

# EU legal framework: the Habitats Directive, the SEA/EIA Directive and the Marine Strategy Framework Directive



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How can underwater noise be effectively reduced?  
SEARICA intergroup/IFAW  
European Parliament  
Bruxelles, 26 June 2018

# EU Habitats Directive:

## two pillars of protection

- Natura 2000 sites

For species listed in Annex II (e.g. *Tursiops truncatus*, *Caretta caretta*) **special areas of conservation (SAC)** should be **designated, protected and managed** - **conservation measures** should be in accordance with **the ecological requirements** of the species.

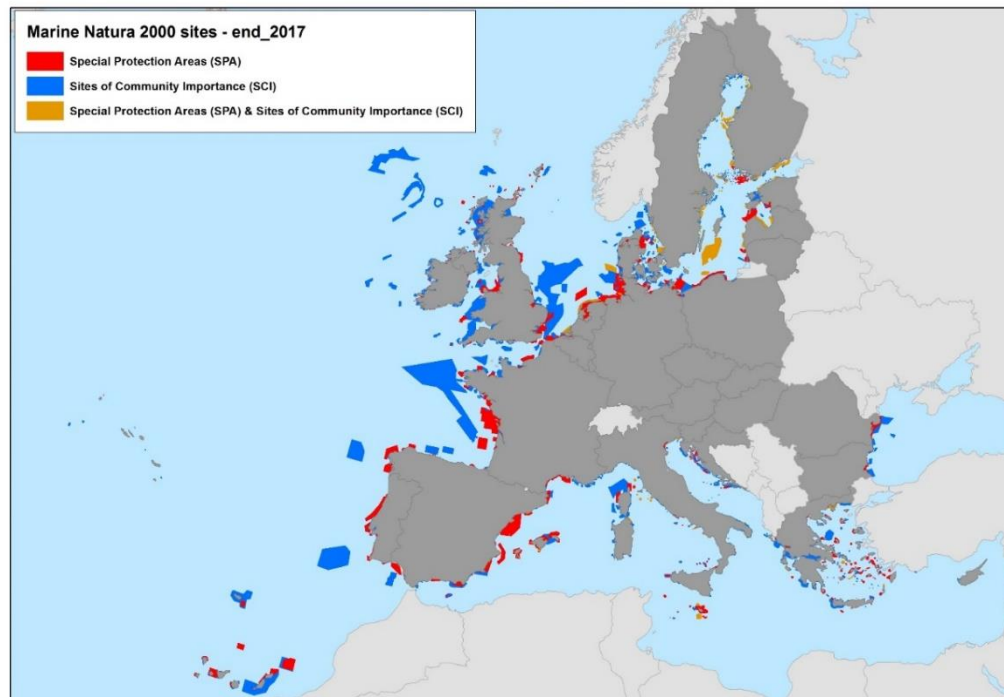
- Strict protection of species

For species listed in Annex IV (e.g. **all cetaceans, sea turtles, etc.**), **a strict protection regime** must be applied **across their entire natural range** in the EU (both within and outside Natura 2000 sites).

[Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora](#)

# Marine Natura 2000 – state of play

- More than **3140** marine sites (out of **>27000**)
- Covers **>7% of EU seas** (>**450.000** km<sup>2</sup>)
- Network is not complete in the **offshore** area and big differences across **regional seas**
- **Collective EU effort: the area under marine Natura 2000 doubled in the last 5 years!**
- Marine Natura 2000 is the main driver of MPA designation in the EU and makes **the main contribution to reaching international targets** ('Aichi Target 11' and SDG 14)



# Strict protection of species (Article 12)

Member States shall take the requisite measures to establish **a system of strict protection** for the animal species listed in Annex IV(a) in their natural range, **prohibiting**:

- all forms of **deliberate capture or killing** of specimens of these species in the wild;
- **deliberate disturbance** of these species, particularly during the period of breeding, rearing, hibernation and migration;
- deliberate destruction or taking of eggs from the wild;
- **deterioration or destruction** of breeding sites or resting places.

Exceptions (derogations) only under certain conditions: no alternative, no detrimental effect on FCS and e.g. in the interest of public health, safety, IROPI, research,...

# Strict protection of species (Art. 12)

- **A preventive character**: to avoid and prevent a number of situations that could negatively impact a species - **precautionary principle** in case of lack of knowledge
- **Species-by-species approach**, taking account of the specific needs of each species, based on **the knowledge** on their populations and the main pressures and threats – the importance of surveillance (Art. 17)
- Some species are covered by Annex II and IV and therefore are subject to **a combination of conservation approaches and measures** - close link to **management of Natura 2000 sites** (protection of species and their habitats)
- The need for effective transboundary cooperation!

# Examples of measures



WhaleSafe



- Adapted **planning and administrative procedures**
- **Species action plans** (national, regional, international)
- **Risk assessment** programmes (cumulative impact!)
- **Codes of conduct and guidelines** for noise-generating activities (e.g. for noise mitigation in seismic surveys)- should be based on the best available science!
- **Guidance:** [Commission guidance on Article 12 HD](#) – will be updated in 2018-19!  
Existing guidance from **ACCOBAMS-ASCOBANS, CMS, MS, industry, etc.**
  
- Rerouting/regulating maritime traffic, **designation of PSSAs under IMO**, zoning boating activities in Natura 2000 sites, rules for whale watching, etc.
- **Mitigation measures** for underwater construction works (e.g. pile-driving or drilling) or seismic surveys (e.g. following an 'appropriate assessment' in Natura 2000 sites)
- Working with economic sectors to **propose alternative technologies**
- **Military is not exempted!**



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# Environmental impact assessments

## 'Appropriate assessment' under the Habitats Directive

- **Plans and projects** (e.g. seismic surveys, underwater construction, etc.) that can affect **Natura 2000 sites** can **only** be approved if **no significant negative effects** exist (Article 6(3) of the Habitats Directive)
- SEA/EIA offer the framework to address the impact of underwater noise to species **outside** Natura 2000 and fulfil obligations under Article 12 HD

## Strategic Environmental Assessment (SEA) Directive

- To provide a high level of protection of the environment
- To contribute to the integration of environmental considerations into the preparation of plans and programmes with a view to promoting sustainable development

(Directive 2001/42/EC)

## Environmental Impact Assessment (EIA) Directive

- To protect the environment and the quality of life
- To ensure approximation of national laws with regard to the assessment of the environmental effects of public and private projects

(Directive 2014/52/EU amending 2011/92/EU)

# The Environmental Impact Assessment (EIA) Directive

- Under both mandatory and screening procedures, depending on the type of project, a number of project's characteristics **including noise** should be considered.
- Recital 12 of the Directive focuses on the protection of the marine environment and urges Member States ***to take into account during the EIA and screening procedures particular characteristics of projects with regard to technologies used such as seismic surveys using active sonars.***
- Seismic surveys are not in Annex I or II, but can be part of projects that are included



# The Marine Strategy Framework Directive

**Good Environmental Status:** "the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive"



1	Biological diversity
2	Non-indigenous species
3	Commercial fish and shellfish
4	Food-webs
5	Eutrophication
6	Sea-floor integrity
7	Hydrography
8	Contaminants
9	Contaminants in seafood
10	Marine litter
<b>11</b>	<b><u>Energy, including underwater noise</u></b>



# Descriptor 11: Energy, incl. underwater noise

*Introduction of energy, including underwater noise is at levels that do not adversely affect the marine environment.*

Annex III: lists of characteristics, pressures and impacts for determination of GES mentions underwater noise (e.g. from shipping, underwater acoustic equipment)

## New GES Decision 2017/848:

Elements	Criterion
Anthropogenic impulsive sound	<b>D11C1:</b> The spatial distribution, temporal extent, and levels of anthropogenic impulsive sound sources do not exceed levels that adversely affect populations of marine animals.  <b>Member States shall establish threshold values for these levels</b>
Anthropogenic continuous low-frequency sound	<b>D11C2:</b> The spatial distribution, temporal extent and levels of anthropogenic continuous low-frequency sound do not exceed levels that adversely affect populations of marine animals.  <b>Member States shall establish threshold values for these levels</b>

# MSFD technical group on underwater noise (TG Noise)

Advises on practical implementation of descriptor 11 defined in Annex I of the MSFD

- Ensuring overall coherence with HELCOM and OSPAR - **impulsive noise register** in cooperation with OSPAR and HELCOM
- Joint ambient **noise monitoring programmes** in North Sea region, Atlantic Arc region
- **Monitoring guidance** (2014)
- Overview of EU funded projects

Priorities for 2016-2019:

- **Support Member States and regional sea conventions** in implementing operational monitoring
- Enable Member State's assessment, revision of their targets and determination of their GES by 2018
- **Ensure regional coherence** and complementarity through active coordination
- **Development of threshold values** as provided for by the new GES decision

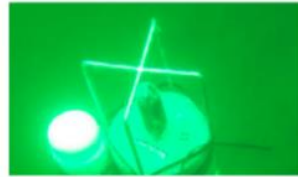
# MSFD: regional efforts with EU support



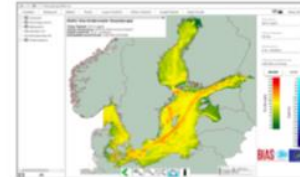
**A LIFE+ PROJECT**  
JOINT EFFORTS IN  
THE BALTIC SEA



**SHIP TRAFFIC**  
UNDERWATER NOISE  
MAY IMPACT NATURE



**REGIONAL EFFORTS**  
NOISE MEASUREMENT  
AND MODELLING



**PLANNING TOOL**  
SOUNDSCAPE  
MANAGEMENT



quietMED

Joint Monitoring Programme for  
Ambient Noise North Sea  
(JOMOPANS)



Funded by:



EMFF

**Interreg**  
North Sea Region  
European Regional Development Fund



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# Towards a coherent protection regime

- **Full implementation** of **EU law**, regional sea conventions and other international agreements (such as CMS) + national and regional strategies
- Improved BHD implementation: *Action plan for nature, people and the economy*
- **Policy integration** (ecosystem approach): MSFD/BHD/CFP/WFD/MSPD – joint measures and management (e.g. PoMs under MSFD and conservation measures under HD)
- **Financing:** ESIF incl. EMFF, LIFE, INTERREG,...
- **Effective cooperation** at all levels (national, regional, EU) between all stakeholders