

# Framework for community action in the field of marine environmental policy. Marine Strategy Framework Directive

2005/0211(COD) - 11/12/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the report by Marie-Noelle LIENEMANN (PES, FR) and made some amendments to the Council's common position on a Framework for Community Action in the field of Marine Environmental Policy (Marine Strategy Framework Directive). The amendments were the result of a compromise between the Council and the Parliament.

**Subject-matter:** the Directive establishes a framework within which Member States shall take the necessary measures to achieve or maintain good environmental status in the marine environment by the year 2020 at the latest. For that purpose, Marine Strategies shall be developed and implemented in order to: protect and preserve the marine environment, prevent its deterioration or, where practicable, restore marine ecosystems in areas where they have been adversely affected; prevent and reduce inputs in the marine environment, with a view to phasing out pollution as defined in Article 3(8), so as to ensure that there are no significant impacts on or risks to marine biodiversity, marine ecosystems, human health or legitimate uses of the sea.

Marine Strategies shall apply an ecosystem-based approach to the management of human activities, ensuring that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations.

**Scope:** The Directive shall apply to all marine waters as defined in the text, and shall take account of the transboundary effects on the quality of the marine environment of third States in the same Marine Region or Sub-Region.

**Definitions:** the definition of marine waters includes coastal waters as defined by Directive 2000/60/EC, their seabed and their subsoil, in so far as particular aspects of the environmental status of the marine environment are not already addressed through that Directive or other Community legislation. The definitions of both "environmental status" and "good environmental status" have been slightly amended, and include references to human-induced environmental change and the effects of noise.

**Marine strategies:** Member States sharing a Marine Region or Sub-Region shall cooperate to ensure that, within each Marine Region or Sub-Region, the measures required to achieve the objectives of this Directive, in particular the different elements of the Marine Strategies referred to in points (a) and (b), are coherent and coordinated across the Marine Region or Sub-Region concerned, in accordance with a prescribed plan of action for which Member States concerned endeavour to follow a common approach. The preparation of marine strategies shall consist of: i) an initial assessment of the current environmental status of the waters concerned and the environmental impact of human activities thereon to be completed 4 years after the entry into force of the Directive ; ii) a determination of good environmental status for the waters concerned ; iii) the establishment of a series of environmental targets and associated indicators ; iv) the establishment and implementation of a monitoring programme for ongoing assessment and regular updating of targets to be completed 6 years after the entry into force.

By 2015 at the latest, a programme of measures must have been established, designed to achieve or maintain good environmental status, with entry into operation of the programme by 2016.

Member States having borders on the same Marine Region or Sub-Region covered by the Directive should, where the status of the sea is so critical as to necessitate urgent action, devise a plan of action which includes an earlier entry into operation of programmes of measures as well as possible stricter protective measures, provided that this does not prevent good environmental status from being achieved or maintained in another Marine Region or Sub-Region.

In preparing initial assessments, Member States shall, by means of the coordination, make every effort to ensure that: assessment methodologies are consistent across the Marine Region or Sub-Region, and transboundary impacts and transboundary features are taken into account.

**Determination of GED:** Member States shall take into account the indicative lists of elements set out in Table 1 of Annex III and, in particular, physical and chemical features, habitat types, biological features and hydro-morphology. Member States shall also take into account the pressures or impacts of human activities in each Marine Region or Sub-Region, having regard to the indicative lists set out in Table 2 of Annex III. The establishment of environmental targets must also take into account these indicative lists.

**Monitoring programmes:** Monitoring programmes shall be compatible within Marine Regions or Sub-Regions and shall be compatible with relevant provisions for assessment and monitoring laid down by Community legislation, including the Habitats and Birds Directives, or under international agreements. Member States sharing a Marine Region or Sub-Region shall draw up monitoring programmes and shall - in the interest of coherence and coordination - endeavour to ensure that: i) monitoring methods are consistent across the Marine Region or Sub-Region so as to facilitate comparability of monitoring results; and ii) relevant transboundary impacts and transboundary features are taken into account.

**Notifications and Commission's assessment:** the Commission shall assess whether, in the case of each Member State, the elements 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. Within six months of receiving all those notifications, the Commission informs Member States concerned whether, in its opinion, the elements notified are consistent with this Directive and provides guidance on any modifications it considers necessary.

**Programme of measures:** the programme must take account of Council Directive 91/271/EEC concerning urban waste-water treatment, Directive 2006/7/EC concerning the management of bathing water quality and the Directive on environmental quality standards in the field of water policy, or international agreements. 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 to pursue its objectives in an integrated manner, Member States may identify or establish administrative frameworks in order to benefit from such interaction. Programmes of measures 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 and the Birds Directive.

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 above mentioned area, 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.

By 2013 at the latest, Member States shall make publicly available, in respect of each Marine Region or Sub-Region, relevant information on the areas referred to above.

They must also 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.

**Exceptions:** Parliament added new paragraphs to this Article. Member States shall develop and implement all the elements of Marine Strategies, but shall not be required, except in respect of the initial assessment, 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 is permanently compromised.

**Public consultation and information:** Member States shall ensure that all interested parties are given early and effective opportunities to participate in the implementation of this Directive, involving, where possible, existing management bodies or structures, including Regional Sea Conventions, Scientific Advisory Bodies and Regional Advisory Councils. Parliament added to the Article that, no later than six months after the data and information resulting from the initial assessment and from the monitoring programmes have become available, such information and data shall also be made available to the European Environment Agency, for the performance of its tasks.

**Commission reports:** a first evaluation report on the implementation of the Directive must be published within two years of receiving all programmes of measures and, in any case, by 2019 at the latest. The Commission will publish further reports every six years thereafter. Four years after entry into force of the Directive, at the latest, the Commission shall publish a report assessing the contribution of this Directive to the implementation of existing obligations, commitments and initiatives of the Member States or the Community at Community or international level in the sphere of environmental protection in marine waters. That report shall be submitted to the European Parliament and to the Council.

**Progress report on protected areas:** on the basis of the information provided by the Member States by 2013, the Commission shall report by 2014 on progress in the establishment of marine protected areas, having regard to existing obligations under applicable Community law and international commitments of the Community and the Member States. The report shall be submitted to the European Parliament and to the Council.

**Community financing:** given the priority inherently attached to the establishment of Marine Strategies, the implementation of this Directive shall be supported by existing Community financial instruments in accordance with applicable rules and conditions. The programmes drawn up by the Member States shall be co-financed by the EU in accordance with existing financial instruments.

**Amendments to Annexes I and III:** Parliament made some amendments to Annex I which covers qualitative Descriptors for determining good environmental status. The first is that biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions. All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity. Human-induced eutrophication is minimised, especially adverse effects thereof, such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters.

With regard to Annex III which covers indicative lists of characteristics, pressures and impacts, Parliament made some amendments to the sections on physical damage and contamination by hazardous substances. It added a section on systematic and/or intentional release of substances.