MARINE SPATIAL PLANNING INSTRUMENTS FOR SUSTAINABLE MARINE GOVERNANCE

SEAPLANSPACE

COUNTRY MANUAL – POLAND

SEAPLANSPACE

Interreg South Baltic

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SEAPLANSPACE Country Manual – Poland
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University of Gdańsk

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ABOUT THE SEAPLANSPACE COUNTRY MANUAL - POLAND

This Country Manual - Poland has been developed as a part of the SEAPLANSPACE project "Marine Spatial Planning Instruments for Sustainable Marine Governance". The SEAPLANSPACE project is co-financed by the European Union under the INTERREG South Baltic (2014–2020). The aim of the SEAPLANSPACE project is to improve the understanding of Marine Spatial Planning (MSP) among employees, stakeholders and the public. To this end, training has been organised for students, employees and other interested parties, in five countries of the project partners. Manuals, which contain basic and essential information on MSP and could be used as a knowledge base at training events, have also been developed. In addition, the manuals represent a comprehensive source of information on MSP that can also be used independently without participating in the training. Six manuals have been produced within the framework of the project. One of these manuals is the General Knowledge Manual, with an international and broader perspective. In addition, national manuals on MSP have been produced in Poland, Lithuania, Sweden, Denmark and Germany. These country-specific manuals are available in English and in national languages. Country-specific manuals in national languages are available as digital versions on the SEAPLANSPACE Web Portal (www.seaplanspace.eu).

This Country Manual - Poland deals with essential aspects of MSP relevant for Poland, as a country of the South Baltic area, and concerns the propedeutics of MSP, MSP legal aspects and public participation in MSP.

CONTENTS

ACRONYMS

BSR	Baltic Sea Region
DPS	Draft plan solutions
EEZ	Exclusive Economic Zone
EIA	Environmental impact assessment
GDP	Gross domestic product
GES	Good environmental satus
HELCOM	Helsinki Commission, Baltic Marine Environment Protection Commission
ICZM	Integrated Coastal Zone Management
IOC	Intergovernmental Oceanographic Commission
IMO	International Maritime Organization
MPAs	Marine Protected Areas
MSFD	Marine Strategy Framework Directive
MSP	Marine Spatial Planning
MSPD	Marine Spatial Planning Directive
MSPPMA	Maritime Spatial Plan for Polish Maritime Areas
NSDC	National Spatial Development Concept 2030
OSPAR	Convention for the Protection on the Marine of the North-East Atlantic
PGWWP	"Polish Waters" National Water Holding
PSSA	Particularly Sensitive Sea Area
RDEP	Regional Director for Environmental Protection
RES	Renewable Energy Sources
RP	the Republic of Poland
Rpzp	Regulation on the adaption of the spatial development plan for internal sea water, the territorial sea and the excslusive economic zone on a scale of 1:200 000
UNCLOS	United Nations Convention on the Law of the Sea
Uom	Act on the Maritime Areas of the Republic of Poland and Maritime Administration (Polish Maritime Areas Act)
Uop	Nature Conservation Act
EU	the European Union
VASAB	Visions and Strategies for the Baltic

INTRODUCTION

Sustainable marine governance is one of the ways of achieving the objectives of sustainable development. It ought to be understood as a process of planning, as well as decision-making and marine management at national and regional levels. This process is closely interrelated with regional and transnational cross-border cooperation and marine spatial planning. The adoption of the EU Directive establishing a framework for maritime spatial planning (MSPD) (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex-%3A32014L0089) plays an important role in developing maritime spatial plans in the European Union (EU) by promoting MSP instruments. The MSP Directive required all coastal EU Member States to prepare cross-sectoral maritime spatial plans by 31 March 2021. Despite introducing provisions relating to marine spatial planning into the Polish legal order in 2003, effective work aimed at the development of maritime spatial plans for Polish maritime areas started in 2013. The MSP plan legal bases are included in the Act on the Maritime Areas of the Republic of Poland and Maritime Administration of 1991 (http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19910320131) the amendments introduced to this Act in 2015 (http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20150001642/O/D20151642.pdf) as well as implementing regulations issued under this Act.

THE PROPEDEUTICS OF MARINE SPATIAL PLANNING

1. THE PROPEDEUTICS OF MARINE SPATIAL PLANNING (*DOROTA PYĆ*)

1.1. TERMINOLOGY

Sea basin

- means sea basin designated in the maritime spatial plan. The sea basin allocation is a solution of the plan specifying the basic and allowed functions of the sea basin.

Spatial data

- means spatial data within the meaning of Article 3(1) of the Act of 4 March 2010 on Spatial Information Infrastructure (i.e. data relating directly or indirectly to a particular location or geographical area) necessary for the development of the maritime spatial plan or which might affect the solutions of that plan.

Allowed functions

- mean the other uses of the areas designated in the maritime spatial plan, the coexistence of which does not disturb the leading allocation of the area in a way that permanently prevents the implementation of the basic function and does not adversely affect sustainable development of the area designated in the plan.

Main function

- means the leading allocation of the sea basin designated in the maritime spatial plan of maritime areas, which cannot be interfered with by any other allowed functions.

Marine Spatial Planning

Marine Spatial Planning (MSP) is a practical way of establishing and implementing a rational organisation for the use of maritime space and increasing interactions between its users (e.g. stakeholders of maritime spatial plans) in accordance with the principles of sustainable development, in order to achieve socio-economic objectives in an open manner within the framework of the marine planning and management process. MSP does not mean the same as managing human activities. Marine spatial planning is one of the elements of human activity management (sustainable marine governance), which includes, in addition to planning (as a process), among others, scientific research, consultation and social participation, reporting, impact assessments, monitoring and funding.

From a functional point of view, marine spatial planning is a process that is aimed at distributing space dynamically into numerous types of human sea use, introducing time constraints on its use and even exclusions to

avoid conflicts between different users of the environment and improve the management of human activities aimed at the use of marine and coastal resources. With such an understanding of marine spatial planning, a multidisciplinary approach is necessary. It should consider anthropogenic and human development, as well as the ecosystem and natural environmental aspects (Matczak et al. 2014).

Transparent, cross-cutting and auditable marine planning and governance are limited in practice. Their limits are set by the effectiveness of local and regional decision-making authorities. The problems with efficient marine spatial planning include: a lack of monitoring of maritime space; inconsistency and fragmentation of marine research programmes; placing maritime spatial planning at a regional level; a weak link between land-sea spatial planning (a lack of a holistic vision covering the whole area of a State including maritime areas and also an exclusive economic zone); poor coordination in the scope of various policies and strategies (energy, transport, defence policies, coastal area management, environmental protection, coastal protection and tourism development strategies) for maritime areas.

Marine Spatial Planning Instruments

Marine spatial planning instruments are tools for achieving the objectives of marine spatial planning in practice. The basic MSP instrument is a maritime spatial plan.

The introduction of marine spatial planning instruments by EU Member States takes place at a national level and their application is within the limits of the competences and responsibilities of those State authorities.

The Maritime Spatial Plan

The maritime spatial plan is an instrument for marine spatial planning. In 2003, Polish legislature introduced the possibility of developing maritime spatial plans under Article 37a of the Act on Maritime Areas of the Republic of Poland and Maritime Administration (the Polish Maritime Areas Act). In the Regulation on the required scope of maritime spatial plans for marine internal waters, the territorial sea and exclusive economic zone of 2017, the plan constitutes a maritime spatial plan for marine internal waters, the territorial sea and the exclusive economic zone.

Technical infrastructure

- cables, pipelines, hydrotechnical structures and other facilities and devices for: safety of navigating, searching for and exploring mineral deposits or extracting and transmitting minerals; acquiring and transmitting energy; defence.

Maritime Spatial Plan Stakeholders

The MSP process may include representatives of the community of interest (e.g. those who have something to lose), stakeholders (those who must manage the risk) and especially in the case of indigenous groups (Gee et al., 2017).

Marine Spatial Planning Culture

The concept based on the identification and codification of cultural values associated with the maritime areas or marine ecosystems is an essential element of MSP processes, especially for any subsequent risk assessment carried out as part of MSP (Gee et al., 2017).

Sustainable Marine Governance

Sustainable marine governance is a process based on maritime spatial planning, decision making and integrated management, i.e. implementing decisions and continuously improving planning procedures. From a legal point of view, sustainable marine governance (of the marine environment and its resources) operates at two levels, namely a legal level and an institutional level. For sustainable marine governance, the legal level (due to safeguarding the values of maritime space management from a normative point of view in substantive-law as well as formal-law aspects) is as important as the institutional level (i.e. the executive one, which includes all governmental and non-governmental international organisations and institutions that carry out activities aimed at environmental management or whose activities have specific environmental effects). Sustainable marine governance includes multidimensional, integrated human activity planning, based on the most up-to-date scientific knowledge available regarding ecosystems and their dynamics, origins and impacts of various other pre-existing activities, essential for maintaining the health of the marine ecosystem, as well as ensuring the sustainable use of resources, i.e. ecosystem goods and maintaining the integrity of ecosystems (Pyć, 2017; Pyć, 2019b).

Adaptive management

A systematic process for continually improving management policies and practices towards achieving articulated priorities and goals by learning from the outcomes of previously employed policies and practices. The basic steps of adaptive management are to conceptualize; plan actions and monitor; implement actions and monitor; analyse, use, and adapt; as well as capture and learning share. Active adaptive management is where management options are used as a deliberate experiment for the purpose of learning (Ecosystem and Human Well-being, Synthesis, Millennium Ecosystem Assessment 2006, https://www.millenniumassessment.org/documents/document.356aspx.pdf).

Conflicts in Seaspace

Problems with effective marine spatial planning include: a lack of monitoring maritime space; inconsistency and the fragmentation of marine research programmes; placing maritime spatial planning at a regional level; a weak link between land-sea spatial planning (a lack of a holistic vision covering the whole area of a State including maritime areas and also the exclusive economic zone); poor coordination in the scope of various policies and strategies (energy, transport, defence policies, coastal management, environmental protection, coastal protection and tourism development strategies) for maritime areas. These are potential conflict areas in maritime space.

Polish Maritime Areas

Polish maritime areas are: marine internal waters and the territorial sea (both areas are included in the territory of the Republic of Poland) as well as the contiguous zone and the exclusive economic zone, where Poland exercises its sovereign rights and has jurisdiction over environmental protection.

Coastal Zone Protection

In addition to normative considerations, the need to introduce MSP in Poland is justified by natural and anthropogenic factors and, above all, by the threat of coastal erosion and the disappearance of beaches. These threats may adversely affect coastal area flood safety (the risk of a sea level rise resulting in a coastal line retreat and storm floods), the economy of coastal municipalities (tourism and fisheries) and coastal biodiversity. The aim of the Act of 2003 on the establishment of the multiannual programme: "The Coastal Protection Programme" is to implement the assumptions of "The Coastal Protection Programme" in the scope of preventing threats and protecting the coast from erosion. The following measures are undertaken: constructing, extending and maintaining the coastal area flood protection system, including the removal of damage to the coastal flood protection system; providing coastline stabilisation (according to the status as of 2000) and preventing the disappearance of beaches; monitoring coasts, as well as activities, work and studies on determining the current condition of coasts, with the aim of identifying the necessary and needed measures aimed at saving coasts. The authorities of the maritime administration are in charge of the construction, maintenance and protection of coastal fortifications, dunes and forestation in the technical belt (Article 42 of the Polish Maritime Areas Act). At the Maritime Office in Gdynia, the Coastal Protection Inspectorate is responsible for coastal protection. The Maritime Office in Gdynia has developed risk management mechanisms.

Marine Environment

In accordance with Agenda 21: "the marine environment - including oceans and all seas and adjacent coastal areas - forms an integrated whole that is an essential component of the global life-support system and a positive asset that presents opportunities for sustainable development". The marine environment includes physical, chemical, geological, biological components, conditions and factors, which interact and determine the productivity, state, condition and quality of the marine ecosystem, the waters of the seas and oceans and the airspace above those waters, as well as the seabed and subsoil (Article 1(c) Regulations for Prospecting and Exploration of Polymetallic Sulphides https://www.isa.org.jm/files/documents/EN/Regs/PolymetallicSulphides.pdf).

Ecosystem Approach

The ecosystem approach – the practice (e.g., by public administration authorities) requiring adaptive management considering the complex and dynamic nature of ecosystems and a lack of full knowledge of their functioning. The application of an ecosystem approach in marine spatial planning is based on the effective use of marine spatial planning instruments and taking appropriate decisions within sustainable marine governance, with the application of transparent procedures and a flexible system of institutional coordination and public consultation (social participation).

Good Environmental Status (GES)

GES is a concept introduced in 2015 into the Act on Maritime Areas of the Republic of Poland and Maritime Administration; one of three elements that make up the statutory definition of an ecosystem approach. It was assumed that the impact of planned human activities on the ecosystem would be maintained at a level enabling to achieve and maintain the good ecological status of the environment.

The concept of good environmental status is used by the Marine Strategy Framework Directive. It is the environmental status of marine waters, where these provide ecologically diverse and dynamic oceans and seas, which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations (Article 3(5) MSFD). This Directive makes it clear that achieving and maintaining GES in the marine environment takes precedence in the management of human activities. GES is determined at the level of a marine region or sub-region. The Baltic Sea, in addition to the North-east Atlantic Ocean, the Mediterranean Sea and the Black Sea is included in the marine regions (Article 4 (1a) MSFD).

Marine regions have been designated on the basis of hydrological, oceanographic and biogeographical criteria. Poland is responsible for developing a marine strategy for marine waters within its jurisdiction. The term of marine waters, referred to in the Marine Strategy Framework Directive, means waters, the seabed and subsoil on the seaward side of the baseline from which the extent of territorial waters is measured extending to the outmost reach of the area where a Member State has and/or exercises jurisdictional rights, in accordance with the UNCLOS (Article 3 (1)(a)).

The determination of good environmental status is based on an initial assessment carried out pursuant to Article 8(1) MSFD by a Member State, which determines a set of features typical for a good-status of marine waters under its jurisdiction using the qualitative descriptors contained in Annex I to the Directive and the table in Annex III specifying indicative examples of characteristics, pressures and impacts. In addition, the Directive includes a procedure relating to the assessment, programme of measures and monitoring of the environmental status, as well as to reporting.

The Commission Decision of 1 September 2010 on criteria and methodological standards on good environmental status of marine waters provides that one of the major findings of scientific and technical work is that there is substantial need to develop additional scientific understanding for assessing good environmental status in a coherent and holistic manner to support the ecosystem-based approach to management (decision notified under document C(2010) 5956, OJ EU L 232 of 2.09.2010, pp. 14-24). A combined assessment of the scale, distribution and intensity of the pressures and the extent, vulnerability and resilience of the different ecosystem components, including where possible their mapping, allows the identification of areas where marine ecosystems have or may have been adversely affected. It is also a useful basis to assess the scale of the actual or potential impacts on marine ecosystems. This approach, which takes into account risk-based considerations, also supports the selection of the most appropriate indicators related to the criteria for assessment of progress towards GES. It also facilitates the development of specific tools that can support an ecosystem-based approach to the management of human activities required to achieve good environmental status through the identification of the sources of pressures and impacts, including their cumulative and synergetic effects. Such tools include spatial protection measures and measures in the list in Annex VI to Directive 2008/56/EC, notably spatial and temporal distribution controls, such as maritime spatial planning.

Progress towards GES is taking place in the context of continuous broader changes in the marine environment. Climate change is already having an impact on the marine environment, including on ecosystem processes and functions. In developing their respective marine strategies, Member States need to specify, where appropriate, any evidence of climate change impacts. Adaptive management on the basis of the ecosystem-based approach includes the regular update of the determination of good environmental status. (Part B Criteria for GES relevant to the descriptors of Annex I to Directive 2008/56/EC). Modelling using a geographic information system platform may provide a useful basis for mapping a range of biodiversity features and human activities and their pressures, provided that any errors involved are properly assessed and described when applying the results. This type of data is a prerequisite for ecosystem-based management of human activities and for developing related spatial tools.

Proper Functioning of the Ecosystem

Proper functioning of the ecosystem is a concept closely linked to the achievement of the objective referred to in MSFD, i.e. good environmental status. The structure, functions and processes of the constituent marine ecosystems, together with the associated physiographic, geographic, geological and climatic factors, allow ecosystems to function fully and to maintain resilience to human-induced environmental change. The priority is to maintain functioning of various biological components in balance. Providing the functioning of the ecosystem well, covers protection of marine species and habitats, the prevention of human-induced decline of biodiversity (Article 3(5a)) of MSFD). This applies to potential pollution, i.e. anthropogenic inputs of substances and energy, including noise, into the environment, in such a way that they do not cause pollution (Article 3(5b)of MSFD). The Act on Maritime Areas of the Republic of Poland and Maritime Administration refers to maintaining the ability to functioning of the ecosystem well and also to resilience to environmental changes, in both cases resulting from human activities.

Ecosystem services

Ecosystem services are the benefits people obtain from ecosystems. For example, healthy ecosystems provide: the Stuff of Life - food, fresh water, timber, and fiber for clothing. Protection from extreme weather, floods, fire, and disease. They provide regulation of the Earth's climate, filtration of wastes and pollutants, regeneration of clean air, water, and soil. They are inspiration, recreation and spiritual sustenance, and support for a way of life (https://www.unpei.org/sites/default/files/PDF/ecosystems-economicanalysis/MEA-A-Toolkit.pdf).

Precautionary Principle

Precautionary principle is one of the basic principles of marine spatial planning. It introduces an obligation to anticipate negative environmental effects before they occur. With regard to designing and applying the MSP instruments, the risk identification and assessment in the process of sustainable marine governance should be based on the precautionary principle.

Sustainable Development

Sustainable development aims at social and economic development, which ensures that the needs of contemporary society are met without compromising the ability to meet the needs of future generations. The principle of sustainable development is of an integrative nature. Economically, it is about preserving the natural resources necessary to maintain or increase prosperity, and in socio-cultural terms it appeals to ethics in order to prevent the destructive behaviour of *homo economicus*. In legal terms, it concerns principles, processes as well as objectives and actions that relate to environmental protection and socio-economic development.

In the Polish legal order, sustainable development is a constitutional (systemic) principle. It results directly from the Polish Constitution, that the Republic of Poland safeguards the independence and integrity of its territory and ensures the freedoms and rights of persons and citizens, the security of the citizens, safeguards the national heritage and ensures the protection of the natural environment pursuant to the principle of sustainable development (Article 5 of the Constitution of the Republic of Poland). In accordance with the provisions of the Act - Environmental Protection Law, sustainable development is such socio-economic development where political, economic and social activities are integrated, with maintaining the natural balance and the sustainability of basic natural processes, in order to guarantee the ability to meet the basic needs of individual communities or citizens of both the present generation and future generations (Article 3 (50) of the Environmental Protection Law).

In a prominent practical way, the Constitutional Court referred to sustainable development in 2006 and held that: "the principles of sustainable development include not only the protection of nature or the formation of spatial order, but also due concern for social and civilisational development, linked to the need to build suitable infrastructure necessary for human life and life of individual communities, taking into account civilisational needs. Therefore, the idea of sustainable development includes the need to take into account equal constitutional values and to balance them accordingly." (Judgement of the Constitutional Tribunal of 6 June 2006, K23/05, OTK-A 2006, No 6, item 62).

1.2. OBJECTIVES AND PRINCIPLES OF MARINE SPATIAL PLANNING

Marine spatial planning is a process to ensure the introduction of spatial order at sea. Spatial order**,** as a normative concept, refers to such shaping of space that creates a harmonious whole and takes into account, in organized relations, all functional, socio-economic, environmental, cultural and compositional-aesthetic conditions and requirements (Article 2 (1) of the Act on Spatial Planning and Development, i.e., Journal of Laws of 2021, item 741). In practice, spatial order, understood as the functional order of space, is primarily analysed in terms of land spatial planning and development. There is no definition of marine spatial order in the Polish legal system.

Directive 2014/89/EU establishing a framework for maritime spatial planning (MSPD), requires Member States of the European Union to develop and implement maritime spatial plans. The maritime spatial planning framework aims to:

- promote the sustainable growth of the maritime economies,
- the sustainable development of marine areas and
- the sustainable use of marine resources.

The implementation of MSPD by EU Member States has an impact on marine spatial order. In 2013, work aimed at setting-up maritime spatial plans for Polish maritime areas was commenced in Poland.

In accordance with the assumptions of the National Spatial Development Concept 2030 (NSDC) "benefits of the country's coastal location are used for its socio-economic development" (Polish Monitor of 2012, item 252, p. 49, https://www.kooperation-ohne-grenzen.de/wp-content/uploads/2016/05/NSDC-2030.pdf). According to the NSDC: "maritime areas and the coastal zone are developed jointly and rationally, respecting biodiversity and environmental protection principles, through the introduction of integrated spatial planning securing the long-term exploitability of natural resources and the development potential of the Baltic Sea and the coast. New forms of benefiting from maritime areas are being developed, such as RES (renewable energy sources), mariculture for ecological purposes and maritime tourism. The transport accessibility of maritime areas strengthens the development of seaports for deep-sea trans-shipment from the Tri-city, Warsaw, Poznań and Szczecin".

Implementing the assumptions of the NSDC and MSP is possible due to the amendments of 2015 to the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration, introducing the following provisions:

- regulating the course of the maritime border of the Republic of Poland (regulating the course of the national maritime border has taken place by

introducing provisions making the legal basis for the delimitation of the baseline from which the breadth of the territorial sea is measured. The baseline determines the actual delimitation of the internal border of the Polish exclusive economic zone);
- implementing Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, governing the procedure for reconciliation of maritime spatial plans for Polish maritime areas;
- amending the present procedure for issuing location permits and permits for laying and maintaining submarine cables and pipelines in Polish maritime areas with a view to introducing administrative facilities.

On 17 March 2015, the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030) was adopted.

(https://mgm.gov.pl/wp-content/uploads/2016/01/Polityka-morska-Rzeczypospolitej-Polskiej_uchw._Nr_33_RM_z_17_03_2015.pdf).

The Maritime Policy of the Republic of Poland is in compliance with the European Commission's recommendations included in the following Communications:

1. The Integrated Maritime Policy of the European Union:

   https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2007/0575/COM_COM(2007)0575_PL.pdf

2. Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation:

   https://ec.europa.eu/transparency/regdoc/rep/1/2008/PL/1-2008-395-PL-F1-1.Pdf

One of the directions of Polish maritime policy is to improve marine governance. Marine spatial planning (understood purely technically) is intended to act as an "instrument for the implementation of the Integrated Maritime Policy of the European Union". The aim is to create an efficient marine governance system. Among the actions aimed to improve marine governance is the development of maritime spatial plans for Polish maritime areas taking into account the ecosystem approach.

Objectives of MSP

The objective of marine spatial planning is to design (distribute) seaspace in order to achieve a balance in the use of access to maritime areas and their resources in cooperation with all stakeholders. The aim of MSP is to distribute seaspace for the use and utilize marine areas and their resources in a number of ways by different entities, including coastal States as well as legal and natural persons. This process may require to introduce restrictions on the use of seaspace (e.g. temporary or territorial) and, where justified, in order to avoid conflicts between different environmental users and to improve the management of their activities involving the use of marine environmental and coastal resources, also exemptions (orders and prohibitions of a specific conduct). The capacity building of administration authorities and other entities in the field of marine governance is also important.

The objective of marine spatial planning is to prevent conflicts and to minimise disputes by distributing spatially the ranges of the sea use and to combat those forms of use that are unreconcilable at sea. Marine spatial planning is a process that often has to reconcile a diverse, in terms of interests and expectations, and often conflicting (the users/stakeholders conflict) group of actors. The diverse legal status of maritime areas, different types and effects of human activities conducted in the marine environment, multifaceted actions and measures aimed at the protection and conservation of marine ecosystems, as well as many other factors related thereto together are not an easy planning field. In practice, the introduction of marine spatial planning is burdened with ballast resulting from a sectoral approach and habits, established for years, regarding the allocation of competences to respective administration authorities responsible for maritime affairs (Pyć, 2019a).

MSP Principles

The precautionary principle and an ecosystem approach determine, at present, the framework for the marine spatial planning process in maritime areas and regulation of various human activities in the marine environment, taking into account the protection of marine and coastal ecosystems as well as conservation of biodiversity.

Ten marine spatial planning principles have been established in the document entitled: "Baltic Sea Broad-scale Maritime Spatial Planning (MSP) Principles, developed by the Joint HELCOM-VASAB Working Group (Marine Spatial Planning: Joint HELCOM VASAB Principles and Working Group, HELCOM HOD 31/2010; http://meeting.helcom.fi/c/document_library/get_file?p_l_id=18975&folderId=1029231&name=DLFE-41478.pdf).

They include: sustainable management, the ecosystem approach, the long term perspective, the precautionary principle, participation and transparency, high quality data and information basis, transnational coordination and consultation, coherent terrestrial and marine spatial planning, planning adapted to characteristics and special conditions at different areas and continuous planning. In order to facilitate the protection and sustainable use of the Baltic Sea, at the same time when the ten principles mentioned above were adopted, the HELCOM 28E/9 Recommendation on the Development of Broad-scale Marine Spatial Planning Principles in the Baltic Sea Area was adopted as well (http://www.helcom.fi/Recommendations/en_GB/rec28E_9/).

The first of the ten HELCOM/VASAB principles, the principle of sustainable management, subordinates maritime spatial planning as a tool for achieving the objectives of balancing between economic, social and environmental interests by maritime areas spatial allocations, managing specific uses of the sea, integrating sectoral planning and by applying the ecosystem approach in the long-term.

The ecosystem approach, on the other hand, is an overarching principle for maritime spatial planning. For its effectiveness, it requires a cross-sectoral and sustainable management of human activities in the marine environment. The aim of the ecosystem approach is to achieve good environmental status of the Baltic Sea. The ecosystem approach requires that the Baltic Sea should be treated as an ecological unity.

Long-term goals play an important role in maritime spatial planning on a broad scale. The long-term perspective aims to ensure persistent and sustainable uses of the sea. Each State Party to the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area should introduce such a legal basis for maritime spatial planning into its national law, that will ensure vertical and horizontal coordination of institutional activities concerning sea space uses.

The precautionary principle, in addition to the eco-system approach, is one of the fundamental principles of maritime spatial planning. It introduces an obligation to anticipate adverse effects on the environment before they occur, which is why it is essential for MSP. Moreover, it supplements the principles contained in Article 3 of the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area.

Participation and transparency mean to involve, at the earliest possible stage, all relevant authorities and stakeholders, including among others, coastal municipalities and regional bodies, in maritime spatial planning process, and to include local communities in that process. For this reason, maritime spatial planning procedures should be open to the public and transparent. Access to high-quality data and information basis is also extremely important. Creating and developing thereof requires the cooperation of relevant authorities and institutions and the maintenance of constantly updated information systems (e.g. HELCOM GIS), monitoring and research for data exchange (e.g. a harmonised pan-Baltic data and information base for planning). Databases should cover historical reference data, data reflecting the present status and future projections of human activities and environmental aspects.

Transnational coordination and consultation between the Baltic Sea states, based on international law and European Union law, form the basis for the development of maritime spatial planning. Maritime spatial plans should therefore be developed with the pan-Baltic perspective in mind. To this end, it is important that all stakeholders conduct a cross-sectoral dialogue in the Baltic Sea Region.

The principle of coherent terrestrial and maritime spatial planning implies a tight interlink between the legal systems governing spatial planning for land and for the sea. The multiannual experience gained in the practice of integrated coastal zone management (ICZM) by BSR states and OSPAR states serves achieving that purpose. The OSPAR Commission has been established under the Convention for the Protection of the Marine Environment of the North-East Atlantic and cooperates with the Helsinki Commission (HELCOM) within the joint group.

Then again, planning adapted to the characteristics and special conditions at different areas is intended to acknowledge the need to draw up separate sub-regional plans adapted to the specificities of the respective area. Maritime spatial plans should take into account the ecological unity of the ecosystem.

Continuous planning requires constant adaptation to changing conditions and knowledge of the environment. Monitoring and evaluation of the maritime spatial plans implementation as well as socio-economic and environmental effects contribute to the improvement of maritime spatial planning.

As regards the integrated management of the Baltic Sea environment, the minimum requirements for BSR states include the introduction, into national law, of legal provisions designating entities responsible for marine spatial planning in the exclusive economic zone, in the territorial sea, and for the integrated coastal zone management. The detailed scope of their responsibilities should be set out in the maritime spatial plan. The legal effects that the plan may induce, the basic requirements for social participation, the specific requirements for cooperation, the principles of monitoring and reporting, the maximum period for updating and revising the plan should be specified. In 2013, the HELCOM/VASAB Joint Group published an overview of the Baltic principles of maritime spatial planning in domestic legislation (http://meeting.helcom.fi/c/document_library/get_file?p_l_id=1250211&folderId=2071521&name=DLFE-52556.pdf).

1.3. MARINE SPATIAL PLANNING INSTRUMENTS

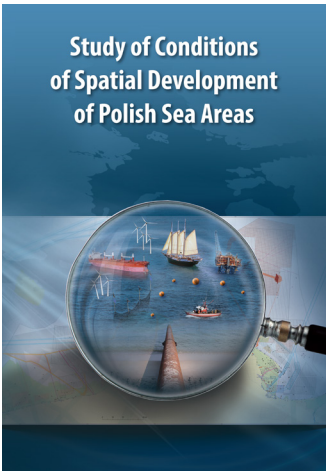
The provisions of Directive 2014/89/EU establishing a framework for maritime spatial planning have been implemented into Polish national law by amending the Act on Maritime Areas of the Republic of Poland and Maritime Administration in 2015, including among others: revision of the maritime spatial plans for Polish maritime areas; introduction of provisions on cross-border reconciliations for the draft maritime spatial plan for

Polish maritime areas; and public reconciliations for the draft maritime spatial plan for Polish maritime areas.

The provisions of the Regulation of the Minister of Transport, Construction Industry and Maritime Economy as well as the Minister of Regional Development on Maritime Spatial Plans of Polish Maritime Areas (repealed) issued on 5 August 2013 were in compliance with the provisions of the MSP Directive and constituted its partial implementation (Journal of Laws of 2013, item 1051).

The supreme maritime administration authority, in cooperation with the Directors of Maritime Offices, have drawn up a schedule for developing maritime spatial plans for Polish maritime areas.

"The Study of Conditions of Spatial Development of Polish Sea Areas" has been developed accompanied by spatial analyses, defining the spatial, legal, economic, social and environmental conditions for the purposes of setting up the maritime spatial plan for Polish maritime areas:



https://www.umgdy.gov.pl/wp-content/uploads/2015/04/INZ_Study_of_conditions.pdf

Developing maritime spatial plans for Polish maritime areas is a complex and lengthy process, requiring environmental research, cross-border environmental impact assessment and, above all, public consultations. In 2013, it was stipulated that work on developing the draft plan would take approximately 6 years. In this regard, the urgent introduction of amendments to the Act on Maritime Areas of the Republic of Poland and Maritime Administration covering, among others, the establishment of the procedure for the plans reconciliation was necessary in order for Poland to comply, in a timely manner, with the obligations imposed by Directive 2014/89/EU establishing a maritime spatial planning framework. Legislation applicable at present contains detailed solutions for public consultations and reconciliation of maritime spatial plans for Polish maritime areas. Before introducing the amendments in 2015, the Act on Maritime Areas of the Republic of Poland and Maritime Administration had merely provided, in Article 37a(1), that the plan was to be adopted by means of a regulation of the minister in charge of maritime economy and the minister in charge of regional development, thus the provisions of Resolution No 190 of the Council of Ministers of 29 October 2013 – the Rules of Procedure of the Council of Ministers were applicable as regards the procedure for adopting the regulation (Polish Monitor of 2013, item 979). Therefore, it was necessary to lay down legal provisions on the procedure of developing the draft plan (similarly to the development of Natura 2000 sites conservation plans, subsequently adopted in the form of a regulation of the minister in charge of the environment).

1.4. THE ROLE AND FUNCTIONS OF INSTITUTIONS IN MARINE SPATIAL PLANNING

The maritime administration authorities and their competences are specified by the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration. The maritime administration authorities are: the minister in charge of maritime economy as the supreme authority of maritime administration, the directors of maritime offices as the local authorities of the maritime administration (Article 38(1)).

The activities of the directors of maritime offices are supervised, in the scope governed by the Act on Maritime Areas of the Republic of Poland and Maritime Administration and in separate regulations, by the minister in charge of maritime economy (Article 38(2) Uom). The competences of maritime administration authorities are specified by the provisions of Article 42(1) Uom.

A director of the maritime office exercises its powers with the assistance of a maritime office, which is the state budget unit. The organisation of the maritime office and the detailed scope of the activities of the director of the maritime office is determined by the statute imposed by the minister in charge of maritime economy. Pursuant to Article 40(1) Uom the minister in charge of maritime economy established maritime offices in Gdynia and Szczecin.

Jurisdiction of the coastal state

The Polish Act on Maritime Areas of the Republic of Poland and Maritime Administration of 1991 lists Polish maritime areas and determines their legal status. Polish maritime areas are: marine internal waters, the territorial sea, the contiguous zone and the exclusive economic zone.

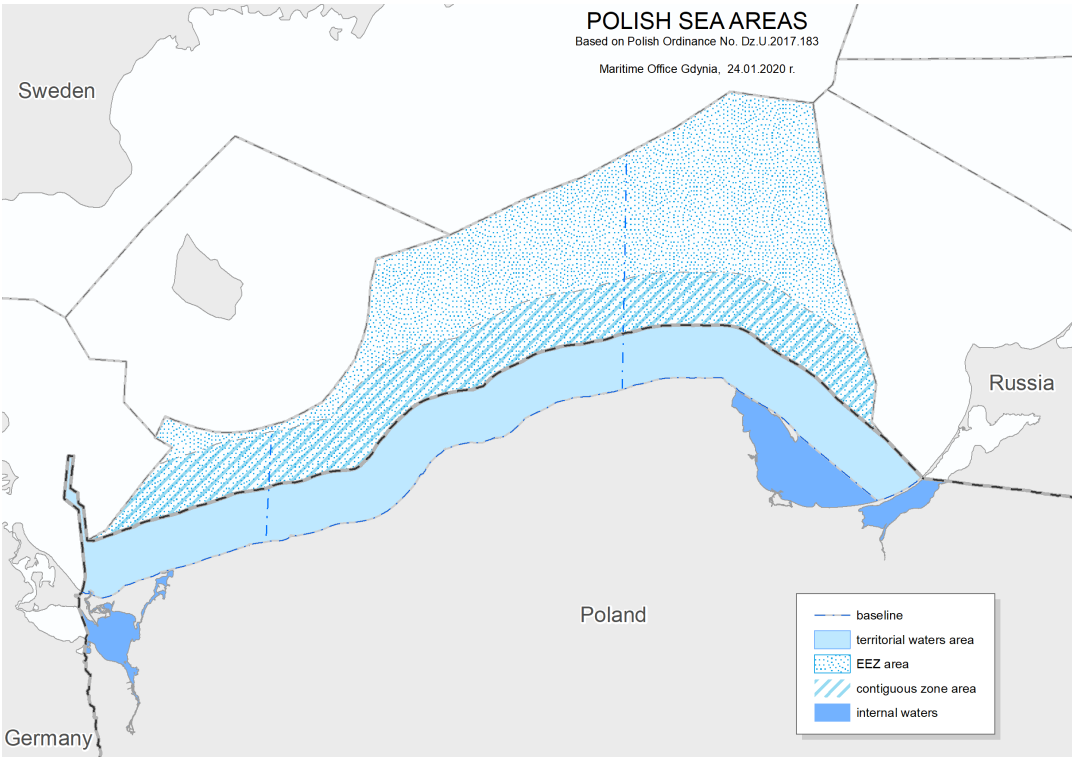


Figure 1. Polish Maritime Areas: https://www.umgdy.gov.pl/?page_id=17793

Internal waters - waters on the landward side of the baseline of the territorial sea (Article 8 UNCLOS). They are part of the territory of the coastal State. The legal status of internal waters provides the coastal State with total and exclusive power that extends to the sea, air, seabed and subsoil. In the area of internal waters, the right of innocent passage is not applicable. The territorial sovereignty of the Republic of Poland over marine internal waters and the territorial sea extends to waters and air space over these waters and the seabed of internal waters and the territorial sea, as well as to the subsoil. Where the need for State defence or security requires so: restricted zones for navigation and fisheries may be established in internal waters and in the territorial sea. Still, beyond internal waters and the territorial sea, zones dangerous for navigation or fisheries may be declared.

Territorial sea - covers the sea waters belt situated between the coast or internal waters and the open sea (Articles 3-4 UNCLOS). The inner limit of the territorial sea is the baseline from which the breadth of the territorial sea (up to 12 nautical miles) is measured. The outer limit of the territorial sea is the border of the territory of the coastal State. The territorial sea is subject to the sovereignty of a coastal State, which extends to the air space over the territorial sea and its seabed and subsoil.

In the territorial sea, the legal order of the coastal State is applicable. Foreign flag vessels may exercise the right of innocent passage across the territorial sea of a coastal State. Innocent passage means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a port or roadstead facility outside internal waters, proceeding to or from internal waters or a call at such a port or roadstead facility or leaving them. The Polish territorial sea (the territorial sea of the Republic of Poland) is a maritime area of 12 nautical miles (22 224 m) wide, measured from the baseline of that sea, that is the line of the lowest water level along the coast or the outer limit of the internal waters. The outer limit of the territorial sea is a line, where every point is at a distance of 12 nautical miles from the nearest point of the baseline. Roadsteads, which are used for loading, unloading and anchoring ships and which are situated, wholly or partly, outside marine water areas, referred to above, are included in the territorial sea (Article 5(1)(3) and (4) Uom). Innocent passage has been regulated by Polish law (Article 6 Uom). The concept of innocent passage is determined in Polish law by using two kinds of criteria: technical-navigational and legal. Any passage across the territorial sea, in order to comply with the conditions of the right of innocent passage, must take into account those two criteria cumulatively.

As regards the technical-navigational criterion, innocent passage means navigation through the territorial sea for the purpose of traversing that sea without entering marine internal waters or calling at port facilities or roadstead facilities outside marine internal waters, proceeding to or from marine internal waters or a call at a port or roadstead facilities or leaving them. Innocent passage should be expeditious and continuous (Article 7 Uom). Stopping or anchoring is permitted only if it is incidental to ordinary navigation or is necessary for reasons of force majeure or other distress or for the purpose of providing assistance to persons and ships in distress. Foreign fishing vessels are required to remove fishing gear from their decks during the passage or to store it in a manner which precludes its use. In a legal sense, the passage through Polish territorial sea is innocent as long as it is not prejudicial to peace, public order or the security of the Republic of Poland (Article 8 Uom). Designating, by a costal State, of zones closed to navigation and fishing is a manifestation of exercising sovereignty over the territorial sea by the State.

Contiguous zone - UNCLOS specifies the scope of rights of a coastal State in a contiguous zone (Article 33(1) UNCLOS). In a zone contiguous to its territorial sea, the coastal State exercises the control necessary to prevent any infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea and is entitled to punish infringements of such laws and regulations committed within its territory or the territorial sea. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured. (Article 33 (2)). In the law of sea scholarly writings, there is a belief that the "authority" of the coastal State in the contiguous zone is of a controlling (supervisory) and, at the same time, precautionary (preventive) nature. Jurisdiction of the coastal State in the contiguous zone also entails the right to self-defence, as well as the right to hot pursuit. According to UNCLOS, the hot pursuit of a foreign vessel may be undertaken when competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within internal waters, archipelagic waters, the territorial sea or the contiguous zone of the pursuing State (the doctrine of extended constructive presence); and it may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. On 19 November 2015, the Act amending the Act on Maritime Areas of the Republic of Poland and Maritime Administration and certain other laws (Journal of Laws 2015, item 1642) under which the contiguous zone had been established (Article 2(1)) in compliance with UNCLOS, entered into force. The Polish contiguous zone is a maritime area adjacent to the territorial sea. In the contiguous zone, Poland has the right to the pursuit, detention and punishment of perpetrators of breaches of those regulations. The contiguous zone overlaps with the part of the exclusive economic zone, where Poland exercises sovereign rights and has limited jurisdiction. Therefore, in the contiguous zone, all Polish laws and regulations applied to the exclusive economic zone, are applicable. In particular, those applicable in the scope of environmental protection and the prevention of pollution of the sea from ships.

Exclusive Economic Zone – (EEZ) – a maritime area with limited jurisdiction of a coastal State, where it has sovereign rights set out in UNCLOS. The rights of the coastal State in the EEZ are mainly economic, and not territorial. The EEZ is not part of the territory of the State and is a special area (*sui genesis*), which is neither the territorial sea nor the open sea. The coastal State, in the EEZ, has sovereign rights to search for, exploit and manage the natural resources of sea waters, as well as the seabed and subsoil, and jurisdiction in the field of environmental protection. In the EEZ, the coastal State has the right to construct artificial islands, installations and structures, as well as the right to conduct marine scientific research. The scope of freedom of navigation may be limited by the rights of a coastal State with respect to marine environmental protection (e.g. against pollution from ships). However, these powers do not give the coastal State total freedom of action. In order to protect the interests of other States, laws and other regulations, issued to prevent, reduce and control pollution from ships, must comply with generally accepted international standards and principles. In the exclusive economic zone, Poland has sovereign rights and other rights provided for in international law (Article 17 Uom). Polish environmental law is applicable in the Polish exclusive economic zone (Article 19 Uom).

IMPLEMENTATION OF THE MARITIME SPATIAL PLAN

2. IMPLEMENTATION OF THE MARITIME SPATIAL PLAN (*DOROTA PYĆ*)

2.1. THE LEGAL NATURE OF THE PLAN

Pursuant to Article 37[1] (Section 9) of the Act on Maritime Areas of the Republic of Poland and the Maritime Administration, spatial planning and development covers: marine internal waters, the territorial sea and the exclusive economic zone, and means the process by which competent authorities analyse and organise the uses of maritime areas to achieve ecological, economic and social objectives.

The authorities competent for marine spatial planning are the ministers in charge of the maritime economy and the directors of the maritime office (Article 37a(5)).

2.2. CONTENT OF THE PLAN

A maritime spatial plan is an instrument for maritime spatial planning. The maritime spatial plan covers: marine internal waters, the territorial sea and the exclusive economic zone. It is adopted by the Council of Ministers. Polish maritime spatial plan covering marine internal waters, the territorial sea and the exclusive economic zone is adopted by means of a regulation.

In accordance with Polish legislation, maritime spatial plan, covering marine internal waters, the territorial sea and the exclusive economic zone, determines:

1. allocation, including the basic functions of marine internal waters, the territorial sea and the exclusive economic zone;
2. prohibition or restrictions on the use of the areas referred to above, taking environmental protection requirements into account;
3. the deployment of public purpose investments;
4. the development directions of transport and technical infrastructure;
5. areas and conditions of:
   - environmental and cultural heritage protection,
   - fishing and aquaculture,
   - the acquisition of renewable energy,
   - the search for and exploration of mineral deposits and the extraction of minerals from deposits.

It should be noted that maritime spatial plans for marine internal waters, the territorial sea and the exclusive economic zone may include information arrangements for the expected deployment of public purpose investments, other than those mentioned above.

2.3. FUNCTIONS OF THE PLAN

The Polish legislator has distinguished two main function types of maritime area allocations, namely: basic functions and allowed functions. The basic functions are leading allocations of the area established in the plan, which cannot be interfered with by any other allowed functions. The allowed functions of the area mean the possible ways of using the area, whereby coexistence does not adversely affect the sustainable development of the area.

1. **The aquaculture function** – means conducting organised breeding of marine organisms requiring the exclusion of other functions in a designated maritime area and the operation of that culture;
2. **The scientific research function** – means conducting scientific research. Research covers, among others, environmental and oceanographic monitoring resulting from the implementation of relevant public policies in Polish maritime areas and carrying out geological work, which does not require concessions for searching and exploring deposits;
3. **The cultural heritage function** – means indicating underwater cultural heritage in the plan to provide conditions for its protection, as well as indicating the location of underwater warehouses and museums;
4. **The port or harbour operation function** – means maintaining secure access to ports or harbours, as well as the maintenance and development of marine port-related infrastructure, locating new breakwaters, quays, basins or other facilities which, once built, will constitute port infrastructure or marine port-related infrastructure;
5. **The technical infrastructure function** means:
   (a) the possibility of locating telecommunication cables, station infrastructure as well as laying and maintaining energy cables, including internal and external connection infrastructure for offshore wind farms**;**
   (b) the possibility of laying and maintaining pipelines, including discharge collectors (e.g. waste water, cooling water, brine, rainwater, melt water and trench drainage), intake collectors (e.g. water for cooling or for the purposes of onshore renewable energy) and transmission/product pipelines (domestic or cross-border ones);
   (c) the possibility of locating other facilities for the safety of navigation, searching for and exploring mineral deposits or extracting and transmitting minerals, acquiring and transmitting energy, defence, loading and unloading, not covered by port and marine port- related infrastructure;
6. **The national defence and security function** – means the performance of tasks aimed at maintaining national security, in particular, the protection and defence of national values and interests against existing or potential external threats, including the performance of military operations at Naval training grounds, the use of Naval waterways and anchorages, and the protection of Naval facilities, territories and passage routes;
7. **The coastal protection function** means maintaining the coastal protection system in a condition providing legally required security and the status of a coastal environment, carrying out monitoring and studies on the determination of the present status of the coast. It also means protecting sand accumulations and dumps for the artificial supply of the coast against pollution and against use for purposes other than coastal protection, as well as providing the availability of such accumulations and dumps;
8. **The environment and nature protection function** – means providing the space necessary to protect the environment and preserve the natural values of Polish maritime areas. This takes into account the need to: protect biodiversity and natural habitats, plant and animal species (including protected species), preserve the proper functioning of the ecosystem, maintain or improve the good status of sea waters, ensure that man can benefit sustainability from the natural and landscape assets of the environment, and conduct scientific research, the results of which serve to protect the environment and nature;
9. **The search for, exploration of mineral deposits and extraction of minerals from deposits function** – means searching for, exploring and extracting hydrocarbons and other usable minerals from deposits, groundwater as well as other substances if the extraction may be of economic benefit, excluding:
   a) geological surveys for the identification of sediments and deposits not aiming at the preparation of their extraction,
   b) geological work not requiring obtaining the concessions for the search and exploration of minerals, carried out, in particular, for the purpose of determining the national geological structure or determining hydrogeological conditions,
   c) geological engineering work,
   d) obtaining sand for coastal protection,
   e) drawing up maps and geological documentation as well as designing and carrying out studies for the purpose of the use of Earth's heat or the use of groundwater,
   f) establishing geotechnical conditions for the foundation of building structures;

10. **The acquiring renewable energy function** –means the acquisition, processing, transmission and collection, in Polish maritime areas, of energy from renewable sources, in particular, wind, waves, sea currents, the sun and marine organisms (biogas), including the construction of structures necessary for the acquisition and transmission of energy, including associated infrastructure and structures for processing and the accumulation of energy;
11. **The reserve for future development function** – means preventing the permanent development of a sea basin, including the construction of artificial islands and structures permanently linked to the seabed, and preventing the deterioration of the ecological status of the sea basin; however, it is possible to lay optical fibres, and, in designated sea basins, also cables and pipelines;
12. **The reserve for future development function with permitting extraction** – means preventing the permanent development of a sea basin, including the construction of artificial islands and structures, permanently linked to the seabed and unplaceable, excluding structures for the extraction of hydrocarbons and the reception of electricity, as well as preventing the deterioration of the ecological status of the sea basin, however, it is possible to lay optical fibres and, in designated sea basins, also cables and pipelines and main power points of the National Energy System, which cannot be located in areas with the basic function of acquiring renewable energy;
13. **The fisheries function** – means fishing with towed gear and passive gear, the passage of fishing vessels to fisheries, providing access to fishing ports and harbours and the preservation of commercial fish stock;
14. **The artificial islands and structures function** – means the construction and use of artificial islands, structures and facilities for, in particular, economic purposes, environmental protection, scientific research and providing the safety of navigation;
15. **The transport function** – means providing sufficient space for the passage of transport crafts and providing navigational safety;
16. **The tourism, sport and recreation function** – means making available sea basins for maritime and coastal tourism, water sports and recreation, in particular, making available coastal sea basins for bathing areas, places occasionally used for bathing, yachting and surfing, including sporting events and seasonal tourist sailing. It also means the construction and maintenance of a tourist infrastructure, such as piers, jetties, marinas and wharfs, and the indication of facilities made available for diving;
17. **The environmentally conditioned local development function** – means activities, carried out in the coastal municipalities of the Puck Bay, with a particular focus on the preservation of the natural environment, biodiversity, cultural heritage and cultural landscapes;
18. **The multifunctional economic development function** – means activities aimed at the development of functions to provide the development of the maritime economy of the Metropolitan Area of Gdańsk-Gdynia-Sopot, in particular, providing conditions for the development of seaports of primary importance to the national economy, ensuring a high quality of life for residents of the metropolitan area, while respecting the principles of the ecosystem approach and coastal protection needs, excluding the function of acquiring renewable energy.

The minister in charge of the maritime economy submits the copies and any subsequent amendments to the plans to the European Commission and EU Member States within three months of their publication.

2.4. THE PROCEDURE FOR DRAWING UP THE PLAN - THE GENERAL APPROACH

In accordance with the procedure referred to in Article 37b (1) of the Act on Maritime Areas of the Republic of Poland and Maritime Administration, a draft plan is prepared by the territorially competent director of the maritime office, applying the ecosystem approach and taking into account:

- support for sustainable development in the maritime sector, considering economic, social and environmental aspects, including improvements in the environmental status and resilience to climate change;
- national defence and security;
- the coordination of actions of relevant entities and ways of sea use.

The ecosystem approach has been defined in Article 37b (1a) and means that three following conditions must be met cumulatively in the management of human activities, namely:

1. maintaining the impact of planned human activities on the ecosystem at a level enabling to achieve and maintain a good environmental status;
2. maintaining both the ability for the proper functioning of the ecosystem and its resilience to environmental changes resulting from human activities;
3. enabling the sustained and, at the same time, sustainable use of ecosystem resources and services by present and future generations.

An environmental impact assessment is drawn up for a draft maritime spatial plan for marine internal waters, the territorial sea and the exclusive economic zone.

The costs of drawing up a maritime spatial plan for marine internal waters, the territorial sea and the exclusive economic zone, as well as developing an environmental impact assessment are borne by the state budget or an investor carrying out the investment, if the findings of that plan are a direct consequence of that investment implementation.

The minister in charge of the maritime economy and the minister in charge of the construction industry, spatial planning and development as well as housing in cooperation with the minister in charge of fisheries and the minister in charge of the environment determine, by means of a regulation, the required scope of plans included in textual and graphic parts drawn up in the form of a digital chart study prepared on the basis of databases specifying, in particular, planning materials, type of chart studies, designations, names, standards applied and how to document work in view of plan clarity and transparency, as well as the guidelines adopted by the Baltic Marine Environment Protection Commission and European Union authorities in the field of marine spatial planning.

While developing the maritime spatial plan, maritime administration authorities have the opportunity to carry out analyses and studies, as well as develop concepts and programmes. In order to ensure the consistency of the plan with studies on the conditions and directions of the spatial development of municipalities, local spatial development plans and spatial development plans of voivodeships, maritime administration authorities should cooperate with local self-governments of coastal voivodeships and municipalities (Article 37c).

Pursuant to Article 37d, the plan may include arrangements binding upon local self-governments of those voivodeships and municipalities, within which there are marine internal waters or municipalities neighbouring (adjacent to) the plan area by the coastline or the boundaries of maritime areas corresponding to that line, when drawing up the spatial development plans of voivodeships, the studies of conditions and directions of spatial development of municipalities, as well as local spatial development plans in the scope of :

- the deployment of public purpose investments of national importance as defined in the medium-term national development strategy and other development strategies, the concept of national spatial development and programmes specifying governmental tasks referred to in the Act on Spatial Planning and Development;
- protected areas, including the protected zone;
- the manner of using maritime areas, including restrictions and admissions.

With regard to setting up the plan, the territorially competent director of the maritime office is required to communicate to the public – by giving an announcement in nation-wide newspapers, by posting on a notice board and by publication in the Public Information Bulletin (BIP), at a relevant website of the office supporting the director, information on:

- the commencement of drawing up the draft plan,
- the possibility of submitting comments and conclusions on the draft plan, specifying the form, place and time limit for submitting those comments and conclusions , not less than 60 days from the date of communicating the information to the public.

The territorially competent director of the maritime office analyses the comments and conclusions and decides upon how to include them in the draft plan, and also prepares a list of comments and conclusions submitted to the draft plan, including observations and remarks, together with a submitted description of the undertaking (referred to in Article 37f(3)), as well as the general justification of the manner of considering the remarks on the draft plan. The director of the maritime office applies for consulting the scope and degree of information detail required in an environmental impact assessment to competent authorities.

Taking into account, in particular, the alternative deployment of selected undertakings accompanied by reasons for their deployment, as well as an environmental impact assessment of that draft, the director of the maritime office draws up a draft plan.

With reference to the evaluation procedure for the draft plan, the director issues requests for opinions on the draft plan to: the voivodeship conservator of historical monuments (competent in the areas covered by conservation protection and the areas proposed for such protection), the director of the regional water management board (PGWWP Polish Waters National Water Holding) (in the scope of: impact on areas of special flood hazard, with the exception of the technical belt, adaptation of the draft plan to the requirements resulting from the conditions of using waters of the water region and the conditions for using waters of the catchment area, if they have been drawn up, in compliance with water management plans in river basin areas), the minister in charge of health (in the development area of health resort protection zones and health resort protection areas), competent mining supervisory authorities (in the field of mining areas and their development), authorities competent in the scope of strategic environmental impact assessment in accordance with the Act of 3 October 2008 on Providing Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, including taking account of the environmental impact assessment, the director of the regional water management board (PGWWP) in terms of compliance with the programme for the protection of sea waters and in the scope of environmental objectives for sea waters, established in accordance with the provisions of the Water Law Act.

The draft plan is subsequently reconciled at a municipal level in terms of the impact of its findings on the development of the technical belt, the protective belt, seaports and harbours, as well as the spatial development of the municipality. In addition, the draft plan is reconciled with the regional director for environmental protection (RDEP) in terms of a draft plan, which might affect the objectives of nature reserve conservation, in terms of the nature protection of a landscape park and a protected landscape area and of arrangements relating to the draft plan, which might significantly adversely affect the Natura 2000 site, pursuant to the Act of 16 April 2004 on Nature Conservation. Additionally, the draft plan is subject to a reconciliation procedure with the Minister of National Defence and the ministers in charge of: the economy, fisheries, the environment, water management, internal affairs, tourism, communication, transport, the culture and protection of national heritage, within their competences, the marshal of the voivodeship (in the scope of deployment of public purpose investment areas with voivodeship significance in the spatial development plan of the voivodeship), the director of a national park (in terms of arrangements for draft plans, which might affect the nature protection of the national park pursuant to the Act of 16 April 2004 on Nature Conservation) and entities managing seaports of primary importance to the national economy (in terms of the draft plan, which might affect the development of ports).

In order to determine its compliance with the objectives and directions set out in the long-term national development strategy, the findings of the medium-term national development strategy and other development strategies, the territorially competent director of the maritime office submits a draft plan to the minister in charge of regional development. In order to verify the conformity of the draft plan with the concept of national spatial development and the programmes specifying the tasks of the government, the territorially competent director of the maritime office submits the draft plan to the minister in charge of the construction industry, spatial planning and development as well as housing.

In Article 37b (1) of the Polish Maritime Areas Act, the legislator has introduced an obligation for the territorially competent director of the maritime office to draw up a draft plan that has to incorporate the ecosystem approach and support for sustainable development in the maritime sector, considering economic, social and environmental aspects, including environmental status improvement and resilience to climate change; national defence and security; the coordination of activities of relevant entities and ways of sea use. The ecosystem approach has been defined in Article 37b (1a).

The ecosystem approach means that the following conditions will be met cumulatively in the management of human activities: the impact of planned human activities on the ecosystem will be maintained at a level enabling to achieve and maintain GES of the environment; both the ability of the ecosystem to function well and resilience to environmental changes resulting from human activities will be maintained; the sustained and, at the same time, sustainable use of ecosystem resources and services by present and future generations will be enabled (Zaucha, 2014b).

2.5. THE PROCEDURE FOR DRAWING UP THE PLAN - THE DETAILED APPROACH

2.5.1. PLANNING MATERIALS

Planning materials used for the purpose of the draft plan must be up-to-date at least on the date of commencement of drawing up the draft plan.

Planning materials include:

1. analyses, including an analysis covering a description of the present status, the characteristics of the conditions and the concept of directions for the spatial development of the area covered with the plan, studies, concepts, programmes and other documents, surveys and charts drawn up for the purposes of the plan;
2. permissions issued as referred to in Article 23(1) and Article 26(1) Uom and the arrangements referred to in Article 27(1) Uom;
3. surveys, analyses, forecasts, studies adopted, concessions and decisions issued by authorities competent for sea ports and harbours, the coastal belt referred to in Article 36(1) Uom and the area covered with the plan.
4. spatial development plans of voivodeships, studies of the conditions and directions of spatial development and local spatial development plans for land areas adjacent to the area covered with the plan.
5. source chart studies.
6. spatial data.
7. documents or normative acts which lay down the rules for the use of respective sea basins, concerning:
    a) forms of nature protection and their vicinities and arrangements for protection plans referred to in nature protection regulations,
    b) protected facilities and sea basins established under regulations on the protection of historic monuments and the guardianship of historic monuments,
    c) facilities and protected zones established under environmental protection regulations,
    d) zones closed for navigation and fishing, and zones proclaimed, from time to time, unsafe for navigation and fishing, established under Article 3(1) Uom,

   e) the protection of living marine resources under regulations on sea fishing,
   f) activities carried out under the national programme for the protection of sea waters;
8. studies outlining the up-to-now use of sea basins and contiguous areas, on:
   a) shipping routes,
   b) the location of technical infrastructure,
   c) artificial islands and structures,
   d) renewable energy acquisition,
   e) searching for and exploring mineral deposits as well as the extraction of minerals from deposits,
   f) material storage,
   g) live fishery resources and fishing activity,
   h) tourism, sport and recreation,
   i) scientific research,
   j) coastal belt characteristics, referred to in Article 36(1) Uom, including the manner of its development and the presence of protected areas ,
   k) national defence and security;
9. other data, documents or normative acts necessary for drawing up a plan or which might affect the solutions of the plan.

2.5.2. ASSUMPTIONS TO THE PLAN– CONSULTATIONS

Assumptions to the plan should set out spatial policy priorities for the whole sea basin and detailed guidelines for the hierarchy of functional-spatial solutions for respective areas.

Assumptions should specify the basic functions predominating in respective areas designated under the analyses carried out and the resulting initial qualification of functional sea basins, (as referred to in Rpzp), and, where possible, specify the allowed functions in order of their importance for the sea basin concerned.

2.5.3. DRAFT PLAN - DRAFT PLAN SOLUTIONS

The draft plan should be carried out in accordance with relevant provisions of the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration. The draft plan must be drawn up taking into account the environmental impact forecast developed for that draft plan.

The scope of the draft plan must comply with provisions issued under Article 37b (4) Uom, i.e. the regulation of the Minister of Maritime Economy and Inland Navigation and the Minister of Infrastructure and Construction of 17 May 2017 on the required scope of maritime spatial plans for marine internal waters, the territorial sea and the exclusive economic zone (Journal of Laws of 2017, item 1025).

The draft plan must be drawn up taking into account the environmental impact forecast drawn up for that draft plan.

Draft Plan Solutions (DPS)

Draft plan solutions are arrangements determining the purpose and ways of using respective sea basins into which Polish maritime areas have been distributed. DPS must specify the basic functions and allowed functions of respective sea basins, as well as the prohibitions, restrictions and conditions for allowing the functions applicable in those sea basins.

DPS must provide for the sustainable development of the area covered with the draft plan and the areas adjacent thereto in social, economic and environmental terms, taking into account the requirements of national defence and security and interactions between the sea and land.

When choosing DPS, it is necessary to follow the ecosystem approach defined in the provisions of the Polish Maritime Areas Act (Article 37 b(1) and (1a)) and specified in the Guidelines of the HELCOM-VASAB Working Group entitled "Guidelines for the implementation of an Ecosystem-based approach in Maritime Spatial Planning (MSP) in the Baltic Sea area".

https://helcom.fi/media/documents/Guideline-for-the-implementation-of-ecosystem-based-approach-in-MSP-in-the-Baltic-Sea-area_June-2016.pdf

DPS have to take legal considerations arising from national law, European Union law and international law into consideration.

Legal grounds for DPS in Polish domestic law

Among the legal acts including provisions relevant to DPS are:

1. the Act of 21 March 1991 on the Maritime Areas of the Republic of Poland and Maritime Administration (Journals of Laws of 2020, item 2135);
2. the regulation of 17 May 2017 on the required scope of [maritime] spatial plans for marine internal waters, the territorial sea and the exclusive economic zone (Journal of Laws of 2017, item 1025);
3. the Act of 4 March 2010 on Spatial Information Infrastructure (Journal of Laws of 2021, item 214);
4. the Act of 12 October 1990 on the Protection of the State Border (Journal of Laws of 2019, item 1776, as amended);
5. the Act of 28 September 1991 on Forests (Journal of Laws of 2021, item 1275);
6. the Act of 7 July 1994 – Construction Law (Journal of Laws of 2020, item 1333, as amended);
7. the Act of 3 February 1995 on the Protection of Agricultural and Forestry Land (Journal of Laws of 2013, item 1205, as amended);

8. the Act of 16 March 1995 on the Prevention of Pollution form Ships (Journal of Laws of 2020, item 1955);
9. the Act of 30 May 1996 on the Management of Certain Assets of the State Treasury and on the Agency for Military Property (Journal of Laws of 2013, item 712, as amended);
10. the Act of 20 December 1996 on Sea Ports and Harbours (Journal of Laws of 2021, item 491, as amended);
11. the Act of 21 August 1997 on Real Estate Management (Journal of Laws of 2014, item 518, as amended);
12. the Act of 27 April 2001 - Environmental Protection Law (Journal of Laws 2021, item 1973, as amended);
13. the Act of 20 July 2017 - Water Law (Journal of Laws of 2021, item 624);
14. the Act of 27 March 2003 on Spatial Planning and Development (Journal of Laws of 2021, item 741, as amended);
15. the Act of 12 September 2002 on Port Reception Facilities for Waste and Cargo Residues from Ships (Journal of Laws of 2020, item 1344);
16. the Act of 28 March 2003 on the Establishment of the Multiannual Programme "The Coastal Protection Programme" (Journal of Laws of 2016, item 678);
17. the Act of 23 July 2003 on the Conservation of Historical Monuments and Guardianship of Historical Monuments (Journal of Laws of 2014, item 1446, as amended);
18. the Act of 16 April 2004 on Nature Conservation (Journal of Laws of 2021, item 1098, as amended) together with implementing acts;
19. the Act of 28 July 2005 on Health Resort Medical Treatment (Journal of Laws of 2012, item 651, as amended);
20. the Act of 6 December 2006 on the Principles of Development Policy Making (Journal of Laws of 2021, item 1057);
21. the Act of 3 October 2008 on Providing Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Journal of Laws of 2021, item 247);
22. the Act of 9 June 2011 on Geological and Mining Law (Journal of Laws of 2021, item 1420);
23. the Act of 18 August 2011 on Maritime Safety (Journal of Laws of 2020, item 1368, as amended);
24. the Act of 14 December 2012 - Waste Law (Journal of Laws of 2021, item 779, as amended);
25. the Act of 19 December 2014 on Marine Fisheries (Journal of Laws of 2021, item 650);
26. The regulation of the Council of Ministers of 29 April 2003 on the Determination of the Minimum and Maximum Breadth of the Technical and Protective Belt and the Method of Delimitation of Boundaries (Journal of Laws No. 89, item 820, as amended);
27. The regulation of the Minister of the Environment of 13 April 2010 on Natural Habitats and Species of Community Interest, as well as Criteria for the Selection of Areas Eligible for Recognition or Designation as Natura 2000 Sites (Journal of Laws of 2014, item 1713);
28. The regulation of the Council of Ministers of 9 November 2010 on Projects Likely to have a Significant Impact on the Environment (Journal of Laws of 2016, No. 216, item 71);
29. The regulation of the Minister for the Environment of 12 January 2011 on Special Protection Areas for Birds (Journal of Laws of 2011, No. 25, item 133, as amended);
30. The regulation of the Minister of Infrastructure of 22 June 2012 on the Registration Form and Reporting Forms for Seagoing Vessels (Journal of Laws of 2012, item 761);
31. The regulation of the Minister of the Environment of 16 February 2012 on Plans for the Movement of Mining Plants (Journal of Laws of 2012, item 372, as amended).

The solutions of the draft plan must incorporate the objectives and directions set out in:

1. The development strategies and programmes referred to in Article 9 and Article 15 of the Act of 6 December 2006 on the Principles of Development Policy Making;
2. The Long-term National Development Strategy. Poland 2030. The Third Wave of Modernity;
3. The National Development Strategy 2020. Active Society, Competitive Economy, Efficient State;
4. The Strategy for Innovation and the Effectiveness of the Economy "Dynamic Poland 2020";
5. The Strategy for the Development of Transport to 2020 (with perspectives to 2030);
6. The "Energy Security and the Environment" 2020 Perspective Strategy;
7. The Efficient State 2020 Strategy (the Ministry of Administration and Digitization);
8. The Strategy for Social Capital Development 2020;
9. The National Strategy for Regional Development – Regions, Cities, Rural Areas;
10. The Strategy for the Development of Rural Areas, Agriculture and Fisheries 2012-2020;
11. The Strategy for the Development of the National Security System of the Republic of Poland 2022;
12. The National Spatial Development Concept 2030;
13. The Draft National Maritime Economy Development Programme;
14. The Annex to Resolution No. 157 of the Council of Ministers of 25 September 2012, the National Reforms Programme 2008-2011 for the implementation of the Lisbon Strategy;
15. The Strategy for Human Capital Development of 2013;

16. The Strategy for the Protection of Wetland Areas together with the Action Plan (2006-2013);
17. The National Environmental Policy for 2009-2012 with perspectives to 2016 replaced by The 2030 National Environmental Policy (https://bip.mos.gov.pl/fileadmin/user_upload/bip/strategie_plany_programy/Polityka_Ekologiczna_Panstwa/Polityka%20Ekologiczna%20Pa%C5%84stwa%202030%20ENG_wersja%20internet.pdf);
18. The National Biodiversity Protection and Sustainable Use Strategy and the 2007-2013 Action Programme;
19. The Seaports Development Strategy to 2030;
20. The National Energy Policy to 2025;
21. The National Energy Policy to 2030;
22. Development strategies, studies of conditions and directions of spatial development of municipalities.

The solutions of the draft plan must take into account the content of:

a) established conservation plans for Natura 2000 sites designated for maritime areas or their drafts, provided that until the approval of the Natura 2000 sites draft conservation plans, by the minister competent for the environment, their versions made available by the ordering party should be relied on,
b) the established conservation plans for national parks, reserves and landscape parks designated at maritime areas and in their close neighbourhood or drafts,
c) the established or draft plans of conservation tasks for Natura 2000 sites designated in land areas adjacent to maritime areas.

The solutions of the Draft plan must be in accordance with the objectives and directions referred to in Article 37e(1)(13) of the Polish Maritime Areas Act.

The solutions of the draft plan must consider the mission, strategic objectives and priorities set out in the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030). This applies in particular to:

1. providing conditions for the development of ports;
2. providing conditions for safe and efficient navigation, including access to fisheries;
3. national energy security (making full use of mineral resources and marine renewable energy resources as much as possible);
4. providing conditions for the maintenance of the system for securing the coast against erosion and sea flooding;
5. providing conditions for the conservation and rational use of living marine resources;
6. providing conditions for the protection of the marine environment.

The solutions of the Draft plan must take into account the final, legally traded and enforceable permissions referred to in Article 23 and Article 26 of the Polish Maritime Areas Act and the concessions issued under the Geological and Mining Law.

The solutions of the Draft plan must take the arrangements obtained under Article 37e(1)(8) Uom into consideration.

Legal grounds for DPS in EU law

Among the legal acts where the provisions relevant to DPS are referred to, are:

1. Council Regulation (EC) No 708/2007 of 11 June 2007 concerning the use of alien and locally absent species in aquaculture (Official Journal EU L 168/1);
2. Commission Regulation (EC) No. 506/2008 of 6 June 2008 amending Annex IV to Council Regulation (EC) No. 708/2007 concerning the use of alien and locally absent species in aquaculture (Official Journal EU L 149);
3. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (Official Journal L 206/7);
4. 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 (Official Journal EU L 327/1);
5. 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 (Official Journal EU L 197/30);
6. Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks (Official Journal EU L 288/27);
7. 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 (Official Journal EU L 164/19);
8. Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Official Journal EU L 20/7);
9. Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (Official Journal EU L 26/1);
10. Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning (Official Journal EU L 257/135).

The solutions of the draft plan must take into account the objectives and directions set out in:

1. The European Union Biodiversity Strategy "Our Life Insurance, Our Natural Capital: an EU Biodiversity Strategy to 2020" of 2011
2. The EU Strategy for the Baltic Sea Region of 2009
3. The Study on Blue Growth, Maritime Policy and the EU Strategy for the Baltic Sea Region.

Legal grounds for DPS in international law

Among international treaties and other international law instruments where the norms relevant to DPS are included, are:

1. The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, done at Aarhus on 25 June 1998 (Journal of Laws of 2003 No. 78, item 706);
2. The Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (Journal of Laws of 2002 No. 184, item 1532);
3. The United Nations Framework Convention on Climate Change, signed in Rio de Janeiro on 5 June 1992 (Journal of Laws of 1996, No. 53, item 238);
4. The Convention for the Protection of the Marine Environment of the Baltic Sea Area, done at Helsinki on 9 April 1992 (Journal of Laws 2000, No. 28, item 346);
5. The Convention on the Protection and Use of Transboundary Watercourses and International Lakes, done at Helsinki on 17 March 1992 (Journal of Laws of 2003 No 78, item 702);
6. The Convention on Environmental Impact Assessment in a Transboundary Context done at Espoo on 25 February 1991 (Journal of Laws of 1999 No. 96, Item 1110);
7. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted on 22 March 1989 (Journal of Laws of 1995 No 19, item 88), the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 (Journal of Laws of 2002 No. 59, item 543);
8. The Convention on Long-Range Transboundary Air Pollution, done at Geneva on 13 November 1979 (Journal of Laws of 1985, No. 50, item 311);
9. The Convention on the Conservation of European Wildlife and Natural Habitats, done at Bern on 19 September 1979 (Journal of Laws of 1996 No. 58, item 263);
10. The Convention for the Conservation of Migratory Species of Wild Animals, done at Bonn on 23 June 1979 (Journal of Laws of 2003 No. 2, item 17);
11. The International Convention for the Prevention of Pollution from Ships, 1973, done at London on 2 November 1973, together with Annexes I, II, III, IV and V and the Protocol of 1978 relating to that Convention together with Annex I, done at London on 17 February 1978 (Journal of Laws of 2016, item 761);
12. The Convention on the Prevention of Marine Pollution by Dumping Waste and Other Matter, done at Moscow, Washington, London and Mexico on 29 December 1972 (Journal of Laws of 1984 No. 11, item 46);
13. The Convention concerning the Protection of World Cultural and Natural Heritage adopted in Paris on 16 November 1972 by the United Nations General Conference for Education, Science and C*ulture* at its 17th session (Journal of Laws of 1976 No. 32, item 190);
14. The Convention on Wetlands of International Importance especially as Waterfowl Habitat, done at Ramsar on 2 February 1971 (Journal of Laws of 1978 No. 7, item 24);
15. The International Maritime Organisation (IMO) Assembly Resolution of 1991 designating the Baltic Sea Area as a Particularly Sensitive Sea Area – (PSSA);
16. The Recommendation of the European Parliament of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe;
17. The Agreement between the Republic of Poland and the Federal Republic of Germany on cooperation in the field of water management in border waters, done at Warsaw on 19 May 1992 (Journal of Laws of 1997 No. 11, item 56);
18. The Agreement on the International Commission for the Protection of the Oder against Pollution, done at Wrocław on 11 April 1996 (Journal of Laws No. 79, item 886);
19. The Long-term VASAB Strategy of 2009;
20. The Pan-European Biological and Landscape Diversity Strategy of 1995.

When drawing up the draft plan, the principles of marine spatial planning in the Baltic Sea (HELCOM-VASAB Baltic Sea Broad-scale Maritime Spatial Planning Principles) adopted by HELCOM and VASAB in 2010 and the principles of efficient space use and the application of arrangements for all three dimensions of maritime space and time should be followed.

2.5.4. THE DEVELOPMENT OF AN ENVIRONMENTAL IMPACT FORECAST AND A DRAFT PLAN TAKING THE FINDINGS OF THE FORECAST INTO ACCOUNT

The forecast should be drawn up in accordance with the requirements of Article 51 of the Act of 3 October 2008 on Providing Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Journal of Laws of 2021, item 247).

2.5.5. ARRANGEMENTS AND OPINIONS ON THE DRAFT PLAN AND CONSULTATION MEETINGS

Implementation of the Maritime Spatial Plan for Polish Maritime Areas (MSPPMA) takes place after the adoption of the plan by means of a regulation by the Council of Ministers.

The MSPPMA draft, in a scale of 1: 200 000, in the part covering Polish marine internal waters, the Polish territorial sea and the Polish exclusive economic zone has been drawn up under the provisions of the Act on the Maritime Areas of the Republic of Poland and Maritime Administration, incorporating the constitutional principle of sustainable development expressed in Article 5 of the Polish Constitution of 2 April 1997 (Journal of Laws of 1997 No. 78, item 483 http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm), according to which the Republic of Poland safeguards the independence and integrity of its territory, ensures the freedoms and rights of persons and citizens, the security of citizens, safeguards the national heritage and ensures the protection of the natural environment pursuant to the principle of sustainable development. The principle of sustainable development is a legal principle of systemic nature and refers to the entire scope of regulations set out in Article 5 of the Constitution, namely, independence, human rights, security, national heritage as well as environmental protection.

Sustainable development has been defined in the Act of 27 April 2001 - Environmental Protection Law as a socio-economic development, which integrates political, economic and social actions, while preserving the natural equilibrium and sustainability of basic natural processes, with the aim of guaranteeing the ability to meet the basic needs of individual communities or citizens of both present and future generations (Article 3(50)).

Sustainable development forms the basis for spatial planning in the meaning of the provisions of the Act of 27 March 2003 on Spatial Planning and Development, which provides :

1. the principles of spatial policy shaping by local self-governments units and governmental administration authorities,
2. the proceeding scope and methods in cases of allocation of land for specific purposes and setting the principles for the management and development thereof – taking spatial order and sustainable development as the basis for these activities (Article 1(1)) into consideration (Zaucha, 2018a; Zaucha, 2018b).

The MSPPMA draft has been drawn up in accordance with the provisions of the regulation of the Minister of the Maritime Economy and Inland Navigation and the Minister of Infrastructure and Construction Industry of 17 May 2017 on the required scope of [maritime] spatial plans for marine internal waters, the territorial sea and the exclusive economic zone (Journal of Laws of 2017, item 1025), taking into account the provisions of the regulation of the Council of Ministers of 13 January 2017 on the detailed course of the baseline, the external border of the territorial sea and the external border of the contiguous zone of the Republic of Poland (Journal of Laws of 2017, item 183).

The plan is composed of a textual part and a graphic part. The plan is drawn up using the following standards:

1. the area covered by the plan is assigned with a unique letter code of the plan;
2. where the area covered by the plan comprises a portion of marine internal waters or a portion of territorial sea, or a portion of the exclusive economic zone, the spatial scope of the plan is determined in the form of coordinates of characteristic points of the boundary's breakdown of that area;
3. the area covered by the plan is distributed into sea basins with a specific basic function;
4. the sea basins are assigned with subsequent unique numbers;
5. within the framework of a sea basin, parts with specific allowed functions or parts where prohibitions or restrictions are applicable, may be designated;
6. solutions relating to the allocation of respective sea basins are recorded in the form of sea basins cards containing: a sea basin number and a letter designation identifying the basic function of the sea basin; the surface area of a sea basin designated as a fragment of the GRS80 (Geodetic Reference System '80) ellipsoid's surface; a description of the location of the sea basin using the coordinates of geodesic characteristic points; detailed solutions;
7. the sea basin card also contains information on particularly important conditions affecting the future use of the sea basin. The model sea basin card is set out in Annex 1 to the Regulation on the required scope of [maritime] spatial plans for internal sea waters, the territorial sea and the exclusive economic zone.

The textual part of the plan consists of:

1. general arrangements including the indication of solutions applicable in part of or the whole area covered by the plan;
2. solutions for the deployment of public purpose investments;
3. directions for the development of transport and technical infrastructure;
4. detailed solutions on respective sea basins or their designated parts;
5. information on particularly relevant conditions affecting the future use of respective sea basins.

The graphical part of the plan covers the plan illustration.

https://www.umgdy.gov.pl/wp-content/uploads/2019/05/PZP-PLPOM-ustalenia-ogolne.pdf

TIMETABLE FOR WORK ON THE POLISH MARITIME SPATIAL PLAN

Since 2016, the Polish maritime spatial plan has been developed according to a detailed timetable for work (https://www.umgdy.gov.pl/?p=12762):

1. August 2, 2016 - commencement of work on the maritime spatial plan (draft plan);
2. August - October 2016 - collecting **comments and conclusions** on the draft plan;
3. August 2016 - February 2017 – the acquisition of planning materials;
4. March 2017 - the first national consultation meeting;
5. July 2017 - preparation of the preliminary draft plan;
6. October 2017 - the second national consultation meeting;
7. April 2018 - preparation of a draft plan incorporating the findings of the EIA;
8. June 2018 - laying out the draft plan together with the EIA (v1). In June 2018, a draft plan with an environmental impact assessment was presented for public viewing. It ensured stakeholders the possibility of submitting **comments and requests** (https://www.umgdy.gov.pl/?cat=274);
9. July 2018 - public discussion; collecting **arrangements, opinions and comments** on the draft plan;
10. December 2018 – the preparation of a Draft plan including opinions, arrangements and conclusions from the public discussion (v). In December 2018, a modified draft plan was prepared, which introduced changes resulting from the environmental impact assessment and **the arrangements** made, as well as changes resulting from the opinions, remarks and conclusions considered. The modified draft plan (v2), together with the updated environmental impact assessment were forwarded to competent authorities to procedure resulting from Article 37e(1) (8) Uom. The draft plan, together with the updated environmental impact assessment, is available on the website of the Maritime Office in Gdynia (https://www.umgdy.gov.pl/?p=27458).
11. January - February 2019 **- reconciliation with** competent authorities of the draft plan at a national level;
12. In January 2019, the Director of the Maritime Office in Gdynia, acting on behalf of the Director of the Maritime Office in Słupsk, the Director of the Maritime Office in Szczecin and he himself informs about the completion of the next stage of work on the project of the maritime spatial plan for marine internal waters, the territorial sea and the exclusive economic zone (the draft plan) on a scale of 1:200 000, together with the environmental impact assessment.
13. August 2019 - preparation of a Draft plan including **reconciliations** (v3); (https://mapy.umgdy.gov.pl/pzp/apps/webappviewer/index.html?id=3abee3cc798e499dbd165472425f2434);
14. 3rd quarter 2020 - submission of the draft plan to the Minister in charge of the Maritime Economy for the adoption of the spatial development plan by regulation.
15. April 14, 2021, the Council of Ministers adopted the Polish maritime spatial development plan.

2.6. REVISION OF THE MARITIME SPATIAL PLAN

The plan should be reviewed from time to time, at least every 10 years. In order to evaluate whether the plans are up-to-date, the territorially competent director of the maritime office applies to competent authorities for the provision of information on changes in the spatial development of the area covered by the plan and carries out an analysis of changes in that area, taking the permissions and admissions issued into consideration.

Once the review is completed, the director of the maritime office draws up a report on the status of maritime area development. The results of that evaluation and the report are provided to the ministers in charge of: the maritime economy, water management, regional development, the construction industry, planning and development, as well as housing. On the basis of the report, the minister in charge of the maritime economy makes a decision on commencing the revision of the plan and the extent of necessary changes. If, as a result of the amendments to legislation, it is necessary to revise the plan, relevant action resulting from the provisions of the Act on the Maritime Areas of the Republic of Poland and Maritime Administration should be implemented accordingly to the extent necessary to implement those changes. The revision of the plan should start no later than within 6 months form the date of an amended legal provision put into force. The revision of the plan is affected under the procedure in which the plan has been adopted.

2.7. MONITORING AND EVALUATION OF THE MARITIME SPATIAL PLAN

The authors (planners) of the draft Polish maritime spatial plan considered that the plan should be a 'structure-plan' because it "diagnoses the spatial conditions for development" (Zaucha, 2017).

The maritime spatial plan aims at balancing interests in maritime space. The plan defines the components of the spatial layout and their impacts. The plan should indicate the best possible layout of these impacts. In Poland, it has been accepted that the plan prioritises specific ways of maritime space use by applying the basic function. The sea basins designated in the plan are granted the basic function, which determines the leading allocations of the sea basin. The leading allocation of the sea basin cannot be interfered with by other ways (allowed functions) of using it.

The maritime spatial plan on a scale of 1: 200 000, provides the basis for issuing decisions on the use and development of Polish maritime areas. Decisions must not be contrary to that plan.

The minister in charge of the maritime economy conducts cross-border cooperation in the field of marine spatial planning and the development of marine internal waters, the territorial sea and the exclusive economic zone, as well as cross-border exchanges in the field of spatial data necessary for the marine spatial planning process. The Council of Ministers may determine, by means of regulation, the required scope and manner of cross-border arrangements for a maritime spatial plan, covering marine internal waters, the territorial sea and the exclusive economic zone, taking into account, in particular, the recommendations adopted by the Baltic Sea Environment Protection Commission and European Union authorities in the area of marine spatial planning. The director of the maritime office collects and stores planning materials.

2.8. SCOPE OF THE FINDINGS OF THE POLISH MARITIME SPATIAL DEVELOPMENT PLAN

The spatial development plan of Polish maritime areas was adopted by the regulation of the Council of Ministers of April 14, 2021, on the adoption of the spatial development plan for internal sea waters, the territorial sea and the exclusive economic zone on a scale of 1: 200 000 - Rpzp (Journal of Laws of 2021, item 935, https://dziennikustaw.gov.pl/D2021000093501.pdf).

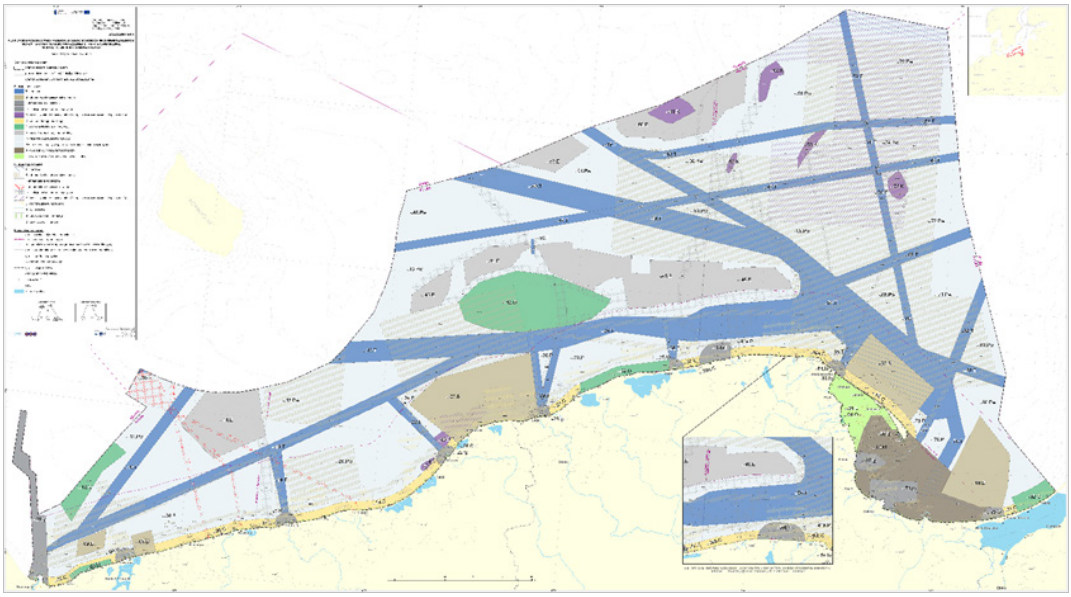


Figure 2. Polish spatial development plan for internal sea waters, the territorial sea and the exclusive economic zone on a scale of 1 : 200 000 (https://www.umgdy.gov.pl/?cat=274).

The regulation consists of six paragraphs and four annexes. Annex 1 defines the text part of the plan in terms of general arrangements containing an indication of the decisions applicable in part or the entire area covered by the plan, decisions regarding the distribution of public purpose investments and the directions of development of transport and technical infrastructure. Annex 2 defines the text part of the plan with regard to detailed decisions concerning

individual sea basins or their separate parts and information on particularly important conditions affecting the future use of individual sea basins. Appendix No. 3 contains the justification for detailed decisions concerning individual sea basins, whereas, in Annex 4 there is a plan drawing, which is a graphic part of the plan.

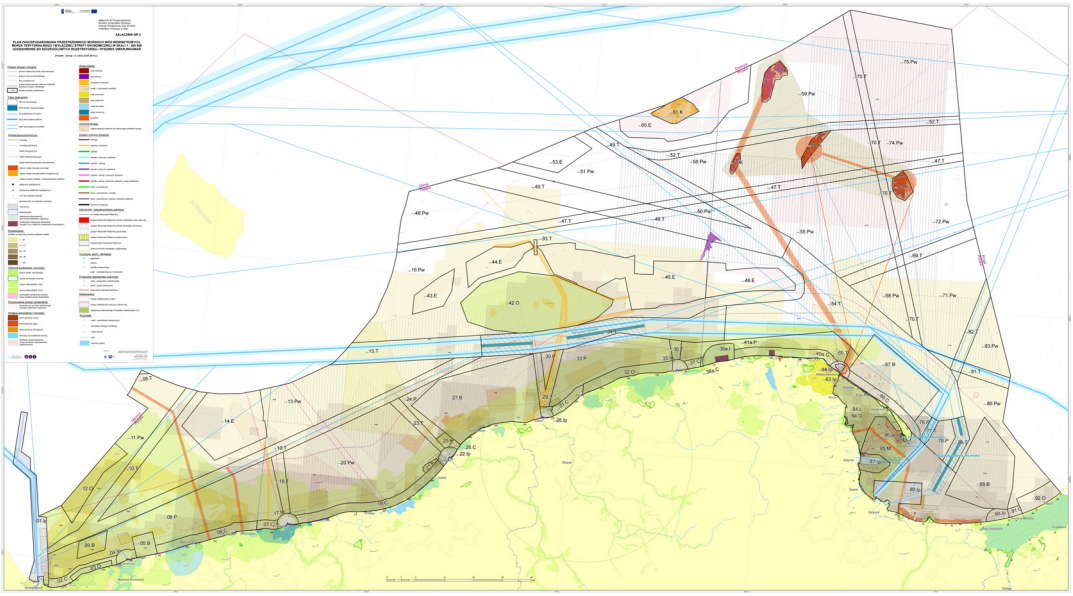


Figure 3. Polish spatial development plan for internal sea waters, the territorial sea and the exclusive economic: justification for detailed decisions – conditioning drawing (https://www.umgdy.gov.pl/?cat=274).

2.8.1. DETAILED DECISIONS

In detailed decisions concerning individual sea basins, basic functions and allowed functions have been specified.

The area covered by the plan has boundaries that are defined in the form of coordinates of characteristic breakpoints given in the European Terrestrial Reference System 1989 (ETRS89). The area covered by the plan has been given a unique letter code POM and has been divided into sea basins with basic functions (Article 37a (3), first sentence of the Uom; see also Annex 4 to the Rpzp):

1. port and harbour functioning, marked with the letter Ip;
2. technical infrastructure, marked with the letter I;
3. national security and defence, marked with the letter B;
4. coastal protection, marked with the letter C;
5. environmental and nature conservation, marked with the letter O;
6. renewable energy production, marked with the letter E;
7. exploring, prospecting and extracting mineral resources, marked with the letter K;
8. space reserved for future use ('reserved for future development'), marked with the letter P;
9. space reserved for future use ('reserved for future development') with extraction allowed, marked with the letter Pw;
10. transportation, marked with the letter T;
11. environmentally conditioned local development, marked with the letter L;
12. multi-functional economic growth, marked with the letter M.

The allowed functions referred to in Article 37a (3), the second sentence of the Uom are the functions referred to mentioned above and:

1. aquaculture, marked with the letter A;
2. research, marked with the letter N;
3. cultural heritage, marked with the letter D;
4. fishery, marked with the letter R;
5. artificial islands and structures, marked with the letter W;
6. tourism, sport and leisure, marked with the letter S.

In some sea basins, sub-basins (separate parts of sea basins for which allowed functions have been specified or where prohibitions or restrictions apply) have been designated to perform the following allowed functions:

1. cultural heritage, marked with the letter D;
2. post and harbour functioning, marked with the letter Ip;

3. technical infrastructure, marked with the letter I;
4. national security and defence, marked with the letter B;
5. coastal protection, marked with the letter C;
6. exploring, prospecting and extracting mineral resources, marked with the letter K;
7. fishery, marked with the letter R;
8. transportation, marked with the letter T;
9. tourism, sport and leisure, marked with the letter S.

The state defence and security functions, as well as environmental and nature protection, are performed in all the sea basins covered by the plan. Environmental protection is an important condition for taking action in individual sea basins, regardless of whether it concerns an area covered by legal protection or not.

Kępa Redłowska Reserve in Gdynia

The term 'future development' refers to the preservation of maritime areas in such a state that, in the future, each possible basic function can be identified for these areas in order to meet the interests and needs of future generations in the management of maritime areas and the protection of nature and animate and inanimate resources.

Underwater cultural heritage

Underwater cultural heritage includes monuments located in Polish maritime areas and their surroundings, in accordance with Article 3 of the Act of 23 July 2003 on the protection and care of monuments (Journal of Laws of 2021, item 710) and is subject to spatial protection, taking into account the established safety zones around the underwater cultural heritage and the rules in force in these zones. The use of Polish maritime areas may not: damage or destroy underwater cultural heritage, especially the functioning of ports and harbours; lay linear elements; erect artificial islands, structures and devices; protect the sea shore; undertake tourism, sports and recreation; obtain renewable energy; search and identify mineral deposits; extract minerals from deposits, aquaculture and scientific research. This is only permissible in emergency situations, i.e., those that threaten human life and health or threaten the safety of navigation or the environment, or property to a significant extent, requiring immediate action.

Offshore cables and pipelines

Power and telecommunication cables, including optotelecommunication cables, and submarine pipelines belong to the so-called line elements of technical infrastructure.

Offshore wind farms

The construction of offshore wind farms is only allowed in sea basins with the basic function of renewable energy production. If it is necessary to establish a passage corridor for migratory birds, their exact direction and size will be determined as part of the environmental impact assessment of individual projects. It is recommended that the width of such a corridor be not less than 4 km and that its axis is a straight line. Artificial islands, offshore wind farm structures and equipment, including offshore wind turbines, as well as internal connection infrastructure of offshore wind farms, may not be located closer than 2 nautical miles from the boundary of sea basins with the basic function of transportation (except for artificial islands, offshore wind farm structures and equipment for which, before the entry into force of the Rpzp, valid permits were issued on the basis of Article 23 Uom). The implementation of projects in sea basins with the basic function of producing renewable energy is possible after the fulfilment of conditions contained in the permit, or the agreement referred to in Article 23(1) or Article 27(1) Uom.

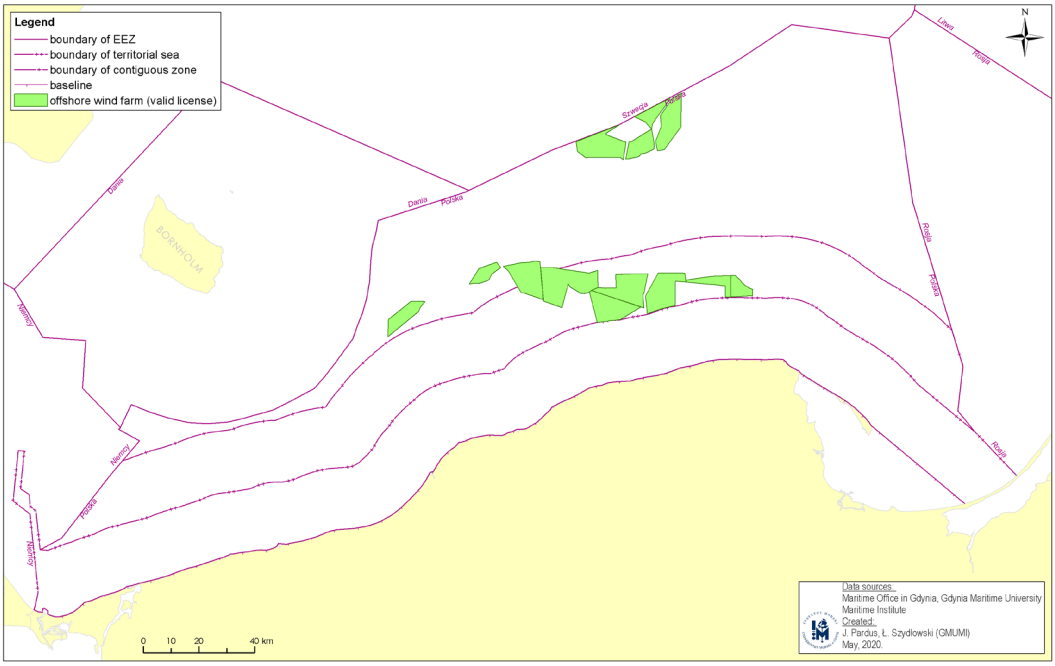


Figure 4. Polish maritime areas: wind energy areas.

The internal connection infrastructure of offshore wind farms consists of linear elements connecting individual turbines, power stations and other power elements in the area covered by one permit, excluding the external connection infrastructure of offshore wind farms. The external connection infrastructure of offshore wind farms are linear elements connecting the internal connection infrastructure of offshore wind farms with the National Power System or connections of these farms running outside the area covered by the permit referred to in Article 23(1) Uom.

Mineral resources

Exploring, prospecting and extracting mineral resources is only allowed in the sea basins indicated in the plan. Some part of deposits are located in the planning basins and are subject to protection from development that would permanently prevent their exploitation (i.e. sand with heavy minerals 'Oder Bank'; natural aggregates 'Ławica Słupska-Bałtyk S'; rock salt 'Zatoka Pucka'). The construction of artificial islands, structures and equipment for exploring, prospecting and extracting minerals from deposits is possible after meeting the conditions contained in the permit referred to in Article 23(1) Uom.

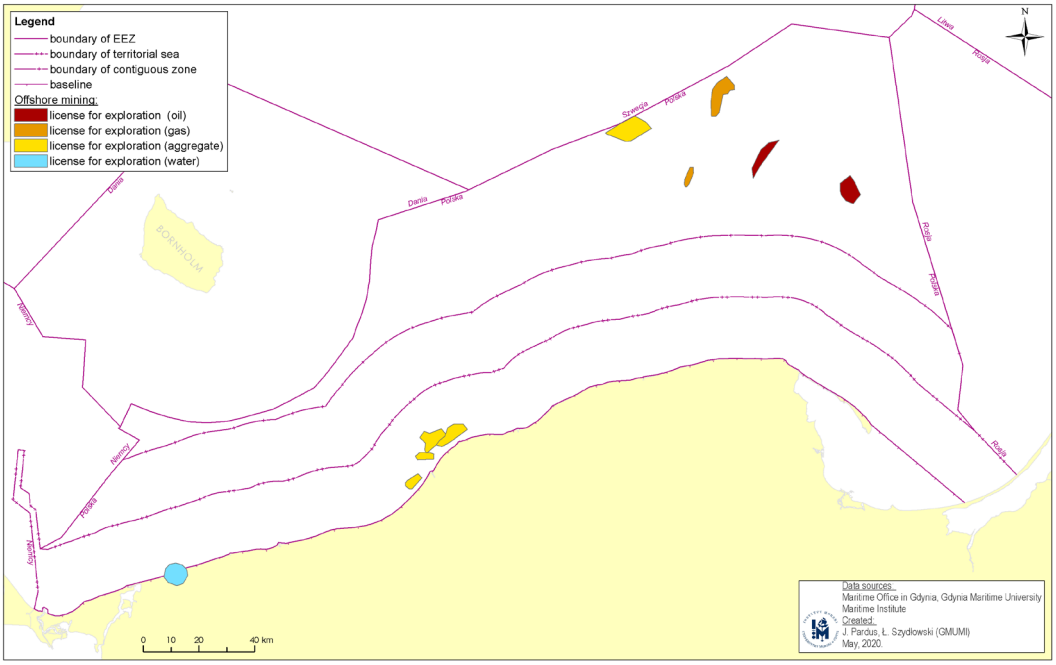


Figure 5. Polish maritime areas: mining areas.

Coastal protection

The coastal protection area is a zone designed to maintain a minimum level of safety and the proper state of the coastal environment, and areas of sand accumulation suitable for the artificial recharge of the seashore. The coastal protection system consists of the front dune, beach and quay, up to and including the coastal zone, including the vegetation that covers them, as well as coastal protection projects. Whereas the proper state of the coastal protection system is to ensure a minimum level of coastal safety and the proper location of the border line of protection referred to in Article 37(1)(b) and (1)(c) Uom.

Coastal protection investment

Transport

Transport includes: a) the transport of passengers and cargo by commercial ships in Polish maritime areas and between seaports; b) the movement of special units operating navigation routes, extraction concessions or investments in Polish maritime areas, such as the construction or maintenance of structures used for extracting and storing energy, extracting hydrocarbon, laying cables, as well as special units operating research works. Movement in the marine waters of the Navy, Border Guard, Police, National Tax Administration, sea rescue or other special state service vessels as well as fishing vessels and tourist vessels are not considered to be transport.

Priority directions for the development of transport and the development of technical infrastructure supporting navigation are established in all waters with basic or allowed functions of 'transportation and port and harbour functioning' covered by the plan, with the designation of sea basins and sub-basins ensuring the development of transport and related technical infrastructure.

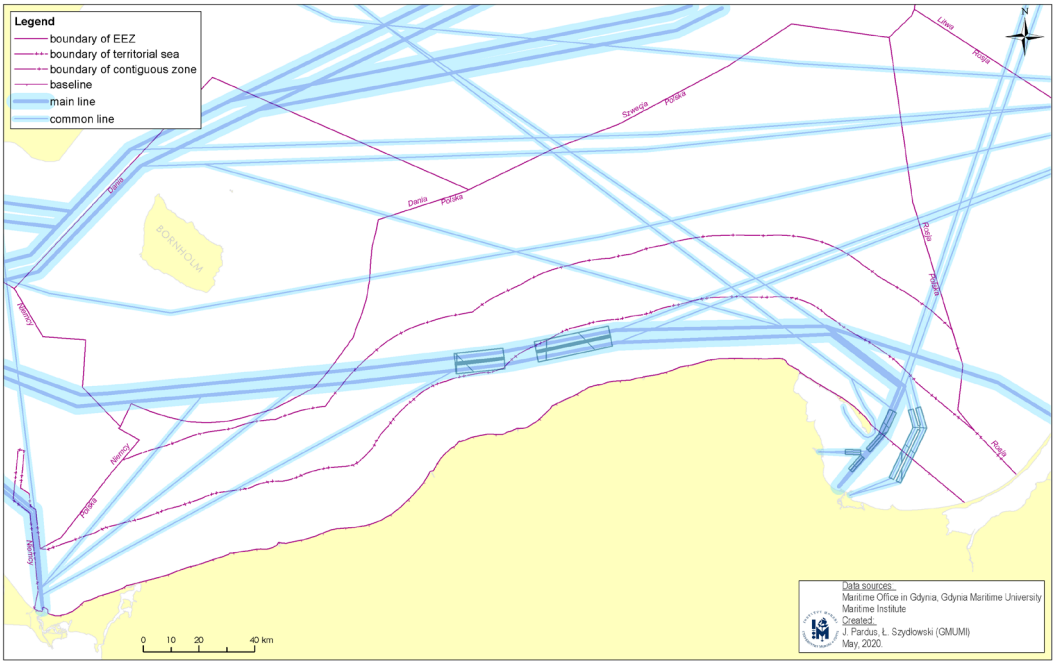


Figure 6. Polish maritime areas: navigation lines.

Tourism, sport and leisure

In order to ensure the sustainable development of coastal municipalities along the coast, sub-basins with the allowed function of tourism, sport and leisure for the development of coastal tourism have been designated. Rpzp introduced the concept of maritime tourism and seaside tourism. Sea tourism is all forms of tourism that use, in particular, the advantages of Polish maritime areas, including the movement of people for recreational purposes, i.e., travelling on cruise ships, sailing on yachts, as well as river and sea tourism, nature tourism, thalassotherapy, wreck diving, recreational fishing and diving, excluding seaside tourism. Sailing on yachts is an important part of coastal tourism which includes tourist, recreational and sports cruises. Whereas, seaside tourism is associated with the seaside recreational zone, which in Polish conditions covers about 1000km^2 and reaches, on average, up to 1.5km from the shoreline, and from the sea - on average up to about 100m from the shoreline.

Natural habitats

In natural habitats of interest to the Community, it is permissible to create and extend waterways possessing a positive decision on environmental conditions, if necessary to ensure the functioning of the ports or harbours, unless detailed settlements included in Annex No. 2 to the Rpzp introduce additional limitations in that respect. The integrity of a habitat is a set of features, factors and processes that may affect its conservation status, including in particular: the area of the site, the presence of valuable species and natural habitats and their conservation status, the availability of feeding grounds, the availability of shelters, the patency of migration routes, ecological conditions (e.g., water levels), the degree of habitat fragmentation and the intensity of pressures and threats.

Puck Bay

Marine scientific research

Scientific research can be carried out in all sea basins on the basis of Uom regulations.

Carbon dioxide sequestration

The underground storage of carbon dioxide can be carried out in sea basins with the basic function of a reserve for future development.

2.8.2. JUSTIFICATION OF DETAILED DECISIONS

Detailed decisions have been prepared, taking into account the goals resulting from, inter alia: the provisions of the Act of March 21, 1991 on the maritime areas of the Republic of Poland and maritime administration (Journal of Laws of 2020, item 2135 and of 2021, item 234); implementing Directive 2014/89/UE of the European Parliament and of the Council of 23 July 2014, establishing the framework for maritime spatial planning (OJ UE L 257 of 28 August 2014, p. 135) into Polish law; the Concept of National Spatial Development; the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030); the Strategy for Responsible Development; and HELCOM-VASAB recommendations.

These goals include:

1. supporting sustainable development in the maritime sector, taking into account economic, social and environmental aspects, including the improvement of the environment and resilience to climate change;
2. ensuring national defence and security;
3. ensuring coordination between the entities and uses of the sea, the coherent management of marine and coastal areas, including the resources of the Baltic Sea;
4. increasing the share of the maritime sector in GDP and increasing employment in the maritime economy;
5. strengthening the position of Polish sea ports, increasing the competitiveness of maritime transport and ensuring maritime safety;
6. using space economically, leaving as much room as possible for future uses of the sea, including currently unknown uses.

Port of Gdańsk: Outer Port

The detailed provisions have been defined in such a way as to ensure that, in the entire area covered by the plan, the functions of national defence, security as well as environmental and nature conservation are carried out in an undisturbed manner. In specific cases, the detailed provisions limit the performance of the basic functions for the sake of national defence, security as well as environmental and nature conservation.

The following criteria were used to delimit sea basins on the plan drawing and assign them functions:

1. in dedicated sea basins, there may only be one basic function but many allowable functions;
2. functions which cannot take place outside maritime areas and are specific to these areas are preferred (e.g., Navy training grounds, areas intended for transport, infrastructure providing access to ports from the sea and coastal protection);
3. the sea basins with unique properties on a national scale (e.g., preserving coastal sand resources for coastal protection, ensuring the protection of sea areas within the boundaries of national parks, preserving areas with optimum parameters for the wind power industry and balancing development in Puck Bay) are, first of all, allocated for particular management or protection purposes.

It was also assumed that the plan should ensure the economic management of maritime areas so that, while creating conditions for satisfying the needs of the present generation, it would limit, as little as possible, the possibility for future generations to realise their preferences in terms of management or the protection of maritime areas. This led, among other things, to the formulation of a new basic function in favour of a reserve for future development.

The focus was on mainly separating those sea basins, which are not subject to management within the framework of other public processes (on the basis of other legal acts) and maritime spatial planning is the main mechanism of decision-making for them (e.g., areas allocated for transport, areas for renewable energy, areas of port functions - the point is to enable those methods of management or protection of maritime areas, which are not subject to regulation within the framework of separate procedures, i.e., proper public selection).

It was guided by the principle that the condition and development of maritime areas is a result of overlapping spatial planning decisions and other management decisions regarding maritime areas (such as Natura 2000 protection plans, decisions of the International Maritime Organisation on traffic separation zones - TSS, setting maximum fishing quotas, establishing zones closed for navigation and fishing and announcing dangerous zones for navigation and fishing etc.) and spatial plans of maritime areas do not substitute these decision-making

processes. These processes should complement each other and not contradict each other. In the sea basin cards, the plan refers to Natura 2000 areas, traffic separation zones and other areas delimited at sea on the basis of separate normative acts only for information purposes within the framework of the principles of using the sea basins resulting from other normative acts and documents or as particularly important conditions for using the sea basins.

A division of the area covered by the plan has been established. It divides it into 95 sea basins marked with numerical-letter symbols - indicating the intended use of the sea basins in accordance with the basic function established in the given sea basin:

1. T – sea basins intended for transport;
2. I – sea basins designated for the location of technical infrastructure facilities;
3. Ip – sea basins intended for the functioning of a port or harbour;
4. O – sea basins designated for environmental and nature conservation;
5. E – sea basins designated for renewable energy;
6. K – sea basins designated for prospecting and exploring mineral resources;
7. B – sea basins intended for state defence and security;
8. C – sea basins designated for coastal protection;
9. M – sea basins designated for multi-functional economic development;
10. P – sea basins designated as a reserve for future development;
11. Pw – sea basins designated for reserve for future development with mining permission;
12. L – sea basins designated for environmentally conditioned local development.

The sea basins with the basic functions of aquaculture, fishing, tourism, sport and leisure, underwater cultural heritage, artificial islands and constructions have not been separated due to the specificity of these functions, such as spatial scale or frequency of occurrence. These are the permissible functions applicable in individual sea basins.

Fishing, tourism, sport and recreation, scientific research and underwater cultural heritage, as permitted functions, may be carried out in the entire area of the plan with restrictions given in the sea basin cards and with the exception of safety zones around mining platforms, artificial islands and structures established by the orders of competent directors of maritime offices. Fishing is also not allowed in the Beka Nature Reserve.

Aquaculture is only allowed in selected sea basins where the necessary conditions for the breeding of fish, crustaceans, plants and other marine organisms exist and where this function does not conflict with other uses of the sea (e.g., fishing). Similarly, the erection of artificial islands and constructions is allowed in sea basins, where it complements other functions, such as obtaining and gathering energy from renewable sources, multi-functional economic development, prospecting, exploring and extracting hydrocarbon, undertaking tourism, sport and leisure, as well as defence, national security and scientific research.

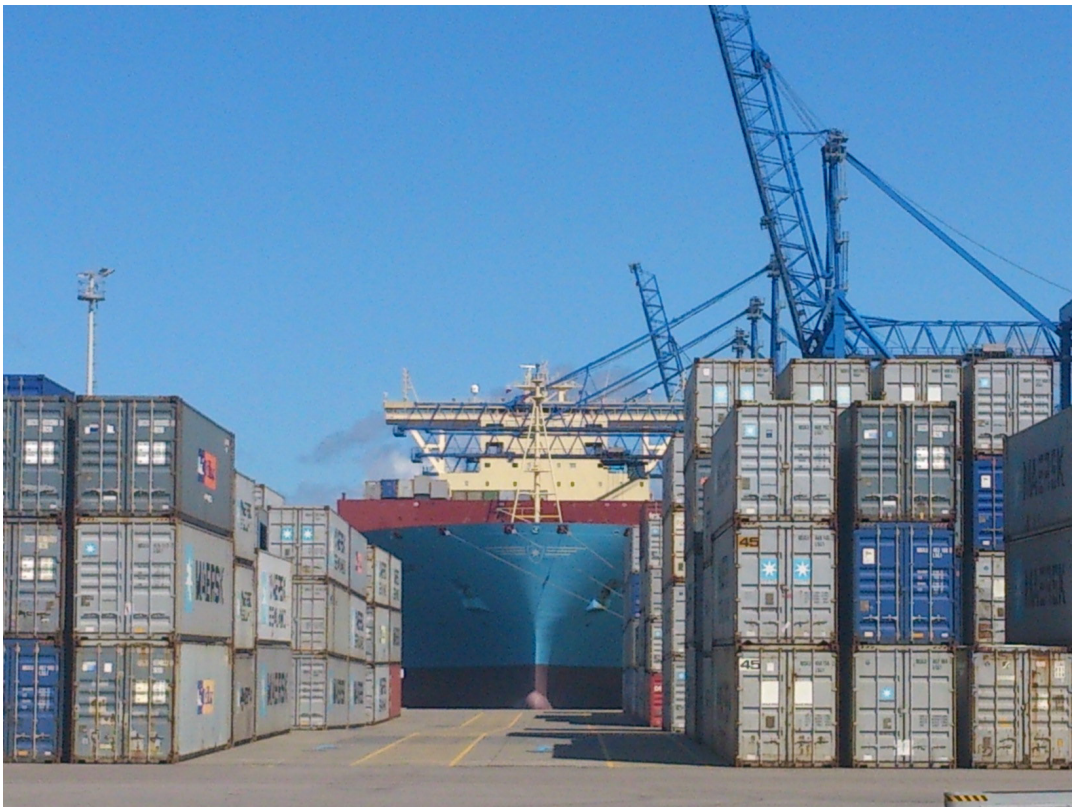
The protection of cultural heritage is ensured by the requirement of an archaeological inventory of the seabed in the areas allocated for investments that may pose a threat to underwater cultural heritage. The protection of the areas necessary for the laying of linear elements of technical infrastructure is ensured by separating sub-basins and by regulations and decisions applicable in the entire area covered by the plan.

The basis for detailed decisions is the collected planning material.

The justification of the detailed decisions is presented by groups of sea basins with particular basic functions and concerns:

1. justifications for the choice of the basic function;
2. justifications for the choice of allowed functions;
3. justifications for prohibitions or restrictions on the use of sea basins;
4. justification of the conditions for the use of sea basins, if any.

Twenty sea basins with the basic transportation function have been separated in order to provide space to implement priority directions of the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030), i.e., the development of seaports, competitive maritime transport, improving shipping safety and security.



DCT Gdańsk - Deepwater Container Terminal

The safety of navigation has been ensured by maintaining a sufficient distance between areas with the basic function of transport and areas with the basic function of renewable energy production and by selecting sea areas with appropriate bathymetric characteristics.

In the basins, the functions which may co-exist with transport, i.e., fishing; tourism, sport and recreation and cultural heritage; scientific research and coastal protection (basins close to the shore) were allowed.

In order to ensure the safety of navigation, artificial islands and structures are not allowed. Thus, extraction can be carried out either from locations outside the basins with the basic function of transport or without the use of artificial islands and structures. Navigation is one of the top priorities in Polish maritime areas according to the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030). Artificial islands could limit it.

Specific prohibitions and restrictions on the laying of technical infrastructure under Polish jurisdiction have been introduced so as to reduce the area occupied and the risk of anchoring failures. In order to protect the technical infrastructure from damage, prohibitions and restrictions on scientific research, anchoring and exploration, prospecting mineral deposits and extracting minerals from deposits have also been introduced.

To ensure maritime safety, it is necessary to establish safety zones restricting anchoring around energy pipelines and cables and around linear elements of technical infrastructure in infrastructure sub-basins.

In sea basins with a basic function of transportation, in accordance with the precautionary approach, specific prohibitions and restrictions have been implemented to ensure the ecological function of spawning grounds and the survival of early life stages of commercial fish in areas where planning material indicates good conditions for spawning and nursery grounds for these fish.

In sea basins with a primary function of transportation, in sub-basins designated for the protection of sand accumulations for artificial recharge of the seashore, restrictions have been introduced to guarantee the use of these resources for coastal protection.

In accordance with the precautionary approach, specific restrictions on works and activities disturbing the welfare of birds, during the period of abundance of wintering and resting birds during migration, have been introduced in areas where collected planning material indicates that birds congregate in large numbers.

There is also a ban on depositing dredged material so as not to reduce the depth of these sea basins in the coastal zone.

The fulfilment of requirements connected with ensuring state security and defence was guaranteed by setting aside special sub-basins for the needs of military training grounds, waterways or Navy anchorages.

Twelve sea basins with the basic function of port or harbour functioning were separated so as to provide space for the implementation of priority directions of the Maritime Policy of the Republic of Poland until 2020 (with a perspective to 2030), i.e., the development of seaports, competitive maritime transport and the improvement of shipping safety and security.

In these sea basins, functions that can co-exist with the functioning of ports and havens were admitted, i.e., defence and state security, transport and coastal protection (these three functions remain in close relation with the basic function), as well as fishery, tourism, sport and recreation, technical infrastructure, cultural heritage; scientific research and the erection of artificial islands and constructions ensuring safe access to ports and harbours, their extension or serving the purpose of marine and coastal tourism.

One sea basin was delineated with two alternatives (depending on the final location of the nuclear power plant), with the **basic function of technical infrastructure**, to provide the possibility of intake and discharge of cooling water and transport services for a future nuclear power plant, located in the coastal area. The purpose of the separation is to support sustainable development in the maritime sector taking into account an improvement of the environment and resistance to climate change, ensuring defence and security of the state and coordinating activities of entities and ways' use of the sea, including coherent maritime and coastal governance.

Protection of the sea shore in Hel

In this sea basin, functions synergistic to the technical infrastructure of the nuclear power plant, i.e., transport, artificial islands and structures, port or harbour operation (port and harbour infrastructure) and scientific research, have been allowed. A national defence and security function was also allowed because the basin has a Navy waterway.

The functions which may co-exist with the development of technical infrastructure were also admissible, i.e., cultural heritage, fishery, tourism, sport and recreation, coastal protection and artificial islands and structures accompanying the latter. This admittance results from the fact that the final location of the nuclear power plant has not yet been determined, hence the sea basin for its infrastructure includes areas which will not be used for the basic function. Therefore, functions typical for coastal reservoirs and important for the development of coastal communes were additionally allowed.

Restrictions on the laying of technical infrastructure have been introduced so as to reduce their negative impact on the maintenance of the system of coastal protection in a condition ensuring the safety of the seashore, as required by law.

In order to protect technical infrastructure from damage, restrictions have also been introduced relating to the ways in which scientific research can be carried out.

Safety zones restricting anchoring around manifolds and power cables are also required to ensure maritime safety.

In accordance with the precautionary approach, restrictions have been placed to ensure the ecological function of spawning grounds and the survival of early life stages of commercial fish in areas where planning material indicates good conditions for the spawning and rearing of these fish.

Moreover, in accordance with the precautionary approach, as collected planning material indicates that birds gather in large numbers, restrictions were introduced on works and activities disturbing their welfare during the period of numerous occurrences of wintering and resting birds during migration. These bans primarily refer to coastal protection and the erection of artificial islands and structures accompanying nuclear power plant construction.

Twenty-four sea basins have been set aside as a reserve for future development so as to provide space to meet the goal of using space sparingly, leaving as much room as possible for future uses of the sea, including those not currently known. In seventeen of these sea basins, structures for the exploring, prospecting and producing hydrocarbons are permitted. This function was allowed in all sea basins with a basic function reserve for future development located outside the territorial sea. Limiting the function to the indicated sub-basins results from the need to minimize conflicts with coastal tourism important for the development of coastal communes, as the platforms are objects that negatively influence the condition of the sea landscape. This solution is also supposed to ensure sustainable development in the maritime sector, the coordination of activities of entities and uses of the sea and a coherent management of maritime areas. Planning material indicates a high risk of coastal areas being polluted by oil spills as a result of random events involving platforms located close to the shore. In these seventeen basins, the aquaculture function was also allowed as a synergistic function to the extraction of hydrocarbons from reservoirs, provided that this synergy is maintained as a secondary function to extraction. The function of erecting artificial islands and structures for aquaculture has been time-limited to reduce conflicts. It is also designed to enable the economic use of marine space, leaving as much room as possible for future uses of the sea, including currently unknown uses, and ensure coordination between entities and uses of the sea.

Specific prohibitions and restrictions were introduced for the laying of technical infrastructure under Polish jurisdiction so as to reduce the area occupied for this purpose, the risk of anchoring or fishing failures, the risk of losing fishing gear and to preserve as much space as possible for future development. Fibre optic cables were excluded from these prohibitions because they do not cause conflicts with shipping or fishing and their locations are difficult to predict.

In order to protect technical infrastructure from damage, restrictions have also been introduced relating to the methods of conducting scientific research, erecting artificial islands and structures, anchoring and exploring, prospecting mineral deposits and extracting minerals from deposits.

To ensure maritime safety, it requires the establishment of safety zones restricting anchoring around energy pipelines and cables and around linear elements of technical infrastructure in infrastructure sub-basins.

In accordance with the precautionary approach, restrictions have been placed to ensure the ecological function of spawning grounds and the survival of early life stages of commercial fish in areas where planning material indicates good conditions for the spawning and rearing of these fish.

Five areas with the basic function of national defence and security have been delimited to provide space for the implementation of the objective of ensuring national defence and security. These areas only include sea and land/sea training grounds of the Polish Armed Forces, which are closed zones for fishing and shipping. In these areas, the functions which can co-exist with defence and state security have been allowed, i.e., transport, coastal

protection, fishery, tourism, sport and recreation, cultural heritage and scientific research. These functions can be performed in accordance with separate regulations, which are in force on training grounds.

Six sea basins with the basic function of environmental and nature conservation have been delimited to ensure the spatial integrity of the most valuable sea areas in terms of nature values. These sea basins include the sea areas of two national parks - Wolinski National Park and Slowinski National Park, the sea part of Beka Nature Reserve (i.e., the part of the reserve situated in the sea areas), the international bird refuge not included in the area form of protection - Eastern Border Waters and the areas of Oderbank and Slupsk Shoal. Both shoals are key resting places for migratory birds and, due to increasing pressures from land use in the surrounding maritime areas (the wind power industry, transport, defence), should also be protected by provisions of the plan. The sea basins with the basic function of environmental and nature conservation were not delimited for the remaining Natura 2000 areas, as the Natura 2000 protection plans, which are being prepared, will ensure the preservation of their natural values and gathered planning materials show that spatial integrity in this respect is of lesser importance. The purpose of this is not to duplicate administrative efforts.

Marine Station of the University of Gdańsk

In these reservoirs, functions that do not have a significantly negative effect on the protection of the environment and nature have been accepted, i.e., fishing, tourism, sport and recreation, cultural heritage and scientific research, with the exception of the Beka reserve whereby fishing has not been accepted due to separate regulations. In national parks these functions are regulated by separate regulations. After the adoption of the Natura 2000 protection plans, these functions may additionally be restricted, which is in accordance with the basic function.

Seven sea basins with the basic functions of exploring and prospecting mineral deposits and extracting minerals from deposits have been marked out. The aim of the separation is to ensure national security and support sustainable development in the maritime sector, taking into account economic, social and environmental aspects. In these seven sea basins, functions which may co-exist with exploring, prospecting mineral deposits and extracting minerals from deposits, i.e., fishing, tourism, sport and recreation, cultural heritage and scientific research, have been allowed.

Seven sea basins with the basic function of obtaining renewable energy have been determined. The purpose of the delimitation is to ensure national energy security and increase the share of low-emission sources in energy production in Poland, which results in the support of sustainable development in the maritime sector, taking into account

economic, social and environmental aspects and the improvement of climate change resilience. In those sea basins, obtaining wind energy was allowed, because, according to gathered planning materials, other forms of obtaining renewable energy in Polish maritime areas will not reach technological maturity in the nearest future. The sea basins most predestined for obtaining renewable energy, according to gathered planning materials, and those for which legally valid location permits were issued, were selected. A function that can co-exist with renewable energy generation, i.e., scientific research, has been permitted in these sea basins.

In addition, synergistic functions for renewable energy, i.e., the technical infrastructure and artificial islands and structures, have been allowed in these sea basins. The laying of infrastructure has been limited to ways of enabling the safe use of anchored floating nets so as to ensure coordination between entities and uses of the sea.

The aquaculture function was also allowed, in line with the requirement to use space sparingly, leaving as much room as possible for future marine uses. According to the planning material gathered, aquaculture can use the same sea basins excluded for many other functions, without compromising the basic function. Sharing reduces the area of permanently developed sea basins.

The function of prospecting and exploring mineral deposits and extracting minerals from deposits was also admitted, however, in all sea basins with the basic function of obtaining renewable energy, it was prohibited to erect artificial islands, structures and equipment used for extracting hydrocarbon. Thus, extraction can be conducted either from places located outside the sea basins or without the use of artificial islands and structures. This solution is aimed at ensuring the coordination of activities of entities and methods using the sea, as well as managing maritime areas consistently.

The function of erecting artificial islands and structures for aquaculture has been restricted to situations where there is an extraction platform (first, there must be an extraction platform and then there must be structures for aquaculture) in order to reduce conflicts and ensure coordination between entities and uses of the sea.

To reduce the scale and intensity of spatial conflicts (realising the aim to ensure the co-ordination of activities of entities and uses of the sea), other functions were also allowed, i.e., cultural heritage, transport, fishery, tourism, sport and recreation. However, there were formulated limitations in their scope resulting from the requirements of the basic function.

To protect technical infrastructure from damage in sea basins, restrictions have been introduced relating to the methods of scientific research, erection of artificial islands and structures, prospecting and exploring mineral deposits and extracting minerals from deposits.

To ensure maritime safety, it is also required to establish safety zones restricting anchoring around linear elements of technical infrastructure in infrastructure sub-basins.

To ensure maritime safety, a requirement has also been introduced to limit, by decisions of directors of maritime offices, the navigation and performance of fishing around artificial islands and constructions, according to particular phases of erection of offshore wind power plants. These prohibitions result from the analysis of experience of other countries, i.e., from gathered planning materials.

In accordance with the precautionary approach, in sea basins where planning material indicates good conditions for the spawning and nursery of commercial fish, restrictions have been placed to ensure the ecological function of spawning grounds and the survival of early life stages of these fish.

One sea basin of environmentally conditioned local development was delimited to ensure the spatial integrity of the valuable sea area in terms of natural values and enable the sustainable use of these values by human beings. The purpose of the delimitation is to implement one of the elements of the ecosystem approach, i.e., the sustained and balanced use of resources and ecosystem services by present and future generations.

In this sea basin, functions synergistic to environmentally driven local development have been allowed, i.e., fisheries, cultural heritage, tourism, sport and recreation and associated artificial islands and structures (i.e., mainly jetties), scientific research, technical infrastructure, port or harbour functioning, coastal protection and transportation.

Aquaculture was also permitted in the sea basin, specifically to improve the marine environment, i.e., based on macroalgae and mussel farming.

A state defence and security function was also allowed in the sea basin to ensure the proper operation of the Navy's waterways and training grounds. In accordance with the precautionary approach, only coastal protection activities provided for in the Act – the Programme of Coastal Protection or resulting from the regulations issued on the basis of the Polish Maritime Areas Act were allowed.

In accordance with the ecosystem-based approach and the principle of sustainable development, the location of bathing sites and bathing areas shall be limited to safe locations and outside areas of unique ecological value.

To enable local development, the accumulation of sands intended for the artificial recharge of the seashore was also protected and works and activities disturbing the coastal protection system were prohibited. The

possibility of developing existing local harbours in Puck and Jastarnia and delimiting waterways to the harbours agreed upon by the competent director of the maritime office, prior to the adoption of this plan, was also provided for, under the terms of this agreement. This should serve local development respecting the values of the natural environment.

Safety zones restricting anchoring around pipelines and power cables were also required to ensure maritime safety.

One sea basin of the basic function multi-functional economic development has been designated in order to increase the share of the maritime sector in GDP, increase employment in the maritime economy, strengthen the position of Polish sea ports, increase the competitiveness of maritime transport and ensure the coordination of activities of entities and uses of the sea.

To enable multi-functional development, the protection of sand accumulations for artificial recharge of the seashore has also been ensured and works and activities disturbing the coastal protection system have been limited. This serves to improve resilience to climate change and provides security for shore-based economic activities. Specific prohibitions and restrictions on the laying down of technical infrastructure have been introduced to reduce the area taken up for this purpose and reduce the risk of anchoring or fishing failures and the risk of fishing gear loss.

In order to protect technical infrastructure from damage, restrictions have also been introduced relating to the methods of conducting scientific research and aquaculture, exploring and prospecting mineral deposits and extracting minerals from deposits, as well as the placement of artificial islands and structures. To ensure maritime safety, it is also required to establish safety zones restricting anchoring around linear elements of technical infrastructure in infrastructure sub-basins.

Eleven sea basins (including two in two variants due to the lack of a final decision on the location of a nuclear power plant) **with the basic function of coastal protection** were delimited so as to ensure the coherent management of sea and coastal areas. These sea basins were delimited in such a way so as to be under the jurisdiction of a single director of the maritime office, being the authority implementing the coastal protection. In these sea basins, functions that can co-exist with coastal protection have been allowed, i.e., fishing, transportation, cultural heritage, port or harbour functioning and scientific research.

Hel Peninsula

Driven by the need to increase the maritime sector's contribution to GDP and employment in the maritime economy and, in particular, to ensure the sustainable and balanced development of coastal municipalities, tourism, sport and leisure, and artificial islands and structures serving them were also allowed.

However, the two functions of the sites have been reduced so that they do not compromise the coastal protection regime. This serves to improve resilience to climate change and ensures the safety of shore-based economic activities.

Other functions are also subject to similar restrictions, which results from the primacy of the basic function adopted in these sea basins.

In areas with the basic function of coastal protection, also prospecting and identifying mineral deposits and extracting minerals from deposits was allowed with the exception of extracting minerals with the use of the open cast method or with the use of other methods threatening the system of shore protection. It is also prohibited to erect artificial islands, structures and equipment for hydrocarbon extraction. Thus, extraction can be carried out either from locations outside waters or without the use of artificial islands and structures, as they have a negative impact on the state of the marine landscape. This solution is intended to ensure sustainable development in the maritime sector, the coordination of the activities of operators and uses of the sea and the coherent management of maritime areas.

Due to the need of the coherent management of maritime and coastal areas, in the sea basins with the basic function of coastal protection, the function of technical infrastructure was allowed, limited primarily to outlets of sewage systems used for sewage disposal and water intake for municipal purposes. Other elements of linear infrastructure requiring bringing ashore were also allowed as a continuation of the system of infrastructure corridors covering many other sea basins.

Specific prohibitions and restrictions on where and how to lay down technical infrastructure have been introduced to reduce the area taken up for this purpose and the risk of anchoring or fishing accidents and fishing gear loss. The width of infrastructure corridors was reduced to 2km, as new technical infrastructure should be laid under the seabed anyhow. Fibre optic cables were excluded from these prohibitions as they do not cause a collision with shipping and fishing and their location is difficult to predict.

To protect the technical infrastructure from damage, restrictions have been introduced relating to the methods of conducting scientific research, exploring and prospecting mineral deposits as well as extracting minerals from deposits.

To ensure maritime safety, it is also necessary to establish safety zones restricting anchoring around energy pipelines and cables and around linear elements of technical infrastructure in infrastructure sub-basins.

In accordance with the precautionary approach, restrictions have been placed to ensure the ecological function of spawning grounds and the survival of early life stages of commercial fish in areas where planning material indicates good conditions for the spawning and rearing of these fish.

Moreover, in accordance with the precautionary approach, in sea basins where planning material indicates good conditions for breeding birds, restrictions were placed on works and activities disturbing breeding birds during the breeding season in indicated locations. Additionally, in areas where the collected planning material indicates that birds congregate in large numbers, restrictions have been placed on works and activities disturbing their welfare during the period of abundance of wintering and resting birds during migration.

On the basis of the collected planning material, sub-basins of particular importance for the welfare of ichthyofauna have been designated and restrictions have been introduced on works and activities disturbing the permeability of the flow, which serves the purpose of sustainable development of marine resources and results from the application of the ecosystem approach.

In sub-basins designated for the maintenance of port and harbour development functions, prohibitions have been introduced on works and activities impeding this access.

The protection of dredge spoil disposal sites was also ensured so as not to interfere with the development of ports and their access infrastructure in line with the priority directions of Maritime Policy until 2020 (with a perspective to 2030).

In accordance with the requirements of the basic function, the protection of accumulations of sand intended for the artificial recharge of the seashore was also ensured.

The fulfilment of requirements connected with ensuring state security and defence was also guaranteed by setting aside special sub-basins for the needs of military training grounds, fairways or Navy anchorages.

2.8.3. FINDINGS BINDING FOR VOIVODSHIP AND COMMUNE SELF-GOVERNMENTS

Such findings have been formulated in the sea basin cards adjacent to the shoreline. They are aimed at ensuring the patency of migration corridors of bi-environmental organisms, ensuring the sustainable development of tourism, sport and leisure, as well as making it possible to disembark technical infrastructure from Polish maritime areas in a way which does not infringe upon the proper condition of coastal protection. These kind of arrangements are designed to ensure coordination between entities and uses of the sea and improve coherence in the management of marine and coastal areas.

Ensuring the permeability of migratory corridors for benthic organisms serves the goal of the sustainable development of marine resources and results from the application of the ecosystem-based approach. Whereas, ensuring the sustainable development of tourism, sport and leisure is driven by the development needs of coastal municipalities and the need to improve resilience to climate change. The inflow of tourists will contribute to supporting development in the maritime sector, taking into account economic and social aspects, as well as increasing the share of the maritime sector in GDP and employment in this economy. Spatial limitations in this scope, introduced by the decisions of the plan, result from the requirements of environmental and nature protection and the need to ensure resilience to climate changes.

The landward extension of the technical infrastructure, limited to selected locations on the seashore, serves the purpose of avoiding the deterioration of resilience to climate change by taking into account, in the investment process, the requirement for the proper condition of the system of coastal protection and reduces the scale of spatial conflicts.

Maritime Office in Gdynia

PUBLIC PARTICIPATION IN MARINE SPATIAL PLANNING

3. PUBLIC PARTICIPATION IN MARINE SPATIAL PLANNING

(SYLWIA MROZOWSKA, BARBARA KIJEWSKA)

3.1. SOCIAL ANALYSIS OF MARITIME SPATIAL PLANNING

In the perspective of social sciences, the sea space has an enormously broad meaning. Different problems related thereto are attempted to be resolved by political scientists, economists (classic economic approach; Zaucha, 2018), lawyers, geographers, psychologists or sociologists, who are representatives of social sciences. In the social analysis of a maritime spatial plan, primarily, its sociological approach is taken into account. A political science perspective is also important. This is due to the fact that attention is focused on social conflict, and the paradigm of the conflict is firmly rooted in both disciplines of social sciences. This also requires the psychological recognition of risk perception with the application of a social reinforcement model in relation to risk.

The issues under analysis concern areas of social activity in sea space and the stakeholders of the Polish maritime spatial plan. The sea space covers numerous social activities starting with those that create jobs, allow to run business, obtain an appropriate income, to those which enable spending leisure time and enjoying contact with nature and culture. The social value of the sea also contains an intangible element that can be described as aesthetic or spiritual values.

In order to understand the social perspective of maritime spatial plans, account should be taken of numerous factors, including people's attachment to the sea, their perception and emotions related to the sea as well as social sensitivity to environmental changes (Kannen, 2016), including the nature of the area they have lived in for generations. In literature, many human activities related to the sea have been distinguished (table 1).

Table 1. Ways of using the marine area by man

Commercial fishing (various ways of fishing) Trade fishing Offshore aquaculture Recreational fishing (various fishing methods) Recreation: sailing Recreation: personal watercrafts Recreation: scuba diving Recreation: wildlife watching Marine transportation: cargo vessels Marine transportation: tankers Marine transportation: liquefied natural gas carriers (LNG) Marine transportation cruise ships	Marine transportation Port and harbour dredging Dredged material disposal Airports Industrial production facilities Liquefied natural gas terminals (LNG) Offshore oil and gas exploration Offshore oil and gas market development Cables, pipelines, transmission lines Sand and gravel mining Wind farms Offshore renewable energy: wave, tides, wind Renewable energy: tidal Renewable energy: currents Ocean desalination plants Carbon sequestration sites Military operations Strictly protected marine reserves Multiple use marine parks Scientific research Cultural and historic conservation

Source: own elaboration based on Ch. Ehler, F. Douvere, *Marine Spatial Planning· a step-by-step approach toward ecosystem-based management*, 2009, p. 55.

3.2. STAKEHOLDERS

We can look at the issue of stakeholder inclusion from the perspective of social participation and methods of influencing final decisions by participants. Arnstein's classic ladder of participation starts with providing information, through consultation, the inclusion of target groups, partnerships, interests representation, the delegation of decision-making power and ends with social control and self-organisation (Arnstein, 1969). Another proposal, Weidemann's and Femers' participation ladder (Wiedemann et al., 1993) covers a few stages of involvement: the right to know, informing the public, the right to object, restricted participation, public participation in defining interests and actors, public participation in assessing risks and recommending solutions, public participation in final decisions and public participation. These stages are parts of the same process, thus, in many cases commencement of the next stage depends on the completion of a previous one. The authors of the participation ladder emphasise the interdependence between engagement degree and availability of information. The increase in engagement may follow an increase in information and civil rights. Moreover, they consider that it is neither reasonable nor necessary to engage all stakeholders at all stages of the participation process.

At each participation level, a variety of participatory methods can be distinguished. Information may be transmitted by means of: announcements in official journals, public presentations of projects or plans, public exhibitions, leaflets, brochures, newsletters, notices and press conferences, by means of local radio and television, websites, Internet portals, exhibitions or happenings. Consultations not only cover surveys or site observations and questionnaire interviews with residents, but also mappings, round tables, discussion meetings at offices, telephone calls and personal meetings, online voting and civic fora. Co-decision includes workshop methods, working groups, community planning meetings, round tables and online voting. Partial delegation of a decision-making power is carried out through social advisory teams, social vision-making teams or referendum, which is also a method of civic control. In addition, participatory methods include social panels, conferences of the future, world cafe and others (Stakeholder involvement techniques. Short Guide and Annotated Bibliography, Nuclear Energy Agency OECD 2004, https://www.oecd-nea.org/rwm/reports/2004/nea5418-stakeholder.pdf ; Rzeki w miastach – przestrzenie pełne życia, REURIS, Katowice-Stuttgart 2011, http://reuris-f.gig.eu/downloads/REURIS_Podrecznik.pdf).

Maritime spatial plan stakeholders are individuals, groups or organisations, which are or will be "affected," directly or indirectly, by activities related to MSP. Table 2 presents MSP stakeholders identified in the BaltSeaPlan (2009-2012), which supported the introduction of integrated maritime spatial planning and the preparation of national maritime strategies in the Baltic Sea region. It has contributed to the implementation of the HELCOM recommendation on broad-scale maritime spatial planning and the VASAB Vilnius Declaration. (See more: https://vasab.org/project/baltseaplan).

Table 2. MSP Stakeholders

GROUPS	SECTORS
Small enterprises Medium enterprises Large enterprises Scientists Small Non-Governmental Organisations Medium Non-Governmental Organisations Large Non-Governmental Organisations Elected (local) officials Elected (national) officials Public administration representatives (local) Public administration representatives (national) Public administration representatives (regional) Recreation and Tourism actors Coastal area residents Public opinion	Fishing Offshore production - energy Sand and gravel Cables and pipelines Nature conservation and protection Transportation (including sea voyage - shipping and port expansion) Tourism and leisure The army Oil and gas exploration

Source: own elaboration based on: Ch. Ehler, F. Douvere. *Marine Spatial Planning, a step-by-step approach toward ecosystem-based management. Intergovernmental Oceanographic Commission and Man and the Biosphere Programme. IOC Manual and Guides* No. 53, ICAM Dossier No. 6. Paris: UNESCO 2009.

Reasons for including stakeholders in MSP are presented in table 3.

Table 3. Reasons for including stakeholders in MSP

to encourage "ownership" of the spatial plan, engender trust among stakeholders and decision-makers, and encourage voluntary compliance with rules and regulations
to gain a better understanding of the complexity (spatial, temporal, and other) of the marine management area
to gain a better understanding of human influences on the management area
to deepen a mutual and shared understanding of problems and challenges in the management area
to gain a better understanding of underlying (often sector-oriented) desires, perceptions and interests that stimulate and/or prohibit the integration of policies in the management area,
to examine existing and potential compatibility and/or conflicts of multiple use objectives of the management area
to generate new options and solutions that may not have been considered individually
to expand and diversify the capacity of the planning team, in particular through the inclusion of secondary and tertiary information (e.g., local knowledge and traditions)

Source: Own elaboration based on Ehler, Charles, Fanny Douvere, *Marine Spatial Planning, a step-by-step approach toward ecosystem-based management. Intergovernmental Oceanographic Commission and Man and the Biosphere Programme. IOC Manual and Guides* No. 53, ICAM Dossier No. 6. Paris: UNESCO 2009, p. 44.

Effective stakeholder engagement is considered to be the one that: is based on a commitment to comply with the rules of the AA1000 standard; has a clearly defined scope; has an agreed decision-making process; focuses on issues relevant to organisations and/or stakeholders; creates opportunities for dialogue; is integrated into the management system; is transparent; includes procedures appropriate from the engaged stakeholders' point of view; is carried out in a timely manner, is flexible and takes suggestions from the outside into account.

The AA1000 Stakeholder Engagement Standard (SES, 2011) presents the process and components of stakeholder engagement and clarifies the issues of integration of the AccountAbility rules with the organisation's operational strategies and activities as well as the place of engagement. The main part of the standard presents four stages of stakeholder engagement (SES, 2011) and describes how to establish commitments to engage stakeholders; how to integrate the involvement of the engagement and the stakeholders included therein; as well as the mechanisms that allow for effective engagement, implementing the principle of inclusion (SES, 2011).

Numerous projects, under which stakeholder inclusion has been implemented, indicate that sharing information with stakeholders about the planning process without pursuing a clear contribution is a way of ensuring legitimacy for essentially non-democratic processes. Critics of participatory processes point out that the process of "legitimisation" is not about strengthening the democratic nature of decision-making but is used to co-opt

the public to implement the programmes of elite actors (Zaucha, Gee, 2019). The consultations themselves pursue the contribution of stakeholders without the obligation of taking them into account. This is only cooperation (collaborative planning) that engages stakeholders in an interactive dialogue, which incorporates stakeholder views into management decisions by pursuing the consent and approval of stakeholders.

3.3. SOCIAL CONFLICTS

3.3.1. SPATIAL CONFLICTS

A social conflict is a social process of interaction between entities, where there is an actual or imaginary incompatibility of objectives and interests. That interaction aims at forcing to change the actions taken or planned by the other party (Słaboń, 2008).

Conflicts, as regards the use of areas, are relevant to land use and spatial planning if they meet the following criteria: they relate to the future use of environmental goods by land use participants; their arising and course is determined, primarily, by the future manner of developing a given part of the earth's surface. Incompatible interests and multiple objectives, taken into account in spatial planning, imply different function concepts for the same areas. First, they arise in the field of planning, and when incompatible interests and multiple objectives are not taken into account therein, they are moved to reality (Dutkowski, 1995; Dutkowski 1996).

Increasing competition for the possibility of using limited land surface makes solving spatial management problems an important objective of spatial planning. One way of resolving conflicts is a defensive approach, in which conflicts are treated as ordinary and negotiable. In that approach, taking an action to resolve a conflict occurs as late as it arises or when conflicts occur with such intensity that their inclusion becomes inevitable. The opposite approach is an offensive action in conflict prevention. Here, the focus is preliminary on anticipating or attempting to anticipate and removing the reasons for and conditions of potential conflict occurrence. In order to avoid or mitigate conflicts, it should be decided what decisions may become a reason for new adverse phenomena or enhance existing ones (Zróbek, 1994). Grochowska, when analysing the definition of spatial and social conflicts, stresses that the boundary between them is elusive (Grochowska, 2016).

Literature lists various situations among reasons for social conflicts. According to Moore social conflicts may be caused by: 1) values (life philosophy, religion, tradition, ideology); 2) information (no data, incomplete, false data, different points of view); 3) interpersonal relationships and emotions (stereotypes, prejudice, manipulation); 4) structures (division of roles and responsibilities, poor control of resources); 5) interests (substantive – money, goods, time; psychological – trust, respect, justice, dignity; procedural – procedural regulations, ways of acting) (in: Dudek-Mańkowska, Lackowska-Madurowicz, 2012).

For the purpose of this study, it has been assumed that social conflicts relate to any dispute over the possibility of using costal and marine areas, where the party is: a local community, tourists, a local authority, a social organisation, economic operators (an investor, a professional group e.g., fishermen, port workers, hoteliers, catering workers) or experts.

Social conflicts may have diverse backgrounds. One of them covers environmental issues. Areas of potential social conflict with an environmental background relate, among others, to: access to environmental resources and services; emission reductions; the transboundary movement of pollutants; the location of unwanted facilities; environmental accidents and disasters; different expectations for socio-economic development; different expectations for land-use; a different attitude to intergenerational environmental justice (in: Burchard-Dziubińska, 2003).

Conflicts and compatibility between maritime sectors were the subject of research of the WWF programme for the Baltic Ecoregion. The authors of the report pointed out that many maritime sectors could not coexist in the same area (Table 4). In some cases, this is due to the area occupied, as in the case of wind farms and oil wells, which limit other activities. Some sectors may not use the same area due to a mutual negative impact, as in the case of an industrial pollution impact on fish farms.

Some activities may conflict with others. One example is oil and gas exploration. Sand and gravel mining may have a negative impact on other sectors of operation (e.g., marine protected areas) or may not be carried out within the limits of other permanent infrastructure, such as e.g., wind farms and other activities, such as shipping. Marine protected areas and military areas can potentially exclude other sectors of marine area uses, since the essence of establishing thereof is to protect the area from certain human activities.

Pollution from agriculture and industry does not physically exploit a marine area and, as such, has not been included in the table. Although pollution has a limited impact on the operation of sectors such as shipping, ports, power supply cables and pipelines, it has a severe impact on many other sectors, in particular, fisheries, aquaculture, tourism and recreation, as well as environmental protection. However, many sectors may coexist with other sectors provided that adequate planning and management are introduced. More integrated planning and management will help resolve many conflicts and identify many synergies. Bottom trawling must not be carried out within the area of pipelines and cables, but fishing with other tools may be carried out without interaction (WWF, 2017).

Table 4. Conflicts between sectors

Green =common interests red =conflicts of interests yellow =compliance of interests while good planning and management

	Shipping	Ports	Tourism and Recreation	Oil and Gas Exploration	Pipelines and Power supply Cables	Military Activity	Coastal Infrastructure	Sand and Gravel Mining	Fishing	Aquaculture	MPA
Wind Energy											
Shipping											
Ports											
Tourism and Recreation											
Oil and Gas Exploration											
Pipelines and Power supply Cables											
Military Activity											
Coastal Infrastructure											
Sand and Gravel Mining											
Fishing											
Aquaculture											

Source: WWF, *Przyszłość Morza Bałtyckiego. Tendencje rozwojowe. Program WWF na rzecz ochrony Ekoregionu Bałtyckiego* https://www.wwf.pl/sites/default/files/2017-07/Przysz%C5%82o%C5%9B%C4%87%20Morza%20Ba%C5%82tyckiego-tendencje%20rozwojowe_0.pdf (accessed: 23.01.2019).

3.3.2. ECOLOGICAL CONFLICTS

The concept of sustainable development (eco-development, sustained development), which has been applicable since the 1990s, presupposes principles and limitations in the economic use of the natural environment requiring its protection, while ensuring the restoration of the usefulness and quality of environmental (natural) resources in the long-term (in: Woś, 1992). Conflicted expectations and interests of economic operators, social groups, local communities, governments and citizens of certain countries or residents of different regions of the world lead to social conflicts related to the environment (ecological conflicts).

Ecological conflicts constitute the emergence of antagonistic relations following the existence of an actual or potential conflict of interests and priorities for the formation, use and protection of the natural environment. These conflicts are based on unlimited expectations of societies with regard to the consumption of tangible and intangible goods (including non-productive environmental goods) combined with the rarity of resources to satisfy them. As a result, cooperation in the form of collective action, that is to say, establishing interest groups constituting a coalition of individuals acting to achieve the common good, may take place (Rumianowska, 2011).

Social research carried out under the project "Models of Social Conflicts at Natura 2000 Protected Sites in Poland" has confirmed the widespread opinion on Natura 2000 sites as conflict generating areas (Głogowska et al., 2013). The authors of the study have demonstrated that social conflicts are an important barrier to the effective management of protected areas and the economic and social development of municipalities located in those areas. The main reasons for social conflicts at Natura 2000 sites are of a planning (errors in areas planning, collision of strategy documents), investment, infrastructural and environmental character. Common

reasons for conflicts are also the need to limit certain economic functions or the incompatibility of economic functions that have been carried out thus far within respective Natura 2000 sites. The intensity of the course of those conflicts is additionally reinforced by factors such as the non-inclusion of communities and local authorities at the initial stage of establishing Natura 2000 sites in Poland, lack of knowledge about the functioning rules of Natura 2000 sites among residents and entrepreneurs and the low competence level represented by the protected sites' administration, as well as local authorities in dialogue with inhabitants. In addition, the authors have revealed that the main interests of the parties engaged in conflicts are:

1. the loss of benefits due to restrictions in running business at these sites;
2. the willingness to implement investments with objectives that interfere with the objectives of environmental protection and
3. the desire to maintain their current use.

It is worth noting that, in the opinions, the positive impact of Natura 2000 sites on the personal situation of respondents has often been referred to, which can both be linked to material benefits – running business, participation in agricultural-environmental programmes, as well as intangible ones – an attractive landscape, a clean environment

3.3.3. LOCATIONAL CONFLICTS

One of the examples of social conflict is locational conflict. In each locational conflict there are many entities involved. These can be: investors (developers) interested in building and launching investments as soon as possible; citizens living in the immediate vicinity of the investment and most exposed to its impact and immediate risk; local authorities; residents of nearby towns and regions; local and regional non-governmental organisations, lobby groups; central authorities; independent or governmental regulatory authorities; national or international organisations. Each of these groups may have different objectives and plays a different role in a conflict. Each of them sees the benefits and risks of the future investment differently (Łucki, Misiak, 2010).

Sociologists point out that, in locational conflicts, it is generally impossible to decide who is right. An explanation to this situation is provided by the theory of social dilemma, according to which the public good is not generated in society, although all people in that society want it to be provided. Although everyone would benefit if it were produced, it does not happen due to the individual's decision not to cooperate (Wolsink, 2000). The variability of attitudes of parties engaged remains an equally crucial element in locational conflicts. Łucki and Misiak, when presenting sociological views of locational conflicts, quote studies in which the results clearly revealed that, in accordance with social dilemma, frequently a nuclear or wind power plant would not be built if residents of localities close to its potential location refused to support that investment (Łucki, Misiak, 2010). As a consequence of that opposition, the whole State would not be able to use that source of energy despite the general social consensus (Wolsink, 2000).

Social resistance to unacceptable investments by the local community is described, in literature, as the NIMBY syndrome (Not In My Backyard) – in Poland also known as not in my garden (Matczak, 1996; Wolsink, 2000). The NIMBY syndrome occurs when a conflict breaks out during the investment process between the common good and the good of the local community. This involves the respective individuals' attempt to obtain benefits related to using a given good, while passing on the costs of providing thereof to other residents. Lesbirel explains that if members of the local community protest, they feel aggrieved against other social groups. Such a protest may have different objectives: to demand sharing benefits from the whole society and the investor with the community (e.g., by paying compensation) or reducing costs in general (e.g., by modifying the project). Therefore, the resolution of such a conflict covers meeting protester demands by rescheduling costs and benefits (in: Łucki, Misiak, 2010). The options of the NIMBY syndrome are NIMEY (Not In My Election Year); NIMTOF (Not In My Time of Office); LULU (Locally Unacceptable Land Use); BANANA (Build Absolutely Nothing Anytime Near Anyone) – withdrawal from any investment anywhere.

Research has shown that many energy investment projects encounter opposition from local communities and the situation, whereby authorities and investors neglect the problem of obtaining public acceptance for their investments, results in escalating social protests (Łucki, Misiak, 2012) such as the protest in Port Talbot, Wales, against building a bio-combustion plant (http://www.walesonline.co.uk/news/local-news/port-talbot-power-station-protest-2238782), in Dublin, Ireland (http://www.irishtimes.com/news/environment/thousands-protest-against-pylons-and-wind-turbines-1.1763015), and in Arromanches, France, against a wind farm (100 turbines) (http://www.irishtimes.com/news/environment/thousands-protest-against-pylons-and-wind-turbines-1.1763015), in Poland, in Żurawlów, against shale gas drilling (http://occupychevron.tumblr.com/) and in Gąski against nuclear power plant location plans (http://www.petycjeonline.com/protest_przeciwko_budowie_elektrowni_jdrowej_w_gskach_k_mielna).

Among the identified factors contributing to arising local conflicts and protests there are, among others, the imposition of investment in a given locality "from the outside"; unfamiliarity with technology; ignorance of concerns of the local population and exclusion in the decision-making process; the fact that the investment does not bring local

benefits or the application of the "accomplished facts" policy. A meta-study of social conflicts has indicated that public acceptance is greater for projects that are locally rooted, provide local benefits, create continuity with existing physical, social and cognitive structures; and which apply effective communication and participatory procedures (see: factors influencing the societal acceptance of new energy technologies, in: Meta-analysis of recent European projects, 2008: www.ecn.nl/docs/library/report/2007/e07058.pdf[1].

3.4. SOCIAL RISK PERCEPTION

The sociological approach to risk coincides with the position of social constructivism and its assumption that human cognition and perception are influenced not only by what one knows and understands, namely, reality in general, but also by culture and meanings (Arnoldi Duncan, 1999).

Complex patterns of risk interpretation in the public sphere are presented by an interdisciplinary concept of social amplification (Social Amplification of Risk Framework - SARF) by Jeanne X. Kasperson and Roger E. Kasperson. The SARF concept provides that the social and political interpretation of risk is in fact a communication process, where social actors and institutions play a key role. In the course thereof the risk is decoded with the participation of values and symbolic models of interpretation (Arnoldi, 2011).

The authors of the model assume that information on hazard may be "manipulated" by intensifying or reducing the "signals" power, filtering them and highlighting selected aspects (the application of interpretation patterns). As a result, selected information on hazards is reinforced or disregarded. The process includes many actors and institutions (transmitting stations), groups of scientists; risk management institutions; the media; environmental activists and groups; peer groups; governmental agencies and various phases (stages) of amplifying information; signal filtering; signal decoding; risk information processing; linking information to social values in order to draw conclusions on risk management and current policies; interacting between cultural and peer groups in order to interpret and confirm signals; formulating an intention to tolerate a particular hazard or take action for eliminating it or aiming at risk managers; involvement in individual or collective action aimed at accepting, ignoring, tolerating or altering the hazard.

The review of psychological and sociological research on the social perception of technology enables to distinguish several key factors related to social and individual transmitting stations presented in the above scheme (Besta, 2014; Mrozowska, Kijewska, Besta, 2014). The first important variable influencing the assessment of how new scientific inventions are implemented is the level of trust in the authorities that are involved in the promotion of respective technology. For example, studies have revealed that people who showed a lower level of trust in the government were more concerned about the risk of a nuclear power plant failure (Goodwin, 2012). The perceived risk of corruption and financial embezzlement is also a key factor related to trusting governing authorities.

The second area of human functioning, which is related to the level of perceived risk and attitudes towards science and technology, covers the values on which people base their decisions and shape their perception of the social world. Values appreciated by people (e.g., universalism, tradition, power, materialistic values and self-development) point out to those areas of life that are most valued by individuals. They can be described as broadly defined life goals with the function to guide the choices we make in life, our attitudes and our behaviour. One of the universally accepted concepts for value sharing is the Schwartz theory of values structure. He has proposed the model of ten main values. The Schwartz values structure is organised around bipolar dimensions. The poles of one dimension are, on the one hand, openness to change (pursuing stimulation and novelties, hedonistic values), on the other hand, conservation values (tradition, security and conformity). The second dimension is described by the transcendence pole self - transcending one's egoistic interest (e.g., paying attention to the value of nature or caring for the well-being of other people), and the pole of values aimed at self-development (power and achievement). That value model has been confirmed in many studies conducted in diverse cultural areas all over the world (Schwartz, 1999). In the context of risk and hazards perception, values have been proven to be important predictors of the anxiety level associated with different technologies. For example, previous studies have revealed that values that emphasise the role of tradition, social conformism and the sense of security were associated with concerns about various social and natural phenomena (Schwartz, 2000). In other studies, people who showed elevated levels of conservative values were more concerned about being infected during the H1N1 flu pandemic (Goodwin et al., 2011).

The third variable that can influence attitudes towards science and the implementation of modern technologies, is the intensity of attachment to the local community, to the own social group. Strong group identification. in many studies, has proven to be a predictor of acting in the interest of the local community. Psychological and sociological studies have also revealed that a strongly developed group identity is a predictor of readiness to act in the interests of the own group's members (Klandermans, 2002; Kelly, 1994). For example, the more farmers identified themselves with the farming community, the more they became involved in protests of agricultural organisations. This mechanism is also reflected in other social identities, such as identification with trade unions, or gender identification, which proved to be

an important determinant of engagement in social and political action in the context of equal rights between men and women. Thus, the power of the connection with the local community may be a predictor of engaging in protests against technologies that seem to threaten the group or in efforts to improve the group's material status and lobbying for technologies that appear to benefit the local community.

Another important variable in that context is the sense of both personal and group control. The sense of surrounding control and influence is a particularly important human need and its satisfaction has been repeatedly linked to overall better mental functioning (Baumeister, 1991). A greater sense of control correlates, for example, with a perceived lower risk associated with the failure of a nuclear power plant. Those who show a lower level of satisfaction with the sense of control of their safety are more anxious. A sense of group control, on the other hand, is associated with a tendency to engage in behaviour that protects the group and brings tangible benefits to it. Therefore, a sense of impact on the local community may be associated with a greater tendency to show positive attitudes towards technologies if they bring benefits to the community (Gómez et al. 2011; Vaughan, 1993). The role of emotions in shaping attitudes towards technology should also be analysed. Research into so-called "motivated reasoning" i.e., tendency reasoning provides the rationale for that. Such reasoning may be a form of the internal regulation of emotions, in which the processing of information coming from the world leads to such an interpretation thereof that serves to reduce negative emotions or increase positive ones. The result thereof is a psychological mechanism in which we usually seek the confirmation of our beliefs and theses, and we ignore, or omit, in our deliberations, information contrary to them. In the context of the reception of science and technology, many studies have revealed that people tend to mainly see the positive aspects of things, phenomena or technologies that they like and mainly the negative characteristics of phenomena they dislike.

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