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# Technical Paper on Public Participation and Marine and Coastal Policies

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Version: 4

Date: 03 February 2014

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The views expressed in this document are those expressed by the Author and are not in any way the views of the EU Commission.

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# 1 Introduction

Transparency and openness are key principles for successful policy development and the decision-making process. As a result, public participation is one of the core elements laid down in an increasing number of EC Directives and legal acts that address the development of plans and strategies. To achieve the desired policy objectives and targets, those parties whose interests may be affected, or have a role to play, should take part in the planning and implementation phase of the policies.

EU marine, coastal and water policies have similar overall environmental objectives: to achieve or maintain good status in the marine environment and to ensure the sustainable use of marine and freshwater resources. Member States are required to develop plans or programmes at appropriate scales, over given time periods, and then ensure their effective implementation. Due to the iterative evolution of policies and legislation, the planning documents produced by this process may overlap in terms of geographical boundaries and issues addressed. To use allocated planning resources efficiently and to avoid stakeholder fatigue in the participation process, cooperation and coordination of activities, where possible, is important.

Since the adoption of the Marine Strategy Framework Directive (MSFD) in 2008, Member States have already implemented the first tasks for public participation when developing Marine Strategies. The lessons learned and future challenges have been identified in related literature. Experience from the Integrated Coastal Zone Management (ICZM) initiatives and the first cycle of the River Basin Management Planning (RBMP) provide many good examples of public participation and stakeholder involvement, which might be of value in facilitating public participation activities in other areas of marine policy, such as maritime spatial planning.

The aim of this technical paper is to help Member States understand the requirements connected to public participation laid down in the MSFD Directive and their relation to other EU marine and coastal policies. The paper will help Member States to better comprehend the key aspects to be considered when developing what is required to deliver a range of EU Directives and policies, as well as clarify the links between the public participation requirements of EU legislation such as the MSFD, the Water Framework Directive (WFD), the Strategic Environmental Assessment Directive (SEA) and the 2014 Maritime Spatial Planning Directive (MSP). Although primarily targeted at Member States' competent authorities, this document can also help stakeholders understand the potential for their involvement.

## 2 Scene setter - what is the issue about?

The objectives of marine and coastal policies are defined in a few key EU strategic documents and legislative acts. The EU strives for high environmental protection, such as achieving Good Ecological Status of surface freshwaters and Good Environmental Status in coastal and marine waters. At the same time, its Blue Growth strategy promotes the sustainable growth of maritime economies, the development of marine areas and the use of marine resources. Although both environmental and maritime policies emphasise the importance of the sustainability principle, it can be challenging to implement this in practice. Public participation and stakeholder involvement can help competent authorities to properly execute the setting of priorities and the balancing of ecological, economic and social objectives.

However, public participation in general is a process for which no blueprint exists although some basic principles are useful to bear in mind. It needs to be tailor-made for the process at hand and designed according to the local needs with the available means and tools. Several guidelines<sup>1</sup> exist on how to execute public participation in environmental policy-making.

Effective public participation in decision-making enables the interested parties to express, and the decision-maker to take account of, opinions and concerns that may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken (Directive 2003/35/EC, preamble 3).

According to Agenda 21 (United Nations, 1993<sup>2</sup>), planning processes become more effective when a participative approach is employed, which evolves gradually, so that affected groups can thoroughly discuss the gains and losses when reconciling environmental and developmental needs.

After having contributed to a decision, stakeholders will also adopt a sense of ownership for it and thus show a stronger personal commitment in its implementation. Finally, it is claimed that participation can reduce conflict<sup>3</sup>.

To design an appropriate public participation process, a competent authority or any other relevant institution needs to build a framework by answering at least the following key questions:

- **Who** shall participate?
- **What** are the key tasks and requirements to ensure participation?
- **When** should the public take part?
- **How** should public participation be organised?

Table 2.1 presents the key terms defined in EU legislation or associated guidance documents. It is recommended to consider them for outlining the public participation process in accordance with the specifications of relevant policies and Directives.

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<sup>1</sup> The Guidance Document no 8 to the Water Framework Directive on public participation is a good example for such guidelines. Furthermore, the UNESCO IOC has issued a guideline on marine spatial planning, in which stakeholder participation is mentioned as an essential step to maritime spatial planning (UNESCO-IOC 2009).

<sup>2</sup> United Nations (1993): Agenda 21: The United Nations Programme of Action from Rio.

<sup>3</sup> See: Beierle and Koninsky, 2000; Weber, 2000; Warner, 2006.

**Table 2.1** Key terms and definitions on public participation relevant for marine and coastal policies.

Term	Definition	Reference
Public	one or more <b>natural</b> or <b>legal</b> persons and, in accordance with national legislation or practice, their associations, organisations or groups.	Aarhus Convention <sup>4</sup> ; SEA Directive 2001/42/EC <sup>5</sup> , Public Participation Directive 2003/35/EC <sup>6</sup>
General public	Synonymous with public.	EC WFD guidance doc no 8, p 21
Public concerned	the public <b>affected</b> or likely to be affected by, or having an <b>interest</b> in the environmental decision-making, including relevant non-governmental organisations, such as those promoting <b>environmental</b> protection and <b>other organisations</b> concerned.	SEA Directive 2001/42/EC)
	the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting <b>environmental</b> protection and meeting any requirements under national law shall be deemed to have an interest.	Aarhus Convention; Public Participation Directive 2003/35/EC
Interested parties	any person, group or organisation with an interest or “stake” in an issue either because they will be affected or may have some influence on its outcome.”	EC WFD guidance doc no 8, p15
Stakeholders	Synonymous with interested party.	EC WFD guidance doc no 8, p15
Public Authority	In the light of public participation, the term can refer to a "(a) Government at national, regional and other level; (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;(c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs (a) or (b) above.	Public Participation Directive 2003/35/EC, Article 2: definitions
Public Participation	Public participation can generally be defined as allowing people to influence the outcome of plans and working processes.	EC WFD guidance doc no 8, p12
Information supply	“Informing citizens of their rights, responsibilities, and options can be the most important first step toward	Arnstein 1969 and UNESCO-IOC 2009, p47

<sup>4</sup> United Nations Economic Commission for Europe (1998): Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus Denmark. <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

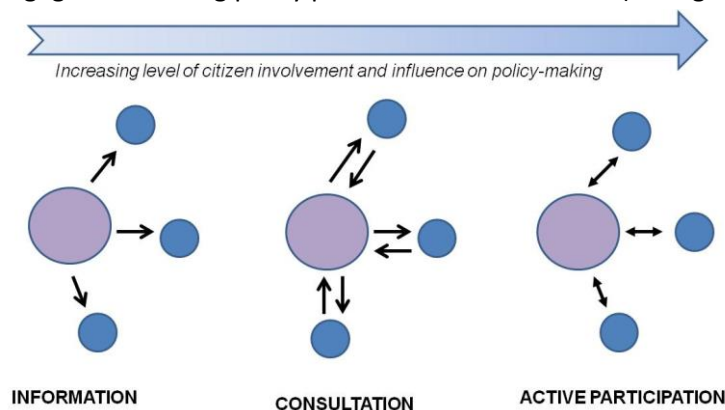
<sup>5</sup> Council Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment

<sup>6</sup> Council Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.

	legitimate citizen participation.” (Arnstein, 1969). In the context of public participation, information is typically seen as a one-way process in which responsible authorities “keep a target audience informed about their intentions, decisions and attempts to provide a basis of understanding, but don’t expect any particular reaction” (UNESCO-IOC guidelines).	
Consultation	Administrative bodies consult people and interested parties (stakeholders) to learn from their knowledge, perceptions, experiences and ideas. Consultation is used to gather information or opinions from those involved to develop solutions based on this knowledge. Reports, scenarios or plans are presented and people are asked to comment. The process does not concede any share in decision-making, and competent authorities are under no formal obligation to take on board people's views.	EC WFD guidance doc no 8, p12
Active Involvement	[Active involvement] ..."implies that stakeholders are invited to contribute actively to the process and thus play a role in advising the competent authorities".	EC WFD guidance doc no 8, p26

In scientific literature a number of different classifications of stakeholder participation exist, most of which draw on a classification developed by Arnstein in 1969<sup>7</sup> - the so-called “ladder of participation”. Arnstein described a continuum of increasing stakeholder involvement, from the passive dissemination of information (which she called “manipulation”) to active engagement (“citizen control”).

In order to evaluate public participation in OECD countries an analytical framework was introduced and applied in the beginning of the 2000s.<sup>8</sup> It defined information, consultation and active participation in terms of the nature and direction of the relationship between government and citizens. Here, information is considered as one-way relationship in which the government provides information to the public. Consultation is a two way relationship in which public provides feedback to the government, while active participation is a relation based on partnership with the government in which the public is engaged in defining policy process and its outcomes (see figure 2.1.).

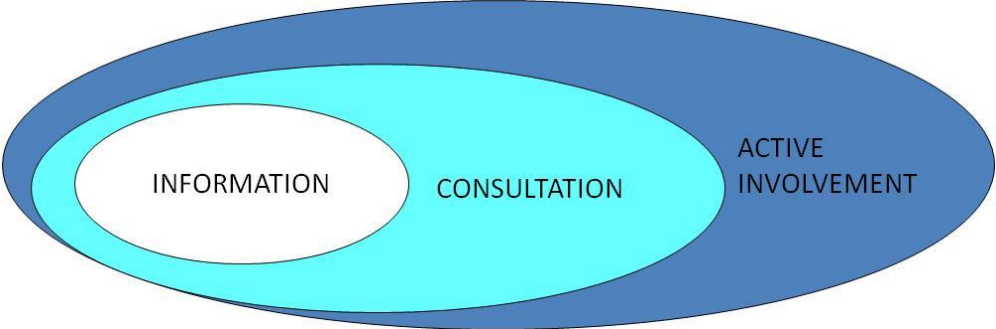


**Figure 2.1.** Three levels of public- government relationships (OECD, 2001).

<sup>7</sup> Arnstein, Sherry R. (1969): "A Ladder of Citizen Participation" JAIP, Vol.35, No. 4, pp. 216 -224

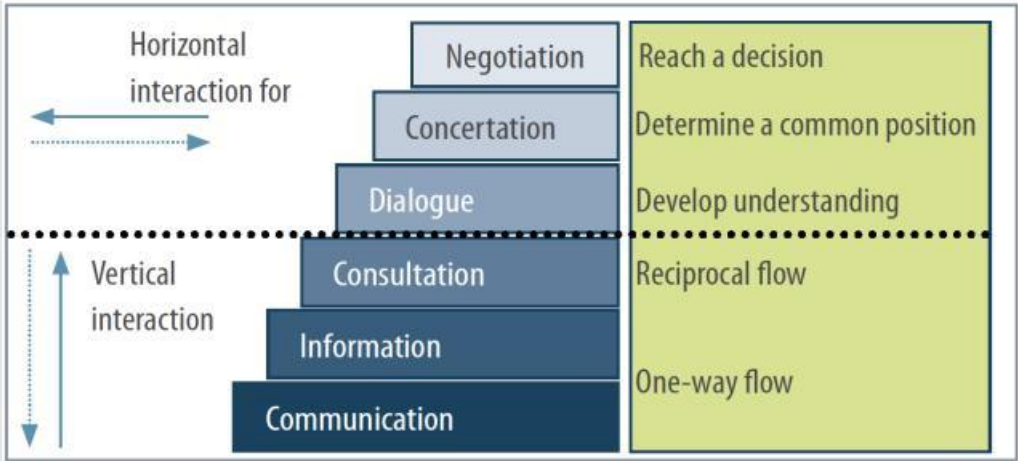
<sup>8</sup> OECD (2001): Citizens as Partners. Information, Consultation and Public Participation in Policy-Making. 268p.

The WFD Guidance on Public participation<sup>9</sup> has created a “common understanding” of terminology, presented ways on how to implement public participation in the different steps of the planning and management process and has suggested which tools and techniques to apply to achieve public participation goals. The WFD Guidance outlines the three forms of public participation with an increasing level of involvement: *information supply*, *consultation* and *active involvement* (see figure 2.2.); the given definitions are also included the Table 2.1.



**Figure 2.2.** Three levels of public participation as presented in the Guidance No 8 on the Public Participation in Relation to the Water Framework Directive.

The UNESCO-IOC guide on the step by step approach for maritime spatial planning distinguishes six levels of participation, ranging from communication to negotiation (see figure 2.3). The scheme is developed to support the structuring of involvement by stakeholders in developing maritime spatial plans. However, the level of stakeholder involvement will largely depend on the political or legal requirements for participation that already exist in the respective country.



**Figure 2.3.** Different types of stakeholder participation (source: UNESCO-IOC (2009), adapted from Bouamrame (2006).

In practice, however, many mixed forms from the above-presented different levels, or steps, may exist. Requirements for both information and consultation have been incorporated into international

<sup>9</sup> The Guidance Document no 8 to the Water Framework Directive on public participation is a good example for such guidelines. Furthermore, the UNESCO IOC has issued a guideline on marine spatial planning, in which stakeholder participation is mentioned as an essential step to maritime spatial planning (UNESCO-IOC 2009).



law through the Aarhus Convention (UNECE, 1998), which entered into force in 2001, and nowadays has become a requirement for policy making in democracies around the world.

A number of factors exist that are crucial for the success of stakeholder participation:

- A timely involvement of stakeholders, ideally from the beginning of the process
- The selection of the group of stakeholders to involve in the process, which should be well balanced, reflecting the social/cultural, economic and ecological interests in the management area
- Transparency of the public participation process
- Management of expectations of all involved
- A feed-back-mechanism informing stakeholders on which inputs were taken up in the final plan, which were not, and why.

However as the IOC guideline states, " involving too many stakeholders at the wrong moment or in the wrong form can be very time consuming and can distract you from the expected or anticipated result" (UNESCO-IOC 2009, p.43), which is why participation processes should always be tailor-made to the decision-making process to which they are intended to contribute.

For the benefit of the results it can, however, be wise to look further than minimum legal requirements for public participation.

In the subsequent chapters, an overview is given of which provisions for public participation are incorporated into European marine and coastal policies.

### 3 EU policies

Policy makers have widely recognized the prominence of public participation. The Rio Declaration on Environment and Development (1992) states that “environmental issues are best handled with the participation of all concerned citizens at the relevant level”.<sup>10</sup> In 1998 the Aarhus Convention<sup>11</sup> defined access to information, public participation in decision-making and access to justice in environmental matters at the level of the United Nations Economic Commission for Europe (UNECE). The EU has introduced the principle of public participation in a wide range of policy areas, reflecting the various types of stakeholder participation, though mostly focusing on the forms of information and consultation. In particular, in environmental decision-making, information and consultation have become an integral part of the decision-making process. The main pieces of EU environmental legislation with public participation requirements are presented in the short overview table below.

**Table 3.1.** Overview of the main EU environmental legislation in the context of public participation

General environmental Directives	Water, marine and coastal policy legislation
Strategic Environmental Assessment of plans and programmes (SEA) – Directive 2001/42/EC	Water Framework Directive - WFD 2000/60/EC <sup>12</sup>
Access to environmental information – Directive 2003/4/EC	ICZM Recommendations 2002/413/EC <sup>13</sup>
Public participation concerning plans and programmes - Directive 2003/35/EC	Floods Directive – FD 2007/60/EC <sup>14</sup>
	Marine Strategy Framework Directive - MSFD 2008/56/EC <sup>15</sup>
	Marine Spatial Planning Directive – MSP Directive 2014/89/EU <sup>16</sup>

#### 3.1 Environment

The **UNECE**<sup>17</sup> Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, better known as the “Aarhus Convention”, was adopted on 25th June 1998<sup>18</sup>. The public participation requirements include different provisions to guarantee that the public concerned receives timely and effective notification as well as reasonable timeframes

<sup>10</sup> Hophmayer-Tokich, S. (n.d.): Public Participation under the EU Water Framework Directive – processes and possible outcomes, University of Twente, Druifstreek. Available at:

[http://www.utwente.nl/bms/cstm/reports/downloads/PP\\_and\\_the\\_WFD.pdf](http://www.utwente.nl/bms/cstm/reports/downloads/PP_and_the_WFD.pdf).

<sup>11</sup> <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention.html>

<sup>12</sup> Council Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

<sup>13</sup> Council Recommendation of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe (2002/413/EC).

<sup>14</sup> Council Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks.

<sup>15</sup> Council Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).

<sup>16</sup> Council Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning.

<sup>17</sup> <http://www.unece.org/env/pp/contentpp.html>

<sup>18</sup> The EU is a party to the Convention since May 2005 (Decision 2005/30/EC).

for participation. This includes the provision for participation at an early stage; the right to inspect information that is relevant to decision-making free of charge; the obligation to take due account of the outcome of the public participation and to promptly make the decision including its text; and to have the reasons and considerations on which it is based publicly accessible. According to the Convention<sup>19</sup>, “the 'public concerned' is the public affected or likely to be affected by, or having an interest in, the environmental decision-making'. It explicitly includes NGOs promoting environmental protection and meeting any requirements under national law. Article 6 of the Convention establishes minimum requirements for public participation in different categories of environmental decision-making listed in Annex I to the Convention. EC Regulation 1367/2006 applies the provisions of the Convention to Community institutions and bodies.

The principles of the Aarhus Convention have been integrated in the EU legal order through a number of legal and policy instruments. There are several provisions for public participation in environmental decision-making set out in a number of Directives. Directive 2003/35/EC sets out public participation requirements for the drawing up of plans and programmes relating to the environment, for the environmental impact assessments to be prepared before providing development consent to projects and for the issuance of environmental permits. Directive 2003/4/EC<sup>20</sup> was adopted with the aim of guaranteeing the right of access to environmental information held by or for public authorities. It sets out the basic terms and conditions of, and practical arrangements for, its application, and ensures that, as a matter of course, environmental information is progressively made available and disseminated to the public to achieve the widest possible systematic availability and dissemination of environmental information.

Directive 2001/42/EC, (known as 'Strategic Environmental Assessment' – SEA Directive) requires that the strategic environmental assessments of plans and programmes likely to have significant effects on the environment occur in consultation with the public. The SEA Directive aims to provide the protection of the environment and to contribute to the integration of environmental considerations into the planning of plans and programmes with a view to reduce their environmental impact. They ensure public participation in decision-making and thereby strengthen the quality of decisions.

The EU Water Framework Directive places public participation (PP) at the central stage of water management as part of its integrated approach to water management<sup>21,22</sup>. While the Directive provides a strong stimulus for public participation and develops minimum requirements, the actual procedure is left to the Member States. This provides Member States with a margin of discretion for detailed implementation and thus there are significant differences on the extent of public participation among the Member States. The EU Water Directors developed a WFD Guidance

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<sup>20</sup> Council Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

<sup>21</sup> Hophmayer-Tokich, S. (n.d.): Public Participation under the EU Water Framework Directive – processes and possible outcomes, University of Twente, Druifstreek.

<sup>22</sup> The WFD calls for PP and notes that “the success of the Directive relies on close cooperation and coherent action at community, Member state and local level as well as on information, consultation and involvement of the public, including users”. It refers to the involvement of both the ‘general public’ and ‘interested parties’ (more commonly referred to as ‘stakeholders’).

Document<sup>23</sup> with a view to achieve a common understanding about public participation in the framework of the WFD. Public participation is defined as a “means of improving decision-making, to create awareness of environmental issues and to help increase acceptance and commitment towards intended plans” and the Guidance gives specific help on how to implement public participation in the different steps of the management process. The related Floods Directive (FD) also requires Member States to carry out information and consultation with the public. The active involvement of all interested parties should be coordinated, as appropriate, in the river basin management planning according to the WFD.

The implementation of the Marine Strategy Framework Directive requires the participation of interested parties as one of its key requirements and emphasises the requirement for the wider public to be kept abreast of relevant information and consulted as action is taken<sup>24</sup>.

The MSFD has two different phases of public consultation (or participation). The initial assessment and in particular the establishment of GES and the setting of environmental targets was fundamental to the Directive, setting the level of ambition for the Directive’s implementation.

Within Integrated Coastal Zone Management, public participation is one of the three fundamental pillars, together with the vertical and horizontal integration of policies and actions. Public participation in the context of the ICZM aims to guarantee an efficient flow of information between the different levels of administration (e.g. local, regional and national)<sup>25</sup>.

## 3.2 Maritime economy

The EU's Integrated Maritime Policy (IMP)<sup>26</sup> and its corresponding action plan provide a framework for coordinating the development of sea-based activities within an ecosystem-based approach. The MSFD is the environmental pillar of the IMP and its objectives are to promote cross-sectoral cooperation platforms and networks, including representatives of public authorities, regional and local authorities, industry, research stakeholders, citizens, civil society organisations and the social partners. A further objective was to enhance the visibility of an integrated approach to maritime affairs and raise the awareness of public authorities, the private sector and the general public.

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<sup>23</sup> Common Implementation Strategy for the Water Framework Directive (2003): Guidance Document No. 8, Public participation in relation to the Water Framework Directive.

<sup>24</sup> Article 19(1) of the Directive provides, ‘... Member States shall ensure that all interested parties are given early and effective opportunities to participate in the implementation of this Directive’. In addition, the Directive 2003/4/EC on public access to environmental information also applies.

<sup>25</sup> Pickaver, A. and Ferreira, M. (2008): Implementing ICZM at sub-national local level—recommendations on best practice, EUC the Coastal Union. Available at: [http://corepoint.ucc.ie/FinalDeliverables/Publications/BestPracticein\\_ICZM/Implementing%20ICZM%20at%20sub-national%20local%20level.pdf](http://corepoint.ucc.ie/FinalDeliverables/Publications/BestPracticein_ICZM/Implementing%20ICZM%20at%20sub-national%20local%20level.pdf)

<sup>26</sup> European Commission (2007): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Conclusions from the Consultation on a European Maritime Policy, COM(2007) 575.

- Blue Growth

In 2012 the Commission adopted a Blue Growth Strategy<sup>27</sup> aiming to support sustainable growth in the maritime sectors. The Blue Growth Strategy is not a legislative instrument, but it identifies five specific areas where targeted action could provide an additional stimulus for **blue economy** development: energy; aquaculture; maritime, coastal and cruise tourism; marine mineral resources; and blue biotechnology. Additionally, it outlines guidelines and principles that should be assimilated into relevant EU legislation and policies for these subjects and calls for joint efforts from national and regional authorities, business and civil society on horizontal issues such as financing, research, as well as campaigns on education and training in the areas concerned. In each of these areas, the assessment of options for development includes consultations with Member States, the industry and other relevant stakeholders to develop joint approaches that will provide the extra push a blue economy needs to provide a positive contribution to Europe's economic future, while safeguarding our unique marine environment for future generations.

To further raise visibility and public awareness about maritime issues, interactive tools like the Maritime Forum<sup>28</sup> and the European Atlas of the Sea<sup>29</sup> have been created to facilitate access to sea related information and help increase knowledge about maritime Europe. The European Maritime Day, held in different EU coastal cities in May each year, is a key event in raising awareness of the potential of maritime activities and interests in Europe.

A public consultation procedure was organised during the preparation of the Blue Growth Strategy to gather the views of entities, individuals and key stakeholders that have an interest in, and would like to shape, EU actions vis-à-vis the maritime sectors<sup>30</sup>. The results of this public consultation were taken into consideration in the formulation of the Blue Growth Communication.

There are no further public participation requirements for the adoption of guidelines in the Strategy.

- Common Fisheries Policy

Public participation has been a guiding principle of good governance under the Common Fisheries Policy since 2002<sup>31</sup> when 6 Regional Advisory Council (RACs) were established, aiming to ensure the broad involvement of stakeholders in fisheries policy making and implementation. Public participation through the RACs was focused on stakeholders from the fisheries industry and other interest groups, thereby enabling a non-obligatory consultation of the RACs by the Commission and the possibility for self-initiated provision of recommendations or information by the RACs. In 2014,

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<sup>27</sup> European Commission (2012): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Blue Growth. Opportunities for marine and maritime sustainable growth, COM(2012) 494 final.

<sup>28</sup> <https://webgate.ec.europa.eu/maritimeforum/en>

<sup>29</sup> [http://ec.europa.eu/maritimeaffairs/atlas/maritime\\_atlas/#lang=EN;p=w;](http://ec.europa.eu/maritimeaffairs/atlas/maritime_atlas/#lang=EN;p=w;)

<sup>30</sup> European Commission (2012): Blue Growth: sustainable growth from the oceans, seas and coasts. Summary report of the online public consultation results. Available at: [http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/blue\\_growth/blue-growth-consultation-report\\_en.pdf](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/blue_growth/blue-growth-consultation-report_en.pdf)

<sup>31</sup> Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

under the new CFP<sup>32</sup>, the RACS have been reconstituted as Advisory Councils (ACs) by creating three additional ACs and providing for their obligatory (regionally based) consultation by the Commission or Member States. Regionalisation has been introduced as well under the new CFP and refers to a decision-making process providing for Member States to formulate joint recommendations for management measures to the Commission. Pending its implementation at the national and regional levels, this procedure in itself holds the potential to increase public participation in EU fisheries policy.

In addition, since the Aarhus Convention people are guaranteed the right to public participation in environmental decision-making – i.e., its remit is much broader than the consultation of specific stakeholder bodies such as Advisory Councils. Therefore, the provisions under the CFP for establishing and consulting Advisory Councils should adhere to the standards provided in the Aarhus Convention to guarantee that consultation must provide early and effective opportunities for participation.

### 3.3 Regional Seas Conventions

- Consultation of Regional Seas Conventions in EU decision-making

The Regional Seas Conventions (RSCs) undertake their own public participation at regional level on given issues, as well as being stakeholders in their own right and being consulted during EU decision-making processes. The MSFD points out that where practical and appropriate, existing institutional structures established in marine regions or sub-regions, in particular RSCs, should be used to ensure coordination of the development of marine strategies for each marine region or sub-region. In particular, Chapter IV of the MSFD Article 19 sets out requirements for Member States to ensure that all interested parties are given early and effective opportunities to participate in the implementation by involving possible existing management bodies or structures, including RSCs.

- Public participation procedures in the RSCs

The need for awareness raising, transparency and consensus building to ensure effective implementation of the MSFD and, in due course, the MSP includes the RSCs as well. The different Conventions include provisions on access to information and public participation, each to a different extent. For example, the Barcelona Convention is the only RSC with a general requirement for public participation in its decision making processes, while the Bucharest Convention contains no provision on public information and participation at all. Despite the variety in the level of public participation requirements across the regions, there is a positive trend towards encouraging it to take place, for example within HELCOM: “All relevant authorities and stakeholders in the Baltic Sea Region, including coastal municipalities as well as national and regional bodies, should be involved in maritime spatial planning initiatives at the earliest possible stage and public participation should be secured. Planning processes should be open and transparent and in accordance with international legislation”.<sup>33</sup>

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<sup>32</sup> Council Regulation (EC) No 1954/2003 on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EC) No. 2847/93 and repealing Regulations (EC) N. 685 and (EC) No. 2027/95.

<sup>33</sup> HELCOM (n.d.): Baltic Sea broad-scale Maritime Spatial Planning (MSP) Principles, file:///C:/Users/sv/Downloads/HELCOM-VASAB%20MSP%20WG%20Principles.pdf

Environmental NGOs also have a role in understanding the potential synergy between mechanisms for public interest activism and environmental protection. The increased role of NGOs and wider societal interests in marine environmental decision-making is illustrated within several examples below. OSPAR and HELCOM are considered to have good access to accredited NGOs<sup>34</sup>, e.g. the "2007 Action Plan for the Baltic Sea" where stakeholders were invited to participate in its development, or the Danube Strategy, which is a good example of stakeholder involvement in transboundary cooperation. In the Black Sea, there is very limited capacity but some attempts are being made by NGOs to organise themselves (Black Sea Forum).

Such public interest-based involvement on the part of NGOs has the potential to enforce the developing framework for stakeholder engagement and MS, in particular to fulfil the environmental obligations set out in the MSFD and the broader marine and coastal policy agenda.

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<sup>34</sup> De Santo, E.M. (2011): Environmental justice implications of Maritime Spatial Planning in the European Union, *Journal of Marine Policy* 35 (2011) 34–38.

## **4 Implementation under EU Directives**

### **4.1 Requirements under the legislation**

#### **Overview of existing legal requirements**

A number of EU Directives and policy instruments set out requirements in relation to public participation. Some are fairly detailed, while others follow a more general approach. The detailed implementing provisions for public participation in the development of plans and strategies at the national level are regulated at the level of the Member States.

The margin of discretion awarded to Member States varies across policies and depends on the level of detail introduced in the minimum requirements included in EU legislation. The table below presents the different legal requirements for public participation in the EU in relation to environmental planning and the management of marine and coastal areas. It highlights the differences in minimum requirements currently included in several closely related pieces of EU legislation.



**Table 4.1.1. EU legal requirements in relation to public participation in environmental planning and management of coastal and marine areas, presented in chronological order**

Legal acts	Relevant provisions	Participants	Information procedure	Phases of participation	Form of consultation	Scope of consultation
Water Framework Directive, 2000/60/EC	Preamble, Article 14	Member States are required to encourage the active involvement of all interested parties in the implementation of this Directive, including users.	There is both an active and a passive information requirement in the WFD. On the one hand, Member States shall ensure that, for each river basin district, they publish the timetable and work plan, an interim overview of significant issues and the river basin management plans (see scope). Moreover, access has to be given to background documents and information used upon request.	Participation takes place at various phases in the development of the river basin management plan: when the timetable and work programme is developed three years before the beginning of the period covered by the plan, an interim overview two years before that period and the river basin management plan one year before that period. Moreover, the same shall apply for updated river basin management plans.	The WFD specifies that Member States shall allow at least six months to comment in writing in order to allow active involvement and consultation.	The consultation shall cover the production, review and updating of the river basin management plans. The consultation shall cover the timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, an interim overview of the significant water management issues identified in the river basin and draft copies of the river basin management plan.
SEA Directive 2001/42/EC	Preamble, Article 3; 6; 7; 9	The Member State is required to identify the public for the consultation, including the public affected or likely to be affected by, or having an interest in, the decision-making, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned.	Requirement to make the SEA report available to the authorities and the public. (Active information requirement).	The public shall be given early and effective opportunities to participate, i.e. during the preparation of a plan or programme and before its adoption or submission to the legislature.	The form of the consultation procedure can be determined by the Member States. Consultations of the authorities and the public in a neighbouring Member States have to be organised if it is likely that there would be significant transboundary effects.	A wide range of public plans and programmes having significant environmental effects, prepared for fisheries, energy, industry, transport, etc.

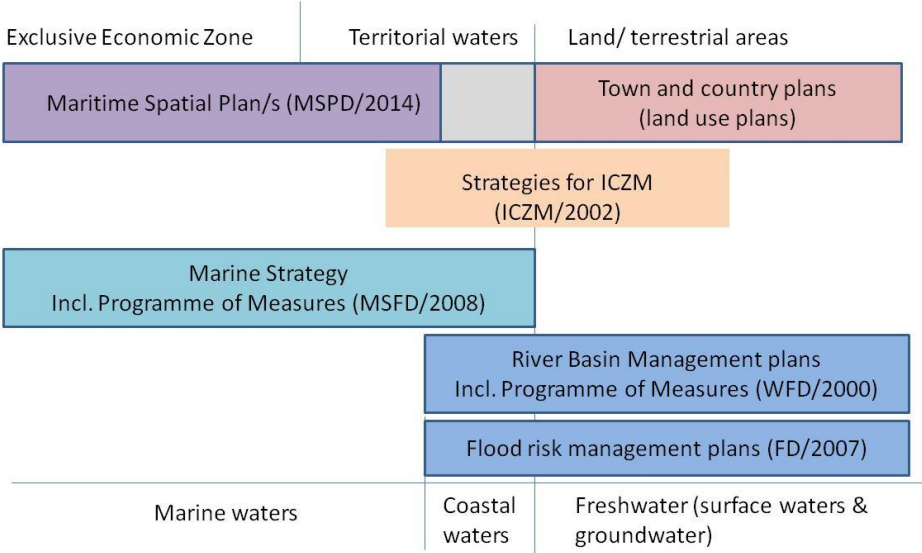
Legal acts	Relevant provisions	Participants	Information procedure	Phases of participation	Form of consultation	Scope of consultation
Recommendation on ICZM, 2002	Chapter II	Coastal zone management should involve all the parties concerned (economic and social partners, the organisations representing coastal zone residents, non-governmental organisations and the business sector) in the management process, for example by means of agreements and based on shared responsibility.	/	/	/	/
Public Participation Directive 2003/35/EC	The PP Directive amends several existing Directives in relation to public participation i.e. the SEA Directive, the EIA Directive and the IPPC Directive (now IED).	“The public concerned”, i.e. the public affected or likely to be affected by, having an interest in or having a right impaired due to a decision from a public authority, such as development consent for a project, an environment permit, etc. This will at least include non-governmental organisations promoting environmental protection and meeting any requirements under national law.	The PP Directive contains detailed requirements about how the public shall be informed with a view to participating in the decision-making procedures. For plans and programmes, see the SEA Directive. For individual projects regulated by the EIA Directive, it requires the public to be informed electronically and by public notices or by other appropriate means of several elements, such as the availability of information, the competent authorities, a draft decision, etc. How the public shall be informed, e.g. by hanging	Participation has to be early and effective.  For the EIA Directive, the public needs to have the possibility to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.	The detailed arrangements for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. The EIA Directive requires reasonable time-frames for the different phases, information and participation. The time-frames for consulting the public concerned on the environmental impact assessment report shall not be shorter than 30 days.	The participation of the public covers a wide range of aspects of the decision-making procedures. For the SEA Directive, plans with significant environmental effects are covered and the public participation covers all aspects in that case. For the EIA Directive, the consultation covers the decision providing development consent for projects, including all preparatory documents. This covers all the aspects mentioned in the information phase as well as any relevant

Legal acts	Relevant provisions	Participants	Information procedure	Phases of participation	Form of consultation	Scope of consultation
			<p>notices within a certain radius, in newspapers, etc. will be decided upon by the Member State authorities. The PP Directive only requires that the information shall at least be made electronically available through at least a central portal or easily accessible points of access, at the appropriate administrative level.</p>			<p>preparatory reports and the impact assessment report.</p>
<p>Access to information Directive, 2003</p>	<p>The Directive aims at ensuring access and dissemination of information</p>	<p>Any natural or legal person requesting environmental information – called an applicant; Public authority - government or other public administration, or any natural or legal person performing public administrative functions relating to the environment.</p>	<p>The Directive contains detailed requirements about how public authorities shall make environmental information available and disseminated to public.</p>	/	/	/
<p>Floods Directive, 2007/60/EC</p>	<p>Chapter V Article 9; 10</p>	<p>Member States are required to encourage the active involvement of interested parties in the production, review and updating of the flood risk management plans.</p>	<p>There is an active information requirement in the FD. Member States shall make available to the public the preliminary flood risk assessment, flood hazard maps, flood risk maps and the flood risk management plans</p>	<p>The active involvement of all interested parties shall be coordinated with the active involvement of interested parties under WFD.</p>	<p>The active involvement of all interested parties shall be coordinated with the active involvement of interested parties under WFD.</p>	<p>The public consultation shall include the production, review and updating of the flood risk management plans.</p>

<b>Legal acts</b>	<b>Relevant provisions</b>	<b>Participants</b>	<b>Information procedure</b>	<b>Phases of participation</b>	<b>Form of consultation</b>	<b>Scope of consultation</b>
Marine Strategy Framework Directive , 2008/56/EC	Articles 13; 19	All interested parties shall be given early and effective opportunities to participate in the implementation of this Directive.	Member States shall publish, and make available to the public for comment, summaries of the main elements of their marine strategies and related updates. There is thus an active information requirement.	Consultation shall take place in each of the main subsequent phases in the preparation of the marine strategy: for the initial assessment (Article 6), the environmental targets (Article 10), the monitoring programmes (Article 11) and the programme of measures (Article 13).	The public participation procedure shall involve, where possible, existing management bodies or structures, including Regional Sea Conventions, Scientific Advisory Bodies and Regional Advisory Councils.	Early and effective opportunities covering each of the main aspects to be developed in the preparation of the marine strategy, on the initial assessment of the marine region, the environmental targets, the monitoring programmes and the programme of measures.
Maritime Spatial Planning Directive, 2014/89/EU	Recital 21 Recital 24 Article 9	Consultation of all interested parties, relevant stakeholders, authorities and the public concerned.	All interested parties shall be informed by Member States. The MSP Directive provides an active information requirement for Member State authorities to establish means of public participation in Art.9. It also requires MSs to provide the public with access to the plans once finalised.	The Directive requires consultation of the relevant participants, at an early stage of the development of maritime spatial plans.	There are no detailed requirements setting out the form that consultation should take. However, Recital 21 points out that a good example of public consultation provisions can be found in Article 2(2) of Directive 2003/35/EC.	There are no detailed requirements about the scope of the consultation. The consultation covers the maritime spatial plan (at an early stage of development)

## The requirements for public participation in marine and coastal policies

The marine and coastal water policies have been evolving gradually in recent years and the principle of public participation is now well established as a fundamental tenet. Member States are expected to produce documents (e.g. River Basin Management Plans, Marine Strategies<sup>35</sup> or Maritime Spatial Plans<sup>36</sup>) that lead to the achievement of the relevant policy objectives. Although each Directive has set up its own geographic scope for actions, there are overlaps that need to be considered to ensure efficient and coherent planning as well as minimising the duplication of stakeholder engagement.



**Figure 4.1.2.** Planning documents in marine and sea areas

The geographical dimension of these planning documents, and the already identified links among the Directives, suggest synergies could be generated with regard to public participation. Although specific requirements for public participation have been included in the WFD and MSFD and in the IMP Regulation, the EU has developed general legislation on public participation procedures to be followed when developing plans and strategies that have significant environmental effects (SEA). In addition, the 2002 ICZM Recommendation contains very general requirements on public participation, but ICZM initiatives have consistently demonstrated that public participation is a key tenet of an integrated approach to coastal management. Earlier investment in ICZM by some Member States has laid the foundations for not only an expectation of public participation on marine and coastal policy making but has also provided, in some cases, the mechanism to be able to deliver

<sup>35</sup> River Basin Management Plans (RBMP) and Flood Risk Management Plans (FRMP) cover not only inland waters but also coastal waters. A Marine Strategy should primarily focus on marine areas but should also cover coastal waters, in so far as particular aspects of the environmental status of the marine environment are not already addressed through river basin management planning. The MSFD calls for the integration of relevant measures in the WFD Programme of Measures (PoM) into the marine PoM (Article 13, point 2).

<sup>36</sup> Maritime Spatial Plans apply to marine waters of Member States and also apply to coastal waters or parts thereof unless they fall under a Member State’s town and country planning system. The MSFD (Annex VI) and the Decision 2010/477/EU identify MSP as a management measure that influences where and when an activity is allowed to occur. The MSP Directive states that MSP will contribute to achieving the aims of MSFD and WFD (Recital 15).

it. This means that some Member States already have a mature and established approach to stakeholder engagement.

Table 4.1.1 above presents some differences in public participation requirements at the EU level as regards several of the key aspects of public participation. While one instrument provides detailed minimum requirements for public participation, such as covering the different phases in which the public should be involved, which form such consultation should take and which elements shall be covered as a minimum, other instruments only include very general participation requirements.

The Directives have identified who shall participate in any form of the participation through planning processes. Due to slight inconsistencies, Member States might need some clarifications about terms and definitions on who shall participate: e.g. "public"; "public concerned"; "interested parties"; "stakeholders", "authorities", etc. Some instruments explicitly provide environmental NGOs with the right to participate collectively to avoid their exclusion from the decision-making process. The discrepancy in wording used could lead to some disparities as to who is allowed to actively participate in decision-making processes.

**Table 4.1.2.A** Terms used in the Directives.

Directive	Public	Public concerned	Interested parties	Stakeholders	Public authorities
WFD, 2000	x		x		
FD, 2007	x		x		
MSFD, 2008	x		x	x	
MSP Directive, 2014	x	x	x	x	x

The key requirements on **what shall be implemented** to ensure the public participation in marine and coastal policies are rather similar as they are derived from general provisions on this matter. Although, some differences can be pointed out when it comes to the details, the common features are that participation shall take place *early in the policy process*; *information should be made available* for public or interested parties *informed* and access to *consultation process* or capacity to *comment in writing* on the main elements, including plans or programmes shall be ensured.

The requirements in relation to the **provision of information** vary. According to the Directive 2003/4/EC, a general requirement providing *access to information*, upon request, is applicable to all documents in relation to environmental decision-making, except for those subject to commercial confidentiality regulations. The draft documents/reports that are part of the planning process under the MSFD and the WFD/FD shall be published but no such requirement on publishing a draft document applies in the framework of the development of a maritime spatial plan. This does not mean that no information will actively be made available in the context of the MSP implementation but that the decision to publish information and drafted plans is left to the discretion of the Member States, either individually or collectively, for example, by means of a guidance document.

While *public consultation* is a legal requirement under all marine and coastal Directives, the requirements set out for this activity show significant differences. Under the WFD/FD and MSFD, a detailed, step wise approach is followed while the MSP contains a generic public consultation requirement (see details in the Table 4.1.2.C and Annex 1).

Finally, the WFD, FD and MSFD require that Member States ensure *active involvement* of interested parties in the implementation of these Directives. The MSP Directive emphasises the importance of encouraging the relevant stakeholders to share data and information. The stakeholders could provide reliable data and to avoid additional burdens in the planning.

**Table 4.1.2.B** Forms of the public participation

Directive	Forms of public participation			
	Access to information	Information supply	Consultation	Active involvement
WFD, 2000	On request, to background documents and information	Shall publish draft documents for comments	Make available for comments to the public	All interested parties in production, review and updating of the RBMP
FD, 2007	make available to the public	In coordination with WFD	All interested parties in production, review and updating of the flood risk management plans, in coordination with WFD	
MSFD, 2008	Reference to the Directive 2003/4/EC	Shall publish summaries of documents for comments	Make available to the public for comment	All interested parties in implementation
MSP Directive, 2014	Access to the final MSP: relevant stakeholders; authorities; public concerned	Informing all interested parties on MSP development	Consulting relevant stakeholders; authorities; public concerned; Reference to the Directive 2003/35/EC	Encourage relevant stakeholders to share information

Overall, while providing minimum requirements for the implementation of the principle of public participation in relation to specific topics, EU legislative instruments leave a significant margin to the Member States to organise such participation in line with national practice and culture. Moreover, none of the instruments provide detailed rules about how the results from a consultation should be taken into consideration by the public authority in the final decision-making process.

Timing of public participation is another issue to be considered if there is to be effective coordination of the public participation process between marine and coastal policies (table 4.2.1C). Although the Directives set deadlines by when plans or programmes must be adopted, the schedules of consultations on different elements of the planning documents vary. The WFD requires that all MS consultations have duration of 6 months. The FD requires that the active involvement of all interested parties should be coordinated with the active involvement of interested parties under WFD.

The MSFD emphasises that the involvement of existing management bodies or structures including Regional Sea Conventions, Scientific Advisory Boards and Regional Advisory Councils can ensure effective participation of the interested parties in the implementation of the Directive.

The EU has developed specific legislation on the procedures to be followed when developing plans, programmes and strategies that have significant environmental effects (SEA 2001/42/EC). Where the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, such as Directive 2000/60, to avoid duplication of the assessment, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation. The MSP Directive points out that where maritime spatial plans are likely to have significant effects on the environment, they are subject to the SEA Directive. The FD also refers to the SEA and the proposed measures.

The key requirement is that the draft plan or programme and the environmental report should be made available to the authorities and the public. They should be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure. Thus, all draft marine and coastal planning documents should be made available for public consultation, although the timing and nature of that consultation will vary.



**Table 4.1.2.C** Time frame and key components of marine and coastal policies from the perspective of public participation.

Year	MSFD		MSP		WFD		FD	
	What	PP Requirements	What	PP Requirements	What	PP Requirements	What	PP Requirements
<b>2015</b>	Development of PoMs to achieve or maintain GES	Public consultation and information process	Transposition of the requirements		2 <sup>nd</sup> RBMPs	Public consultation on draft RBMP	1 <sup>st</sup> Flood risk management plans	Public participation process, coordinate with WFD
<b>2016</b>	Entry into force of PoM							
<b>2017</b>	(Monitoring and assessment of PoM implementation)		Development of Maritime Spatial Plan, including across borders	Public participation (informing and consulting relevant stakeholders and the public concerned) to take place at an early stage of the process: mechanisms for this to be at the discretion of the Member States				Public participation process starts (publication of mechanism and timetable for consultation). Needs to be linked to WFD public participation process
<b>2018</b>					PoM need to be operational; Progress report according to Art 15; Timetable and work programme for next RBMP	Public consultation (six month period)	2 <sup>nd</sup> Preliminary Flood Risk Assessment	
<b>2019</b>					Brief interim progress report within 3 years of each PoM	Art 5 Report update	Public consultation recommended	
<b>2020</b>	Achieve GES				Overview of significant water management issues	Public consultation (six month period)		
<b>2021</b>	Update of the PoM	Public consultation and information process	MSP plans in place		Draft RBMPs 3 <sup>rd</sup> RBMPs	Public consultation on draft RBMP	2 <sup>nd</sup> Flood risk management plans	

## 4.2 Current implementation of public participation in marine and coastal policies at Member State level

Member States are currently in the development of their Programmes of Measures for their Marine Strategies, to fulfil the requirements of the MSFD. The role of public participation is different in each MS, as shown in the tables below.

### Marine Strategy Framework Directive

All coastal MS have adopted and transposed the Marine Strategy Framework Directive into national law. The MS have reported and held public consultations on the initial assessment (Art. 8), classification of GES (Art. 9) and environmental target reports (Art. 10).

Croatia held its public consultation on Article 9 and 10 in spring 2014 and has not yet reported to the Commission. Most MS, with the exception of Croatia, Estonia, Greece and Romania, have developed their monitoring programme and have carried out public consultations thereof. Estonia and Romania are in the process of developing monitoring programme under tendered research projects.

Most of the MS engage stakeholders and the public after the relevant report were drafted. This aspect was criticised. A 2012 survey of NGOs on the first implementation phase of the MSFD (Article 8, 9 and 10 reports) brought to light several shortcomings, e.g. the timing of the public participation was too late and/or the type of information submitted (“too technical and voluminous, fragmented or not well structured”).<sup>37</sup> A number of the points raised in the first submission regarding data gaps and public participation are linked to the next stage of implementation, namely the development of a Monitoring Programme under Article 11 (due for mid-year 2014) and a Programme of Measures (PoMs) under Article 13, (to be developed by 2015). Early and effective public participation and consultation in the development of these PoMs is a prerequisite for their success. Most countries have already started to develop their PoMs and have submitted these to public consultation in 2014 or will do so at the beginning of 2015. This second round of public consultation should therefore provide Member States with the possibility to learn from the lessons of the first phase of implementation of the MSFD and improve upon them.

Further civil organisations in Ireland criticised that some groups find the method to only engage stakeholders after drafting documents an inherently flawed approach. It is important to differentiate between stakeholders and public. None of the MS engaged the public during the drafting stage, only stakeholders. Six MS (EL, FI, HR, NL, SE, UK) incorporated stakeholder participation during the drafting process. For example, in the NL the consultative committee on water and the North Sea meets with various organisations regarding MSFD several times a year during which stakeholders give advice on MSFD products. In addition, a Core group comprising administration representatives and stakeholders have met a minimum of seven times since 2010 to, for example, to hold brainstorming workshops on the initial assessment and the GES.

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<sup>37</sup> Seas at Risk (2014): “Priorities for MSFD programmes of measures”, Joint NGO paper. Available at: [https://portal.helcom.fi/meetings/HOD%2046-2014-120/MeetingDocuments/4-13%20Priorities%20for%20MSFD%20programmes%20and%20measures\\_Joint%20NGO%20paper.pdf](https://portal.helcom.fi/meetings/HOD%2046-2014-120/MeetingDocuments/4-13%20Priorities%20for%20MSFD%20programmes%20and%20measures_Joint%20NGO%20paper.pdf)

MS have taken a varied approach when engaging in public consultation. Six categories were identified, namely permanent or semi-permanent advisory groups; ad-hoc advisory group; conferences and workshop groups; online consultation; written comment procedure; and one-one-stakeholder meetings.

- About half of the coastal MS (BG, CY, DK, EE, EL, FI, FR, IE, LV, NL, UK) have set up permanent or ad-hoc advisory groups to facilitate the drafting of reports and engaging stakeholders and the public.
- About half of the coastal MS (BG, CY, DE, DK, EE, EL, FI, FR, HR, LV, NL, UK) held conferences or workshop groups. For example, Germany held a kick-off conference to introduce its draft Art. 8-11 reports, which was open to the general public. Similarly, Greece held an information day for the general public. Croatia held expert workshops covering the methodology and data to be used for economic and social analysis.
- The majority of MS (BE, BG, DE, DK, EE, ES, EL, HR, IE, LV, LT, MT, NL, PL, PT, SL, UK) conducted online consultations or had a written comment procedure. BE, ES, LT, MT, PL, PT, SL relied solely on a written comment procedure for their public participation process.
- One MS (DK) held a one-on-one stakeholder meeting, which was initiated by the stakeholders themselves. The fisheries sector requested a meeting with the working group preparing the draft implementation measures to discuss with nature NGOs the selection of marine protected areas.

In addition to these methods, Croatia held bilateral and trilateral meetings with neighbouring MS administrations to review their reports. Ireland has set up a specific email address to field comments on MSFD implementation. Italy did not use any of the above mentioned methods but rather relied on a questionnaire that was sent to specific stakeholders. Information as regards Romania's public participation process is not currently available.

Very few MS have taken a joint approach to public participation activities on MSFD with other coastal and marine policies. Seven MS (BE, HR, FR, EL, IE, LV, NL) reported inter-agency cooperation on implementation of the MSFD and the MSP but cooperation on public participation have not taken place per se. In Portugal, however, workshops organised within the scope of the public participation procedure on MSFD covered MSP topics such as "Marine Nature and Biodiversity Conservation" or "Fisheries and Aquaculture".

**Table 4.2.2.** Overview on the implementation of the public participation in MSFD (Status on September, 2014)

Member State	Status of MSFD	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
<b>Belgium</b>	✓	Consultation on Art. 8-10 took place in 2012.	After drafting	Written comment procedure	For formal coordination of MSFD pp with other policies. Inter-agency cooperation in drafting policies on MSP and MSFD. No coordination of MSFD and WFD	
<b>Bulgaria</b>	✓	Consultation has taken place. An open consultation regarding the Marine Strategy Draft is planned for June-December 2015.	After drafting	Permanent or semi-permanent advisory group; conferences and workshop groups; online public consultation	No coordinated or joint activities have been reported	The participatory process in Bulgaria is not sufficiently transparent. The aim of the online consultation is not explained in details, there is no background information about the planned marine strategy and the consultation does not contain any questions. According to the regional coordinator of a NGO in Bulgaria, NGOs are not really involved in the development process of the strategy.
<b>Croatia</b>	✓ but has only reported only Art. 8 thus far	Art. 8 consultation finalized; Consultation on Art. 9 and 10 in spring 2014	During and after drafting	Conferences and workshop groups; online public consultation; Bilateral and trilateral meetings with neighbouring countries for regional coordination of the Adriatic sea.	The marine and coastal management strategy integrates the obligations from MSFD	Has not yet developed a monitoring programme

Member State	Status of MSFD	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
<b>Cyprus</b>	✓	Consultation on Art. 8-10 took place in 2012 on draft report. Consultation on revised reports took place Fall 2014 along with Art. 11 reporting	After draft report and after revised report	An ad-hoc group bringing together stakeholders; online public consultation	No coordinated or joint activities have been reported	
<b>Denmark</b>	✓	Consultation took place for Art. 8-10 and Art. 11	After drafting	Permanent or semi-permanent advisory group; conferences and workshop groups; online public consultation; written comments; one-on-one stakeholder meetings	No coordinated or joint activities have been reported	Had a stakeholder initiated consultation on MPAs between fisherman and NGOs
<b>Estonia</b>	✓ Estonia has just started elaboration of the monitoring programme	Art. 8-10 consultation finalized, Art. 11 ongoing	After drafting	Adhoc group; conferences and workshop groups; online public consultation; written comment procedure	No coordinated or joint activities have been reported	Work on monitoring programmes and programme of measures tendered under a EEA Grant financed project that is still ongoing
<b>Finland</b>	✓ work on PoMs already started	Art. 8-10, 11 consultation finalized, PoM consultation will commence end 2014	With stakeholders during drafting	Permanent or semi-permanent advisory group; ad-hoc group bringing stakeholders together; conferences and workshop	No coordinated or joint activities have been reported	Although there was a public hearing procedure the first phase of the Marine Strategy preparation process witnessed a lack of stakeholder participation.

Member State	Status of MSFD	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
<b>France</b>	✓ work on PoMs already started	Monitoring public consultation to end in November	After drafting	Permanent (or semi) advisory group or committee; ad-hoc group; conferences and workshop groups; online public consultation	The WFD and MSFD secretariats are in close contact and information from coastal and maritime councils are communicated to stakeholders of RBMPs through Coastal Commissions.	
<b>Germany</b>	✓	Consultation on Art. 8-10 and 11 finalized	After drafting	Conferences and workshop groups; written comment procedure	No coordinated or joint activities have been reported	
<b>Greece</b>	✓ Monitoring programme outstanding	Consultation on Art. 8-10 finalized; Art. 11 no yet started	During and after	Permanent (or semi) advisory group; conference and workshops groups; online public consultation; written comment procedure	Coordination possible as the WFD as both policies are led by one Secretariat but agendas for stakeholder involvement and info days under MSFD and WFD do not address the topics in an integrated manner	
<b>Ireland</b>	✓	Consultation for Art. 8-10, 11 finalized	After drafting	Permanent (or semi) advisory group; an ad-hoc group; conference and workshop groups; online public consultation; dedicated email address for feedback	Not clear. It seems that some WFD terminology has been used in MSFD assessments but public consultation appears to be separate	IMP for Ireland touches upon aspects from both MSP and MSFD and went through a common consultation process
<b>Italy</b>	✓	Consultation on Art. 8-10, Art. 11 finalized	After drafting	Questionnaire, unclear whether online or sent directly to respondents	No coordinated or joint activities have been reported	Public consultation on Art. 11 ran one month; only for stakeholders, general public not involved

Member State	Status of MSFD	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
Latvia	✓	Art. 8-10; Art. 11 consultation finalized	After drafting	Permanent (or semi) advisory group; conference and workshop groups; online public consultation; written comment procedure	There has been communication between departments in charge of MSP and MSFD planning processes and common publicity events but close coordination has not been established; no joint coordination on WFD and MSFD.	The MoEPRD has outsourced a feasibility study on the development of the programme of measures for achieving good environmental status.
Lithuania	✓	Art. 8-10, Art. 11 consultation finalized	After drafting	Written comment procedure	No coordinated or joint activities have been reported	No active involvement of stakeholders
Malta	✓	Art. 8-10, Art. 11 consultation finalized	After drafting	Written comment procedure	No coordinated or joint activities have been reported	
Netherlands	✓	Art. 8-10, Art. 11 consultation finalized	During and after drafting	Permanent (or semi) advisory group; conferences and workshop groups; written comment procedure	Consultative Committee for Water Management and North Sea Affairs is used as a consultation platform for MSFD and MSP	Monitoring programmes adopted in July 2014. NL has a specific committee focussing on relationship between MSFD and IMP (in particular MSP)
Poland	✓	Art. 8-10, Art. 11 consultation finalized	After drafting	Written comment procedure	No coordinated or joint activities have been reported	Commenting period for draft monitoring programme 3 weeks  Participation low
Portugal	✓	Art. 8-10, 11 consultation finalized	After drafting	Online consultation; written comments	With respect to coordination between MSP and MSFD: There were workshops organised within the scope of the public participation procedure on the POEM which focused on topics also covered under the MSFD such as "Marine Nature and Biodiversity Conservation" or "Fisheries and Aquaculture".	

Member State	Status of MSFD	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
<b>Romania</b>	✓ Monitoring programme under development	Art. 8-10 consultation finalized; Art. 11 not started	No information found			
<b>Slovenia</b>	✓	Art. 8-10, 11 consultation finalized	After drafting	Online public consultation	No coordinated or joint activities have been reported	
<b>Spain</b>	✓	Art. 8-10, 11 consultation finalized	After drafting	Online public consultation	No coordinated or joint activities have been reported	
<b>Sweden</b>	✓	Art. 8-10, 11 consultation finalized	During and after drafting	Conferences and workshop groups; online public consultation; written comment procedure	No coordinated or joint activities have been reported	
<b>United Kingdom</b>	✓	Art. 8-10, 11 consultation finalized; consultation on PoMs expected in 2015	During and after drafting	Permanent or semi-permanent advisory group; ad-hoc group bringing stakeholders together; conferences and workshop; online consultations; written comments procedure; one-on-one stakeholder meetings	Consultations have been managed separately.	



## The Directive on Maritime Spatial Planning

Very few MS have legislation in MSP already in place; only BE, DE and EL have formal arrangements. For the rest of the MS development is underway.

Some MS have already carried out public consultation on draft documents. Five MS (DE, EL, LT, MT, PT) have finalized their public participation processes; all five MS consulted stakeholders and the public after documents had been drafted for review. In four MS (BE, EE, ES, LV) public consultation is on-going. For those MS where public participation has been carried out, a variety of methods were identified:

- Six MS (BE, DE, EL, LT, PT, MT) held written comment procedures or had an online consultation.
- Three MS (EE, ES, LV, PT) have set up coordination committees, permanent or semi-permanent, ad-hoc groups or in the case of LV a Trans-disciplinary work group (with representatives from maritime related authorities, different economic sectors as well as Environmental NGOs).
- Two MS (EE, LT) have held official public hearings.
- Five MS (EE, EL, ES, LV PT) have held conferences or workshop groups.
- Two MS (EL, ES) have dedicated websites that act as an information portal for the public.

The remaining MS are in too early stages of development to have held public consultation processes so far.

**Table 4.2.3.** Overview on the implementation of the public participation in MSP (Status on September, 2014)

Member State	Status of MSP Date	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
BE	✓ The Royal Decree of 20 March 2014	Carried out	After presentation of a draft MSP plan	Written comment procedure	No, only an informal coordination between the responsible authorities exists.	It seems that the MSP draft plan was developed with relatively little stakeholder consultation. Only a small group of stakeholders seem to have been contacted (including the Province of West Flanders and the Flanders Marine Institute). The emphasis seems to have been rather on “information” than “consultation”. The same applies to ICM policies – little or no consultation of expert stakeholders <sup>38</sup> .
BG	In preparation					
CY	Reportedly in preparation	No information found				Cyprus has prepared and made a public consultation on a draft Strategy for Integrated Maritime Policy in late 2013. In that context, MSP, ICZM and MSFD have all been mentioned as horizontal tools for achieving the goals of the proposed strategy.

<sup>38</sup> telephone interview with Ms Tina Mertens from the Flanders Marine Institute (22/08/2014)

Member State	Status of MSP  Date	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
DE	✓ Legal ordinance of the BMVBS concerning the spatial plan for the German EEZ in the North Sea of 21st of September 2009; same for the Baltic Sea	Consultation finalized in 2009	After drafting	Written comment period	None reported	MSP law is from 2009 and has not been revised since.
DK	Under discuss					
EE	2 regional MSP in preparation	Ongoing in several stages	Early discussions to draft outlines and SEA programme	Coordination Committee, online public consultations, public hearing events and sectorial meetings	Partially, with SEA	Estonia is carrying out MSP for territorial waters on county (regional level). Stakeholder involvement and public participation is rather extensive.
EL	Key spatial plans for ICM + marine	Carried out	After presentation of a draft MSP plan	Conferences and workshops groups, Online public consultations, Website	no	There have been a couple of public consultations for each of the Special Frameworks that relate to Maritime themes covered under MSP: aquaculture (2011), tourism (2009), industry (2009), renewable energy (2008).

Member State	Status of MSP	Information on PP				
	Date	Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
ES	No; some work on wind & TPEA	Ongoing in several stages	Early discussions to develop a policy or legal approach	A permanent or semi-permanent advisory group or committee for stakeholders, Conferences and workshops groups, Website	no	Spain is not carrying out MSP at national level in the sense of the proposed EU directive.
FI	Bothnia Plan a pilot; national MSP in prep.					
FR	To be addressed in maritime & coastal strategy					
HR	Joint national marine & coastal strategy in prep.					
IE	To be prepared					
IT	No					

Member State	Status of MSP	Information on PP				
	Date	Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
<b>LT</b>	Final stage of the MSP development	Carried out	After the stocktaking/inventorying the current status, the public consultation started	Official public hearings, Ad hoc meetings with specific groups, individual negotiations	Partially yes, with SEA	The MSP is implemented as extension of the national terrestrial comprehensive plan. The PP is implemented according to the spatial planning legislation and SEA.
<b>LV</b>	MSP under development	Ongoing continuously through the development process	Early discussions to develop a legal approach, terms of references for the MSP, accompanying the whole process	Trans-disciplinary work group, online information, online public consultations, public hearing events and sectorial meetings	Partially yes, with SEA	The development of the plan including the public participation activities will be subcontracted to consultants. The work shall start in Autumn 2014.
<b>MT</b>	Now via local plans; national plan in prep.	Carried out	After presentation of a draft MSP plan	Written comment procedure, website	Yes with ICM as this is dealt together Strategic Plan for the Environment and Development (SPED).	The public consultation process, where stakeholder were invited to submit their views on the documents available on MEPA's website (either by e-mail or by post) and the Maltese Government website to people to submit their either by e-mail or by post, ended in June 2014. As a next step, a report should be published to illustrate how each contribution has been considered and a justification on whether or not it has been taken into account. Thereafter MEPA will submit its final proposal to the Government.

Member State	Status of MSP	Information on PP				
	Date	Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
NL	N Sea planning document					
PL	Under development					
PT	In preparation	Carried out	Early discussions to develop a policy or legal approach and after presentation of a draft MSP plan	An ad-hoc group bringing together stakeholders, Conferences and workshops groups, Online public consultation, Written comment procedure	There were workshops organised within the scope of the public participation procedure on the POEM which focused on topics also covered under the MSFD such as "Marine Nature and Biodiversity Conservation" or "Fisheries and Aquaculture".	<p>A draft version of Maritime Spatial Plan (Plano de Ordenamento do Espaço Marítimo, POEM) was available online and in the offices of the Institute of Water (INAG) for consultation and comments between 29 November 2010 and 22 February 2011. A series of thematic workshops were also organised in different locations. The POEM seems to have been last updated in October 2011.</p> <p>A new law, Law 17/2014, establishing the basis for the National Maritime Spatial Planning and Management Policy, was adopted on 10 April 2014. Before the adoption, stakeholders from the public Administration were heard.</p>
RO	None	No information found				

Member State	Status of MSP Date	Information on PP				
		Status of PP	Stage of involvement	Methods of involvement	Coordination with other PP process	Remarks
SE	On 10.06.2014 the Swedish parliament changed Environmental Code and the Planning and Building Act by adopting the rules for management of marine areas. (in force since 1 September 2014.)	Preparatory process for MSP is ongoing by identification of the stakeholders, status assessment of the maritime interests				The Swedish Agency for Marine and Water Management has prepared a status report on MSP covering a Comprehensive picture of the conditions for use today; Interests and claims today; Expected Development; Leverage point for the planning phase <sup>39</sup> . The aim was to have a background for start of the cross-sectoral communication on MSP.
SI						
UK	In preparation					

<sup>39</sup> [www.havochvatten.se/en](http://www.havochvatten.se/en)

### 4.3 Examples and case studies on public participation

While legal frameworks on public participation in various development planning processes, particularly related to environmental matters, are established in a majority of the Member States, specific legislation on requirements for stakeholder involvement in marine and coastal policy development might not yet be in place everywhere. As described in Section 4.1, different Directives have their own requirements and ensuring there is complementarity between them, either through formal joint processes or taking an informal but integrated approach, can be challenging.

The WFD has already established public participation procedures as the first planning cycle was accomplished by 2010. There are many good examples available of how to implement the requirements of the WFD<sup>40</sup>. To establish and implement ICZM, cooperation and collaboration structures have been established in the last decade in many Member States<sup>41</sup>. These experiences can form, and have been forming, a basis for setting up public participation procedures and structures for MSFD implementation. They can also be utilised for other policy initiatives, e.g. the MSP Directive outlines the minimum requirements to inform and consult with stakeholders but allows Member States flexibility in how to implement that task. Some of the Member States have already started their MSP processes (see Table 4.2.3.), including public participation activities. These experiences are also relevant for the developing of the Programme of Measures for the MSFD.

Drawing on examples of current practice, this section presents recent experiences and possible approaches on how to organise public participation. It is important to be clear about a few general aspects when planning the public participation:

- Scope of public participation:
    - What are the objectives of the exercise and how best can they be achieved?
    - Is this a single-issue consultation or is it to be carried out in combination with another process (e.g. WFD and MSFD)?
    - Who is the prospective audience? Are you seeking a 'deep but shallow' approach to raise awareness among the wider general public or a 'narrow but deep' approach to engage on specific issues with particular stakeholder organisations or both?
  - Identification of stakeholders:
    - How to identify who should be involved in the MSP and for what purpose?
    - What is to be achieved with stakeholder engagement activities? Is the process to raise awareness of general proposals or seek direct feedback on particular points?
  - Process of the public participation:
    - Formal versus informal: Should the stakeholder involvement be organised officially as part of a regular and systematic process? Or should stakeholder involvement be flexible, *ad-hoc*, and reflect a demand-driven process?
    - Should the process be active (e.g. public events, bilateral meetings) or passive (e.g. information posted on a website)?
    - How to arrange transboundary coordination and consultation process?
-



## Scope of public participation

Setting objectives for public participation is an essential task for scoping the whole process. An overall goal of any public participation process is to ensure transparency in the planning and in the decision making on issues relevant for the society. Regularly publishing and disseminating up-to-date information about the different elements of planning documents should be undertaken by public authorities. Transparency is also crucial in demonstrating how comments and feedback provided by the public/stakeholders are taken into account in the next planning stage. The invited public needs to have confidence that policy makers will take on board their contributions to the debated planning documents: or, if not, they need to know why.

To achieve ambitious targets of the water policies, public participation has more direct purposes: i) to increase awareness on marine and coastal waters management issues for a better understanding of water as a resources and its ecosystems, thus also acknowledging allocated public finances to the sector; ii) to enhance water management, e.g. by selecting relevant measures that would be welcomed by society and the relevant stakeholders; iii) to obtain information and evidence about effectiveness of the implemented measures, thus improving planning in the future; and v) to avoid conflict situations by better incorporating the interests of different coastal and marine users already in policy development stage.

One of the most common approaches is to combine public consultations on draft plans and programmes with an SEA report. While comments are submitted for the each document separately, the public hearings and events are organised jointly or back to back and offer an opportunity for the joint, or related, consideration of key points. Having interactions of stakeholders with planners and SEA experts can contribute to balancing ecological, economic and social objectives relevant for the sustainable use of all water resources.

The water related legislation has been gradually expanding its geographical coverage, from protecting freshwaters and coastal waters to the marine environment. Over the next few years, as milestones are reached in implementation processes and the links between them are better understood, a possible approach could be to combine consultations for Maritime Spatial Plans with Marine Strategy, Renewable Plans or other sectoral plans. Launching a joint public consultation process on water planning documents (RBMP, Flood Risk Management Plans and Marine Strategy) at the same time is also a way to streamline the processes and to present water management planning in a holistic manner.

However, different types of water need certain measures to be taken at appropriate scale and by the defined target groups. The chosen approach to public participation might differ in terms of the focus of the exercise. Consequently, the target group of the participation should be identified accordingly. It has been recognised that consultations at a too broad, national level do not tend to inspire the wider public to participate; regional and more local issues get the public more involved.

**Example: Consultation for the Marine Plan, Marine Renewable Plans and Marine Conservation Network in Scotland<sup>42</sup>**

In the UK, the 2009 Marine and Coastal Access Act provides the primary legal framework for marine planning around England, Wales, Northern Ireland and Scotland. This act is supported by secondary legislation for each of the devolved administrations, e.g. the Marine (Scotland) Act 2010, which authorised the Scottish Government to introduce statutory marine planning for Scotland's territorial waters out to 12 nautical miles<sup>43</sup>. The National Marine Plan will set out policies for the sustainable development of Scotland's seas including the setting of objectives for economic, social and marine ecosystems and the mitigation of, and adaptation to, climate change.

The work on the National Marine Plan (NMP) started in June 2010. Marine Scotland, the Directorate of the Scottish Government responsible for the integrated management of Scotland's seas, consulted on a number of proposals to take forward integrated marine planning of Scotland's seas.

The proposals included:

- Draft National Marine Plan - plan sets out objectives for the seas and national policies for sustainable development. It contains general policies designed to ensure that all future decisions lead to sustainable economic growth sensitive to the environment, other users and the long-term health of the seas. It also contains specific policies for certain activities, relating to economic productivity, environmental limits, interactions with other users and climate change.
- Possible Nature Conservation Marine Protected Areas – In addition to already existing protected areas such as Natura 2000 habitats and species, new Nature Conservation MPAs were identified for species, habitats and geology that are considered of national importance.
- Sectoral Marine Plans for Offshore Wind, Wave and Tidal Energy - identify options and possible areas for offshore wind, wave and tidal energy developments.
- Priority Marine Features – a list of the 80 habitats and species of marine conservation importance for which it would be appropriate to use both area based and non-area based mechanisms to achieve better protection, and for which action will be prioritised via a three-pillar approach, i.e. species measures, site-based measures, and wider seas policies and measures.
- Draft Planning Circular - explores the linkages between the marine and terrestrial planning systems and provides guidance about joint working.

Collectively, the proposals were known as 'Planning Scotland's Seas' and all the documents are available through the following website <http://www.scotland.gov.uk/Topics/marine/marine-consultation>.

The consultation programmes of the initiatives were aligned. In particular, there was a combined Public Consultation Roadshow with over 20 public events around Scotland in August-September 2013. At each event Marine Scotland policy and nature conservation advisors attended along with relevant consultancy support to discuss the three initiatives.

Analysis of the public consultation can be found here:

<http://www.scotland.gov.uk/Publications/2014/04/3277> and includes those sectors and individuals which responded to each element. In total there were over 15,000 responses to the consultation. The analysis has showed that the vast majority responded to the development of the Marine

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<sup>42</sup> For more information see: <http://www.scotland.gov.uk/Topics/marine/seamanagement/national>

<sup>43</sup> A further agreement with the UK Government gave executive devolution to Scottish Ministers to plan for the waters around Scotland's coasts between 12 and 200 nautical miles. All of this planning activity is to be achieved by the one process and policies will be contained within a single plan covering the entire marine area.

Protected Area network with over 14,700 campaign responses. The vast majority of these were standard responses, sending in a standard form from a campaign website. The sectoral (renewable) plans had 630 responses and the National Marine Plan 124 responses. The Planning Circular and marine features consultations each had less than 40 responses.

The principle conclusions from the analysis are as follows:

- There were several comments across most consultations on the need to ensure that there are no potentially conflicting messages across all relevant Planning Scotland's Seas documents. The need to use consistent presentational formats for ease of cross-referencing and the need for clear signposting between these documents was also raised.
- There were comments on the need for clarity and ongoing linkage between the Planning Scotland's Seas documents. For example: the outputs from the Marine Protected Areas (MPA) network need to be fed back into the PMF (priority marine feature) list or that clarification is required on how PMFs relate to MPAs.

Some respondents stressed the need to provide clearer links between all of the relevant plans and to ensure the synchronisation of reviews and updates in an appropriate hierarchy. These points were noted in responses to the MPA, ORE (Offshore Renewable energy Sector Plans), NMP (National Marine Plan) and DPC (Draft Planning Circular) consultations.

#### **Example: Joint public consultation on water in France: water, floods and marine environment**

The joint consultation on MSFD Programmes of measures and WFD River Basin Management Plans (including Flood Risk Management Plans) is consistent with a necessity for operational and linked measures between Marine Strategy's PoMs and RBMPs on major issues: eutrophication, chemical contaminants and marine litter. There is a need for cross-referencing issues, the exchange of information and work between national and local MSFD and WFD stakeholders and authorities.

This is a joint consultation, with links between issues, but each one keeps its specific process:

- The consultation on the WFD River Basin Management Plans, led by the Basin Coordinator Prefect;
- The consultation on Flood Risk Management Plans, also led by the Basin Coordinator Prefect;
- The consultation on Marine Strategy's PoMs, led by the Maritime Prefect and the Prefect of the Region.

The purpose of the joint consultation is to present the interactions and common issues of the implementation of the MSFD and WFD to the public. Main provisions for the process include:

- Six months consultation process from 19 December 2014 to 18 June 2015;
- Announcement in the national press;
- Common internet access portal to the 3 public consultations;
- Coordinated questionnaires inviting the public to respond to both water and marine consultations; and
- Common local communication actions.

## Identification of stakeholders

In order to promote sustainable development in an effective manner, it is essential that stakeholders, authorities and the public are consulted in the preparation of maritime spatial plans at an appropriate stage.

The MSP Directive provides an indication of the sectors/activities/areas that possibly have an interest or stake in the MSP. The provided list is not exclusive but rather indicative<sup>44</sup>. Based on the pressure and impact assessments for the WFD implementation and analyses of the socioeconomic significance of the water uses in the WFD, a similar list could be compiled to be used for an initial stakeholder identification exercise.

**Table 4.3.2.A** Potential stakeholder groups to be involved in the marine and coastal policies

Stakeholder groups/interests	WFD	MSFD	MSP Directive
Environment NGOs	x	x	x
Cultural heritage			x
Agriculture	x	x	
Forestry	x	x	
Industry	x	x	x
General public and communities	x	x	x
Ports	x	x	x
Shipping	x	x	x
Fishery	x	x	x
Aquaculture	x	x	x
Energy production	x	x	x
Infrastructure development	x	x	x
Mining industry (oil, mineral resources)	x	x	x
Defence sector (e.g. military training activities)		x	x
Tourism and recreation	x	x	x
Scientific research	x	x	x

Each sector/activity or interest can be represented by public authorities (in charge of policy development); businesses or companies and their commercial associations (interested in investments and profit); civil society organisations (defending societal values). Public authorities can be ones which develop national or regional policies or be a local coastal municipality.

Depending on the boundaries of the planning area, the necessity for the involvement of stakeholders from different administrative levels shall be clarified. This is particularly important when the planning areas for MSP and the development of the Marine Strategy do not match; or when several river basins are linked to one marine sub-basin or region. In such cases, additional attention needs to be paid to identify stakeholders of relevant spatial and administrative scales. However, one needs to bear in mind that some categories of stakeholders might act only at the local level while others only at the national level.

<sup>44</sup> Based on the pressure and impact assessments for the WFD implementation and analyses of the socioeconomic significance of the water uses in the WFD, a similar list could be compiled to be used for an initial stakeholder identification exercise.

Some stakeholders are focused on freshwater quality issues and reducing the pressure from human activities, while other are concerned about the state of the fish population in coastal and marine waters. Combining the WFD with any other issue brings freshwater stakeholders to the table with marine and coastal people, so different levels operate across different policy areas. Therefore, it is important to carry out a detailed stakeholder analysis in relation to the scope of the consultation for particular planning process or processes if they are combined. To strengthen the public participation process it is advisable to be aware that there may be different categories of stakeholders or participants in the process. Consideration should be given to the different ways in which they may be involved. Conventionally, the information supply is managed to ensure a wide range of stakeholders, while consultation can be organised either at a broader scale or can be more targeted to receive input from relevant stakeholders. It is recommendable to construct a simplified database or table containing the key information.

**Table 4.3.2.B** A possible approach for identification and characterisation of stakeholders to be kept updated throughout the consultation process

Sector	Name of organisation/ company	Responsibility/ interest	Level/scale of action	Role in PP (to be informed or consulted)	Contact person's name	Contacts (Address, Phone, e-mail)
	...	...		...	...	...

Depending on regulatory frameworks and planning systems of Member States, a list of identified stakeholders and relevant public authorities to be consulted might already exist and be used.

**Example: Stakeholder analysis for setting up MSP in Sweden<sup>45</sup>**

During the preparation phase of the MSP process, the Swedish Agency for Marine and Water Management, which is the competent authority for MSP, launched the stakeholder analysis before the national legislation on MSP was adopted. The purpose of the analysis was i) to identify and characterise stakeholders in the forthcoming MSP process; ii) describe most important stakeholders; and iii) propose stakeholder involvement strategy. The study was carried out by a consulting company.

The work carried out for this report relied on five steps: (i) establishing a preliminary list of possible stakeholders; (ii) selecting stakeholders to interview; (iii) carrying out circa 35 stakeholder interviews; (iv) through each interview attempting to identify further stakeholders; and finally (v) analysing stakeholder positions and possible involvement using stakeholder theory and theory of social and political legitimacy of organisations.

The study was based on a combination of stakeholder theory and a theory of social legitimacy to discuss how interests of different kinds may be involved in an MSP process. The main contribution from stakeholder theory is perhaps its recognition of the influence and powers of others than those with formal rights or powers. Based on the interview results, stakeholders were characterised according to their political, economic, scientific or legal legitimacy to take part in the MSP process.

For the identification of the possible stakeholders, the work started with an analysis of the state authorities at regional (counties) and local (municipalities) level by describing their function and role

<sup>45</sup> Hallin G. (2013): Stakeholders in Swedish Marine Planning. Who they are and how they can be involved. Report published at [http://www.partiseapate.eu/wp-content/uploads/2014/02/PartiSEApate\\_Report\\_Stakeholders-Sweden\\_Final\\_Klein.pdf](http://www.partiseapate.eu/wp-content/uploads/2014/02/PartiSEApate_Report_Stakeholders-Sweden_Final_Klein.pdf)

in spatial planning. It was also recognised that a fundamental difference between the land and marine planning frameworks is the role of land-owners. In spatial planning onshore, land-owners play a crucial role in the process, including the identification and involvement of stakeholders. In marine spatial planning there are for the most part no legitimate owners of the sea bed apart from the State.

Additionally, the stakeholders were categorised by their potential behaviour and attitude towards involvement in MSP – proactive; reactive or dormant stakeholders. The study also outlined a stakeholders' involvement strategy according to four levels of involvement: informing, consulting, involvement, participating.

## **Process of the public participation**

### ***Formal versus informal PP processes***

While the formal opportunity for the public to take part in the planning process is or will be defined in the national law of the Member States, the approaches and efforts allocated to involve stakeholders are and will be different.

Conventionally, the legal provisions on public participation are limited to public consultation on a draft planning document as requested by the Aarhus Convention and the relevant EC Directive. At a minimum, the public participation includes access to information, i.e. the basic points of a draft document or policy; expression of an opinion by commenting the draft document; and an open consultation event.

Recently, the common practice has been to establish permanent cross-sectoral or trans-disciplinary work groups (see chapter 4.2 and EEA, 2014<sup>46</sup>). This approach has been assessed as being an effective way of learning about stakeholders' concerns and receiving their contributions at an early stage of the process.

These coordinating entities are set at different levels: national, river basin district, sub-basin or even catchment level. While the practical arrangements of cooperation very often relies on the River Basin Competent Authorities, the leadership and moderation of the inputs to the RBMP via established river basin coordinating bodies are organised by stakeholders themselves. These entities also offer opportunities for seeking consensus in decision making. Most Member States follow the involvement of stakeholders through the resulting consultation processes, leading to on-going involvement in the implementation of the Directive.<sup>47</sup>

Informal public participation may be informal because the process it supports may not have any statutory backing, e.g. ICZM in non-Mediterranean EU Member States. The experience from ICZM Demonstration Programmes suggested that much can be achieved without formal processes but taking advantage of a collective will to work together for an integrated approach to policies relating to the management of coastal areas and their resources. When developing the ICZM strategies,

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<sup>46</sup> European Environment Agency (2014): Public participation: contributing to better water management. Experiences from eight case studies across Europe.

<sup>47</sup> WRc (2012): Comparative Study of Pressures and Measures in the Major River Basin Management Plans. Task 1 – Governance. <http://ec.europa.eu/environment/archives/water/implrep2007/background.htm>

Member States, amongst other initiatives, have chosen to involve stakeholders through advisory groups or setting up coastal partnerships.

Informal stakeholder processes can also be applied when the legislative framework is under development, and authorities or consultants and researchers would like to test how the forthcoming legislation could work in practice. In MSP, this approach has been taken by a number of the Baltic Sea countries with support of the projects such as BaltSeaPlan and PlanBothnia. For example, the Latvian MSP legislation was based on the outcomes of the pilot MSP carried out during BaltSeaPlan project 2009-2012.<sup>48</sup>

**Example: The needs and role of the maritime industry as a coastal stakeholder in ICZM – UK (source: Ourcoast data base)**

Since 1992, the Solent Forum<sup>49</sup> has provided a platform to deliver ICZM in the Solent sub-region of the south-east UK. It operates at a strategic coastal management level, providing a network for closer working relationships, information dissemination and discussion of topical coastal issues. The Solent Forum is a membership organisation funded by its members, including many maritime industry organisations. It has a steering committee and some 23% of the committee are maritime based.

The objectives of the Forum are:

- To raise awareness and understanding of members' roles and aspirations;
- To improve access to the information base;
- To facilitate better communication, consultation and liaison;
- To raise awareness and understanding of the human and natural changes likely to materially affect the Solent; and
- To promote the national and regional importance of the Solent.

Each year, the Forum hosts a number of meetings for its members to share information on developments within the Solent region and wider national policy issues, as well as provides an opportunity to raise and discuss specific local issues. The Forum also facilitates a range of meetings on behalf of national bodies, for example, in relation to the development of the South Marine Plans, proposals for Marine Protected Areas and implementation of marine aspects of the WFD. It also facilitates the Management Scheme for a number of sites protected under the Habitats and Wild Birds Directives.

In addition, the Forum has established a number of sub-groups (Natural Environment, Water Quality, Recreation and Research) that are seeking to tackle particular issues within the Solent region. A number of specific projects have also been taken forward including a Solent Waders and Brent Goose Strategy and on-going work in relation to the Solent Disturbance and Mitigation Project, which is seeking to manage disturbance to internationally important bird populations using the Solent.

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<sup>48</sup> Zaucha J. (2014): The key to governing the fragile Baltic Sea. Maritime Spatial Planning in the Baltic Sea Region and Way Forward. VASAB Secretariat, Riga, 110 p.

<sup>49</sup> <http://www.solentforum.org/>

### **Example: Official trans-disciplinary national work group on development of MSP in Latvia**

The national legislation on procedures how to develop MSP includes a provision on the establishment of a trans-disciplinary national work group. The aim of setting up such a work group is to ensure regular involvement and participation of public authorities, planning regions, coastal municipalities and members of the society in maritime planning process. The work group is led by the appointed person of the Ministry of the Environmental Protection and Regional Development (MoEPRD), which is in charge of maritime spatial planning in the country.

The legislation already defines which competent authorities and representatives of NGOs should be invited to take part in the work group. The Minister of the MoEPRD approves the legitimacy of the working group - its rules and nominated members from the defined list. The list is rather comprehensive, representing all relevant sectors and levels for MSP; however, the national authorities, like sectoral ministries, are prevailing in membership. Additionally, the MoEPRD published an open invitation on their website to apply for participation at the work group. In total 30 persons or institutions have been delegated to the work group in January 2014.

The duties and rights of the work group are defined in the Rules of Procedures issued by the Minister of (MoEPRD). The work group has the following tasks: i) to participate in the development of the MSP; ii) to inform the work group on opinions and positions of the represented institution; iii) to suggest new ideas and prepare proposals for different aspect of MSP; iv) to provide relevant information for MSP; and v) to adopt the terms of the reference for development of the MSP.

Openness or transparency is one of characteristics of the work. The rules require that an agenda of forthcoming meetings as well as minutes of the meetings are published on the website of the MoEPRD. Although the work group functions as an advisory body, the rules outline also the decision making procedure on issues during the drafting process of the MSP. The final draft of the MSP shall be approved by the Government.

One of the first tasks of the work group was to agree on the terms of the references for the development of the MSP. As the MSP will be elaborated by contracted experts, the tasks had to be written comprehensively and thoroughly. This task on development of the terms of references was accomplished in Spring 2014.

### ***Transboundary coordination and cooperation***

The WFD has introduced a pioneering approach to protecting water based natural geographical formations: river basins. The EU and the Member States have divided the river basins and associated coastal areas into 110 river basin districts (RBD), 40 of which are international and cross border basins, covering about 60 % of EU territory.<sup>50</sup> Coastal waters, extending out to 1 nautical mile beyond baselines, are identified and assigned to the nearest or most appropriate river basin district(s).

The WFD requires the development of a river basin management plan for each district including a programme of measures that should be coordinated for the whole of the river basin district, including international ones. The WFD proposes to use existing structures stemming from

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<sup>50</sup> European Commission (2014): The EU Water Framework Directive. ISBN: 978-92-79-36449-5. DOI: 10.2779/75229.



international agreements. According to the EC 3rd Report on the Implementation of the WFD<sup>51</sup>, official international co-ordination for the preparation of the 1st RBMP has been carried out in some RBDs, mainly for those large international RBDs involving several Member States and non-EU Members. Single international RBMPs according to the EU WFD have been developed for 10 international river basins. For those RBDs where transboundary co-ordination is relevant, measures have been established to restore river continuity, to reduce nutrients in water bodies and in relation to breaches of Environmental Quality Standards (EQSs) due to a transboundary chemical pollution.

The international agreements on cooperation between the Members States have been set up for almost all transboundary river basins. The implementation of the agreements is supported by establishing an international coordinating body (e.g. international river commission, joint transboundary commissions or water authority commissions) that serves as a facilitation platform between the basin sharing countries; other mechanisms are also in place to ensure cooperation.

Stakeholder involvement within international coordination mechanisms is realised through the integration of observers in basin-wide activities. Observers are involved in international cooperation primarily in the river basins where formal agreements are signed, international coordinating bodies established and an international RBMP prepared.<sup>52</sup>

Observers are involved in basin-wide work in Europe's largest shared river basins, the Danube and the Rhine. In the Danube, for example, observers at ordinary meetings of the International Commission for the Protection of the Danube River (ICPDR) include environmental NGOs, industry (including, for example, associations of dredging companies and of water supply companies), research associations and international organisations. For the Rhine, relevant observers are represented in working groups at the international level, and in the plenary assembly/coordination committee recognised observers for the ICPR include interested national governments that are not directly part of the Commission, international organisations as well as industry associations and NGOs.

Additional to the official international cooperation on RBM, stakeholder involvement in the management of shared river basins is fostered by different initiatives and projects. These initiatives have been aiming to raise awareness of the public; establish cooperation between different stakeholder groups and implement joint measures to improve water quality.

The MSFD emphasises the importance of transboundary aspects (impacts and features) in the implementation of its requirements. To achieve or maintain Good Environmental Status in the marine environment by the year 2020, the Member States sharing a marine region or sub-region need to cooperate to ensure that the different elements of the marine strategies (incl., assessment of status, establishment of targets; development of a programme of measures, etc.) are coherent and coordinated across the marine region or sub-region concerned.

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<sup>51</sup> European Commission (2012): Staff Working Document A European Overview. Accompanying the document Report from the Commission to the European Parliament and the Council on the Implementation of the Water Framework Directive (2000/60/EC) River Basin Management Plans: SWD(2012)379 Volume 1.

<sup>52</sup> WRc (2012): Comparative Study of Pressures and Measures in the Major River Basin Management Plans. Task 1 – Governance. 2012. <http://ec.europa.eu/environment/archives/water/implrep2007/background.htm>

To achieve the coordination, Member States should, where practical and appropriate, use existing regional institutional cooperation structures, including those under the Regional Sea Conventions covering that marine region or sub-region. With regard to public participation, the MSFD requires ensuring that all interested parties are involved in the implementation of the Directive, where possible, through existing management bodies or structures, including Regional Sea Conventions, Scientific Advisory Bodies and Regional Councils.

In Europe, there are four cooperation structures - Regional Seas Conventions - that aim to protect the marine environment and bring together Member States and neighbouring countries that share marine waters. One of the key issues is how the Regional Sea Conventions can support the Member States in strengthening stakeholder involvement. Similarly to the international RBM, the approach to invite stakeholders to have an observer's role has been practiced so far. See the example below.

**Example: HELCOM (Helsinki Commission) is the coordination platform for regional implementation of the MSFD in the Baltic Sea region**

The HELCOM Baltic Sea Action Plan (BSAP) adopted by HELCOM in 2007 contains a set of actions to achieve a Baltic Sea in Good Environmental Status by 2021. The HELCOM Group for the Implementation of the Ecosystem Approach (HELCOM GEAR) has been established with a purpose to steer on a managerial level the process of successful implementation of the HELCOM BSAP to meet the ecological objectives and achieve good ecological/ environmental status of the Baltic Sea by 2021 at the latest. The purpose is also to facilitate the regional coordination for the implementation of the MSFD, for those Contracting Parties that are also EU Member States, with the aim to achieve respective coherent national marine strategies. It also needs to include coordination with activities under the Maritime Doctrine of the Russian Federation. The HELCOM work structure involves annual meeting of the Commission (Heads of Delegation), permanent and time limited/ad-hoc groups.

Intergovernmental and international non-governmental organisations may apply for observer status to the Helsinki Commission. An organisation must show that it can contribute to matters dealt with by HELCOM, that it has a membership in a wide number of the Baltic Coastal States and an organised internal structure. HELCOM may also invite any state, not party to the Helsinki Convention, to be represented at its meetings.

Any international organization accepted as an observer to the Commission has a right to attend the meetings of the Commission and its subsidiary bodies and receive non-restricted material prepared for those meetings; to submit in accordance with the rules written statements on items of the agenda of the meeting concerned; to give oral statements pertinent to the subject matter at the discretion of the Chairman of the meeting concerned but not a right to vote; to receive the reports of the meetings attended by such observer and other non-restricted documentation on matters of special interest to the observer concerned.

At present HELCOM has an extensive network of observers contributing actively to the protection of the Baltic Sea. Almost 50 organisations representing different sectors and governance levels have received observer status. Many of them are network type of organisations consisting of the national NGOs or stakeholders, thus actually having wider representation in the regional policy development process.

### **Example: Engaging stakeholders in the Celtic Seas in MSFD**

Partnerships Involving Stakeholders in the Celtic Sea Ecosystem (PISCES)<sup>53</sup> was a LIFE+ co-funded project (2009 – 2012) that brought together stakeholders from across France, Ireland, England, Wales and Spain to work together to produce a set of practical guidelines to manage the marine environment more sustainably, in line with the ecosystem-based approach. A key output from the project was the PISCES Guide<sup>54</sup> on implementing the ecosystem approach in the context of the European Union (EU) Marine Strategy Framework Directive (MSFD).

Building on the success of PISCES, a further LIFE+ co-funded project has been initiated, the Celtic Seas Partnership<sup>55</sup>. This project is working with stakeholders across the Celtic Seas sub-region to develop innovative and collaborative ways of working to feed into the MSFD consultation processes in France, Ireland and the United Kingdom and to build an understanding of the ecosystem approach to marine management. In particular, the project sees to develop measures that can feed into government programmes for developing measures to achieve MSFD objectives. The Celtic Seas Partnership is separate from the statutory process but has the opportunity to feed in and add value to the government-led processes.

The main form of engagement is through a series of multinational and in-country workshops at which suggestions for management measures are being identified and evaluated. A number of case studies relating to sustainable management of the Celtic Seas are also being produced to stimulate discussion and debate.

Transboundary cooperation is also endorsed by the MSP Directive (Article 11). Similarly to MSFD, this Directive also emphasises the importance of a coherent and coordinated MSP across the marine region concerned. The Directive also encourages using existing regional institutional cooperation structures and networks. The necessity for cross-border coordination in the MSP has been recognised by the Helsinki Convention (RSC) and a joint working group with another network – the VASAB (Vision and Strategies around the Baltic Sea) cooperation body in spatial planning and regional development was established in 2010 with a three year mandate. In 2013, the mandate for the joint HELCOM/VASAB working group was extended to 2016.<sup>56</sup>

### ***Transboundary consultations***

Since the adoption of the SEA Directive, many Member States have already gained experience in the implementation of the requirements, including one-on-one consultation with neighbouring countries. Where maritime spatial plans are likely to have significant effects on the environment, they are also the subject to SEA Directive including the transboundary consultation.

Before its adoption, the Member State in whose territory a plan or programme is being prepared has to forward a copy of the draft plan or programme and the relevant environmental report to the Member State likely to be affected. A Member State who received a copy of the documents needs to

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<sup>53</sup> <http://www.projectpisc.es.eu/>

<sup>54</sup> <http://www.projectpisc.es.eu/guide/>

<sup>55</sup> <http://celticseaspartnership.eu/>

<sup>56</sup> <http://www.vasab.org/index.php/maritime-spatial-planning/msp-wg>

indicate whether it wishes to enter into a consultation concerning the likely transboundary environmental effects.

Where Member States enter into consultations, they need to agree, at the beginning of such consultations, on a reasonable timeframe for the duration of the consultations. Authorities and the public in the Member State likely to be significantly affected need to be informed and given an opportunity to forward their opinion within a reasonable time-frame.

Although the SEA Directive calls for the communication between the countries concerned, the given provisions are flexible in terms of how Member States organise the process. Examples below present approaches that have used the SEA Directive as a legal basis for the consultation on both documents – a draft MSP and a draft environmental report.

#### **Example: Transboundary consultation on the Lithuanian Maritime Spatial Plan with Latvia**

The development of the spatial plan for marine waters of Lithuania was based on the existing national legislation of territorial planning as an **extension of General Plan of the Republic of Lithuania with marine solutions**. The actual work on the draft plan and SEA was contracted to external consultants.

The work by the consultants lasted about two years - from March 2012 till December 2013. An invitation from the Lithuanian to the Latvian competent authority of SEA (CA) to the transboundary consultation, including an English summary report on the drafted documents, was sent in May 2013. The internet address with access to full documents (drafts of plan and environmental report) in the Lithuanian language was provided. In the response letter (June, 2013), the Latvian CA expressed an interest in transboundary consultation and asked the Lithuanian CA to provide more detailed information for Latvian stakeholders on environmental effects from the envisaged development activities in the bordering marine areas. Of particular interest was getting information about the potential impacts on the environment caused by the Klaipeda/Šventoji port development, offshore wind energy development areas as well as the siting of infrastructure/cable lines in marine areas.

In October 2013 the Lithuanian CA informed the Latvian CA on the improved plan and draft Environmental report (summary in English was provided) and asked about interest in transboundary consultation. The Latvian CA reconfirmed an interest to be consulted and proposed to arrange a transboundary meeting with Lithuanian CA and Latvian stakeholders. The meeting was held in Latvia in January 2014 and consultants presented both documents as well answered to questions. The Lithuanian CA also took an active part in clarifying interests of concern from Latvian stakeholders. The time frame for the Latvian stakeholders to express their opinion on the draft MSP and the accompanying environmental report was 19.12.2013-17.01.2014. The key concerns of the Latvian stakeholders were related to the impact of Klaipeda/Šventoji port development on coastal processes, benthic habitats, Natura 2000. Further topics were the impact on fish spawning grounds due to offshore wind development, impact of port development on coastal tourism in local municipalities near by the Lithuanian border. Lithuania is still working on finalising the report; therefore, feedback how the concerns of Latvian authorities and public are taking into account are not yet known.

One of the major challenges in transboundary consultation was the limited information available in English language. It was recognised that the prepared English summary reports were considered insufficient to have an effective public participation process.

In addition to the official transboundary consultation, the Klaipeda University (also one of the contracted consortium partner) arranged accompanying events with Latvian stakeholders to supply information on the on-going planning process, to build awareness, thus supporting official

transboundary consultation. These extra events were arranged due to an on-going transnational project on MSP ([www.partiseapate.eu](http://www.partiseapate.eu)). A wider stakeholder event was arranged where the concept of spatial alternatives for sea use was developed. The second wider meeting was organised as a public hearing when a MSP and Environment report had been drafted and made public.

**Example: Transboundary consultation on the spatial Offshore Grid Plan of the German EEZ**

The German government's energy concept aims at developing offshore wind energy production in the North and Baltic Sea. To meet this objective and to gain planning security for the parties involved, the issuing of a Spatial Offshore Grid Plan was considered necessary. The German competent authority (CA) for drafting the plan, the environmental report and arranging national and transboundary consultations is the German Maritime and Hydrographic Agency (BSH) in consultation with the Federal Network Agency and in coordination with the Federal Agency for Nature Conservation and the coastal federal states.

The plan aims to ensure a coordinated and consistent spatial planning of grid infrastructure and grid topology, particularly for the grid connections of offshore wind farms in the German EEZ of the North and Baltic Sea up to the 12 nautical mile border of the territorial waters. The Spatial Offshore Grid Plan takes a sectoral planning approach and is closely linked to the Maritime Spatial Plan for the German EEZ in the North and Baltic Sea. The Spatial Offshore Grid Plan is updated annually.

The Spatial Offshore Grid Plan is compiled separately for the German EEZ of the North and Baltic Sea. The first grid plan for the German EEZ in the North Sea was issued in February 2013 after two national and international consultations. In 2014, the plan is getting updated.

The draft offshore grid plan for the German EEZ in the Baltic Sea was published in August 2013. To implement transboundary consultation in the Baltic Sea, the German CA sent a notification letter already in March 2013 to competent authorities around the Baltic Sea informing them about the elaboration of the spatial Offshore Grid Plan and respective SEA. It was asked to express interest and particular concerns to be addressed by the Environment Report. Replies were received from five out of eight countries. Poland and Sweden were interested to take part in the transboundary consultation, while Latvia, Estonia and Finland informed that they do not see a necessity for the participation.

On 07 November 2011, the German CA sent a letter together with a comprehensive summary of the German, English and Polish version of the revised draft of the Offshore Grid Plan EEZ Baltic Sea and the non-technical summary of the draft SEA Report on CD. The CAs of the Baltic Sea states were asked to comment on the draft documents by 10 January 2014 (almost 2 months for the consultation). German CA also asked to express an interest to attend an international consultation meeting to be held after the commenting phase (beginning of February, 2014). Written comments were received from Poland and Sweden. Concerns of Poland were about accessibility of ports, anchoring area, impact of important bird areas. Concerns of Sweden were related to gates for Interconnectors. None of the Baltic Sea country showed interest to hold a consultation meeting. The final offshore grid plan for the German EEZ in the Baltic Sea was adopted in March 2014.

**Example: Transboundary maritime planning between Portugal and Spain, European Atlantic.**

The Algarve / Bay of Cádiz was selected as a pilot area for developing commonly agreed approach to cross-border MSP. The exercise was implemented in the frame of the DG Mare co-financed project TPEA- Transboundary Planning in the European Atlantic from December 2012-June 2014.<sup>57</sup>

The primary means of stakeholder engagement has been the organisation of workshops (three in each pilot area), where participants were invited to explore different aspects of transboundary MSP, and encouraged to share their experiences, expectations, knowledge and opinions in relation to marine planning and in particular the local areas. Topics covered during workshops include: methods for establishing planning areas; data sharing and harmonisation across jurisdictions; identifying pressures and opportunities; agreeing specific and strategic planning objectives; and development of scenarios. The preparation of the workshop took into account the existence of the two distinct nationalities of the participants; hence, joint plenary sessions and parallel sessions for representatives of each country were organised.

The first workshop took place at the Centro Cultural António Aleixo, in a city near the border, Vila Real de Santo António in Portugal March 2013. In total 28 stakeholders (out of 95 invited) attended the event. Public entities with jurisdiction in the licensing and inspection of activities and uses of marine space and the marine and/or coastal zone, and representative organisations from the relevant sectors from both countries were invited to participate in this first workshop. Partners and advisors were also invited. The first workshop had rather low interest among Spanish stakeholders (9 attended event). One of the reasons could be that the stakeholders have different awareness and knowledge about MSP and ICZM. The Portuguese stakeholders are used to participating in this kind of processes and are aware of the concepts while Spanish stakeholders are not. To achieve better communication and stakeholder involvement, additional three stakeholder meetings were arranged in Spain.

The second joint Spain-Portugal workshop was held in Huelva (Spain) in November 2013. The number of people who attended the meeting was 63, 41 from Spain and 22 from Portugal. The workshop focused on four themes: Fisheries and Aquaculture; Tourism and Coastal Management; Energy resources; and Ports and Navigation. Participants pointed out a need to define rules to resolve conflicts, priority for both countries and the definition of objectives and criteria. Information sharing and cooperation within and between the institutions of both countries was considered fundamental.

**The third workshop** was organised in April 2014<sup>58</sup>; however, the information about it has not yet been published. The project produced a Good Practice Guide<sup>59</sup>, summarising the lessons learned from the process. A Pilot Areas Report has been produced, which comprehensively details the overall TPEA approach and presents the key findings for the pilot areas located in the south (Portugal/Spain) and north (Ireland/Northern Ireland) of the European Atlantic<sup>60</sup>.

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<sup>57</sup> <http://www.tpeamaritime.eu/wp/>

<sup>58</sup> [http://www.tpeamaritime.eu/wp/wp-content/uploads/2013/09/TPEA-Factsheet-Stakeholder-Engagement\\_Updated\\_2014.pdf](http://www.tpeamaritime.eu/wp/wp-content/uploads/2013/09/TPEA-Factsheet-Stakeholder-Engagement_Updated_2014.pdf)

<sup>59</sup> Jay, S. & Gee, K. (eds.) (2014): TPEA Good Practice Guide: Lessons for Cross-border MSP from Transboundary Planning in the European Atlantic, University of Liverpool, Liverpool, UK. Available at: [http://www.tpeamaritime.eu/wp/wp-content/uploads/2014/11/TPEA\\_bestpract\\_34\\_download.pdf](http://www.tpeamaritime.eu/wp/wp-content/uploads/2014/11/TPEA_bestpract_34_download.pdf)

<sup>60</sup> TPEA (2014): Transboundary Planning in the European Atlantic: Pilot Areas Report. University of Liverpool, Liverpool, UK, 31 July 2014. [http://www.tpeamaritime.eu/wp/wp-content/uploads/2013/09/03a\\_TPEA-Pilot-Areas-Report.pdf](http://www.tpeamaritime.eu/wp/wp-content/uploads/2013/09/03a_TPEA-Pilot-Areas-Report.pdf)

In the context of this project, no discussions for the broad public have been held, but a website has been created that provides the general public with updates on the MSP exercise being undertaken.

**Lessons from working with stakeholders across borders:**

- Take account of different traditions in working with stakeholders. Different traditions of stakeholder participation mean that different ways of engagement may be called for. In countries with less tradition of broad stakeholder involvement, extra time and effort is required to bring stakeholders into the process. Time needed to be spent explaining the nature of the project and the purpose of MSP, as well as the contribution stakeholders can expect to make to the project.
- Ensure proper planning and guidance of the participation process. Care needed to be taken to properly guide the participation process, ensuring the planned outcomes of the project, the value of stakeholder involvement to the project and also the potential next steps were clearly communicated at each stage of the project.
- Obtain regular stakeholder feedback. Stakeholders considered TPEA a good learning experience, emphasising that much valuable information had been gathered, but also had good suggestions for improving stakeholder events in the future. Regular evaluation of stakeholder events was therefore useful for fine-tuning stakeholder involvement and ensuring stakeholder satisfaction.

## 5 Conclusions

The EU environmental Directives on marine and coastal policies (MSFD, MSP, WFD and FD) provide an opportunity to develop integrated and coherent plans and programmes for achieving policy objectives and targets. Because a wide range of economic policy areas and processes influence the status of waters, there is a need to broaden planning process beyond the Environmental Ministries to other Ministries or Agencies (horizontal integration) and also to public bodies at other administrative levels (vertical integration). It is also valuable to strengthen coordination with related “environmental” work including SEA and with processes at regional sea level via the Regional Sea Conventions.

Legal requirements of public participation, including information access, supply, and consultation, bear strong similarities with existing terrestrial planning processes to offer potentially strong inputs by public and relevant stakeholders. Opportunities exist to establish coordinated approaches for public participation between the WFD, FD and MSFD Directives, which also help to monitor common progress in achieving objectives and targets across different scales and countries in Europe. However, there are differences in definitions and requirements between systems and ensuring there is complementarity between them, either through formal joint processes or by taking an informal but integrated approach can be challenging.

The implementation timeline of the MSP Directive is flexible apart from the deadline for establishing the maritime spatial plans by 2021 at the latest. The planning periods for water management and MSP are also different – maritime spatial plans shall be reviewed at least every ten years, while water management programmes and plans function on a six year cycle. There are also inconsistencies in the definitions on who shall participate (public; public concerned; interested parties) so stakeholders and authorities might need clarification from Member States on their level of involvement.

A general common principle in water and coastal policies is that public participation should take place early in the policy process and all interested parties should be involved. Early and informal stakeholder engagement can be tested when the legislative framework is under development and authorities would like to assess how the forthcoming legislation could work in practice. However, the right timing for launching the process depends on national or even local circumstances.

There are many good examples available on how to implement the public participation requirements for WFD, ICM, MSFD and already some for MSP. Common elements include being clear about: the scope of public participation and its objectives; the prospective audience and how to identify and address them; and structure and design of the public participation strategy and programme. These aspects determine which approach, tools and methods should be selected and implemented to ensure an effective public participation.

It has been recognised that choices over which stakeholders to involve are similar across planning processes. In general, the process should be as inclusive as possible but a few economic sectors are marine-specific and some land based activities might not cause significant and direct impacts on marine areas. Moreover, different types of water need certain measures to be taken at appropriate scale and by the defined target groups. The chosen approach to public participation might, therefore, differ in terms of the focus of the exercise. Consequently, the target group of the participation should be identified accordingly and involvement process tailored and adaptive to specific policy needs.



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## Annex 1. Relevant EU Directives on public participation, chronological order

Directive 2000/60/EC of the European Parliament and of the Council on establishing a framework for Community action in the field of water policy ( <b>Water Framework Directive</b> )	
Preamble	<p>(14) The success of this Directive relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users.</p> <p>(46) To ensure the participation of the general public including users of water in the establishment and updating of river basin management plans, it is necessary to provide proper information of planned measures and to report on progress with their implementation with a view to the involvement of the general public before final decisions on the necessary measures are adopted.</p>
Article 14 on Public information and consultation	<p>1. Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public, including users:</p> <p>(a) a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;</p> <p>(b) an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;</p> <p>(c) draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers.</p> <p>On request, access shall be given to background documents and information used for the development of the draft river basin management plan.</p> <p>2. Member States shall allow at least six months to comment in writing on those documents in order to allow active involvement and consultation.</p> <p>3. Paragraphs 1 and 2 shall apply equally to updated river basin management plans.</p>
Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment ( <b>SEA Directive</b> )	
Preamble	<p>(15) In order to contribute to more transparent decision making and with the aim of ensuring that the information supplied for the assessment is comprehensive and reliable, it is necessary to provide that authorities with relevant environmental responsibilities and the public are to be consulted during the assessment of plans and programmes, and that appropriate time frames are set, allowing sufficient time for consultations, including the expression of opinion.</p> <p>(16) Where the implementation of a plan or programme prepared in one Member State is likely to have a significant effect on the environment of other Member States, provision should be made for the Member States concerned to enter into consultations and for the relevant authorities and the public to be informed and enabled to express their opinion.</p> <p>(17) The environmental report and the opinions expressed by the relevant authorities and the public, as well as the results of any transboundary consultation, should be taken into account during the preparation of the plan or</p>

	<p>programme and before its adoption or submission to the legislative procedure.</p> <p>(18) Member States should ensure that, when a plan or programme is adopted, the relevant authorities and the public are informed and relevant information is made available to them.</p>
Article 3 on Scope	7. Member States shall ensure that their conclusions pursuant to paragraph 5, including the reasons for not requiring an environmental assessment pursuant to Articles 4 to 9, are made available to the public.
Article 6 on Consultations	<p>1. The draft plan or programme and the environmental report prepared in accordance with Article 5 shall be made available to the authorities referred to in paragraph 3 of this Article and the public.</p> <p>2. The authorities referred to in paragraph 3 and the public referred to in paragraph 4 shall be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure.</p> <p>3. Member States shall designate the authorities to be consulted which, by reason of their specific environmental responsibilities, are likely to be concerned by the environmental effects of implementing plans and programmes.</p> <p>4. Member States shall identify the public for the purposes of paragraph 2, including the public affected or likely to be affected by, or having an interest in, the decision-making subject to this Directive, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned.</p> <p>5. The detailed arrangements for the information and consultation of the authorities and the public shall be determined by the Member States.</p>
Article 7 on Transboundary consultations	<p>1. Where a Member State considers that the implementation of a plan or programme being prepared in relation to its territory is likely to have significant effects on the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the plan or programme is being prepared shall, before its adoption or submission to the legislative procedure, forward a copy of the draft plan or programme and the relevant environmental report to the other Member State.</p> <p>2. Where a Member State is sent a copy of a draft plan or programme and an environmental report under paragraph 1, it shall indicate to the other Member State whether it wishes to enter into consultations before the adoption of the plan or programme or its submission to the legislative procedure and, if it so indicates, the Member States concerned shall enter into consultations concerning the likely transboundary environmental effects of implementing the plan or programme and the measures envisaged to reduce or eliminate such effects.</p> <p>Where such consultations take place, the Member States concerned shall agree on detailed arrangements to ensure that the authorities referred to in Article 6(3) and the public referred to in Article 6(4) in the Member State likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable time-frame.</p> <p>3. Where Member States are required under this Article to enter into consultations, they shall agree, at the beginning of such consultations, on a reasonable timeframe for the duration of the consultations.</p>
Article 9 on Information on the decision	1. Member States shall ensure that, when a plan or programme is adopted, the authorities referred to in Article 6(3), the public and any Member State consulted under Article 7 are informed and the following items are made available to those

	<p>so informed:</p> <p>(a) the plan or programme as adopted;</p> <p>(b) a statement summarising how environmental considerations have been integrated into the plan or programme and how the environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of consultations entered into pursuant to Article 7 have been taken into account in accordance with Article 8 and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with, and</p> <p>(c) the measures decided concerning monitoring in accordance with Article 10.</p> <p>2. The detailed arrangements concerning the information referred to in paragraph 1 shall be determined by the Member States.</p>
<p>Recommendation of the European Parliament and of the Council concerning the implementation of Integrated Coastal Zone Management in Europe (2002/413/EC) (<b>Recommendations on ICZM</b>)</p>	
<p>CHAPTER IV, National strategies; Point 3.</p>	<p>(d) particularly, identify measures to promote bottom-up initiatives and public participation in integrated management of the coastal zone and its resources;</p>
<p>CHAPTER V, Cooperation, Point 2.</p>	<p>Member States also work actively with the Community institutions and other coastal stakeholders to facilitate progress towards a common approach to integrated coastal zone management, examining the need for a European coastal stakeholders' forum. In this process, ways of using existing institutions and conventions should be explored.</p>
<p>Directive 2003/35/EC of the European Parliament and of the Council on providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (<b>Public Participation Directive</b>)</p>	
<p>Article 1 on Objective</p>	<p>The objective of this Directive is to contribute to the implementation of the obligations arising under the Århus Convention, in particular by:</p> <p>(a) providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.</p>
<p>Article 2 on Public participation concerning plans and programmes</p>	<p>2. Member States shall ensure that the public is given early and effective opportunities to participate in the preparation and modification or review of the plans or programmes required to be drawn up under the provisions listed in Annex I.</p> <p>To that end, Member States shall ensure that:</p> <p>(a) the public is informed, whether by public notices or other appropriate means such as electronic media where available, about any proposals for such plans or programmes or for their modification or review and that relevant information about such proposals is made available to the public including inter alia information about the right to participate in decision-making and about the competent authority to which comments or questions may be submitted;</p> <p>(b) the public is entitled to express comments and opinions when all options are open before decisions on the plans and programmes are made;</p> <p>(c) in making those decisions, due account shall be taken of the results of the public participation;</p> <p>(d) having examined the comments and opinions expressed by the public, the competent authority makes reasonable efforts to inform the public about the</p>

	<p>decisions taken and the reasons and considerations upon which those decisions are based, including information about the public participation process.</p> <p>3. Member States shall identify the public entitled to participate for the purposes of paragraph 2, including relevant non-governmental organisations meeting any requirements imposed under national law, such as those promoting environmental protection.</p> <p>The detailed arrangements for public participation under this Article shall be determined by the Member States so as to enable the public to prepare and participate effectively.</p> <p>Reasonable time-frames shall be provided allowing sufficient time for each of the different stages of public participation required by this Article.</p>
<p>Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC (<b>Access to Information Directive</b>)</p>	
Article 1, Objectives	<p>(a) to guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise; and</p> <p>(b) to ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information. To this end the use, in particular, of computer telecommunication and/or electronic technology, where available, shall be promoted.</p>
Article 2, Definitions	<p><i>all are relevant</i></p>
Article 3, Access to environmental information upon request	<p>1. Member States shall ensure that public authorities are required, in accordance with the provisions of this Directive, to make available environmental information held by or for them to any applicant at his request and without his having to state an interest.</p> <p><i>And all subsequent provisions</i></p>
Article 7, Dissemination of environmental information	<p>1. Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available.</p>
<p>DIRECTIVE 2007/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2007 on the assessment and management of flood risks (<b>Floods Directive</b>)</p>	
Article 9	<p>The active involvement of all interested parties under Article 10 of this Directive shall be coordinated, as appropriate, with the active involvement of interested parties under Article 14 of Directive 2000/60/EC.</p>
Article 10	<p>1. In accordance with applicable Community legislation, Member States shall make available to the public the preliminary flood risk assessment, the flood hazard maps, the flood risk maps and the flood risk management plans.</p> <p>2. Member States shall encourage active involvement of interested parties in the production, review and updating of the flood risk management plans referred to in Chapter IV.</p>

Directive 2008/56/EC of the European Parliament and of the Council on establishing a framework for Community action in the field of marine environmental policy ( <b>Marine Strategy Framework Directive</b> )	
Article 13 on Programmes of measures	by 2013 at the latest, Member States shall make publicly available, in respect of each marine region or subregion, relevant information on the areas referred to in paragraphs 4 (marine protected areas) and 5 (areas having significant impacted on the marine environment).
Article 19 on the Public consultation and information	<p>1. In accordance with relevant existing Community legislation, Member States shall ensure that <b>all interested parties</b> are given <b>early and effective</b> 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.</p> <p>2. Member States shall <b>publish</b>, and <b>make available to the public for comment</b>, summaries of the following elements of their marine strategies, or the related updates, as follows:</p> <p>(a) the initial assessment and the determination of good environmental status, as provided for in Articles 8(1) and 9(1) respectively;</p> <p>(b) the environmental targets established pursuant to Article 10(1);</p> <p>(c) the monitoring programmes established pursuant to Article 11(1);</p> <p>(d) the programmes of measures established pursuant to Article 13(2).</p> <p>3. With regard to <b>access to environmental information</b>, Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information (1) shall apply.</p>
The Directive 2014/89/EU of the European Parliament and the Council on establishing a framework for maritime spatial planning ( <b>Maritime Spatial Planning Directive</b> )	
Recital 21	“(21) The management of marine areas is complex and involves different levels of authorities, economic operators and other stakeholders. In order to promote sustainable development in an effective manner, it is essential that stakeholders, authorities and the public be consulted at an appropriate stage in the preparation of maritime spatial plans under this Directive, in accordance with relevant Union legislation. A good example of public consultation provisions can be found in Article 2(2) of Directive 2003/35/EC of the European Parliament and of the Council.
Recital 24	With a view to ensuring that maritime spatial plans are based on reliable data and to avoid additional administrative burdens, it is essential that Member States make use of the best available data and information <b>by encouraging the relevant stakeholders to share information</b> and by making use of existing instruments and tools for data collection, such as those developed in the context of the Marine Knowledge 2020 initiative and Directive 2007/2/EC of the European Parliament and of the Council <sup>61</sup> .
Article 9 on Public participation	1. Member States shall establish means of public participation <b>by informing all interested parties</b> and <b>by consulting the relevant stakeholders and authorities</b> ,

<sup>61</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).



	<p>and the <b>public concerned, at an early stage</b> in the development of maritime spatial plans, in accordance with relevant provisions established in Union legislation.</p> <p>2. Member States shall also ensure that the relevant stakeholders and authorities, and the public concerned, have access to the plans once they are finalised.</p>
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