

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)

CHAPTER III

MARINE STRATEGIES: PROGRAMMES OF MEASURES

Article 13

Programmes of measures

1 Member States shall, in respect of each marine region or subregion concerned, identify the measures which need to be taken in order to achieve or maintain good environmental status, as determined pursuant to Article 9(1), in their marine waters.

Those measures shall be devised on the basis of the initial assessment made pursuant to Article 8(1) and by reference to the environmental targets established pursuant to Article 10(1), and taking into consideration the types of measures listed in Annex VI.

2 Member States shall integrate the measures devised pursuant to paragraph 1 into a programme of measures, taking into account relevant measures required under Community legislation, in particular Directive 2000/60/EC, Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment⁽¹⁾ and Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality⁽²⁾, as well as forthcoming legislation on environmental quality standards in the field of water policy, or international agreements.

3 When drawing up the programme of measures pursuant to paragraph 2, Member States shall give due consideration to sustainable development and, in particular, to the social and economic impacts of the measures envisaged. To assist the competent authority or authorities referred to in Article 7 to pursue their objectives in an integrated manner, Member States may identify or establish administrative frameworks in order to benefit from such interaction.

Member States shall ensure that measures are cost-effective and technically feasible, and shall carry out impact assessments, including cost-benefit analyses, prior to the introduction of any new measure.

4 Programmes of measures established pursuant to this Article shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive, and marine protected areas as agreed by the Community or Member States concerned in the framework of international or regional agreements to which they are parties.

5 Where Member States consider that the management of a human activity at Community or international level is likely to have a significant impact on the marine environment, particularly in the areas addressed in paragraph 4, they shall, individually or jointly, address the competent authority or international organisation concerned with a view to the consideration and possible adoption of measures that may be necessary in order to achieve the objectives of this Directive, so as to enable the integrity, structure and functioning of ecosystems to be maintained or, where appropriate, restored.

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6 By 2013 at the latest, Member States shall make publicly available, in respect of each marine region or subregion, relevant information on the areas referred to in paragraphs 4 and 5.

7 Member States shall indicate in their programmes of measures how the measures are to be implemented and how they will contribute to the achievement of the environmental targets established pursuant to Article 10(1).

8 Member States shall consider the implications of their programmes of measures on waters beyond their marine waters in order to minimise the risk of damage to, and if possible have a positive impact on, those waters.

9 Member States shall notify the Commission and any other Member State concerned of their programmes of measures, within three months of their establishment.

10 Subject to Article 16, Member States shall ensure that the programmes are made operational within one year of their establishment.

Article 14

Exceptions

1 A Member State may identify instances within its marine waters where, for any of the reasons listed under points (a) to (d), the environmental targets or good environmental status cannot be achieved in every aspect through measures taken by that Member State, or, for reasons referred to under point (e), they cannot be achieved within the time schedule concerned:

- a action or inaction for which the Member State concerned is not responsible;
- b natural causes;
- c force majeure;
- d modifications or alterations to the physical characteristics of marine waters brought about by actions taken for reasons of overriding public interest which outweigh the negative impact on the environment, including any transboundary impact;
- e natural conditions which do not allow timely improvement in the status of the marine waters concerned.

The Member State concerned shall identify such instances clearly in its programme of measures and shall substantiate its view to the Commission. In identifying instances a Member State shall consider the consequences for Member States in the marine region or subregion concerned.

However, the Member State concerned shall take appropriate ad-hoc measures aiming to continue pursuing the environmental targets, to prevent further deterioration in the status of the marine waters affected for reasons identified under points (b), (c) or (d) and to mitigate the adverse impact at the level of the marine region or subregion concerned or in the marine waters of other Member States.

2 In the situation covered by paragraph 1(d), Member States shall ensure that the modifications or alterations do not permanently preclude or compromise the achievement of good environmental status at the level of the marine region or subregion concerned or in the marine waters of other Member States.

3 The ad-hoc measures referred to in the third subparagraph of paragraph 1 shall be integrated as far as practicable into the programmes of measures.

4 Member States shall develop and implement all the elements of marine strategies referred to in Article 5(2), but shall not be required, except in respect of the initial assessment described in Article 8, 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, and provided that there is no further deterioration.

Where, for either of these reasons, a Member State does not take any steps, it shall provide the Commission with the necessary justification to substantiate its decision, while avoiding that the achievement of good environmental status be permanently compromised.

Article 15

Recommendations for Community action

1 Where a Member State identifies an issue which has an impact on the environmental status of its marine waters and which cannot be tackled by measures adopted at national level, or which is linked to another Community policy or international agreement, it shall inform the Commission accordingly and provide a justification to substantiate its view.

The Commission shall respond within a period of six months.

2 Where action by Community institutions is needed, Member States shall make appropriate recommendations to the Commission and the Council for measures regarding the issues referred to in paragraph 1. Unless otherwise specified in relevant Community legislation, the Commission shall respond to any such recommendation within a period of six months and, as appropriate, reflect the recommendations when presenting related proposals to the European Parliament and to the Council.

Article 16

Notifications and Commission's assessment

On the basis of the notifications of programmes of measures made pursuant to Article 13(9), the Commission shall assess whether, in the case of each Member State, the programmes notified constitute an appropriate framework to meet the requirements of this Directive, and may ask the Member State concerned to provide any additional information that is available and necessary.

In drawing up those assessments, the Commission shall consider the coherence of programmes of measures within the different marine regions or subregions and across the Community.

Within six months of receiving all those notifications, the Commission informs Member States concerned whether, in its opinion, the programmes of measures notified are consistent with this Directive and provides guidance on any modifications it considers necessary.

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- (1) [OJ L 135, 30.5.1991, p. 40](#). Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).
- (2) [OJ L 64, 4.3.2006, p. 37](#).