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The implementation of the Marine Strategy Framework Directive: Shortcomings and limitations from the Spanish point of view



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ABSTRACT

The Marine Strategy Framework (Directive 2008/56/EC, MSFD) came into force in 2008, confirming the increased political interest in the oceans observed in recent years, and the change in the philosophy of environmental management, which has resulted in the development of many initiatives to guide the conservation, protection and sustainable management of marine ecosystems. This Directive is the key environmental instrument of the European Union (EU) maritime policy, and establishes that Member States shall adopt the necessary measures to achieve or maintain the Good Environmental Status of the marine environment by 2020. The central part of the MSFD is formed by the 'marine strategies', which have to be developed by the Member States for the marine waters under their jurisdiction. The implementation of the MSFD represents a demanding task in the integrative assessment of marine ecosystems. Here we describe the implementation process, and we discuss the institutional framework and the main difficulties and challenges encountered so far, with emphasis on the Spanish context.

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1. Introduction

The growing demand for services and resources of marine origin, which often exceeds the response capacity of the oceans, has dramatically increased the impact of human activities on marine ecosystems in recent decades. The intense industrial activity, intensive agriculture and high population density in coastal areas, as well as overfishing, increased exploration and production of oil and gas, and the development of renewable energy sources, are leading to major impacts that threaten the health of the oceans [1–4]. Given the wealth of resources and potential uses of the sea, which in many cases are incompatible with the sustainable use of those resources, in recent years there has been an increasing political interest in the oceans and a change in the philosophy of environmental management [5,6] that has resulted in the development of numerous initiatives to guide the conservation, protection and sustainable management of marine ecosystems.

It is evident that these tasks cannot be undertaken by individual states; in fact, it requires cooperation and development of coordinated actions among countries sharing marine regions through an integrative and multidisciplinary approach. The legal framework is extremely broad and is of great complexity. At the international level, the United Nations Convention on the Law of the Sea [7] constitutes the legal order governing the uses of the sea

and provides the basic framework for all aspects of sovereignty, jurisdiction, use and rights, and obligations of the states in relation to the oceans. In Europe, the marine environment has been considered in part within the scope of several environmental Directives such as the Water Framework Directive (WFD), the Habitats Directive (HD) or the Birds Directive (BD) (e.g. [8–10]). In addition, Regional Seas Conventions such as the OSPAR Convention (www.ospar.org), the Barcelona Convention (www.unepmap.org), the Helsinki Convention (HELCOM, www.helcom.fi) and the Bucharest Convention (www.blacksea-commission.org), have guaranteed for decades supranational cooperation for the protection and conservation of the marine environment, but often there is little coordination among them, and among them and the existing European legislation, or other international agreements such as the Data Collection Framework Regulation for the Common Fisheries Policy (CFP), or the Maritime Spatial Planning. In fact, until now, an integrated policy for the protection of the seas of the European Union (EU) had not been developed, revealing an inadequate institutional framework for the management of the marine environment [11,12].

2. MSFD implementation in Spain

In this sense, and within the thematic strategy for the Marine Environment of the Sixth Environment Action Programme of the European Community [13], on 15 July 2008 came into force the

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Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy or Marine Strategy Framework Directive (referred to as 'MSFD' or 'the Directive' hereafter) [14]. The main objectives of this Directive are to protect and preserve the marine environment, restoring altered ecosystems, and prevent and reduce inputs in the marine environment, in order to gradually phase out pollution.

The MSFD states that Member States must incorporate the provisions of the Directive into their national law. In Spain, the Law 41/2010 on the protection of the marine environment (LPME) [15], is the standard transposing MSFD into national law, adapting the text of the Directive to the national scenario. The LPME provides the general legal framework for the conservation and protection of the marine environment in Spain, with the aim of achieving the GES and ensuring the sustainable use of marine resources. In addition, this Law includes the regulation of other aspects related to the protection and planning of the marine environment, such as the creation and management of a Spanish network of Marine Protected Areas, and the control of discharges into the sea.

To facilitate the implementation of marine strategies, the LPME establishes, on the basis of particular biogeographic, oceanographic and hydrological characteristics of each region, five subdivisions within these regions and subregions, so called "marine demarcations". The Atlantic region includes the North Atlantic demarcation, the South Atlantic demarcation and the Canary Islands demarcation; whilst the Mediterranean region comprises the Levantine–Balearic demarcation and the Gibraltar Strait and Alborán Sea demarcation (including the Exclusive Economic Zone in the northwestern Mediterranean created by Royal Decree 236/2013, of 5 April, BOE. 92 of April 17, 2013) (Fig. 1). The complexity of the MSFD implementation has been accentuated in Spain by the great dimension of the marine area under Spanish sovereignty or jurisdiction (more than 1 million km²).

In Spain, the public consultation process, prior to sending the national report to the EC, was conducted between June 1 and July 15, 2012, through the website of the Ministry of Agriculture, Food and Environment (<http://www.magrama.gob.es>). In addition, marine strategies' documents were sent to the governments of the autonomous communities, requesting their review, and were submitted for consultation to the Spanish Environmental Advisory Council (CAMA), being finally approved by the Council of Ministers on 2nd November 2012, as indicated by the Resolution of 13th November 2012, of the Secretary of State for the Environment [16]. In this way, it was guaranteed that all stakeholders had the opportunity to participate, involving organisms and environmental management structures, as much as possible.

3. International coordination

3.1. European coordination

When developing marine strategies, the MSFD demands a regional approach for the management of European seas, and requires the cooperation between Member States and the coordination with third countries, so that the states not only share goods and services provided by the ocean, but also the challenges they will encounter in the pursuit of GES. Such cooperation is essential to ensure that the different elements of marine strategies are consistent within the different marine regions or sub-regions of the EU, since the MSFD provides that the GES has to be achieved at regional or subregional level. To that end, it will be necessary to develop common approaches, bringing together the best technical expertise available.

As a starting point to reach these objectives, the EC adopted an informal coordination program, the Common Implementation

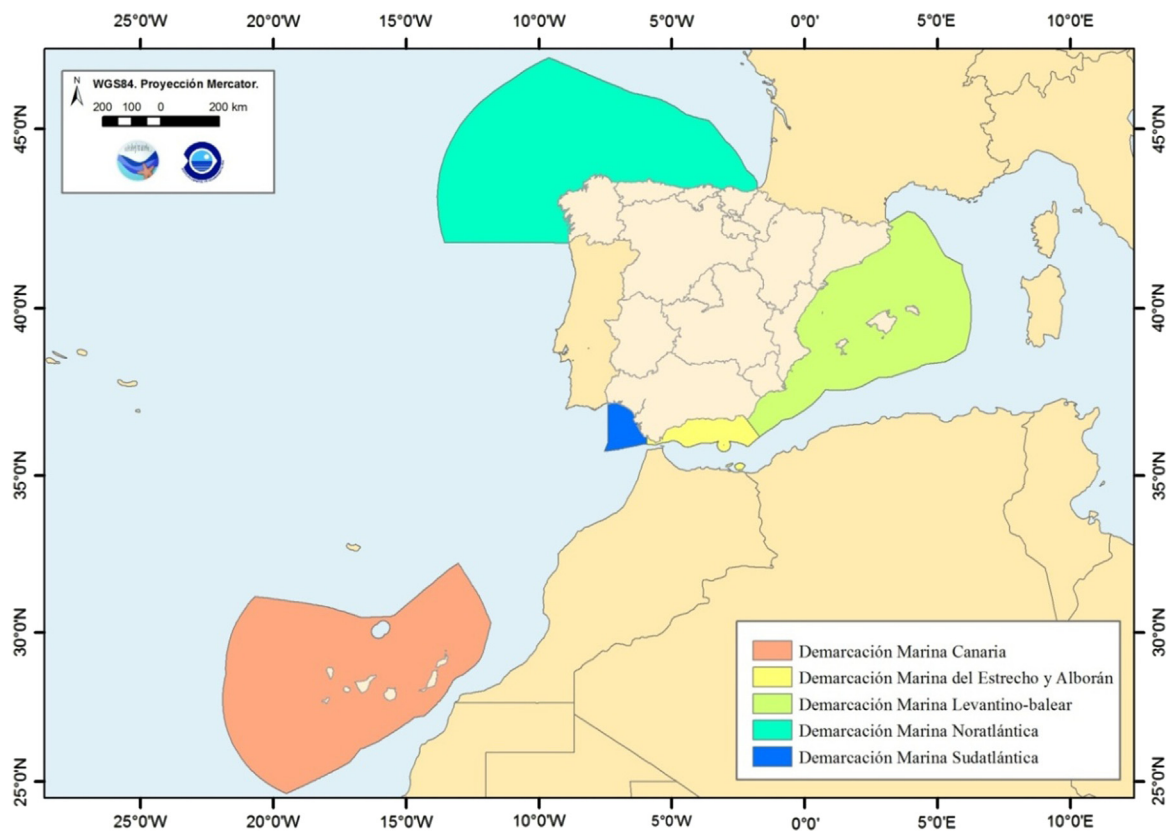


Fig. 1. Orientative map of the Spanish marine demarcations (courtesy of Olvido Tello, IEO).

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