



Coherent & Cross-compliant Ocean Governance for Delivering the EU Green Deal for European Seas

The importance of Policy Coherence for a better integration of marine protection in Marine Spatial Planning processes

At the first Mission Arena Banos event in Gothenburg in November 2023, we participated in the Workshop ‘Safeguarding Biodiversity: Strengthening Marine Protected Area Networks, policy coherence and community involvement’. There, we spoke about the topic of integrating Marine Protection in Marine Spatial Planning.

Let us share some reflections on this topic!

Ongoing project activities in the North Sea and Baltic area

Our CrossGov project is **zooming in on the role of policy coherence in reaching** Green Deal and Mission Oceans objectives for the marine environment. The ambitions set in climate change, biodiversity and zero pollution need to be implemented so that progress towards one set of policies and objectives does not hinder progress towards others (**cross-compliance**).

The current **policy landscape at the EU and national levels is very fragmented**. Policy coherence is needed for policies, laws, and governance practices to pull towards shared goals in a uniform voice. This requires difficult questions of policy integration between several sectors of marine governance and the blue economy. Marine spatial planning was established at the EU level some 10 years ago to alleviate and overcome these integration challenges, but progress has been slow. It is difficult, for instance, to integrate marine biodiversity consistently into marine spatial planning practices and involved sectors if policy coherence is lacking.

In our project, we are looking into **various phases of the policy cycle**: policy formulation, policy design, and implementation. We have activities that explore the policy landscape at the EU level, national level, and local level, and we combine policy and legal research with empirical research and co-creation, where we work closely with actors and authorities to identify the exact problems and find solutions.

We have **three case study** areas in the North Sea and the Baltic Sea.

In the case studies, we look at the **dynamics between three important EU directives**, namely the Marine Strategy Framework Directive, the Water Framework Directive, and the Maritime Spatial Planning Directive. We study coherence challenges that emerge in implementing these cross-sectoral policy instruments simultaneously and explore opportunities to enhance synergies between them. This relates, for instance, to the framing of the issues to be resolved and the extent to which these strategic plans send coordinated messages to the implementation in different sectors.

The **second set of case studies** investigates the mainstreaming of **key objectives of the Green Deal relating to biodiversity, zero pollution and climate change into** various sectors, such as offshore



wind energy, agriculture, fisheries, and aquaculture. The project seeks to identify effective legal frameworks that steer the mainstreaming of the Green Deal objectives into sectoral policies in a coherent way.

So, policy coherence between important directives and the integration of biodiversity in marine spatial planning is at the heart of our project.

Why is policy coherence important?

- ❖ **Policy coherence can help make marine spatial planning a more ecosystem-based process, whereby alignment of policies, laws, and institutional arrangements can facilitate coordination between neighbouring countries and regional approaches.**

The current Maritime Spatial Planning Directive (2014/89/EU) is process-oriented. It does, for example, require the designation of competent authorities and the establishment of marine spatial plans. It does not provide substantive requirements that will ensure biodiversity protection.

How do we ensure a proper balance between all activities and marine protection? In principle, marine spatial planning is a promising mechanism that can ensure a good balance between the use and protection of our oceans. Several countries are successful in finding this balance, but many others are not. In many member states, the **lack of substantive requirements and recognition of existing environmental legal obligations in marine spatial plans** is both deteriorating commitment and trust toward marine spatial plans across sectoral state and regional authorities as well as businesses and civil society.

The Maritime Spatial Planning Directive leaves **considerable discretion to the Member States** on how to design their marine spatial plans and ensure good integration of marine protection into the blue economy and other sectoral policies. The result is a **wide variety of marine spatial planning practices** in different countries, making it difficult to apply more regional and ecosystem-based approaches to marine spatial planning.

Policy coherence is needed to ensure that marine spatial planning is ecosystem-based. This means, amongst other things, that the planning of activities is based on the ecosystem's geographical scope and taking the ecosystem's resilience and functionality as the starting point for the planning of all your activities. Also, plans need to consider the legally binding marine environmental and biodiversity requirements – as well as other marine interests enjoying legal protection – as a substantive starting point for drafting marine spatial plans. Close coordination with neighbouring countries is necessary, but currently far too weak to facilitate regional marine spatial planning processes. To improve this, a considerable degree of policy coherence and harmonisation is necessary to make such alignment possible. To facilitate this, there is a need to ensure the alignment of EU and member state laws, policies, institutions, mechanisms, and stakeholder involvement processes.

- ❖ **Policy coherence can help make marine spatial planning processes more aligned with other plans and programs required by the EU, such as the Water Framework Directive, Marine Strategy Framework Directive, and more.**

Several EU directives, such as the Water Framework Directive, Marine Strategy Framework Directive, and others, play an important role in the protection of biodiversity. At the same time, the **implementation of these directives may not be aligned, and potential synergies may be missed**

out on. As mentioned previously, it is crucial for effective marine spatial plans that the substantive legal requirements established outside the marine spatial planning context are taken as a starting point for co-locating the different activities.

The Marine Strategy Framework Directive, the Water Framework Directive and the Maritime Spatial Planning Directive are instruments that use **strategic planning to coordinate across sectors**. The connection between the strategic plans and the implementation in the sectors is therefore crucial. Incoherence between such plans may give different signals to the sectors and larger leeway for their individual interpretation of how they should act.

❖ **Policy coherence can help mainstream biodiversity considerations more systematically across sectors and countries.**

The proper protection of biodiversity depends on **strong and effective protection-oriented policies** and laws. The Marine Strategy Framework Directive plays an important role. The connection between marine spatial planning and the **Marine Strategy Framework Directive** is also not always clear. Marine protection is not only ensured by the Marine Strategy Framework Directive, but biodiversity-related values and aspects have to be mainstreamed within all sectors (and their legislation) with activities affecting our European oceans. One way to look at this is that the Marine Strategy Framework Directive, the Water Framework Directive, the Habitats and Birds Directives, and the forthcoming Nature Restoration Law form the substantive requirements that need to be integrated into marine spatial plans at the outset. Other uses of space – particularly those enjoying weaker legal protection and that can be located outside the ecologically valuable areas – should be allocated space where their impact on the marine environment is the most limited.

The policy landscape is extremely fragmented, **many other policies and laws affect to what extent marine biodiversity is integrated into MSP processes.**

Depending on the national regulatory approach, this balancing between marine protection and the use of the oceans is sometimes an exercise that takes place based on specific requirements in sector legislation and, therefore, often leads to practices that are different from one sector to the other. Even though they aim to comply with biodiversity-related legislation, practices may be inconsistent across sectors, and alignment is difficult.

A good and systematic integration of marine protection in MSP processes is crucial but not easy. Even when all stakeholders have nature and biodiversity high on their personal agendas, they may be constrained by their own regulatory context, governance set-ups, legal mandates, and political interests, and perhaps even trapped in path dependencies and other institutional barriers. It is key not to start on a blank slate but by first locating the legally protected uses of the sea, and then develop economic interests, such as aquaculture, around these.

To sum up, at an EU level, biodiversity is protected through the Marine Strategy Framework Directive, the Habitats and Birds Directives, and the forthcoming Nature Restoration Law. Yet **practices across sectors are different, and mainstreaming biodiversity is not done as coherently and effectively as it should to ensure that marine protection and marine spatial planning go hand in hand.**

What is needed to better integrate biodiversity in Marine Spatial Planning processes?

- Better and more effective integration of the **Maritime Spatial Planning Directive** with other relevant directives, particularly the Marine Strategy Framework Directive.
- A **revision of the Maritime Spatial Planning Directive** to include substantive legal requirements focusing on marine protection.
- **Strong MSP plans** that are substantively binding for all sectoral policymakers and decision-makers, and that include a set of protection-related requirements that apply to all sectors coherently.
- The development of **regional transboundary MSP plans**. Coordination is crucial in regional seas to ensure that biodiversity is equally well protected and integrated in all sectors and boundaries.
- **Invest in research towards multi-use and nature-inclusive design**, and revise legislation so that there are no regulatory barriers to the implementation of nature-inclusive design in various sectors, not only on the technical and engineering side, but also regulatory aspects.
- More research on the **role of policy coherence** and how to make laws and policies, governance arrangements, institutional set-ups, and practices more coherent to serve both marine protection and systematic spatial planning that benefits nature.

What do we do in CrossGov?

In our CrossGov project, we explore **opportunities to align** various EU legal mechanisms at the national level. These include Marine Spatial Plans, Marine Strategies under the Marine Strategy Framework Directive and Program of Measures required pursuant to the Water Framework Directive. We explore the potential of aligning the protection of biodiversity better through such mechanisms. Furthermore, we investigate several sectors to understand the policy-related challenges member states face when protecting biodiversity and to understand obstacles to **mainstreaming biodiversity** considerations into various sectors.

Froukje Maria Platjouw, Niko Soininen, Saskia Trubbach, Gunnar Sander, Jonas Kyrönviita, **The importance of Policy Coherence for a better integration of marine protection in Marine Spatial Planning processes**, CrossGov Blog Post November 2023

Contact: crossgov@niva.no