



Harmonization of management plans: Natura 2000, Water Framework Directive and EU Recommendation on ICZM

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Abstract

The mentioned European legislation corresponds in general with one very important point: the broad access of the public and the administrative implementation of these acts. The EU Water Framework Directive from 2000 (WFD) basically lays down that water management shall be done by Member States through river basins within river basin districts. Quite recently, this concept of river basin management is being included with the Integrated Coastal Zone Management Recommendation from 2002 (ICZM) to provide the key for the integrated development of the natural, economic and cultural environment within river basins and coastal areas. The EU Flora Fauna Habitat Directive from 1992 (Habitat Directive) lays down the establishment and conservation of the network of sites known as Natura 2000, in this areas the Member States are obliged to promote biodiversity by maintaining or restoring certain habitats and species at favourable conservation status within the context of Natura 2000 sites. These areas could also be so called protected areas under the regime of the WFD. Obviously there is a necessity to collaborate and to integrate different approaches of natural protecting aspects, because the water administrations policy differs in the most Member States with the policy of the natural protection offices. The WFD and the Habitat Directive correspond with important main targets. Both directives strengthen the precautionary principle, which is also mentioned in the ICZM. Furthermore both directives integrate the protection of aquatic ecological systems and species attending the objective of the potential natural condition of the ecological systems. The WFD and the Habitat Directive differ from the administrative approach. The FFH Directive is a more old fashioned act of EU legislation, it founds on the thinking of different districts of national administrations, the WFD has a modern approach with an administration in transnational river basin districts. Therefore the demand of harmonization is evident.

1 Problem

The Habitat Directive, the Water Framework Directive (WFD) and EU Recommendation on the Integrated Coastal Zone Management (ICZM) provide the implementation of management plans. Areas which are recorded by all three management plans effectively have to fulfil the following substantial conditions: (1) According to the Habitat Directive they have to be aquatic sites. These areas are designated for the protection of habitats or species where the maintenance or improvement of the status of waters is an important factor in their protection. Over that Natura 2000 sites can be designated on both land and water. Marine protected areas might include reefs or lagoons, intertidal areas, areas which are always covered by the sea or perhaps land near the sea which is used by marine wildlife. (2) From the point of view of the WFD the areas have to belong to a river basin district which means the area of land and sea, made up of one or more neighbouring river basins together with their associated groundwaters and coastal waters up to one nautical mile on the seaward side. (3) According to ICZM Recommendation the areas must be finally appropriate in the range of national strategic plans for the coast management of both the marine and terrestrial components of the coastal zone, which is not more near defined.

The concept of river basin management has been included by the EU Recommendation on the Integrated Coastal Zone Management (ICZM) from 2002 to provide the key for the integrated

development of the natural, economic and cultural environment within river basins and coastal areas. Natura 2000 envisages the establishment of a coherent European ecological network for the conservation of most seriously threatened habitats and species across Europe designated by the legislation of the Habitats Directive (1992) which complements the Birds Directives (1979). In these areas, Member States are obliged to promote biodiversity by maintaining or restoring certain habitats and species at favourable conservation status within the context of Natura 2000 sites. These areas could also be so called protected areas under the regime of the WFD.

Obviously there is a necessity to collaborate and to integrate different approaches of natural protecting aspects, since the water administrations policy differs in the most Member States with the policy of the natural protection offices.

2 Comparison of laws

The legal form of the WFD and Habitat Directive is binding. However, the ICZM remains as a recommendation therefore optional. Among these legislations, the one which sets up a clear and detailed management plan is the WFD's. WFD's management plan is also the one which is absolutely mandatory. Although the Habitat Directive, as a directive, has more sanction than ICZM, its management plan is somehow facultative ("Member States shall establish...if need be, appropriate management plans..."). ICZM's plan remains facultative but it should be considered as a very crucial guideline, therefore, it is facultative on the legal basis but mandatory for the achievement for the EU's objectives.

Concerning the aquatic zones, Natura 2000 sites can be designated on both land and water. Marine Special Areas of Conservation are always covered by the sea or even land near the sea which is used by marine wildlife. Therefore, they are covered by the WFD's and ICZM's interest as well. All three legislations touch upon the question of cross-border.

The EU Recommendation on ICZM, mentioning about the public participation many times, envisages involving the public in the management process and considers the public as a part of the integrated management itself. It also makes the reports available for the public. The WFD gives a separate article for the public information and requires the public consultation on the management plan. It makes the reports available for the public's comments. The Habitat Directive doesn't really consider the public as a part of its process but takes into account the opinion of the public only after the agreement of national authorities and makes accessible the reports to the public. Furthermore co-operation with stakeholders is highlighted in detail in the EU Recommendation on ICZM.

About the monitoring, the ICZM doesn't bring a new approach but mentions about the „adequate“ systems. WFD underlines the need for the establishment of the procedure for the monitoring of freshwater quality and quantity (recital 7 WFD), the need for the standardisation for the monitoring (recital 49 WFD) and gives further details about the monitoring under Article 8 WFD. According to Article 8 WFD, Member States shall ensure the programmes for the establishment of monitoring and these programmes should be operational at latest six years after the entry into force of the directive. In case the monitoring indicates that the objectives are unlikely to be achieved, Member States should review the monitoring programmes and make them appropriate (Article 11 para. 5 WFD). The monitoring programmes are supposed to be reported to the Commission and to any Member State concerned (Article 15 WFD).

3 Comparison of management plans

ICZM insists on the term of "integrated", thus, emphasizes more the co-operation than the management plan itself. Anyhow, it doesn't bring any new implementation of a management plan. The WFD offers a very obvious and unique management plan with the river basin management. On the contrary, the Habitat Directive suggests specific plans for each site. At this point, one can say that, while WFD has a unique plan, ICZM and Habitat Directive have potentially more than one unique

plan. Therefore with regard to the scale of the management plans, it is possible to state that ICZM suggests an overall stocktaking, WFD requires a detailed analyse of the river basin district and Habitat Directive requests a detailed list of the habitats and species covering all the relevant area.

According to Article 13 WFD, management plans have to be drawn up for river basin districts. Pursuant to Annex VII WFD the management plan should contain inter alia the following elements: (1) a general description of the river basin district, i.e. of surface waters and groundwater, (2) a summary of all significant pressures and anthropogenic impacts, (3) mapping of the protected areas, maps of the monitoring networks for the bodies or surface water, bodies or groundwater and protected areas (inter alia Natura 2000-sites), (4) a list of environmental objectives for the water use, (5) a summary of all measures and programmes of measures adopted under Art. 11 WFD, (6) a list of the competent authorities, and (7) a summary of public information and consultations measures.

Under the Habitat Directive Member States are required to identify sites of European importance and implement special management plans to protect them, combining long-term preservation as part of the sustainable development strategy. These sites, together with those of the Birds Directive, make up the Natura 2000 coherent network. Member States can choose the mechanisms to implement the relevant conservation measures on its territory. According to Article 6 of the Habitat Directive the management plan for Natura 2000-sites is not mandatory but facultative. The necessary conservation measures can involve “if need be, appropriate management plans specifically designed for the sites or integrated into other development plans”.

The Natura 2000, with the Habitat Directive and the Birds Directive remains as an old legislation as it doesn't provide any specific plan. The question “What is the favourable conservation status for each habitat type and species present on the site?” is implying a great lack of the management plan for Natura 2000. Although this latter is still important for giving a detailed list of species of birds and habitats to be protected. Questions such as “Who will initiate the plan?” or “Who will be responsible for the plan?” are still being discussed and implying a problem of the designation of the implementation.

There is a huge variety of management plans according to Member States. For example, Natura 2000's management plans are sometimes considered as the nature protection plans. Management plans are needed for all specially protected areas. In another case, the planning of protected areas has been performed mainly through territorial planning and nature management planning is still under the development. In some countries, by the law all protected areas need a management plan but guidelines for management plans have not been produced yet. The management planning procedure is not clear in many cases. Some Member States have finished the selection and evaluation process of the Natura 2000 sites and the phase for monitoring and informing public has started. The administrative and contractual measures are still being discussed. For the management of the protected areas, agri-environmental schemes are offered as a management tool. Some Member States applied the Forestry law besides the Nature Conservation law, for the management plan.

4 Discussion

4.1 ICZM-Recommendation

Integrated Coastal Zone Management shall implement an environmentally sustainable, economically equitable, socially responsible, and culturally sensitive management of coastal zones, which maintains the integrity of this important resource while considering local traditional activities and customs that do not present a threat to sensitive natural areas and to the maintenance status of the wild species of the coastal fauna and flora.

Integrated management of the coastal area is perceived as a constant process with numerous participating sectors, constituted for improving, developing, protecting and planning of the area through integration and inter-sectoral co-operation. It should be assumed that the process compiles and does not substitute plans in particular sectors, like the management plans of the WFD.

Integration concerns undertaken management goals as well as the tools needed for their realisation. The essence of integrated management is the idea of sustainable development of coastal areas. Integrated management concerns both land coastal area and sea coastal area. Therefore the Community promotes integrated management on a larger scale by means of horizontal instruments. These activities contribute to integrated coastal zone management.

Member States take into account the sustainable development strategy and take a strategic approach to the management of their coastal zones. Management plans are not obligatory. But in Chapter II under point h the “use of a combination of instruments designed to facilitate coherence between sectoral policy objectives and coherence between planning and management” is named as a principle. And in Chapter IV the national strategies designated in the recommendation should consider the appropriateness of developing national strategic plan for the coast to promote integrated management. By the way, this is only one of the combination of instruments for implementation of the principles outlined in Chapter II.

Concerning Chapter III Member States conduct or update an overall stocktaking to analyse which major actors, laws and institutions influence the management of their coastal zone. This stocktaking can be compared with the approach of the WFD (Art. 5 para. 1 WFD). Also here a comprehensive analysis is undertaken by the Member States. The ICZM-stocktaking (concurrently the first step to make a plan) should consider resource management (like WFD) and species and habitat protection (like Habitat-Directive).

One of the above-mentioned instruments of national strategies is the public awareness. Particularly, identified measures to promote bottom-up initiatives and public participation in integrated management of the coastal zones and its resources should be taken into consideration. This demand affects even the process of ICZM-management plans. And at least there is a need to ensure coherent action at European level, including cooperative action and consultation with regional seas organisations or international organisations, to address cross-border coastal zone problems.

4.2 Water Framework Directive

Even in the Water Framework Directive a co-ordinated approach within a river basic district forms the central element. The intention of WFD is to facilitate management planning that transcends national boundaries. This demands far-reaching co-ordination between all the parties involved. The success of the WFD therefore depends crucially on a willingness to co-operate beyond regional and national boundaries. This commitment to co-operation is more efficient if the tasks to be performed are made as transparent as possible and the respective responsibilities and competencies are specified clearly and precisely. The appropriate instrument for this is the management plan as defined in Art. 13 of the Water Framework Directive. The objectives agreed and the measures envisaged must be co-ordinated beyond the level of individual survey areas and consolidated for the river basin district as a whole. This requires co-ordination among all the competent authorities and institutions as national and international level.

The river basin management plan must also identify and regularly document the desired outcome of measures along with the use of any exemptions that are made. The management plan becomes the instrument of control for the river basin district management, participants themselves and for the European Commission. Particular attention should therefore be given to the work of drawing up, regularly reviewing and updating the plan.

The river basin management plan must cover an entire river basin district (an ICZM-plan potentially several). The plan itself contains a summary presentation of the whole river basin area and all major factors influencing the overall management of the river basin district. Where river basin districts are large, it may be useful to divide the district into operational areas or sub-basin survey areas. The division into sub-basin survey areas is a matter for the national authorities that share control over a river basin. These sub-basin areas must be defined by hydrographic criteria or, only in demonstrably

exceptional cases, by administrative or other criteria. These other criteria may be emanate from ICZM-plans or ICZM-requirements, but this is the exception.

The level of detail required in this work on the management plan is determined by provisions contained in Annexes II and V of WFD. Information and special aspects lay down in an ICZM-plan which go beyond the scope of the plan should be considered independently, since they are not obligatory elements in the production of management plans and implementation of the WFD.

To characterise and determine the status of waters, Art. 5 of the WFD requires that Member States carry out (1) an analysis of the characteristics of the river basin district, (2) a review of the impact of human activity on the status of bodies of surface water and bodies of groundwater, and (3) an economic analysis of in the river basin district as required in Annexes II and III of WFD water use. Above all the surface waters must be mapped within the river basin, the location of river basins must be identified and the catchment area has to be delineated. Here, surface water categories, namely rivers, lakes, transitional waters and coastal waters are included. In the case of transboundary waters, however, we must engage in international coordination to agree in the water body types in areas close to national borders. Building on these initial hydrological surveys and characterisations, one must identify all the significant anthropogenic pressures to which the bodies of surface water are subject. The degree and extent of the survey is mainly determined by the information required under the existing EU directives and recommendations in particular the Habitat Directive and the ICZM-Recommendation that already apply here. To determine the significant anthropogenic pressures identified in this way, we also need to make an assessment on these pressures with regard to their potential threat to good status. The form of the presentation (e.g. in tables, maps or in GIS-based internet-capable formats) has yet to be agreed at European level and in the river basin districts. Here an agreement with the ICZM-plan comes into question.

With regard to the Habitat Directive a further task of WFD-plan is to register and present in the management plan all the existing water-relevant protected areas established under EC directives like the Habitat Directive with its Natura 2000 network. Both the WFD and the Habitat Directive and even the ICZM-Recommendation require from the Member States a range of information in the form of maps. Annexes I and II explicitly refer to a submission of maps in GIS format; most of data must be compiled for characterisation and management purposes is spatially referenced and must be presented in the form of GIS layers. In such case a harmonised procedure is essential. The WFD determines little about the requirements for the maps, so it is more important to reach agreement with the other authorities and through international consultation.

The WFD provides in Art. 14 for active involvement of the public and all interested parties in the implementation. More detailed provisions apply to formalised public consultation while developing the management plan for a river basin district. The information on the management should take place in several stages, so that the public can be informed about and give an opinion in the timetable, the work programme for the production of the management plan, of an interim overview of the significant water management issues and finally of the drafts for the management plan for the river basin. For the programme of measures summarised in the management plan no separate public participation is required by the WFD.

However, in this context another Directive comes into play, the SEA Directive (Directive 2001/43/EC of the European Parliament and the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes). Besides multi-phased involvement the public will be integrated in the production of management plans of WFD, ICZM and partially of Habitat Directive.

In the list of measures to be included within the programmes of measures Part A of Annex VI of the WFD there is of course no link to the ICZM-Recommendation of concerning the implementation of Integrated Coastal Zone Management because the recommendation comes afterwards. Nevertheless it is possible concerning to the non-exclusive list (Part B) of supplementary measures which Member States within each river basin district may choose to adopt as part of the programme of measures required under Article 11 para. 4 of the WFD.

Besides this the relation to the Habitat Directive is remarkable: Under Art. 6 of the WFD Member States shall ensure that a register be established of all areas lying within each river basin district which have been designated as requiring special protection under specific Community legislation for the protection of their surface waters and groundwater or for the conservation of habitats and species directly depending on water like aquatic Natura 2000-sites. The required registers contain all protected areas listed in Annex IV and the water bodies identified in accordance with Art. 7 para. 1 WFD. The register of protected areas established under Art. 6 Habitat Directive thus contains the areas designated for the protection of habitats or species where the maintenance or improvement of the status of waters is an important factor in their protection, including the relevant Nature 2000-sites designated under the Habitat Directive and the Birds Directive.

At least another point is important: According to Art. 4 para. 1 point c WFD Member States shall achieve compliance with any standards and objectives, unless otherwise specified in the Community legislation under which the individual protected areas have been established (here: Habitat Directive). Here we have a ranking between the two directives, in which the Habitat Directive is *lex specialis*. If the management plan of an aquatic Natura 2000-site says something different in making operational the programmes of measures in the river basin management plan, this has to be considered.

4.3 Habitat Directive

The conservation measures for Natura 2000-sites can take at least two forms: the form of “appropriate statutory, administrative or contractual measures...” and “if need be”, the form of “appropriate management plans”. The necessary conservation measures can involve management plans specifically designed for the sites or integrated into other development plans. Such management plans should address all foreseen activities, unforeseen new activities being dealt by Art. 6 para. 3 and 4 Habitat Directive.

The word “if need be” indicate that management plans may not always be necessary. If management plans are chosen by a Member State, it will often make sense to establish them before concluding the other measures mentioned in Art. 6 para. 1 Habitat Directive, particularly the contractual measures. Contractual measures will often involve a relationship between the competent authorities and individual landowners and will be limited to individual land-holdings which are normally smaller than the site. In such circumstances, a management plan focused on the site will provide a wider framework, and its contents will provide a useful starting point for the specific details of contractual measures.

The management plan must be “appropriate and specifically designed for the sites”, therefore be targeted at the sites of the Natura 2000 network, or “integrated into other development plans”. The latter provision is in conformity with the principle of integration of the environment in the other Community policies (even WFD). This integration has to contribute to the coherence of the network mentioned in Art. 3 para. 1 Habitat Directive. In any case it may be necessary to apply Art. 6 para. 3 Habitat Directive to those aspects of the management plan which are not connected to conservation management.

While no indication of the specific contents of management plans can be given, some considerations are necessary in view of the preparation of management plans. Concerning to the procedure the need of the management plan for the site is to clarify. The importance about the site (both natural value and socioeconomic context), the main threats and aims are to be detected and the responsibility for the plan has to be assigned. The objectives of the management plan for the site have to correspond to the ecological requirements of the natural habitats and species significantly present on it in order to ensure their favourable conservation status. They must be as clear as possible, realistic, quantified and manageable. Regarding to public participation the usage of a clear language with concrete formulation will be comprehensible for everybody. It is an essential part of the process to establish a management plan needing a multidisciplinary and professional approach. The issues of monitoring and evaluation are one of the most important parts of the plan, especially for determining whether one

is successful with the plan. As with the objectives of the management plan, monitoring has to be clearly and accurately defined, including an analysis of financial matters.

Member States can establish management plans for Natura 2000-sites which superimpose themselves on the other categories of measures. They are not always necessary but, if they are used, they should take into account the characteristics specific to each site and all foreseen activities. They may be stand-alone documents or incorporated into the river basin management plan (as another development plan), when it exists.

5 Conclusions

5.1 Mechanisms coordinated execution

The most important advice, concerning the harmonization of the above mentioned different management plans is given in the Recommendation on the ICZM itself. According to Chapter IV para. 3 point f ICZM-Recommendation each Member State has to “identify mechanisms to ensure full and coordinated implementation and application of Community legislation and policies that have an impact on coastal areas, including when reviewing Community policies.” Admittedly, the WFD and the Habitat Directive differs from the administrative approach. The Habitat Directive is a more old fashioned act of Community legislation. While it refers more to national administrative levels, the WFD offers a modern approach with an administration in transnational river basin districts. In this case the co-operation between the nature conservation authorities and the water authorities have to be improved.

5.2 Public Participation

The public can best perceive disharmonies in the different management plans, so that its participation is highly important. While the public is not strongly invited into the developing of Natura 2000 management plans, its participation and access to the relevant information is evidently encouraged in the WFD and the ICZM-Process.

5.3 Systems of monitoring

Harmonization includes adequate systems for monitoring. Management plans should be reviewed and updated over a specific period. These systems should collect and provide information in appropriate and compatible formats to the authorities in case of water management and protection of species and habitats at national, regional and local levels to facilitate integrated management. The work of the European Environment Agency can serve inter alia as a basis for this purpose as it's proposed by the ICZM-Recommendation.

5.4 European Spatial Development Perspective (ESPD)

Further integration of protection and sustainable management of water into other Community policy areas is necessary. The above mentioned recommendation and directives should provide a basis for a continued dialogue and for the development of strategies towards a further integration of policy areas. In this context the European Spatial Development Perspective (ESDP) can provide an important contribution in the field of cooperation between Member States. If ICZM was a legally binding directive, it would be politically the most difficult to agree on since there is a diverse range of the national laws affecting the management of the coastal zone in European States. Therefore, the suggestion of the harmonization doesn't lay down with the idea of making ICZM rather a Directive. The fact that WFD responds to many needs including the management plan doesn't offer the choice to deny the other legislations either. Therefore a new platform for the harmonization is suggested. This could be namely the European Spatial Development Perspective. One of the ESPD main guidelines states: “Development and conservation of the natural and the cultural heritage through wise management. This contributes both to the preservation and deepening of regional identities and the maintenance of the natural and cultural diversity of the regions and cities of the EU in the age of

globalisation.” ESDP, ICZM, WFD and Habitat Directive with Natura 2000 have spatial focus, but: For the ESDP, this is generic and for the others, this is partial. ICZM aims to take care of coastal zones, WFD surface and groundwaters and Habitat Directive some specific habitats.

A very interesting point concerning the Natura 2000’s management plan exists in the ESDP (Point 136): “The extent of protected areas in the EU has grown in the past ten years although most areas remain protected “islands”. The objective of a Community-wide network of protected areas – “Natura 2000” – incorporated in the Habitat Directive and other environmental directives is a very promising approach, which has to be harmonised at an early stage with regional development policy. Concerted protection measures for areas which belong to the network must be drawn up and fine-tuned in line with spatial development perspectives. An ecological network and Natura 2000 can also secure and develop the protection of valuable biotopes. There is a role to be played by links and corridors between protected areas, such as hedges, which can assist migration and the genetic exchange of plants and wild animals. In addition, a broader land-use policy can provide the context within which protected areas can thrive without being isolated, including, if necessary, the identification of buffer zones.” Herewith, the ESDP cites the necessity of the harmonization of Natura 2000 with regional development policy. The ESDP also mentions about coastal regions and islands in terms of their biological diversity. The point 138 of this framework underlines the necessity of an appropriate integrated development strategies and planning concept as well as suitable forms of management. New approaches should be taken to harmonize nature protection and spatial development.

References

- European Commission (2000): Managing Natura 2000 sites – The provisions of Article 6 of the “Habitats” Directive 92/43/EEC, Luxembourg (<http://europa.eu.int>).
- Hoffrén, K. (2002): The transboundary effects of the Europeanization – the framework directive of water as an example, Lindköping.
- Janssen, G. (2004): Legal aspects of cross-border coherence of the Natura 2000 network. In: ECNC (ed.), *Crossing Borders: Natura 2000 in the Light of EU-Enlargement*, ECNC, Leiden (NL) (in appearance).
- Janssen, G. (2004): Rechtliche Defizite und administrative Fragen eines deutschen Küstenzonenmanagements, in: Glaeser, Bernhard et. al.: *Küste, Ökologie und Mensch: haben sie eine Zukunft? Integriertes Küstenzonenmanagement (IKZM) als Instrument nachhaltiger Entwicklung* (in appearance).
- Janssen, G. (2003): Der Geltungsbereich der Wasserrahmenrichtlinie für den grenzüberschreitenden Hochwasserschutz, UVP-Report, pp. 133-136.
- Janssen, G. (2002): Die rechtlichen Möglichkeiten der Einrichtung von Meeresschutzgebieten in der Ostsee, Diss. Univ. Rostock, Rostocker Schriften zum Seerecht und Umweltrecht, Band 19, Nomos-Verlag, Baden-Baden.
- Länderarbeitsgemeinschaft Wasser (LAWA) (2003): German Guidance Document to the implementation of the EC Water Framework Directive (www.wasserblick.net).

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