

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) (Text with EEA relevance)

DIRECTIVE 2008/56/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

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establishing a framework for community action in the field of marine
environmental policy (Marine Strategy Framework Directive)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

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 procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) Marine waters under the sovereignty and jurisdiction of Member States of the European Union include waters in the Mediterranean Sea, the Baltic Sea, the Black Sea and the North-east Atlantic Ocean, including the waters surrounding the Azores, Madeira and the Canary Islands.
- (2) It is evident that pressure on natural marine resources and the demand for marine ecological services are often too high and that the Community needs to reduce its impact on marine waters regardless of where their effects occur.
- (3) The marine environment is a precious heritage that must be protected, preserved and, where practicable, restored with the ultimate aim of maintaining biodiversity and providing diverse and dynamic oceans and seas which are clean, healthy and productive. In that respect, this Directive should, inter alia, promote the integration of environmental considerations into all relevant policy areas and deliver the environmental pillar of the future maritime policy for the European Union.
- (4) In line with Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme⁽⁴⁾, a thematic strategy for the protection and conservation of the marine environment has been developed with the overall aim of promoting sustainable use of the seas and conserving marine ecosystems.

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- (5) The development and implementation of the thematic strategy should be aimed at the conservation of the marine ecosystems. This approach should include protected areas and should address all human activities that have an impact on the marine environment.
- (6) The establishment of marine protected areas, including areas already designated or to be designated under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁽⁵⁾ (hereinafter referred to as the ‘Habitats Directive’), Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds⁽⁶⁾ (hereinafter referred to as the ‘Birds Directive’), and under international or regional agreements to which the European Community or Member States concerned are Parties, is an important contribution to the achievement of good environmental status under this Directive.
- (7) Establishing such protected areas under this Directive will be an important step towards fulfilling the commitments undertaken at the World Summit on Sustainable Development and in the Convention on Biological Diversity, approved by Council Decision 93/626/EEC⁽⁷⁾, and will contribute to the creation of coherent and representative networks of such areas.
- (8) By applying an ecosystem-based approach to the management of human activities while enabling a sustainable use of marine goods and services, priority should be given to achieving or maintaining good environmental status in the Community’s marine environment, to continuing its protection and preservation, and to preventing subsequent deterioration.
- (9) In order to achieve those objectives, a transparent and coherent legislative framework is required. This framework should contribute to coherence between different policies and foster the integration of environmental concerns into other policies, such as the Common Fisheries Policy, the Common Agricultural Policy and other relevant Community policies. The legislative framework should provide an overall framework for action and enable the action taken to be coordinated, consistent and properly integrated with action under other Community legislation and international agreements.
- (10) The diverse conditions, problems and needs of the various marine regions or subregions making up the marine environment in the Community require different and specific solutions. That diversity should be taken into account at all stages of the preparation of marine strategies, but especially during the preparation, planning and execution of measures to achieve good environmental status in the Community’s marine environment at the level of marine regions or subregions.
- (11) Each Member State should therefore develop a marine strategy for its marine waters which, while being specific to its own waters, reflects the overall perspective of the marine region or subregion concerned. Marine strategies should culminate in the execution of programmes of measures designed to achieve or maintain good environmental status. However, Member States should not be required to take specific steps where there is no significant risk to the marine environment, or where the costs would be disproportionate taking account of the risks to the marine environment, provided that any decision not to take action is properly justified.

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- (12) Coastal waters, including their seabed and subsoil, are an integral part of the marine environment, and as such should also be covered by this Directive, in so far as particular aspects of the environmental status of the marine environment are not already addressed through 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⁽⁸⁾ or other Community legislation, so as to ensure complementarity while avoiding unnecessary overlaps.
- (13) By reason of the transboundary nature of the marine environment, Member States should cooperate to ensure the coordinated development of marine strategies for each marine region or subregion. Since marine regions or subregions are shared both with other Member States and with third countries, Member States should make every effort to ensure close coordination with all Member States and third countries concerned. Where practical and appropriate, existing institutional structures established in marine regions or subregions, in particular Regional Sea Conventions, should be used to ensure such coordination.
- (14) Member States having borders on the same marine region or subregion covered by this Directive, where the status of the sea is critical to the extent that urgent action is needed, should endeavour to agree on a plan of action including the earlier entry into operation of programmes of measures. In such cases, the Commission should be invited to consider providing supportive action to Member States for their enhanced efforts to improve the marine environment by making the region in question a pilot project.
- (15) Not all Member States have marine waters as defined in this Directive and, therefore, the effect of the provisions of this Directive which exclusively address Member States which have marine waters should be limited to those Member States.
- (16) Since action at international level is indispensable to achieve cooperation and coordination, this Directive should further enhance the coherence of the contribution of the Community and its Member States under international agreements.
- (17) The Community and its Member States are each parties to the United Nations Convention on the Law of the Sea (Unclos) approved by Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the Unclos and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof⁽⁹⁾. The obligations of the Community and its Member States under those agreements should therefore be taken fully into account in this Directive. In addition to the provisions applicable to the marine waters of the Parties, the Unclos includes general obligations to ensure that activities under the jurisdiction or control of a Party do not cause damage beyond its marine waters, and to avoid that damage or hazards are transferred from one area to another or that one type of pollution is transformed into another.
- (18) This Directive should also support the strong position taken by the Community, in the context of the Convention on Biological Diversity, on halting biodiversity loss, ensuring the conservation and sustainable use of marine biodiversity, and on the creation of a global network of marine protected areas by 2012. Additionally, it should contribute

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to the achievement of the objectives of the Seventh Conference of the Parties to the Convention on Biological Diversity, which adopted an elaborate programme of work on marine and coastal biodiversity with a number of goals, targets and activities aimed at halting the loss of biological diversity nationally, regionally and globally and at securing the capacity of the marine ecosystems to support the provision of goods and services, and a programme of work on protected areas with the objective of establishing and maintaining ecologically representative systems of marine protected areas by 2012. The obligation for Member States to designate Natura 2000 sites under the Birds Directive and the Habitats Directive will make an important contribution to this process.

- (19) This Directive should contribute to the fulfilment of the obligations and important commitments of the Community and the Member States under several relevant international agreements relating to the protection of the marine environment from pollution: the Convention on the Protection of the Marine Environment of the Baltic Sea Area, approved by Council Decision 94/157/EC⁽¹⁰⁾, the Convention for the Protection of the Marine Environment of the North-East Atlantic, approved by Council Decision 98/249/EC⁽¹¹⁾, including its new Annex V on the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area and the corresponding Appendix 3, approved by Council Decision 2000/340/EC⁽¹²⁾, the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, approved by Council Decision 77/585/EEC⁽¹³⁾, and its amendments from 1995, approved by Council Decision 1999/802/EC⁽¹⁴⁾, as well as its Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources, approved by Council Decision 83/101/EEC⁽¹⁵⁾, and its amendments from 1996, approved by Council Decision 1999/801/EC⁽¹⁶⁾. This Directive should also contribute to the fulfilment of Member States' obligations under the Convention on the Protection of the Black Sea Against Pollution, under which they have entered into important commitments relating to the protection of the marine environment from pollution, and to which the Community is not yet a party but in respect of which it has observer status.
- (20) Third countries with waters in the same marine region or subregion as a Member State should be invited to participate in the process laid down in this Directive, thereby facilitating achievement of good environmental status in the marine region or subregion concerned.
- (21) It is crucial for the achievement of the objectives of this Directive to ensure the integration of conservation objectives, management measures and monitoring and assessment activities set up for spatial protection measures such as special areas of conservation, special protection areas or marine protected areas.
- (22) Account should also be taken of biodiversity and the potential for marine research associated with deep-water environments.
- (23) Since programmes of measures executed under marine strategies will be effective only if they are devised on the basis of a sound knowledge of the state of the marine environment in a particular area and are tailored as closely as possible to the needs of the waters concerned in the case of each Member State and from the general perspective of the marine region or subregion concerned, provision should be made for the preparation

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at national level of an appropriate framework, including marine research and monitoring operations, for informed policymaking. At Community level, support for associated research should be continuously enshrined in research and development policies. Recognition of marine issues in the Seventh Framework Programme on Research and Development is an important step in that direction.

- (24) As a first step in the preparation of programmes of measures, Member States across a marine region or subregion should undertake an analysis of the features or characteristics of, and pressures and impacts on, their marine waters, identifying the predominant pressures and impacts on those waters, and an economic and social analysis of their use and of the cost of degradation of the marine environment. They may use assessments already carried out in the context of regional sea conventions as a basis for their analyses.
- (25) On the basis of such analyses, Member States should then determine for their marine waters a set of characteristics for good environmental status. For those purposes, it is appropriate to make provision for the development of criteria and methodological standards to ensure consistency and to allow for comparison between marine regions or subregions of the extent to which good environmental status is being achieved. These should be developed with the involvement of all interested parties.
- (26) The next step towards achieving good environmental status should be the establishment of environmental targets and monitoring programmes for ongoing assessment, enabling the state of the marine waters concerned to be evaluated on a regular basis.
- (27) Member States should then establish and implement programmes of measures which are designed to achieve or maintain good environmental status in the waters concerned, while accommodating existing Community and international requirements and the needs of the marine region or subregion concerned. Those measures should be devised on the basis of the precautionary principle and the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay.
- (28) It is appropriate that Member States take the abovementioned steps, given the precision of focus needed. In order to ensure cohesion of action across the Community as a whole and in relation to commitments at global level, it is essential that Member States notify the Commission of the steps taken, in order to enable the Commission to assess the coherence of action across the marine region or subregion concerned and as appropriate provide guidance on possible necessary modifications.
- (29) Member States should take the necessary measures to achieve or maintain good environmental status in the marine environment. However, it should be recognised that achieving or maintaining good environmental status in every aspect may not be possible in all marine waters by 2020. Therefore, for reasons of fairness and feasibility, it is appropriate to make provision for cases where it would be impossible for a Member State to achieve the level of ambition of the environmental targets set or to achieve or maintain good environmental status.

- (30) In that context provision should be made for two special cases. The first special case refers to the situation where it is impossible for a Member State to meet its environmental targets because of action or inaction for which the Member State concerned is not responsible, or because of natural causes or force majeure, or because of actions which that Member State has itself taken for reasons of overriding public interest which outweigh the negative impact on the environment, or because natural conditions do not allow timely improvement in the status of marine waters. The Member State concerned should substantiate why it considers that such a special case has arisen and identify the area concerned, and should take appropriate ad-hoc measures with the aim of continuing to pursue the environmental targets, preventing further deterioration in the status of the marine waters affected and mitigating the adverse impact within the marine region or subregion concerned.
- (31) The second special case refers to the situation where a Member State identifies an issue which has an impact on the environmental status of its marine waters, perhaps even of the entire marine region or subregion concerned, but which cannot be tackled by measures taken at national level or which is linked to another Community policy or to an international agreement. In such a case, arrangements should be made to inform the Commission of this within the framework of notification of programmes of measures and, where Community action is needed, to make appropriate recommendations to the Commission and the Council.
- (32) However, the flexibility introduced for special cases should be subject to control at Community level. As regards the first special case, it is therefore appropriate that due consideration be given to the efficacy of any ad-hoc measures taken. Moreover, in cases where the Member State refers to action taken for overriding reasons of public interest, the Commission should assess whether any modifications or alterations made to the marine environment as a consequence do not permanently preclude or compromise the achievement of good environmental status in the marine region or subregion concerned or across marine waters of other Member States. The Commission should provide guidance on possible necessary modifications if it considers that the measures envisaged are not sufficient or suitable to ensure coherence of action across the marine region.
- (33) As regards the second special case, the Commission should consider the issue and respond within a period of six months. The Commission should reflect, as appropriate, the recommendations of the Member State concerned when presenting related proposals to the European Parliament and the Council.
- (34) In view of the dynamic nature of marine ecosystems and their natural variability, and given that the pressures and impacts on them may vary with the evolution of different patterns of human activity and the impact of climate change, it is essential to recognise that the determination of good environmental status may have to be adapted over time. Accordingly, it is appropriate that programmes of measures for the protection and management of the marine environment be flexible and adaptive and take account of scientific and technological developments. Provision should therefore be made for the updating of marine strategies on a regular basis.

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- (35) Provision should also be made for the publication of programmes of measures and updates thereof, and for the presentation to the Commission of interim reports describing progress in the implementation of these programmes.
- (36) To ensure the active involvement of the general public in the establishment, implementation and updating of marine strategies, provision should be made for proper public information on the different elements of marine strategies, or their related updates, as well as, upon request, relevant information used for the development of the marine strategies in accordance with Community legislation on public access to environmental information.
- (37) The Commission should present a first evaluation report on the implementation of this Directive within two years of receiving all programmes of measures and, in any case, by 2019 at the latest. Subsequent Commission reports should be published every six years thereafter.
- (38) Provision should be made for the adoption of methodological standards for the assessment of the status of the marine environment, monitoring, environmental targets and the adoption of technical formats for the purposes of transmission and processing of data in line with 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)⁽¹⁷⁾.
- (39) Measures regulating fisheries management can be taken in the context of the Common Fisheries Policy, as set out in Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁽¹⁸⁾, based on scientific advice with a view to supporting the achievement of the objectives addressed by this Directive, including the full closure to fisheries of certain areas, to enable the integrity, structure and functioning of ecosystems to be maintained or restored and, where appropriate, in order to safeguard, inter alia, spawning, nursery and feeding grounds. Articles 30 and 31 of the Euratom Treaty regulate discharges and emissions resulting from the use of radioactive material and this Directive should therefore not address them.
- (40) The Common Fisheries Policy, including in the future reform, should take into account the environmental impacts of fishing and the objectives of this Directive.
- (41) In the event that Member States consider that action in the fields mentioned above or other fields linked to another Community policy or to an international agreement is desirable, they should make appropriate recommendations for Community action.
- (42) The serious environmental concerns, in particular those due to climate change, relating to the Arctic waters, a neighbouring marine environment of particular importance for the Community, need to be assessed by the Community institutions and may require action to ensure the environmental protection of the Arctic.
- (43) Since the objectives of this Directive, namely protection and preservation of the marine environment, the prevention of its deterioration and where practicable the restoration of that environment in areas where it has been adversely affected, cannot be sufficiently

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achieved by Member States and can therefore, by reason of the scale and effects of the Directive, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

- (44) Programmes of measures and subsequent action by Member States should be based on an ecosystem-based approach to the management of human activities and on the principles referred to in Article 174 of the Treaty, in particular the precautionary principle.
- (45) This Directive respects the fundamental rights, and observes the principles, recognised by the Charter of Fundamental Rights of the European Union⁽¹⁹⁾, in particular Article 37 thereof which seeks to promote the integration into the policies of the Union of a high level of environmental protection and the improvement of environmental quality in accordance with the principle of sustainable development.
- (46) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁰⁾.
- (47) In particular, the Commission should be empowered to adapt Annexes III, IV and V to this Directive to scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (48) The Commission should also be empowered to lay down criteria and methodological standards to be used by the Member States and to adopt specifications and standardised methods for monitoring and assessment. Since those measures are of general scope and are designed to amend non-essential elements of this Directive by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 185, 18.8.2006, p. 20.](#)
- (2) [OJ C 206, 29.8.2006, p. 5.](#)
- (3) Opinion of the European Parliament of 14 November 2006 ([OJ C 314 E, 21.12.2006, p. 86](#)), Council Common Position of 23 July 2007 ([OJ C 242 E, 16.10.2007, p. 11](#)) and Position of the European Parliament of 11 December 2007 (not yet published in the Official Journal). Council Decision of 14 May 2008.
- (4) [OJ L 242, 10.9.2002, p. 1.](#)
- (5) [OJ L 206, 22.7.1992, p. 7.](#) Directive as last amended by Directive 2006/105/EC ([OJ L 363, 20.12.2006, p. 368](#)).
- (6) [OJ L 103, 25.4.1979, p. 1.](#) Directive as last amended by Directive 2006/105/EC.
- (7) [OJ L 309, 13.12.1993, p. 1.](#)
- (8) [OJ L 327, 22.12.2000, p. 1.](#) Directive as last amended by Directive 2008/32/EC ([OJ L 81, 20.3.2008, p. 60](#)).
- (9) [OJ L 179, 23.6.1998, p. 1.](#)
- (10) [OJ L 73, 16.3.1994, p. 19.](#)
- (11) [OJ L 104, 3.4.1998, p. 1.](#)
- (12) [OJ L 118, 19.5.2000, p. 44.](#)
- (13) [OJ L 240, 19.9.1977, p. 1.](#)
- (14) [OJ L 322, 14.12.1999, p. 32.](#)
- (15) [OJ L 67, 12.3.1983, p. 1.](#)
- (16) [OJ L 322, 14.12.1999, p. 18.](#)
- (17) [OJ L 108, 25.4.2007, p. 1.](#)
- (18) [OJ L 358, 31.12.2002, p. 59.](#) Regulation as amended by Regulation (EC) No 865/2007 ([OJ L 192, 24.7.2007, p. 1](#)).
- (19) [OJ C 364, 18.12.2000, p. 1.](#)
- (20) [OJ L 184, 17.7.1999, p. 23.](#) Decision as amended by Decision 2006/512/EC ([OJ L 200, 22.7.2006, p. 11](#)).