



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



**Policy Brief 2
September 2024**

Coherence in Policy Landscapes and Design



Funded by the European Union under the Grant Agreement Grant agreement ID 101060958. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.

Coherence in Policy Landscapes and Design

European seas are busier than ever, with multiple maritime sectors competing for limited space and resources. Economic activities are creating severe pressures on marine ecosystems, leading to environmental degradation through pollution, overexploitation, habitat destruction, and climate change. In 2019, the European Commission launched the European Green Deal (EGD) as a response to the urgent climate and environmental-related challenges. At the same time, the response has to ensure just and inclusive solutions that protect the health and well-being of its citizens and set the EU on a path of sustainable and inclusive growth. The EGD identifies three interrelated challenges – climate change, biodiversity loss, and pollution – all of equal importance. To tackle these challenges, better implementation and compliance, higher levels of protection and better coherence and coordination are needed in the policy landscape. For the marine domain, the Water Framework Directive (WFD), the Marine Strategy Framework Directive (MSFD) and the Maritime Spatial Planning Directive (MSPD) are key directives important to all three challenges.

These directives are complemented by environmental and sector policies connected to specific challenges (see Figure 1). This policy brief provides recommendations on improving the horizontal coherence between EU policies that are instrumental in reaching the EGD objectives in the marine domain.

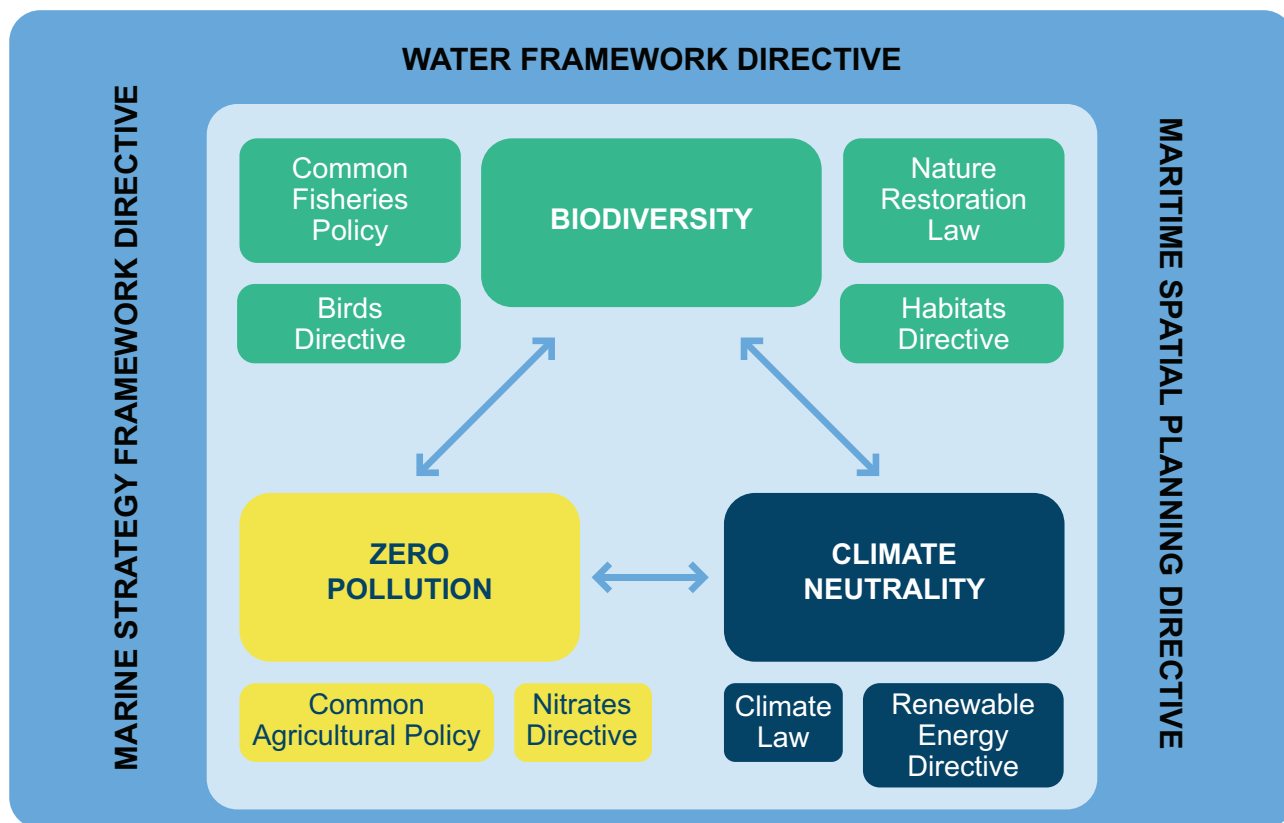


Figure 1 The European Green Deal's interrelated challenges and the main policies connected to them in the marine domain.

General policy recommendations

In the analysis of the horizontal coherence of policies in the marine domain, obstacles and/or risks were identified both at a general level and at the level of specific issues. Policy coherence refers to how well policies reinforce each other by promoting synergies or reducing conflicts between their objectives and instruments, and measures both design and implementation. Coherence is important to avoid excessive burdens, overlaps, gaps, inconsistencies, implementation problems and obsolete measures that can hinder the achievement of established EGD objectives.

There are several policy design issues that are expected to be obstacles in the pursuit of reaching established EGD objectives. In general, better attention needs to be paid to the commonalities between different EU legislation instead of focusing on one directive at a time.

A way forward for the Commission would be to produce **updated guidance** on the interlinkages of objectives in different policies and **guidance on consistent application of exemptions**. For Member States, maritime spatial planning can potentially be used as a neutral tool for transposition and implementation. Currently, it is used as a tool mainly for economic uses of the sea, but a more balanced approach would include further consideration of the protection of the seas. Below, specific issues are addressed, and recommendations are made for improving policy coherence and overcoming incoherences in policy implementation.

Specific policy recommendations

1 Stronger steering from the Commission towards more effective and coherent implementation of fragmented legislation on marine biodiversity protection

EU legislation on protecting and restoring marine biodiversity has long been neither wide in coverage nor strong in terms of level of protection. The MSFD has an important role in closing the gaps left by the Birds Directive (BD), the Habitats Directive (HD) and the WFD in terms of marine nature by establishing more Marine Protected Areas (MPAs). Further crucial action is **stepping up the enforcement of the MSFD. The Commission must use enforcement action on substantive legal aspects of the Directive and intervene more firmly on the excessive use of exemptions for both MSFD and WFD**. The newly adopted Nature Restoration Law aims to strengthen the enforceability of protection and restoration requirements, and the Commission should keep a close eye on its implementation and start early on with strategic enforcement actions. Yet, understanding that protection and restoration cannot be achieved with environmental legislation alone, there is a need to strongly integrate environmental policies with sectoral policies to mitigate pressures on marine biodiversity.

2 Continued effort is needed to strengthen the effect of EU legislation on mitigating agricultural nutrient pollution, including enforcement action

The overall ambition of the zero-pollution objective is to create a toxic-free environment to protect human health and the environment by reducing all forms of pollution. The major challenge for achieving this objective is the continued lack of effectiveness and capacity to steer Member States in taking action to reduce nutrient pollution from agriculture. To address this issue, the EU legislation provides a rather comprehensive regime for nitrogen but entails a huge gap for phosphorus. **Action is needed to address phosphorus pollution, assessing whether implementing the Nitrate Directive (ND) more forcefully would provide sufficient co-benefits to reduce phosphorus pollution or whether specific legislation on phosphorus is needed under the Farm to Fork Strategy.** Regarding nitrogen, the EU's comprehensive legislation is still marred by issues of effectiveness and lack of enforcement. **The Commission should follow up on the ND enforcement, beginning with insufficient measures taken by Member States, and take decisive action on the WFD and the MSFD.**

3 More support for the establishment of protected areas and ensuring their effectiveness

Despite increased focus on environmental protection, the Common Fisheries Policy (CFP) still impedes the Member States' ability to meet environmental obligations. Article 11 of the CFP is intended to provide a tool for the Member States to enact conservation measures necessary for the effectiveness of MPAs. As a key pressure, appropriate measures on fishing are crucial to allow for sufficient protection of these areas. However, so far, the CFP only enables Member States to enforce these measures on vessels flying the Member States' flags. For a Member State to extend such measures to all EU vessels, a procedure must be initiated that involves both the Commission and other Member States which have a direct management interest in the fishery affected by such measures. So far, Member States have not sought to use the tool as it is complicated, a lengthy process, and often deemed to lead to weak restrictions.

As there is no obligation for the Member States to issue a joint recommendation to the Commission – nor is there an obligation for the Commission to follow one – it has led to the ineffectiveness of MPAs in practice and a significant risk of not achieving set target according to the EGD. The Action Plan launched in 2023 is intended to result in increased conservation measures, but more actions are warranted. Beyond producing updated guidance on the interlinkages of objectives between the CFP, MSFD and the nature directives, the **Commission should be more involved in the process of shaping such joint recommendations with the aim of avoiding rejection without risking weak restrictions.**

Even with established MPAs, fisheries practices pose a major threat to the effectiveness of MPA protection, and they cause an overall pressure on marine biodiversity due to unsustainable levels of fishing. Improving the acquirement of relevant and reliable data is essential for decision-making. **Further, the role of data in decisions on fishing opportunities must be strengthened** to ensure that levels of fishing known to threaten marine biodiversity are not allowed to continue.

4 Application of the Polluter Pays Principle through a result-based approach in the implementation of CAP

Tackling diffuse pollution from agriculture remains a key challenge for governments seeking to implement the WFD. Such implementation has been significantly delayed due to insufficient integration of environmental objectives in the CAP, including a clear linkage of its objectives to the WFD. While the CAP includes eco-schemes and agri-environment-climate measures to promote sustainable agriculture, the allocation and results of these will vary greatly across Member States. CAP funds are currently more likely to contribute to increased nutrient pollution and are used to circumvent the Polluter Pays Principle. For this reason, the **Commission should restrain CAP funds from being used to finance what should be paid by the polluter**. Policy implementation should shift focus from paying for management practices to paying for performance in reducing nutrient loading. **It would be recommended to demand increased use of result-based approaches, especially in areas where water bodies are failing to achieve good status due to nutrient loading**. The adoption of a result-based approach would further encourage the development and promotion of new efficient technology and improve knowledge on factors affecting loading.

5 Strengthening the role of the MSFD in offshore wind power development

Offshore wind power has great potential to contribute to climate change mitigation and is an important part of the EGD strategy to reach the 2030 and 2050 climate goals through the implementation of the Renewable Energy Directive (RED III). However, several key challenges are essential to be considered in the development of offshore wind power, including its effect on marine biodiversity, an important parameter in achieving Good Environmental Status according to the MSFD. Offshore wind power poses a potential threat to biodiversity as there is still only limited scientific knowledge concerning sea-floor integrity and the impacts of underwater noise and magnetism. There are, however, no sufficient linkages between MSFD and RED III instruments, which – propounded by the unclear legal bindingness of the MSFD objectives – is likely to result in an implementation pathway of marine renewable energy under RED III that does not carefully consider its impact on marine biodiversity. **A possible way forward is to use maritime spatial planning to establish ‘go to’ and ‘no go’ areas for wind power and to conduct biophysical impact assessments to match these designations**. The full functionality of such a system would require maritime spatial plans to be legally binding with the capacity to integrate sectoral (energy, biodiversity) interests and with legal force to steer energy development away from biodiversity hot spots. Moreover, it would require making the Good Environmental Status objective of the MSFD legally binding.

Conclusion

To meet the objectives of the European Green Deal, the European Commission must strengthen coherence between environmental and sectoral policies, especially through better enforcement and integration of directives such as the MSFD, WFD, CAP and CFP. This will be essential for protecting marine biodiversity, reducing pollution, and fostering sustainable growth. By focusing on strategic enforcement, aligning sectoral policies, and promoting result-based approaches, the EU can advance toward its 2030 and 2050 goals.

Glossary

Policy coherence refers to how well different policies work together. Coherence can be defined as the extent to which policies reinforce each other by promoting synergies or reducing conflicts between their objectives and measures both in design and implementation.

Cross-compliance refers to the concurrent achievement/realisation of multiple Green Deal policies and their associated goals and targets.

Policy refers to a set of objectives, rules and measures that provide guidance for solving a particular societal issue. In CrossGov, policy encompasses substantive documents such as white papers and strategies as well as specific laws and regulations or directives.

Policy area refers to a substantive policy cluster that has formed around societal or sectoral interests. Often, a cluster is managed by specialized institutions and subject to sector-specific path dependencies.

Policy landscape, in CrossGov, refers to the set of policy clusters and their associated policies that directly and indirectly affect the oceans.

The policy brief is based on the findings in the report [Horizontal coherence in EU law and policy: Analysing, explaining and improving the horizontal coherence of EU policy design](#), a comprehensive analysis of EU policies affecting the EGD objectives in the marine domain verified by stakeholder interviews with actors from relevant Directorates-General. The report is a result of the [CrossGov project](#) which aims to enhance knowledge on how coherence and cross-compliance of marine related policies and legislation affect the ability to realise the EU Green Deal's goals for the protection of marine ecosystems and biodiversity, zero pollution and nature-based climate adaptation and mitigation.

Reference:

Jonas Kyrönviita, Suvi-Tuuli Puharinen, Niko Soininen, Froukje Maria Platjouw, Cristian Passarello, Ben Boteler, Laura Friedrich, Gunnar Sander and Paulina Ramirez-Monsalve. **Coherence in policy landscapes and design**, CrossGov Policy Brief 2, September 2024.

Contact info: jonas.kyronviita@uef.fi



FIND OUT MORE
www.crossgov.eu



FOLLOW US