



The ability of regional coordination and policy integration to produce coherent marine management: Implementing the Marine Strategy Framework Directive in the North-East Atlantic

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ABSTRACT

The transboundary nature of the marine environment requires concerted actions among neighbouring countries to improve its quality in an effective way. Coordination at international level is particularly important during the implementation of environmental policies aimed at reducing the widespread pressures derived from activities, such as shipping and fishing. The European Marine Strategy Framework Directive (MSFD) aims to protect and improve the status of a wide range of ecosystem components with a regional focus, promoting cooperation among countries and integration with other environmental policies. In 2014, the European Commission assessed the level of adequacy, consistency and coherence achieved by Member States during the implementation of the first phase of the MSFD and hence this paper focuses on the cross-border coherence and coordination within one marine region in order to achieve the goals of the Directive. In particular, it identifies and analyses the main differences among the results of the implementation of the first phase of the MSFD across the North-East Atlantic region. This analysis shows that, in general, the use of existing data, methodologies and targets from related environmental policies corresponds to the higher levels of coherence among countries while a limited use of such policies produces less coherence. This suggests that the European Commission, Regional Seas Conventions and Member States should work together to identify the real connection between the MSFD and other policies to make a proper use of existing data and approaches and to harmonise different policy objectives. In particular, the review shows what might be termed a 'paradox of coherence' amongst Member States where coherence of action has to be achieved within a European policy of subsidiarity, the act of Member States having control over the way they implement framework directives. This can be regarded as a fundamental flaw in having a 'Framework Directive' instead of the greater control in a 'Directive'.

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1. Introduction

The growing importance of maritime activities such as fisheries, shipping, resource extraction, tourism and offshore renewable energy across European seas, requires strong political coordination among countries that share the same marine area to ensure a more sustainable management of the marine environment. The exchange of information and knowledge between countries can improve the understanding of ecosystem dynamics

and the ability to solve problems through involving different actors. Moreover, coordination between different institutions responsible for developing and implementing environmental policies is essential to avoid contradicting policy outcomes and duplication of work [26]. Management measures taken to meet the requirements of sectoral policies, their lack of coherence, the unclear definition of competencies and the consequent waste of resources are considered the main obstacles towards an effective implementation of marine legislation ([8] 539:16; [23,1,24]).

The ecosystem-based approach to the management of marine environment underpins the Marine Strategy Framework Directive (MSFD, 2008/56/EC [11]), which aims to achieve Good Environmental Status of all European marine regions, promoting

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cooperation and coordination between countries and integration with other environmental policies [2]. The four European regions are the Mediterranean Sea, North-East Atlantic Ocean, Black Sea and Baltic Sea, each of which has a Regional Sea Convention, respectively the Barcelona, OSPAR, Bucharest and HELCOM Conventions. The MSFD framework has been transposed into national legislation by specific marine strategies whose preparation (the first phase), started with the assessment of the characteristics of marine waters (Article 8) including a detailed study of the main pressures and impacts and an economic and social analysis. On the basis of such an assessment, Member States defined what they consider Good Environmental Status (GENS¹) of their marine waters (Article 9) and established a set of environmental targets (Article 10) to achieve it. In 2014, monitoring programmes were established to assess the progress towards GENS (Article 11) and during 2015–2016 Member States are developing and implementing a programme of measures (Article 12) to achieve GENS. These five steps will be revised and repeated during the second cycle (2018–2021) taking into account the experiences gained.

During the MSFD legislative process, some Member States opposed a binding regional approach in the implementation phase [26]. However, after a long consultation, the parties agreed to implement the MSFD with a regional focus (Articles 4, 5 and 6) but specific governance structures were not stipulated [52]. Regional coordination relies upon existing structures, including the four European Regional Sea Conventions, but decisions taken through these are not binding. However, these structures should allow an exchange of information and good practices related to approaches to assess status, environmental targets and management measures common to the entire region. This paper questions whether this is the case.

European coordination structures have been analysed in relation to the implementation of the MSFD [46] identifying the main strengths and weaknesses [19] and developing alternative governance models [52,53]. Van Hoof et al. [50] analyse the aspects of integration and regionalisation of the Integrated Maritime Policy, the Marine Strategy Framework Directive and the Common Fisheries Policy, while Van Leeuwen et al. [51] includes policy coordination as one of the key four potential impediments to implementing the MSFD.

In 2014, the European Commission assessed the level of adequacy, consistency and coherence among Member States during the implementation of the first phase of the MSFD. The current paper focuses on the level of coherence across the North-East Atlantic region (hereinafter NEAR). In particular, it investigates whether the integration with existing environmental policies is related to the different levels of coherence and if a proper use of existing data, methodologies and targets has improved the coherence among countries. As such, this paper aims to identify impediments to a coherent implementation of the future phases of the MSFD in the NEAR.

2. Coordination structures in the North-East Atlantic region (NEAR)

2.1. OSPAR Commission

The NEAR is the biggest sea region in Europe and has been

subdivided into four according to its characteristics: the Greater North Sea, the Celtic Sea, the Bay of Biscay and the Iberian Coast and the Macaronesian subregions. These cover highly diversified marine landscapes with fjords, estuaries, bays and wetlands, which all support extremely productive ecosystems but also important human activities.² It encompasses OSPAR, an international convention ratified by fifteen NEAR countries to protect and improve the quality of the marine environment.³ Although originating in 1972 to cover land and sea-based pollution, an annex on biodiversity and ecosystems was adopted in 1998 to cover non-polluting human activities that can adversely affect marine quality. To support the implementation of the MSFD in this region, in 2010 OSPAR adopted the North-East Atlantic Environmental Strategy [40] which includes six thematic strategies to identify specific emerging issues such as Biodiversity and Ecosystem, Eutrophication, Hazardous Substances, Offshore Industry, and the Joint Assessment and Monitoring Programme (JAMP).

2.2. The role of the European Commission

The so-called Common Implementation Strategy (CIS), was established at European level to coordinate Member State actions. It was set up in 2001 under the Water Framework Directive (WFD) mainly to (i) develop a common understanding and approaches to improve the status of superficial waters; (ii) elaborate informal technical guidance including best practice examples; (iii) share experiences and resources, and (iv) avoid duplication of efforts [7]. In the MSFD, the CIS comprises several Working Groups: the group on Good Environmental Status (WG GES) assists countries during the definition of GENS; the group on Information Exchange (WG DIKE) supports countries in reporting data, and the working group on Economic and Social Analysis (WG ESA) develops common methodologies and approaches to carry out the socio-economic analysis of the activities affecting marine waters.

The Marine Strategy Coordination Group is responsible to oversee the work of these three Working Groups and to report the information to national Marine Directors. The Marine Directors give inputs to the documents prepared by the Marine Strategy Coordination Group and their role is focused on more political and technical issues that could not be resolved by the coordination group. During their informal meetings, Marine Directors exchange views, build trust and understanding and eventually consolidate the results of the CIS process [6]. During these meetings Member State representatives also discuss how to integrate the work of existing European and international policies, but they cannot amend them, so coordinating different Directorates-General to harmonise different pieces of legislation remains a challenge [4,51]. Moreover, during the first phase of the MSFD, bilateral and trilateral meetings were organised at regional and subregional level, allowing Member States to exchange their knowledge [42]. However, it is not clear to what extent the solutions proposed and discussed during these informal meetings were then considered during the development of national strategies.

3. Lesson learned on coordination during the implementation of relevant policies

Some of the problems facing the MSFD in relation to an effective regional coordination were already identified during the implementation of other European environmental policies. For example, coordination among countries to adopt coherent tools and

¹ There is potential confusion between terms in using GES for Good Ecological Status in the Water Framework Directive and Good Environmental Status in the MSFD – Borja et al. [3] and Mee et al. [27] suggest a change of acronym respectively to GECs and GENs. Although this has not been widely adopted, the terms are used here for clarity.

² <http://www.ospar.org/convention/the-north-east-atlantic>.

³ <http://www.ospar.org/convention>.

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