and to clarify the impact of sectors on the environment. More information can be found at the MSP Platform.

IV. CONCLUSIONS

The EU Member States are at different stages of their MSP processes, following different legal frameworks and planning mandates. This variety of approaches can be a barrier to install, for example, cross-border plans. On the other hand the pool of different experiences and knowledge is a chance to learn quickly from each other and to change ways, which may otherwise go into an unwanted direction. Specific aspects like the socio-economic aspects of MSP or compatibility assessments may benefit from different country approaches. The consequent share of information on a technical level between national institutions and the use of the variety of knowledge due to the different involved stakeholders is the best way to overcome any obstacles. Learning from practice is another promising approach when starting a MSP process in a country. Information portals like the EU MSP Platform support capacity building among EU Member States due to specific country approaches available.

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