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Project BalticRIM
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Legal implications of the integration of MCH into national/sub-national MSP in each BSR country (including an analysis of the status quo in Russia) – WP2.4

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Summary

The EU MSP Directive (2014/89/EU) requires all member states to adopt Maritime Spatial Plans (MSP) for their sea spaces by 2021. All EU Member States around the Baltic Sea Region are currently in the drafting phase (see table), designating areas for use of sectors in the coming decades taking into account nature protection.

Table 1: Overview of MSP processes in the BSR

Country	MSP (national plan)
DK	12/2020
EE	8/2020
FI	3/2021
DE	6/2021 ¹
LV	12/2018
LT	6/2020 ²
PL	7/2019
SE	12/2019
RUS	No plan yet, not party of the EU MSP Directive

Planning a national sea area is a complex task in which different sectorial interests need to be carefully weighed against each other, conflicts have to be resolved and planning solutions need to be found. Furthermore, despite the long-standing cooperation among MSP authorities within the Baltic Sea Regions, countries do not practise MSP in identical ways. Significant differences are apparent in the following aspects (which are outlined in more detail in chapters 4 and 5):

- The overriding objectives of MSP in each of the countries;
- How binding the MSP plans are in legal terms;

¹ National plans have been adopted

² National plan has been adopted



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- The temporal planning horizon or the scale of planning as well as how sectoral or nature protection planning can be influenced by MSP;
- Also the planning approaches differ, namely where there is an extension of the terrestrial planning system into the marine, and where there are two planning regimes (terrestrial and marine).
- Last but not least planning authorities have been allocated to very different ministries in each of the countries, which equally results in differences in resources and information directly accessible to them.

All this feed into the challenge of achieving cohesion among MSP processes and especially the resulting MSPs across borders. In that regard transboundary cooperation and consultations are an important aspect in the proper implementation of MSPs, also in relation to maritime cultural heritage (MCH).

The project BalticRIM (implemented between 2018-2020) had been set up to address this challenge, taking into account existing and also new planning principles and zoning exercises. An overview of these planning needs and approaches is provided in chapter 3.

In all BSR Member States, conservation and policy to enable sustainable access to MCH sites are under the responsibility of the competent ministry or authority. The main objective of MSP is to integrate this indication into the MSP plans, assess and solve any conflicts with other sectors, and possibly support some sustainable use of MCH sites (e.g. sustainable tourism, biodiversity conservation and research, etc.).

Nevertheless, based on evidence, advice, consideration and review, MSP authorities can develop a spatial approach with respect to the historic environment, recognising that the character and significance of the historic environment is not uniform across all areas of sea. This spatial approach should be evidence-based and might include the identification of specific areas or zones in which particular policies might apply. The approach to areas or zones could be integrated with spatial policies for the historic environment in adjoining terrestrial plans.

Specific wording of spatial policies and final plans can support the integration of MCH in the following way:

- In their plans, MSP authorities could set out a positive strategy/promotion for the conservation and enjoyment of the historic environment; plans could contain a clear strategy for enhancing the historic environment.



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- MSP
authorities could set out their strategic priorities to deliver conservation and enhancement of the historic environment, including landscape, for their area in the maritime spatial plan.
- Non-statutory designation of areas through maritime spatial plans may be an effective means of dealing with heritage assets that are grouped or associated; with areas where the presence of currently unidentified heritage assets is likely; or where specific areas are regarded as significant by people locally or in the region. This gives MSP authorities a promoting role for those “less precious” sites (e.g. wrecks) where people can already freely access.
- Conflicting uses with MCH can be mitigated by approaches already tested or being under development with a view to dominant uses like offshore energy or shipping.

There exist a variety of examples how MCH has been taken onto account in the BSR. In Latvian, Lithuanian and Finnish (Kymenlaakso) waters there are some references of ship wrecks, whereas in the Hiiumaa and Saaremaa plans the marine cultural heritage has been mentioned explicitly. Also in the pilot Plan Bothnia underwater cultural heritage has been mapped and addressed. Only in German plans for the EEZ and the Federal State of Mecklenburg-Vorpommern (first binding plans in the BSR), MCH was omitted. However, one can conclude that from the very beginning at least some BSR countries raised the issue of protection of MCH under MSP.

One of the key objectives of the Lithuanian plan is to protect, restore and rationally use resources of nature and recreation, values of natural and cultural heritage.

Also Poland and Sweden have almost finished their national maritime spatial plans that are subject to intergovernmental coordination. In both countries MCH was comprehensively assessed in the stocktaking reports, both in terms of its existence and possible spatial conflicts. This knowledge has informed the planning solutions. For instance, in the Polish plan the rules on protection of MCH were introduced promoting in-situ protection and the places were designated to store MCH objects that cannot be protected in-situ. In the Polish

plan MCH is treated as a full-scale sea use, although in many cases regulated by specific legal regulations outside MSP - but which should be taken into consideration when elaborating MSP solutions.

Estonia presented its draft national maritime spatial plan in 2019. In this plan MCH was mapped and analysed and planning priorities, guidelines and requirements have been formulated with regard to MCH. Among others, the Estonian draft plan stipulates that in areas of cultural monuments (related to the object within a protected zone), anchorage, trawling,



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and dumping of solid material is prohibited. Other activities (e.g. fishing, diving) are allowed only if they do not damage the cultural heritage. The main objective of the protection of underwater monuments in Estonia is to ensure their preservation at their initial location. National planning in Denmark and Finland is at an early stage to allow its evaluation with regard to the MCH approach. The progress in MSP of the BSR is outlined in more detail in chapter 4.

Based on the current MSP processes in the BSR, some first lessons-learned can be derived for the integration of MCH. Chapter 7 presents recommendations, which have been derived from this analysis and other activities carried out so far during BalticRIMs' implementation. The recommendations do not repeat those which have been already been implemented but incorporates those, which still hold true and have been reconfirmed during partner meetings. They will be further discussed during upcoming workshops, e.g. in Tartu (Feb. 2020) or Kotka (May 2020). Chapter 7 follows a division of recommendations into the sections 1) Horizontal issues; 2) MCH recommendations, and 3) Data recommendations. The following provides some of the recommendations:

- MCH has to be clearly defined as a key prerequisite to be taken into account in a MSP process.
- As far as possible, in situ protection is preferable.
- Due to the scale of MCH, one should strive towards flexible protection. Therefore, planning should prefer rather rules than zones for MCH. However, it is a challenge to enforce such rules after implementation and to combat, e.g. looting. Zones are meaningful only in case of large archaeological sites.
- Information is very important for the planning process. Therefore, not only MCH objects should be identified but also *potential areas* of their possible existence.
- Preparedness' i.e. spatial measures and procedures are necessary since MCH can appear any time and at any place and not everywhere it can be protected in situ. Therefore, in MSP there is a need for adequate solutions, i.e. how to change planning activities due to the unexpected discovery of

MCH, how to secure that MCH search precede investment processes or what to do if MCH cannot be protected in situ due to fairways or port areas.

- Within a MSP process, MCH should be seen as very relevant sector to promote the multi-use concept at sea.



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- The exchange of scientific knowledge, also between neighbouring countries is a pre-condition in order to detect areas with high probability of MCH appearance (e.g. battle fields or stone age settlements).

For MCH and MSP experts: What should be changed regarding current practices?

- Include MCH aspects from the very beginning: MCH experts should provide information of MCH sites (in a template) and actively promote priority areas or reserved areas; these areas can be described as text which could be integrated into the plan (or at least as topic-specific annex),
- Use on-going processes to finalise national / regional MSPs and negotiate directly with the authorities,
- Share cross-border views and foster exchange of information,
- Use ecosystem-based-approaches to use synergies between nature protection, MCH and tourism.
- Certain areas are identified from the outset as "areas of interest" for which certain requirements are made in order to have control specifications at hand. For the planner is therefore important to know where which MCH lies. In some countries, MSP authorities do not know these locations and cannot work accordingly with these data. Therefore, MCH experts have to share knowledge more actively with planners.
- A transnational database, e.g. for DE-DK or DE-PL would be very helpful to coordinate protection and integration of MCH into plans.

It is expected that BalticRIM will give impetus to make specifications for the planning in the sea according to these needs. A first approach is a (preliminary) MCH Toolbox (see chapter 6), which aims to support the integration of MCH into the development of maritime spatial plans and associated Strategic Environmental Assessment process.



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1. Introduction

MSP processes are currently ongoing and in some of the BSR countries the consideration of MCH sites within the national plans and even as zones seem still to be realistic in some countries. BalticRIM will provide a range of solutions and recommendations for planners how to take into account the needs of the MCH sector - also after the year 2021 when the first round of MSPs has been published according to the MSP Directive. It offers a source of information, which can be uptaken by planners according to their administrative and political developments and needs in their country. Also, cross-border aspects will be considered, especially in the pilot planning cases of WP 3, and can help to foster collaboration between countries.

This report analyses

- The legal mandate of MSP for integrating MCH, including environmental assessments and future protection needs of MCH
- Ways of how to promote MCH by MSP means (e.g. non-statutory, management)
- Barriers to integrate MCH into MSP
- Possibilities to include MCH into MSP (including some suggestions for wording)

The analysis complements

- GoA 2.1 where categorisation templates for statutory protection have been elaborated,
- GoA 2.2 where available MCH data and proposed measures are assessed,
- GoA 2.3 where MCH data is processed with respect to MSP requirements.

Findings of this report feed into GoA 2.5, the main output of WP 2 as well as the recommendations, which will be delivered by the end of the project (GoA 5.3).

2. Methods used and output

The findings of this report are based on

- Desk Study and use of material coming from other MSP projects in the BSR such as BaltSeaPlan or PartiSEApate and the EU MSP Platform
- Interviews with selected experts from MCH or MSP authorities
- Questionnaire circulated among all BSR national MSP authorities and the region of Kymenlaakso, see Annex

The results of this approach are



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- A status report on the role of MCH and legal implications for MSP as well as options how to integrate MCH into planning in the BSR countries
- Preliminary development of a MCH Toolbox to guide planners through the process
- As an option and derived from this report, information sheets about the legal implications of the integration of MCH into MSP (digital for download at the BalticRIM website) can be developed per country

3. Planners' needs and Planning principles

Planners' needs

In order to understand the needs of planners related to the possible integration of MCH into a plan, it is important to know their perspective:

- Planners know the governance system in the country (level of planning levels, number of national and/or regional maritime spatial plans)
- Planners know the scale of the plans (very broad or quite detailed)
- Planners are bound to national law and policies (e.g. energy policy)
- Planner receive information from the sectors
- Planner know at which stage a sector's impact/interest is considered, e.g. they know whether a sector and which kind of sector is taken into account at the early planning level or the later project level, i.e. when an Environmental Impact Assessment (EIA) or Strategic Environmental Assessment (SEA) is conducted
- Planners need input from the sectors (data and recommendations)

Therefore,

- **The planner needs an idea about the importance of MCH sites (categorisation, classification) and which potential negative impacts come from other sectors (conflict matrix)**
- **The planner can promote MCH as important part of an MSP but can not decide whether it will be taken into account in the end.**

Planning principles

The relevant decision how to integrate MCH into a plan, e.g. as spot or zone, is not only guided by the goals and objectives for the specific maritime spatial plan as agreed at the beginning of the process, to be validated throughout. It is equally important to agree on the guiding planning principles as they provide for transparent and defensible means of making sometimes difficult decisions. In some instances, these principles may be derived from the

legal analysis

as they may be part of the existing treaties and agreements, policy and legislation as well as good practices. At same time, it is important that the given MSP principles are explicitly noticed and agreed upon with the consultative committee as well as all other stakeholders.

Box 1 shows a number of typical ‘upper level’ planning principles often adopted in MSP processes throughout the world:

Examples of MSP Principles (UNESCO, 2013):	Planning Principles (BaltSeaPlan Vision 2013):
<ul style="list-style-type: none"> ▪ Ecosystem integrity principle ▪ Integration Principle ▪ Public Trust principle ▪ Transparency principle ▪ Precautionary principle 	<ul style="list-style-type: none"> ▪ Sustainability ▪ Pan-Baltic Thinking & Approach ▪ Spatial Connectivity ▪ Spatial Efficiency ▪ Spatial Subsidiarity

In general, planning criteria can be seen as *factors relevant for assessment, regulation and spatial designation of specific spatial uses and activities*. Spatial designation refers here to the selection of suitable areas for certain uses.

Thus, planning criteria are the different factors that are considered when identifying and deciding which areas are suitable for a specific use. Literally ‘criterion’ is therefore the principle or standard by which something may be judged or decided. In general, these criteria for spatial designation can be divided into three different types: 1) exclusionary criteria, 2) restrictive criteria, and 3) textual regulations (see Figure 1).

There are also a number of other criteria that might not have direct spatial implications, but are otherwise relevant part of the decision-making processes. These can be for instance different economical, technical, social, etc. factors.

Exclusion criteria	Restrictive criteria	Textual regulation
Sometimes referred as “hard constraints”, “no go areas” → areas that are not available	Sometimes referred as “soft constraints”	Legislation or similar, with regard to e.g.
Areas unsuitable for development due to natural or technical conditions	Activities or interests to be considered that may preclude development	1) Safety issues (buffers around offshore installations), 2) Environmental aspects (e.g. avoidance of cable routing)

Areas designated / licensed for other incompatible uses / priority areas for other uses	Areas available for development only at a reduced density	through Natura 2000), 3) Height restrictions for offshore turbines, etc.
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Figure 1 Three types of criteria for spatial designations

Figure 2 provides examples for guiding planning principles of two BSR countries:

Guiding principles used in space allocation in Lithuania	Conditional compatibility criteria used in the Latvian MSP process
<ul style="list-style-type: none"> • Avoid fragmentation of habitats • Reserve the most suitable areas for renewable energy production • Pay attention to the interests of fishery • Respect the growing needs of maritime transport • Ensure safety of navigation • Reserve space for unknown future uses 	<ul style="list-style-type: none"> • Priority for shipping routes over potential wind park areas and fishery activities • Priority for coastal fishery and regeneration of fish resources in coastal waters up to 20m depth • Priority for nature conservation in Natura 2000 sites or other sites of high biological value (e.g. reefs, bird resting and moulting sites) • Priority for landscape over wind park development in areas of outstanding natural landscapes up to 20-30 km from coast

Figure 2 Two samples of such criteria used in the MSP context of Lithuania and Latvia

All existing maritime spatial plans in the BSR as well as those under development are using specific zoning systems for the implementation of the plans. These zones refer to human uses, priority conservation areas and sensitive areas with special consideration. In the future, also areas where certain types of human activities can co-exist with nature protection, or other sectors may form a multi-use concept.

Box 2 shows zoning types used in the EEZs of the German plans:



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The **Maritime Spatial Plans for the German EEZs** of the Baltic and North Sea contain three types of zones, including:

- “**priority areas**”, where one use is granted priority over all other spatially significant uses;
- “**reservation areas**”, where one use is given special consideration in a comparative evaluation with other spatially significant planning tasks, measures and projects; and
- “**marine protected areas**”, where measures are applicable for the reduction of impacts on the marine environment.

In order to consider the three-dimensionality of the ocean space, temporal dimension, and the opportunity of establishing synergies between uses through the multi-use approach, the following zoning systems may also be considered for the integration of MCH into the BSR maritime spatial plans:

- **Vertical zoning** (e.g., different rules within the water column than those allowed to occur on the seafloor) may be appropriate in some situations where, for example, certain MCH sites require absolute protection while transportation or recreational uses continue at or near the surface of the water column.
- **Temporal zoning** could prohibit visitor access to, or commercial fishing near, a particular MCH site or fish spawning ground during the reproductive season but allow it throughout other, less critical periods. Depending on the factors involved, the time span may be long term, seasonal, cyclical or even diurnal.
- **Multi-use zones** – areas where more than one human activity can take place simultaneously / in a synergetic manner, by sharing ocean resources and deriving added values).

Such zoning plans may require sectoral planning recommendations, guidelines and policies, regulatory incentives as to enable mutual benefits and synergies across sectors and, of course, with respect to the specific sector of MCH.

Thus, the zoning plan will bring together the current status of knowledge, the current sets of relevant legislation, the existing institutional framework, and any newly agreed protocols or management / governance processes (and recommendations for future developments).

The zoning process and output is an iterative process in which the zoning plan will be continually reviewed with stakeholders. **This is a chance for the integration of MCH into MSP, even if specific zoning can not be realised within the planning period until 2021. Due to the character of an ongoing process, MCH interests may be included in the next generation of plans in some of the BSR countries.**

4. Analysis of the legal framework to potentially integrate MCH into MSP per country

4.1 General overview

In the following, a first analysis of the MSP processes per country in the BSR, including Russia is provided.

Tab. 2 Overview of the MSP status in the BSR States, without Russia

	Denmark	Germany	Poland	Sweden
Competent Ministry	Ministry of Industry, Business and Financial Affairs	Ministry of the Interior, Building and Community	Ministry of Maritime Economy and Inland Navigation	Ministry of Environment and Energy
Competent planning authority	Danish Maritime Authority	Federal Maritime and Hydrographic Agency & Coastal Federal States	Department of Maritime Economy & Maritime Offices of Szczecin, Słupsk and Gdynia	Swedish Agency for Marine and Water Management
Number of planning areas and governance	1 National MSP	1+3 1 EEZ 3 Territorial Waters	1 Coordinated between three regions	3 Regional MSPs (from 1nm zone)
Expected progress in MSP (national plans)	1 st edition 1 st draft: ~04/2019 , MSP: ~12/2020	2 nd edition 1 st draft: 01/2019 MSP: ~01/2020	1 st edition 1 st draft: ~04/2018 MSP: ~07/2019	1 st edition 1 st draft: ~04/2017 MSP: ~12/2019
Scale of MSP	Not decided yet	1:400.000	1:200.000	1:700.000 – 1:1.000.000
Planning horizon	~2050	Not decided yet	~2030	~2050
Binding/non-binding MSP	Binding	Binding	Binding	Non-binding

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Planning Objectives	Promote economic growth, the development of marine areas and the use of marine resources on a sustainable basis	Promote sustainable spatial development, which brings social and economic demands regarding sea space in line with the sea's ecological functioning and leads to a permanent, large scale balanced order	Create preconditions for blue economy growth and to coordinate (functionally and spatially) the various maritime economic activities. Ensure the realization of maritime investment projects in a sustainable way.	Describe Government's & institutions overall view on how we use our oceans (now & future), support the development of sea-linked industries, increase predictability for actors that intend to operate offshore, facilitate management work (i.e. environmental assessment, fisheries policy and MPA protection)
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	Estonia	Finland	Latvia	Lithuania
Competent Ministry	Ministry of Industry, Business and Financial Affairs	Ministry of the Environment	Ministry of Environmental Protection and Regional Development	Ministry of Environment

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Competent planning authority	Danish Maritime Authority	Department of the Built Environment and Regional Planning authorities of Kymenlaakso and Åland	Department for the Inland Marine Waters, the Terr. Sea and the EEZ	Department of Construction and Territorial Planning Policy Group
Number of planning areas and governance	2 + 1 2 Pilot plans for Hiiu and Pärnu Islandd 1 National MSP (under development)	1+3+1 1 Regional Land Use Plan for the Kymenlaakso Region territorial sea area 3 Territorial Waters and EEZ (under development) 1 Regional Plan for the Åland Islands	1 Marine Plan 2030	3 Regional MSPs (from 1nm zone)
Expected progress in MSP (national plans)	1 st edition 1 st MSP: ~ 12/2019,	1 st edition, 03/2013 1 st MSPs: ~ 03/2021 1 st MSP Åland: ~ 03/2021	1 st edition MSP: 06/2019	1 st edition 1 st draft: ~04/2017 MSP: ~12/2019
Scale of MSP	1:400.000	1:400.000	1:200.000	1:200.000
Planning horizon	~2030	~2050	~2030	~2050
Binding/non-binding MSP	Binding	Non-Binding	Binding	Binding
National MSP Objective	Promote economic growth, the development of marine areas and the use of marine resources on a sustainable basis	These plans should promote sustainable development of maritime areas and the sustainable use of marine resources. Energy sectors at sea, maritime transport, fisheries and aquaculture sectors, conservation, protection and improvement of the environment and nature, tourism and recreational use of maritime areas should be especially viewed among other activities and reconciled. MSP	The Marine Plan 2030 defines the country's priorities for the use of maritime space and is the first long-term national document for marine use. The aim of the Marine Plan is to achieve an efficient and sustainable use of marine space,	The objectives of planning are: to ensure the transparent, known conditions of the use of the territory in the whole state and in the space under responsibility of the Republic of Lithuania, and to implement a consequent planning of land and sea territory in one document.

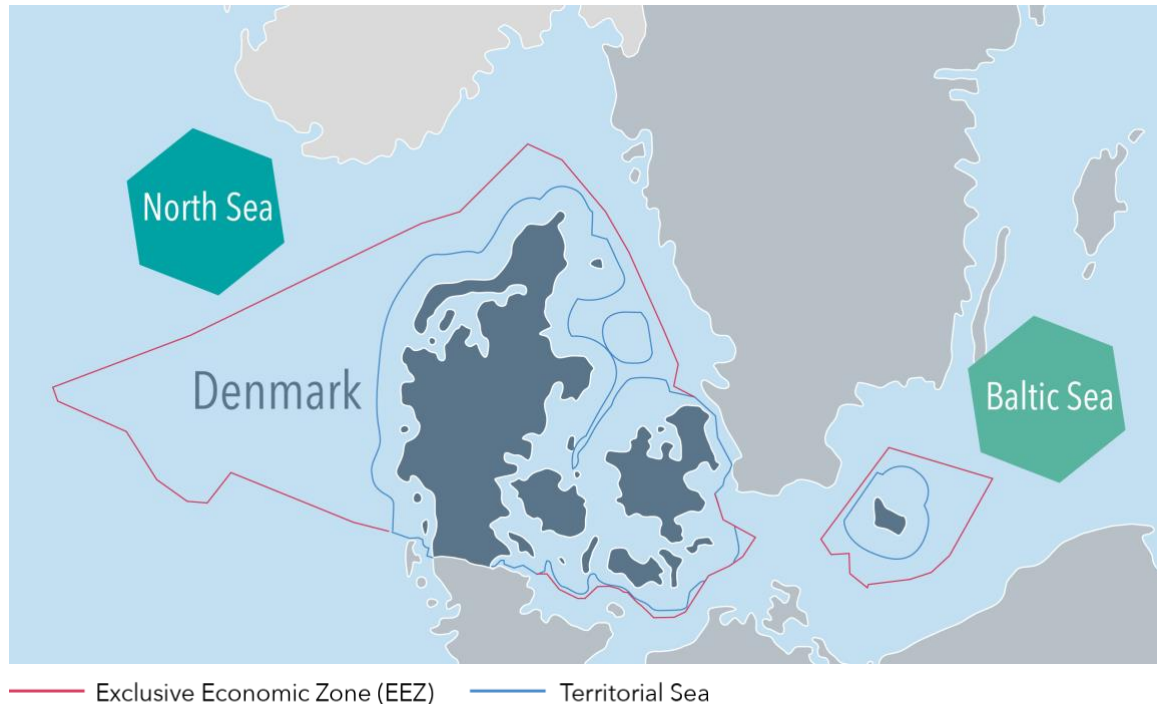


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		plans should also promote achieving the good state of waters.	reconciling the interests of different sectors. The plan provides a balanced and comprehensive view of the future use of the marine space and provides a framework for cooperation for the simultaneous use of marine space.	
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4.2 Denmark



4.2.1 Protection of MCH

- Cultural heritage are divided into two main categories: „Monuments of the past, casual finds and wrecks“ and „Paleo-landscapes and villages“.
- In the Danish legislation there is no general definition of the terms *submarine* and *underwater*, however it protects the underwater culture heritage through two legislative sets: a) one for the archaeological heritage underwater within the Danish jurisdiction and b) one for the archaeological heritage in the deep seabed area (e.g. outside the Danish jurisdiction) which are both regulated by the Danish Museum Act.³
- According to this Act, findings of categories of objects like shipwrecks and boats, must be provided regarding the type of the findings and their location. This information must be given to the nearest museum in accordance with the list below or to the Danish Agency for Culture and Palaces:

³ Kono, T. (2010) The impact of uniform laws in the protection of cultural heritage and the preservation of cultural heritage in the 21st century.
<https://books.google.de/books?id=UfN5DwAAQBAJ&printsec=frontcover#v=onepage&q&f=false>



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- ❖ The Viking Ship Museum in Roskilde is in charge of archaeology in the waters around Zealand and Bornholm. The boundary is in the middle of the Great Belt and the island, Sprogø, belongs to Zealand.
 - ❖ Langelands Museum (former Øhavsmuseet) is in charge of archaeology in the waters around Funen and the eastern coast of Jutland in the Region of Southern Denmark.
 - ❖ Moesgård Museum in Aarhus is in charge of archaeology in the waters around the east coast of Central Denmark Region.
 - ❖ Nordjyllands Kystmuseum in Frederikshavn is in charge of the waters around the North Denmark Region
 - ❖ Strandingsmuseum, St. George department in Thorsminde is in charge of archaeology in the North Sea off of Central Region Denmark and the Region of Southern Denmark.⁴
- Co-location of MCH with other maritime activities is in most cases unproblematic.⁵
 - With regard to the general practice and administration of Underwater Cultural Heritage in Denmark, there appears to be an equilibrium that seems to work fairly well at present, but there is no collective sector-wide momentum or drive to maintain or develop further the high international reputation and standing of Danish Underwater archaeology.⁶
 - Denmark lacks an obvious official central institution that can act not only as a driving force to promote Danish underwater archaeology in an international context, but also is able to develop new research methods and techniques used in a national context.
 - Maritime cultural heritage is protected by legislation, and national authorities have developed procedures to avoid impacts on cultural heritage from construction projects. Specific surveys will allow Nord Stream 2 AG to exactly locate cultural heritage sites and to implement protection strategies in close consultation with national authorities.

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https://slks.dk/fileadmin/user_upload/0_SLKS/Dokumenter/Fortidsminder_Diger/Arkaeologi_under_vand/Instruktioner_regarding_marine_archaeological_findings_-_2017-08-25.pdf and <https://slks.dk/marinarkaeologi/undersogelser-under-vand/ansvarsomraader-og-kontakt/>

⁵ BalticScope (2017) Analysis of potential for co-location of maritime activities in Denmark

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https://slks.dk/fileadmin/user_upload/dokumenter/KS/kulturarv/fortidsminder/Arkaeologi_under_vand_doc/FINAL_6_Kulturstyrelsen_International_Evaluation_of_Marine_Archaeology_in_Denmark__22._april_2013.pdf



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4.2.2 MCH in spatial planning

a. Legal mandate for spatial planning

The Maritime Cultural Heritage data is included in the marine spatial data infrastructure (msdi.dk) enabling the Danish MSP. It is expected, that MCH areas will be shown in a “service layer” in the legally binding MSP. The Danish MSP will be digital, so it will be easy to see the MCH areas combined with all the article 5 sectors from the directive.

The regulation of MCH will not be affected by the MSP. The Ministry of Culture is in charge of MCH and they are taking part in the development of the Danish MSP as they are working together with all ministries and agencies who are responsible of activities and protection at sea.

b. Mandate for the implementation of environmental assessment/Natura 2000 and other instruments – relation?

- The Danish Act on a marine strategy (no. 1582 from 2015) includes references to ecosystems and enables sustainable use of the resources of the sea. One of the goals of the Act on a marine strategy is to apply an ecosystem-based approach to the management of human activities
- The acts transposing the Water Framework Directive (the act on environmental targets, no. 153 from 2015) and the Marine Strategy Framework Directive (the act on a marine strategy, no. 1582 from 2015) into Danish law cover the sea to the EEZ. However, the act on a marine strategy does not apply in the coastal waters as regards the specific items covered by the Water Framework Directive. Other sectoral acts cover and overlap with these

c. Future necessary protection in planning processes

- Denmark does not have spatial plans covering its sea areas but various sectorial plans have been developed and a maritime spatial plan will be completed by 2021.⁷ The Danish Act on Maritime Spatial Planning explicitly refers to the ecosystem-based approach in Section 5.

⁷ https://vasab.org/wp-content/uploads/2018/06/Country-fiche_DK_April2018.pdf



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- The acts transposing the Water Framework Directive (the act on environmental targets, no. 153 from 2015) and the Marine Strategy Framework Directive (the act on a marine strategy, no. 1582 from 2015) into Danish law cover the sea to the EEZ. However, the act on a marine strategy does not apply in the coastal waters as regards the specific items covered by the Water Framework Directive. Other sectoral acts cover and overlap with these. c. The MSDI will form a key basis for the maritime planning process while it also provides a shared platform for relevant authorities' administration of the sea areas.

4.2.3 Maritime Spatial Planning and Spatial responsibilities

Denmark adopted the "Act on Maritime Spatial Planning"⁸, which establishes the framework for spatial planning in the Danish marine areas. Such Act has been developed with the purpose to increase economic growth and to use natural resources in a sustainable way and it aims to achieve better cross-border cooperation and the goals of maritime spatial planning whilst taking into account the interactions between land and sea.⁹

The upcoming spatial plan will apply to the marine internal waters, the territorial sea and the EEZ.

Planning at the national level

- Denmark has in place an "Act on Maritime Spatial Planning" which contains provisions for implementing directive 2014/89/EU Establishing a framework for maritime spatial planning.
- The coming spatial plan is expected to apply to the marine internal waters, the territorial sea and the EEZ, and it is expected that a single plan for the Danish sea area, covering the country's waters in the North Sea and the Baltic Sea, will be in place in 2021.
- With the Act on Maritime Spatial Planning, the Danish Government has recognised the need for greater coordination between activities conducted in the Danish marine space and between the authorities that manage and regulate these activities. These authorities have worked together through formal channels to coordinate their work

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<https://www.dma.dk/Vaekst/Rammevilkaar/Legislation/Acts/Act%20on%20maritime%20spatial%20planning.pdf>

⁹ <http://msp.ioc-unesco.org/world-applications/europe/denmark/>



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- and to establish new joint initiatives. Implementation of the Act on Maritime Spatial Planning will draw and build upon the established background of interagency collaboration. Sectors to be included in the future maritime spatial plan include: the energy sector, maritime transport, fishing and aquaculture, the extraction of raw materials and the preservation, protection and improvement of the environment, including resilience to the consequences of climate change. Military activities, **cultural heritage**, municipal plans for use of coastal waters, etc. **will not be regulated by the plan** but it will take these into account.¹⁰
- The Danish sea, the EEZ as well as the territorial waters, belong to the public and are managed by the Government. The Danish Coastal Authority exercises its sovereignty over the territorial sea.
- Denmark is in the process of developing a plan for the implementation of the Act on Maritime Spatial Planning. The Danish maritime spatial plan process was initiated in January 2017 and will continue until March 2021, when the plan enters into force. The working group on maritime spatial planning consists of representatives of 12 maritime authorities in Denmark

The following **Table 3** provides an overview of the different responsibilities according to national and lower levels for MSP and MCH authorities

Spatial Planning	Country		Territorial waters		EEZ	
National Level	Danish	Maritime Authority, Ministry of Business and Growth	Danish	Maritime Authority, Ministry of Business and Growth	Danish	Maritime Authority, Ministry of Business and Growth
Lower Level	98 Municipalities with terrestrial authorities	planning	Coastal terrestrial authorities	municipal planning	DMI	

Cultural Heritage	Country		Territorial waters		EEZ	
National Level	Danish	Ministry of Culture	Danish	Ministry of Culture	Danish	Ministry of Culture
Lower Level	Cultural Agency	Heritage	Danish	Agency for Culture and Palaces	-	

¹⁰ https://vasab.org/wp-content/uploads/2018/06/Country-fiche_DK_April2018.pdf



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4.2.4 Special spatial contexts

a. Sea floor

Denmark has a specific legislation, which protects the archaeological heritage in the deep seabed area and is regulated by the Danish Museum Act.¹¹ No changes may be made to the condition of the cultural heritage objects on the seabed. Pursuant to section 29 g (2) of the Danish Museum Act, changing or removing wrecked ships that may be assumed to have been lost more than 100 years ago must not take place. Similar provisions apply to cargo, ballast heaps and parts of shipwrecks.

b. ICZM – Land-sea-interaction

Denmark's 98 municipalities have the terrestrial planning authority at the local level. Their authority reaches to the coastline, e.g. the near-coastal zone, and they also have the authority to plan for certain uses in the coastal waters.

The acts transposing the Water Framework Directive (the act on environmental targets, no. 153 from 2015) and the Marine Strategy Framework Directive (the act on a marine strategy, no. 1582 from 2015) into Danish law cover the sea to the EEZ. However, the act on a marine strategy does not apply in the coastal waters as regards the specific items covered by the Water Framework Directive. Other sectoral acts cover and overlap with these.

c. Cultural landscapes

They are so far not taken into account.

d. Border regions

Cross-border approaches are seen as relevant but no example for MCH site approaches or projects yet.

4.2.5 International agreements

Denmark is part of several international agreements:

¹¹ Kono, T. (2010) The impact of uniform laws in the protection of cultural heritage and the preservation of cultural heritage in the 21st century.
<https://books.google.de/books?id=UfN5DwAAQBAJ&printsec=frontcover#v=onepage&q&f=false>

International agreement	Description	
UNESCO Convention	Denmark implements and follows up on the Convention as a Member State of the European Union. The implementation of the UNESCO 2005 Convention forms a natural part of the Danish cultural policy. Denmark ratified the Convention in 1979	
UNCLOS	Denmark ratified the Convention in 2004.	
Valetta Convention	Denmark signed the Valetta Convention in 1992 and it was ratified in 2005	
Rio Declaration	Denmark was represented at the Rio Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Denmark did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	On 17 December 2013, Denmark informed the Director-General that "...Denmark withdraws its declaration in respect of Greenland with regard to the Convention for the Safeguarding of the Intangible Cultural Heritage, adopted at Paris on 17 October 2003 and approved by the Government of the Kingdom of Denmark on 30 October 2009." On 1 October 2018, with regard to the above, Denmark informed the DirectorGeneral that: "The Convention should now be applied to the Faroe Islands. Consequently, Denmark withdraws its territorial declaration with regard to the Faroe Islands.	
Faro Convention	Denmark has not signed the Faro Convention.	

4.2.6 Potential barriers to integrate MCH into planning

- Cultural heritage will not be regulated by the plan but MCH will be taken into account
- The current lack of political will to support the integration of MCH into the plan may change as awareness starts to rise
- Very early stage of MSP – awareness is rising concerning MSP as a tool as well as the need for doing MSP



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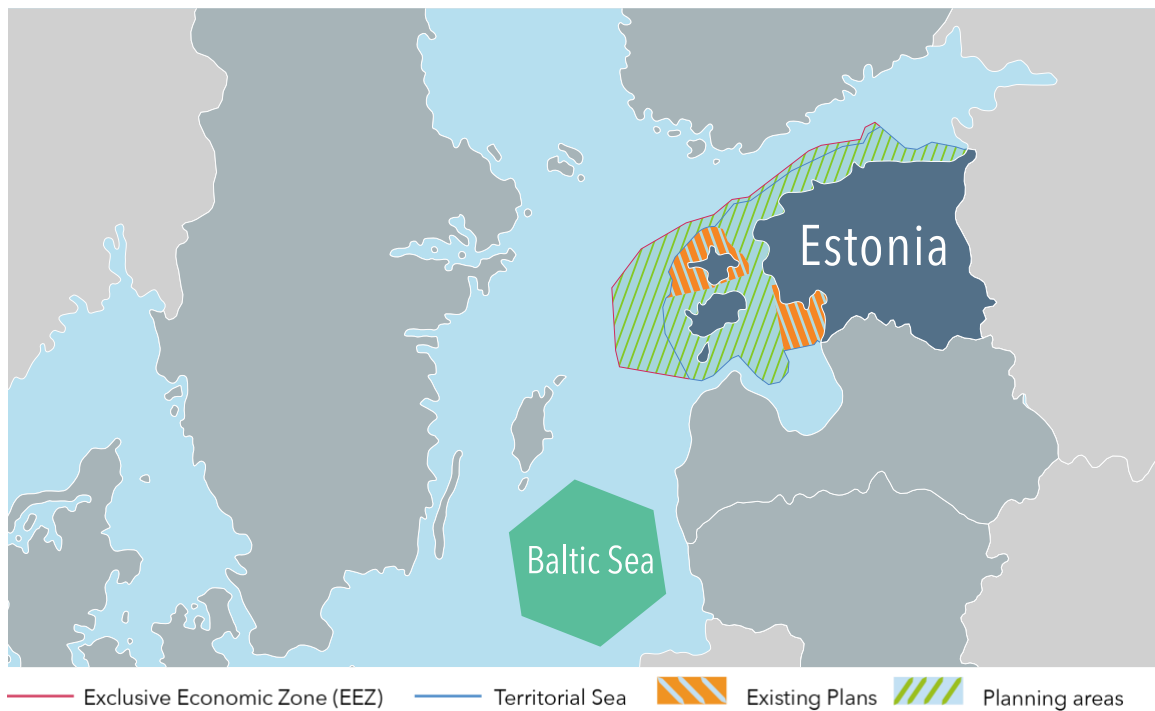
4.2.7 Practical ways to integrate MCH into MSP

- Approach other sectors and promote MCH actively
- Do not follow the approach of zoning but try to include as many aspects of MCH as possible into the framing MSP text
- Denmark will develop own maps to support the MSP process; this opens the opportunity to work in parallel on MCH maps and provide input by the output 2.3 of BalticRIM

4.2.8 Conclusion

- Sectoral approach is difficult to overcome and may change due to political changes towards a more ecosystem-based MSP approach
- Main focus is on Blue Economy sectors like renewable energies. Tourism and MCH is not such prominent yet

4.3 Estonia



4.3.1 Protection of MCH

- In Estonia, the Ministry of Culture managing cultural heritage is also responsible for managing the sea space together with other ministries. The Ministry of Culture has many offices and boards, one of those is the National Heritage Board of Estonia. Technically, Heritage Board deals with the protection of cultural heritage.
- Estonia is currently preparing to join the UNESCO Convention for the Protection of Underwater Cultural Heritage.
- The sea is governed by the State and governing of the coast is dividend between local municipalities. Therefore, in case a historical landing site shall be designated as national monument, it has to be notified the municipality as well. However, when designating a wreck, which is located in the sea, it has not to be notified to any local municipalities.
- For archaeological cultural assets the same level of protection exists on land, in territorial waters and in the EEZ. Therefore, sites are either protected or not.
- Not like in Finland, in Estonia the system that everything older than 100 years is under national protection does not exist. Therefore, every object has to be designated separately, which is also true for wrecks. However, the law foresees a term of ‚culturally valuable objects’, which makes all historical shipwrecks



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automatically culturally valuable. This allows the responsible administration for heritage to appoint research before development of projects like an offshore wind park is permitted. Culturally valuable objects are nevertheless no national monuments.

- Developers, planning a project at sea, are obliged to conduct research before work start in order to make sure there is no undiscovered culturally valuable object. This rule is only valid at sea space, not on land.
- Regardless of the territorial priority areas or reserved areas for sectors that have an intrusive space requirement (such as resource extraction), legal protection of cultural heritage is not undermined. Should an intervention be the reason for the damage of the underwater cultural heritage, a cost obligation for the causer to cover the investigation, preservation, salvage and documentation would result. This is true for heritage that is discovered during developing works. So far, just one such a case occurred in the Tallinn Harbour area: preliminary only sonar scan was appointed and nothing was found, but during works a wreck was discovered that was completely inside sediments. The developer had to pay for the excavation of the wreck.

4.3.2 MCH in spatial planning

a. Legal mandate for spatial planning

- According to the Planning Act §14 (2), one of the functions of MSP is to determine the measures required to ensure the preservation of heritage values.
- MCH has to be considered in every superficies licence application phase when the impact to MCH may occur. An Environmental Impact Assessment must evaluate the impacts to MCH. But in Estonia all wrecks are not MCH and therefore there are cases when this requirement does not apply.
- Estonia is currently in the process of drawing a national maritime plan. It has been divided into sectors so that it would be possible to develop Estonian economy and protect the maritime environment through effective and integrating spatial distribution of different sectors: fishing and aquaculture, maritime transport, energy, submerged communications, maritime communication, tourism and recreation, protected sites, military, mining, coastal communities (Hendrikson & Ko 2018).
- Underwater cultural heritage has been represented and taken into account in the planning process as one factor of localising other sectors. An interesting addition to Estonian maritime plan is the collaboration of local communities in giving



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information on the important recreational and traditional sites on the coast (e.g. swimming areas).

- There will be so-called county portraits, which give information on each county separately and which maritime sectors are currently represented. There will also be information on how many wrecks exist (as known so far) in this county and how many of them can be used in underwater tourism. Some historical characteristics of each county will also be given (e.g. Vikings on Saaremaa county), which can be used in tourism and recreation.

b. Future necessary protection in planning processes

- The establishment of marine protected areas is regulated through the Estonian Nature Conservation Act and is not done through the process of spatial planning.
- Marine protected areas are taken into account as restrictions on certain marine areas.
- A compulsory Strategic Environment Assessment (SEA) is conducted for maritime spatial plans as regulated by the Estonian Environmental Impact Assessment and Environmental Management System Act.¹²

4.3.3 Maritime Spatial Planning and Spatial responsibilities

In Estonia, the marine environment (internal waters, territorial sea) are considered public waters under the Water Act of Estonia and are owned by the state. Local authorities do not have planning rights in the sea. The national government is responsible for the management of the Estonian EEZ.

Planning at the national level

Planning on land and in Estonia's marine waters (EEZ, territorial sea, and inland waters) is based on the Estonian Planning Act, which is in force since July 2015 (and an order of the Government from Oct. 2012). The **current national maritime spatial plan for Estonian marine areas (internal waters, territorial waters and EEZ)** is based on this planning act and was initiated on 25th May 2017. This was followed by a procurement procedure between July 2017 to January 2018. Estonia is currently in the early stages of their MSP process. In April 2018 the initial outline of the Estonian MSP and the memorandum of interest to conduct impact assessment was sent for consultation to ministries, agencies, local governments and

¹² http://www.partiseapate.eu/wp-content/uploads/2014/07/Booklet-Country-Fiches_kl.pdf



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environmental NGOs. Between April and May 2018, the national authority asked for proposals for an outline and impact assessment, including the intention to develop the SEA. This included neighbouring countries, although it was not based on an official Espoo-

Consultation. Public discussions took place between May and June 2018 and the 1st MSP draft was expected to be ready in November 2018 for consultations. Moreover, the UN Law of the Seas (UNCLOS) is implemented through national legislation in the EEZ. They specify sectoral laws, which are implemented in the EEZ. Estonian MSP will also cover coastal areas where and when appropriate.

National MSP authority

Ministry of Finance, Planning Department: MSP coordination.

Planning at the regional level

Through the BaltSeaPlan, two pilot MSP plans were implemented also as a result of the growing interest in the offshore energy sector. In 2011, the MSP Project stimulated the Estonian government in starting an initiative to establish legal processes for creating the MSP legislation and to effectively start the planning process. Such pressure led to the formation of two legally binding country plans: in the Hiiu Island (in 2016) and in Pärnu Bay (in 2017), both based on the Estonian Planning Act from 2015 like the national MSP. In Pärnu Bay area a balanced use scenario was chosen featuring a sustainable use of the Pärnu Bay area through sustainable fishing, protection of culturally and naturally important areas, safe shipping routes and diverse recreation possibilities.

Regional MSP authority

Until June 2015, the counties of Estonia (79) were responsible for the MSP processes based on their terrestrial spatial planning responsibilities. Currently, MSPs have to be developed at the national level.

Table 4 Responsibilities for MSP and MCH

Spatial Planning	Country	Territorial waters	EEZ
National Level	Ministry of Finance, Planning Department	Ministry of Finance, Planning Department	Ministry of Finance, Planning Department
Lower Level	Responsibilities until 2015 only	-	-
Cultural Heritage	Country	Territorial waters	EEZ



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National Level	The Ministry of Culture manages cultural heritage.	-
Lower Level	-	-

4.3.4 Special spatial contexts

a. Sea floor

There exist no specific regulations.

b. ICZM – Land-sea-interaction

The seaward limit in terrestrial planning is the coastline, the landward limit of the MSP currently under development is the coastline. Therefore, MSP will cover the sea only. Coastal terrestrial areas are mentioned just in case of functional interactions such as ports, access roads, beaches, nature conservation and sea rescue.

c. Cultural landscapes

- Public opinion for the construction of wind farms has not been taken into consideration in the planning process and there is no record of whether the inhabitants agree with these development plans. Informing the public of construction plans is mandatory only if the future wind farm may inflict a Natura 2000 area or if it is located offshore.¹³

d. Border regions

Cross-border approaches are seen as relevant. The Pärnu MSP is a first example of such an approach and was elaborated partly in collaboration with the Latvian administration.

4.3.5 International agreements

The following table provides an overview of Estonia's status:

International agreement	Description	
UNESCO Convention	Estonia ratified the Convention in 1995.	
UNCLOS	Estonia accepted the Convention in 2005.	

¹³ Vaab, T., Keerberg, L., Vaarmari, K. (2010) Tuulikud ja tuulepargid Eestis. Senine planeerimine. Probleemid. Ettepanekud lahendusteks., Eesti Keskkonnaühenduste Koda, Keskkonnaõiguse Keskus, Eesti Roheline Liikumine, Tartu [<http://www.eko.org.ee/wp-content/uploads/2010/06/Tuulikudja-tuulepargid-Eestis.pdf>]

Valetta Convention	Estonia signed the Valetta Convention in 1996 and it was ratified in 1996	
Rio Declaration	Estonia was represented at the Rio Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Estonia did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Estonia approved the convention in 2006.	
Faro Convention	Estonia did not sign yet but is currently making preparation to join the Convention.	

4.3.6 Potential barriers to integrate MCH into planning

- Although cooperation between MCH and MSP authorities exists, the means to include MCH sites into the MSP processes may be limited due to time constraints.

4.3.7 Practical ways to integrate MCH into MSP

- The MCH authority is the working group on MSP and input to the plan has already been asked for. Furthermore, the MCH authority is one of the stakeholders that has to approve the plan.
- To provide support for the inclusion of MCH into MSP, as type of presentation of MCH assets spots seem to be detailed enough for a national plan. If there is a concrete conflict between different uses, an additional description of the asset may be needed, but usually this is a too detailed level.
- The on-going process may be influenced by providing sectoral maps of Estonian heritage sites with proposals for specific prioritization zones
- Templates with precise descriptions of specific heritage sites will add background information and facilitate the work of the planners

4.3.8 Conclusion

- Ways to integrate MCH into planning and management are available and the willingness to cooperate between MCH and MSP authorities exists. Influencing the planning process with sectoral maps to incorporate into the two existing pilot plans is feasible. Specific sectoral maps, including lessons-learned and scientific data derived from the BalticRIM planning cases

(also cross-border with FI) are seen as an appropriate way to integrate MCH interests into the on-going MSP process.

4.4 Finland

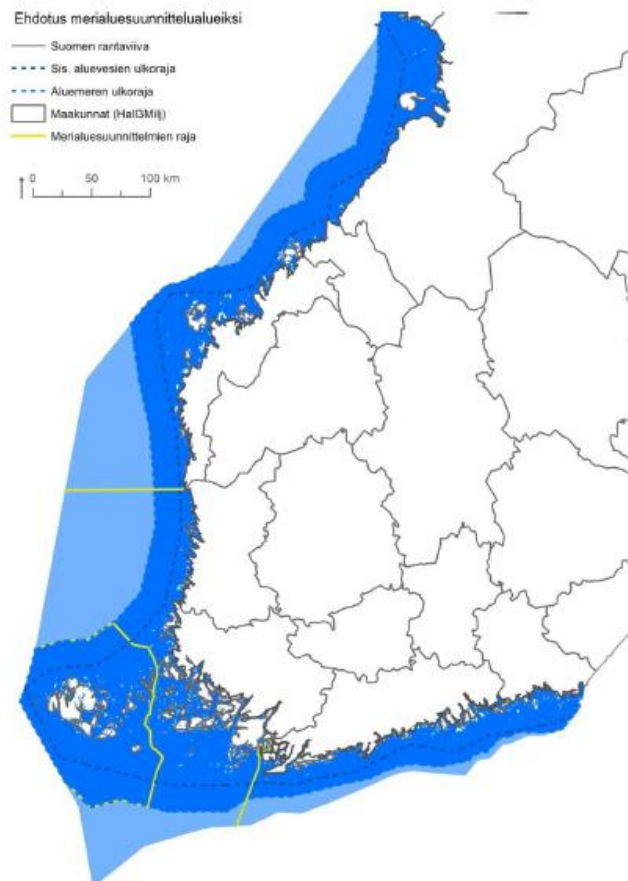
Maritime spatial planning areas of Finland

The Gulf of Finland

The Archipelago Sea and the Southern Bothnian Sea

The Northern Bothnian Sea, the Quark and the Bothnian Bay

Åland



4.4.1 Protection of MCH

- The National Board of Antiquities maintains the Ancient Relics Register, is responsible for the protection of underwater ancient relics, processes the research permit applications for underwater ancient relics, gives statements on the effects of water engineering projects on underwater cultural heritage, and cooperates with amateur divers.
- The Ancient Relics Register contains information about over 2,000 underwater discoveries, approximately 750 of which are protected ancient relics. In addition to wreck sites and shipwrecks, underwater structures such as port equipment and harbour defences, as well as fishing-related structures, miscellaneous finds and submerged dwellings and gravesites, are considered underwater cultural heritage.



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- The Antiquities Act protects underwater sites the same way it protects ancient sites on land. Underwater man-made structures, such as fairway obstructions or the remains of bridges or quays, for example, are protected as reminders of Finland's past settlements and history. Regardless of their age, all sites are protected and one must not touch them without permission from the National Board of Antiquities (NBA).
- Based on the legislation, the National Board of Antiquities is responsible for the protection of underwater cultural heritage. The Board cooperates with the environmental officials, the Finnish Navy, Metsähallitus and the Finnish Transport Agency, among others. Exchanging information and experiences with foreign cultural heritage officials is also important in terms of the protection activities.¹
- In sea areas, wreck sites are protected by the Gulf of Finland Coast Guard and the West Finland Coast Guard. The National Board of Antiquities is in active contact with the coast guard districts, notifying them about research permits granted and the field work carried out by the National Board of Antiquities itself.
- Based on the Antiquities Act (295/1963), five protected wreck sites in Finland also have a protected area around them. These are St. Nikolai (item 1108 in the Ancient Relics Register) outside Kotka as well as Gråharun (item 2228 in the Ancient Relics Register), St. Mikael (item 1648 in the Ancient Relics Register) and Vrouw Maria (item 1658 in the Ancient Relics Register) in the Archipelago Sea as well as Huis te Warmelo (item 2381 in the Ancient Relics Register). The boundaries of the protected areas of these sites have been defined and confirmed in various years with the owners of the water areas and the authorities, in accordance with the procedures delineated in the Antiquities Act.
- With the exception of sea rescue operations regarding an endangered vessel, Finnish Maritime Administration actions intended to improve maritime safety, or diving and research activity authorised and directed by the National Board of Antiquities, all diving activities and anchoring within the protected areas is forbidden. However, traversing the protected area by boat is allowed.

4.4.2 MCH in spatial planning

a. Legal mandate for spatial planning

- The on-going Finnish MSP process started in 2016 and shows that risk assessment – also with respect to MCH - can be done on many scales. The Finnish MSP consultation process provides an example of a large-scale approach. Also background material elaborated for the process, among them the Finnish Maritime Cultural Heritage status report, is available online. These facilitate the scenario work related to the state of the Baltic Sea Finnish Marine Area in 2050.



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- In the scenarios, the risks to consider are global; environmental, economic, and political. The MSP is about screening and mitigating risks.
- The three scenarios, which have been started to work within stakeholders, were based on interviews of a large amount of decision makers and experts and debated also in the workshops. It is expected to have gained more clarity about
 - Development guided by the interests of large corporations
 - Profitable development on nature's terms
 - Tensions in the Baltic Sea area.

In each scenario, maritime cultural heritage is mentioned within 'tourism and recreation use', but it was considered that all sectors affect it.

The coastal regional councils will be in charge of elaborating the Maritime Spatial Plans. They will cooperate in three areal teams. They are professional planners, who are familiar with all spatial data and information. Each provincial plan referring to coastal areas includes already national waters. But the Finnish MSP will not be that detailed as provincial plans are. Therefore, it is still not clear, which form the MSP will have; what kind of spatial layer there will be in this strategic approach and how MCH could be integrated.

b. Mandate for the implementation of environmental assessment/Natura 2000 and other instruments – relation?

Environment Impact Assessment is compulsory for all major offshore investments. According to the Act on the assessment of the impacts of plans and programs of the authorities, maritime spatial plans will be subject to the general duty to investigate the impacts. However, so far, no reference to MCH has been taken.

b. Future necessary protection in planning processes

4.4.3 Maritime Spatial Plans and Spatial responsibilities

- None so far. There will be three maritime spatial plans covering both territorial waters and the economical zone: One for the Northern Bothnian Sea, the Quark and the Bothnian Bay drafted by the Regional Councils of Lappi, Pohjois-Pohjanmaa, Keski-Pohjanmaa and Pohjanmaa; one for the Southern Bothnian Sea and the Archipelago Sea drafted by the Regional Councils of Satakunta and South-Western Finland; and one for the Gulf of Finland drafted by the Regional Councils of Uusimaa and Kymenlaakso.



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MSP Plan for Åland Island is to be developed according to separate planning legislation.

- Additionally, there already exists one specific regional land use plan: the Regional land use plan for the Kymenlaakso Region territorial sea area.

The Maritime Spatial Planning Directive was transposed into Finnish law in 2016. MSP regulations are given as a part of the Land Use and Building Act, which is the most important act to steer land-use, spatial planning and construction. Nonetheless, maritime spatial planning is not part of the land-use planning system of Finland. *Maritime spatial plans are general, non-binding plans* that are drafted and approved by the Regional Councils.

Eight Coastal Regional Councils are in charge of drafting maritime spatial plans on Territorial Waters and on the EEZ by March 2021. **There will be three plans:** one for the Northern Bothnian Sea, the Quark and the Bothnian Bay drafted by the Regional Councils of Lappi, Pohjois-Pohjanmaa, Keski-Pohjanmaa and Pohjanmaa; one for the Southern Bothnian Sea and the Archipelago Sea drafted by the Regional Councils of Satakunta and South-Western Finland; and one for the Gulf of Finland drafted by the Regional Councils of Uusimaa and Kymenlaakso, **Additionally, there will be an MSP Plan for Åland Island**, to be developed according to separate planning legislation.

These plans should promote sustainable development of maritime areas and the sustainable use of marine resources. Energy sectors at sea, maritime transport, fisheries and aquaculture sectors, conservation, protection and improvement of the environment and nature, tourism and recreational use of maritime areas should be especially viewed among other activities and reconciled. MSP plans should also promote achieving the good state of waters.

When drafting a plan, special attention should be paid to the characteristics of the sea area and to the land-sea interactions. Communication and participation is highlighted throughout the planning process, and Regional Councils are expected to engage stakeholders and work together between each other in drafting the plans.

The Ministry of the Environment will develop and guide maritime spatial planning and will be in charge of cooperation with neighbouring countries.

A national maritime spatial planning coordination group has been established for developing maritime spatial plans and also for developing the planning process. Group members are representatives of coastal Regional Councils, Åland Island and the Ministry of the Environment. The aim of the group is to facilitate coherence of the Finnish maritime spatial plans and to take care of participation and cooperation needed in drafting the plans.



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Planning on national level

- The maritime spatial planning regulations are implemented on Territorial Sea and on Finnish Exclusive Economic Zone.
- The Land Use and Building Act is implemented on Territorial Sea as well as on land.
- The UN Law of the Seas is implemented in national legislation on Exclusive Economic Zone. It specifies sectoral laws, which are implemented on EEZ.

National MSP authority

- Ministry of the Environment, Department of the Built Environment

Planning on regional level

- 60 coastal municipalities and regional councils have the planning mandate for their adjacent marine waters up to the border of the territorial Sea. According to the recent legislation for MSP tasks are given to regional councils.
- Regional land use plans are the most relevant planning means for the sea area.
- There exist already several coastal regional plans which are not directly related to MSP but provide approaches for land-sea interaction and ICZM.

Regional MSP authority

- Eight coastal Regional Councils and Åland Islands.

National MSP authority

Ministry of the Environment, Department of the Built Environment

4.4.4 Special spatial contexts

a. Sea floor

There is no specific legislation available.

b. ICZM

ICZM strategy of Finland does not include MSP but it includes several sectors as well as Finnish coastal sea, islands and to some extent also the open sea areas. The Strategy emphasises the coastal zone as an integrated functional entity.



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regional plans of coastal areas cover in addition to inland and coastal areas also island and marine areas. Participation activities are carried out according the same legal framework (Finnish law Land Use and Building).

c. Cultural landscapes

The Heritage Board is currently developing a classification scheme for cultural landscapes within the BalticRIM project. First results are available in GoA 2.1.

d. Border regions

According to the legislation on MSP the Ministry of the Environment will be in charge for cooperation with neighbouring countries with the aim of ensuring that the maritime spatial plans are coherent and coordinated across the marine region concerned. To be able to do that the ministry will also cooperate with regional councils who are drafting the Finnish maritime spatial plans.

4.4.5 International agreements (see template “statutory protection” – last column: International Conventions and Directives)

International agreement	Description	
UNESCO Convention	Finland ratified the Convention in 1987.	
UNCLOS	Finland ratified the Convention in 1996.	
Valetta Convention	Finland signed and ratified the Valetta Convention in 1994.	
Rio Declaration	Finland was represented at the Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Finland did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Finland signed the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in 2013.	
Faro Convention	Finland signed the Faro Convention in June 2017.	

4.4.6 Potential barriers to integrate MCH into planning

Special areas or zoning for MCH are so far not foreseen in the three MSP drafts; disturbing activities are restricted. Due to the large scale of the plans it is not clear how detailed MCH sites can be included, if at all.

4.4.7 Practical ways to integrate MCH into MSP

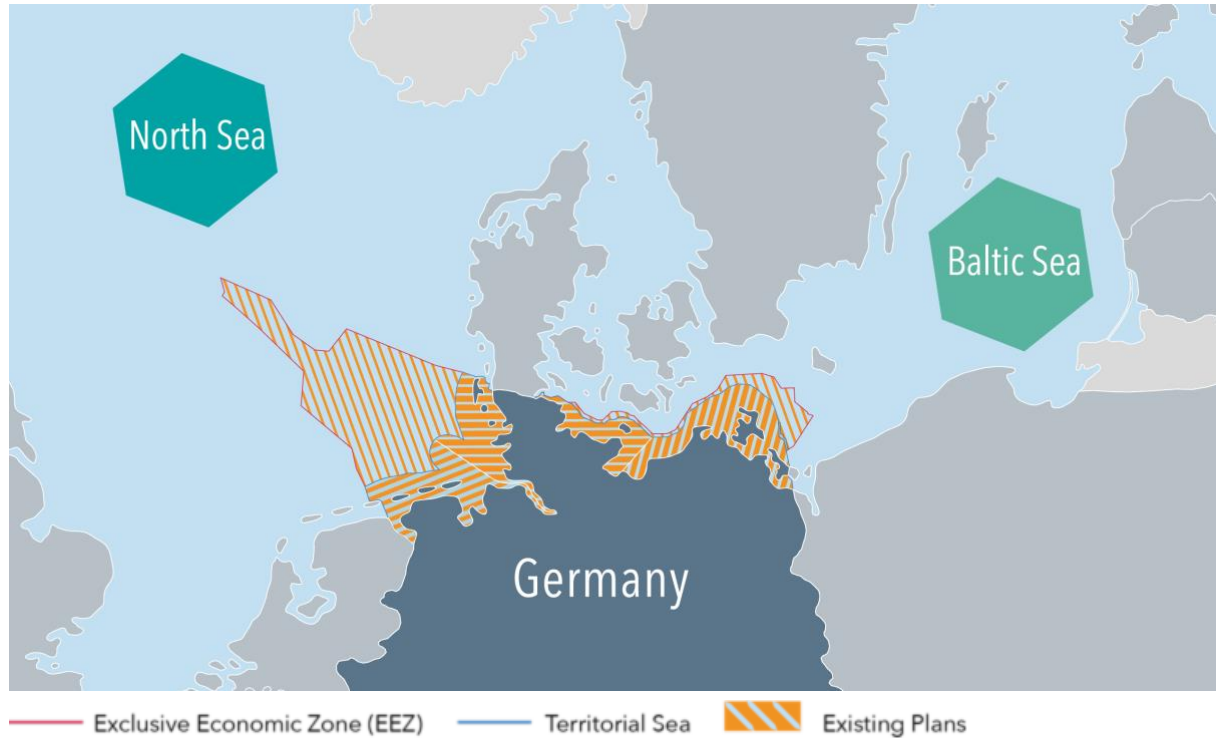
The Heritage Board gives important input for location and width of priority areas for MCH; classification schemes for MCH and categorization approaches have been developed and are

discussed with the relevant MSP authorities. The Board already provided sectoral maps to be included into the draft plans.

4.4.8 Conclusion

The strong stakeholder exchange is driving the process to incorporate MCH into the MSP process in an efficient way. Areas of national interest, proposed by the Heritage Board, are useful tools for MSP as spatial indication of MCH sites.

4.5 Germany - with a focus on the EEZ and the Federal State of Schleswig-Holstein



4.5.1 Protection of MCH (see template “statutory protection” – column: state level legislation and implementation)

Basically, archaeological cultural assets under water in Schleswig-Holstein territorial waters enjoy the same protection as on land (DSchG-SH § 2, Abs. 2), so that all other regulations - even without explicit mention - are consistently applicable to the underwater area. Immovable cultural monuments, e.g. shipwrecks are also included in the list of monuments. But according to the *ipsa lege* principle, the same protection also applies to undiscovered cultural monuments, i.e. consequently unregistered monuments (DSchG-SH § 8, para. 1).

Regardless of the territorial priority areas or reserved areas for sectors that have an intrusive space requirement (such as resource extraction), legal protection of cultural heritage is not undermined. Should an intervention be the reason for the damage of the underwater cultural heritage, a cost obligation for the causer to cover the investigation, preservation, salvage and documentation would result (DSchG-SH § 14), also within the frame of the Valletta Convention on the polluter pays principle. There is also the obligation to report new sites without delay to the upper monument protection authority (DSchG-SH § 15, para. 1) and the full or partial possession of a cultural monument that has come to light by excavation or by dive rescue requires a permit of the same (DSchG § 12, Para. 2, no. 7).



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4.5.2 MCH in spatial planning

In Germany the national MSP only qualifies for the exclusive economic zone (EEZ), there are separate plans for every federal state. Mecklenburg-Vorpommern and Schleswig-Holstein border with the Baltic Sea.

In the national MSP for the EEZ of Germany (implemented in 2009; Federal Maritime and Hydrographic Agency of Germany 2009) it has been stated that *known underwater cultural heritage sites shall be taken into account when selecting sites for resource exploitation. If unknown cultural heritages are discovered in the seabed while exploring for or exploiting resources, adequate measures shall be taken to protect them* (p.7). Cultural heritage has been selected as a non-living resource of the sea and this topic has been accounted under every separate sector of the sea area usage.

In the Schleswig Holstein state spatial plan (Landesentwicklungsplan Schleswig-Holstein 2010, https://www.schleswig-holstein.de/DE/Fachinhalte/L/landesplanung_raumordnung/Downloads/landesentwicklungsplan/landesentwicklungsplan_sh_2010.pdf?__blob=publicationFile&v=5) which also includes maritime planning includes maritime heritage as one of the parts of cultural tourism (p.106). The sea itself has been mentioned as a valuable landscape experience and therefore a view to the sea should be preserved (p.109).

Cohesive areas of high archaeological importance in areas pre-selected for potential development such as mining and wind energy are identified for the regional MSP plans.

a. Spatial responsibilities

The integration of the archaeological monument protection in the planning phase reflects a paradigm shift in the recent past, in which the scientific end in itself is not in the foreground, but a quality assurance of the cultural landscape, in order to meet a broader social claim (see Ickerodt & Lund 2015, 110). These changes are largely met by spatial planning legislation, although there is still no systematic inclusion of the underwater heritage.

Table 6 Overview of spatial responsibilities

Spatial Planning	Country	Territorial waters	EZZ
Spatial Planning of the State	No responsibility in Schleswig-Holstein	No responsibility in Schleswig-Holstein	Federal and Maritime Hydrographic Agency (BSH)
Highest administration of the Federal State Schleswig-Holstein	State chancellery	State chancellery	No responsibility

Cultural Heritage	Country	Territorial waters	EEZ
Highest Cultural Heritage Authority	Ministry for Education and Culture, Kiel	Ministry for Education and Culture, Kiel	Not existing (Supervision: Federal Authority for Culture and Media)
Superior Cultural Heritage Authority	State Archaeological Department of Schleswig-Holstein (ALSH)	State Archaeological Department of Schleswig-Holstein (ALSH)	Not existing
enkmalschutzbehörden Cultural Heritage Authority	Districts/district	Not existing	Not existing

Planning on national level

National legal base is the general Spatial Planning Act („Raumordnungsgesetz“ / ROG), which was made applicable to the EEZ in 2004. According to the German Spatial Planning Act the Federal Government is responsible for maritime spatial planning in the German EEZ.¹⁴ The amended ROG was decided in 2017 to (inter alia) implement the EU MSP directive.¹⁵ In 2019 a first consultation and scoping phase will start to evaluate the two maritime spatial plans in the two EEZs.

National MSP authority

The Federal Ministry of the Interior, Building and Community (BMI) is responsible for setting up maritime spatial plans for the German EEZ in the North and Baltic Sea.

Planning on regional level

Since the federalism reform, spatial planning has been part of competing legislation.

¹⁴ The amendment of the ROG in 2004 extended the scope of spatial planning according to the guidelines of the UN Convention on the Law of the Sea to include EEZ and allocated planning powers for the EEZ in the North and Baltic Seas (beyond the 12-nautical mile zone (territorial waters) outward to up to 200 nautical miles) to the Federal Government. This was the first time the Federal Government was assigned a concrete task in overall spatial planning.

¹⁵ Amended by art. 2 para 15 ROG in July 2017 (BGBl. I S. 2808)



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- The territorial sea is an integrated part of the (terrestrial) spatial plans of the coastal federal states.
- The ROG and the respective spatial planning law of each federal state provide the legal basis for federal plans and programmes:
- Schleswig Holstein: The State Development Plan was last amended in 2015. The start of the consultation for this plan was end of 2017. Although the state development plan is essentially based on the Federal Spatial Planning Act (ROG), here are some deviations that have validity in the territories of Schleswig-Holstein. This includes only the country itself and its territorial waters, but not the Exclusive Economic Zone (EEZ). Spatial planning in the EEZ is carried out for the Federal Ministry of Transport and Digital Infrastructure by the Federal Maritime and Hydrographic Agency (BSH), which ia. the scientific use (ROG § 17, Abs. 1, Nr. 3) should be included.
- Mecklenburg-Vorpommern: The Spatial Development Plan was extended to the 12-nm zone between 2003-2005 and adopted in 2005. Between 2013-2015 it was updated and became a legally binding act in 2016. Currently, MSP is rapidly progressing in the BSR. In Mecklenburg-Vorpommern maritime spatial plan of the second generation was adopted in 2016. In this plan UCH has been considered but not directly regulated. Also the revision of the German Baltic EEZ maritime spatial plan has been started. Officially adopted spatial plans do exist also in Estonia, Finland (both regional level), Latvia and Lithuania (both national level). In the Latvian plan, cultural monuments are identified although they are not regulated under MSP directly (sectoral law applies).
- Lower Saxony: The Federal Spatial Planning Program (LROP) contains the regional planning for the state of Lower Saxony. The LROP is based on a 1994 regulation, has since been updated several times, re-publicized in 2008 and last amended in 2017.

Regional MSP authority

Each federal state (Lower Saxony, Schleswig-Holstein, and Mecklenburg-Vorpommern) has authority to develop MSP plans for the territorial sea (12 nm-zone).

The national Spatial Planning Act has been revised and was implemented in 2016, mainly with regard to the MSP Directive's requirements for transboundary consultation and coordination in MSP, for taking into account the land-sea interactions and for applying the ecosystem approach.



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In 2018 the revision process of the MSPs for the EEZ of the Baltic and the North Sea has started with a planned preliminary draft and consultation (as part of the legislative procedure) in 2019. The final plan is foreseen for 2021.

b. Legal mandate for spatial planning

The Directive 2014/89 / EU "Establishing a Framework for Maritime Planning" (adopted by the European Parliament on 23 July 2014) establishes a timeframe until 31 March 2021 for the preparation of maritime spatial plans in of the EU zone, which determines that inter alia the underwater heritage may be taken into account (see Principle and Article 8, point 2). This grants individual member states a margin of discretion, which ultimately does not bind them to the consideration of all the sectors listed in Art. 8, No. 2. Also in the principle of the Spatial Planning Act (ROG) is only in general form the goal pronounced in the total area of the Federal Republic of Germany and its sub-areas "balanced (...) to seek cultural conditions" (ROG § 2 Abs. 2 No. 1) and "historically shaped and grown cultural landscapes "(ROG § 2 para. 2 no. 5). Archaeological monuments and landscapes are only explicitly referred to in relation to other uses, namely in the context of possible effects of other forms of use on them, which are to be determined in an environmental assessment (ROG § 8 para. 1 no. 3-4, as well as appendix 2) to ROG § 8, para. 2, no. 2.6.9).

According to the ROG, only a subordinate role in the regional planning procedure could be attributed to cultural heritage. defined by the effects of other uses on the same. However, this point is relativized in the Schleswig-Holstein State Planning Act in favor of the preservation concerns, because this stipulates that for areas for which no environmental impact assessments have been completed, the regional planning procedure u.a. Culture and other assets as well as their interaction with other protected goods should be examined and agreed on at the earliest possible point in time and under local circumstances (LaplaG § 14, Abs. 2, Nr. 3-4). The result of this procedure should contain at least a description of the spatial starting position, in particular its ecological as well as cultural-historical equipment (LaplaG § 15, Abs. 1, Nr. 3). Thus, the regional planning procedure in Schleswig-Holstein already anticipates practically an investigation similar to the environmental impact assessment and does not treat the interests of the cultural heritage first.

This idea also corresponds to the "sustainable use of resources by cultural assets", as defined in the General Provision of the Schleswig-Holstein Monument Protection Act (DSchG § 1, para. 1). The active contribution of archaeological cultural monuments to the regional spatial planning and urban development planning not only complies with the idea of protection, but also with the exploitation of the cultural-historical potential (Ickerodt & Lund 2015, 110).



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Therefore, a

subordinate consideration of archaeological cultural assets in the context of environmental assessments would be insufficient to meet these demands. Previous precedents for protection zones and environmental protection in the Baltic Sea underwater area are so far only for the port area of Haithabu (aKD-ALSH-003762) and the naval battlefield before Bülk before (aKD-ALSH-000017) (according to DSchG-SH § 10, Abs. 1).

c. Mandate for the implementation of environmental assessment/Natura 2000 and other instruments – relation?

Regardless of spatial planning, an essential planning element is already covered by the Environmental Impact Assessment Act (UVPG), which must also take cultural heritage into account (UVPG § 2, para. 1, no. 4). However, this is directed to a designated section and the focus is an assessment of the loss of archaeological substance. Therefore, the consideration of an archaeological cultural landscape, which requires a holistic approach, is hardly possible via the instruments of an environmental impact assessment. While in the territorial waters archaeological and / or culturally important areas are to be included in spatial planning right from the beginning, in the Exclusive Economic Zone (EEZ) no direct planning inclusion of the underwater cultural heritage is intended and can only be found within the framework of environmental impact assessments Consideration (EEZ Baltic Sea ROV and ESPOO Convention 2017, Appendix III, No. 1b).

An environmental impact assessment (in accordance with UVPG § 16, para. 1) with archaeological reference was already carried out as part of the fixed link across the Fehmarnbelt, during which some wrecks and anomalies were investigated by ROV and diving (Dencker et al 2015). The application of an artificial sand-gravel mound ensured sustainable in situ protection of the wreck site (Hyttel et al 2015, 86). Since the wreck is not directly in the planning corridor, a salvage was not necessary. If the environmental impact assessment had shown that such a significant wreck site like this is directly in the planning corridor, this would either have resulted in a rescheduling or would have led to a professional underwater excavation with salvage, which would have had to be financed according to the polluter pays principle. Both measures would have meant great costs for the polluter. Therefore, § 14 of the Schleswig-Holstein Land Planning Act not only benefits the monument preservation matters, but also those of the builders, who have a drastically improved planning security by the early investigation in the regional planning procedure (in anticipation of a compulsory environmental impact assessment).

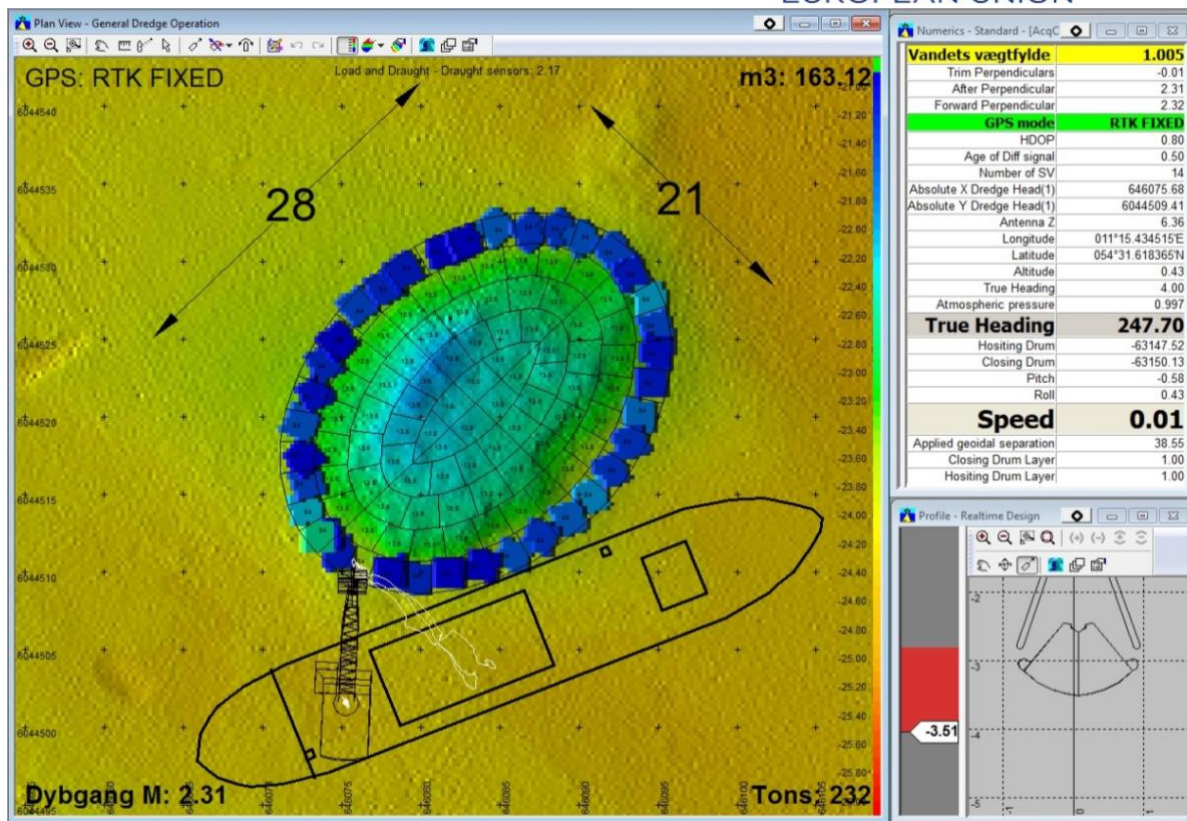


Fig. 1. Landfill of a sand hill with a gravel ring as sustainable in situ protection of the wreck site through the DGPS-positioned work ship "Merete Chris" (Hyttel et al 2015, fig. 59).

d. Future necessary protection in planning processes

With the anticipated recognition of Haithabu-Danewerk as a UNESCO World Heritage Site, there is a protection zone around the sea barrier of Reesholm (according to DSchG-SH § 2, Abs.3, Nr. 1, §10, Abs. 2) as well as buffer zones (DSchG-SH). SH § 2, Abs.3, Nr. 2) in the water area, which includes the entire Haddebyer Noor, sections of the Selker and Windebyer Noors, as well as the loop at the sea barrier at Reesholm (see Maluck & Weltecke 2017, 16ff.). In these buffer zones certain forms of land use are to exclude, which limit the monument in its effect (ibid. 261ff.).

Another gap to a large-scale protection is currently emerging for submerged coastal settlements of the Mesolithic, which emerge due to the postglacial subsidence in similar depths of eroded peat layers. Coastal structures such as old bridges, defense works and port facilities, or sea areas in which several historic shipwrecks can be located or suspected (e.g. due to a naval battle, a busy roadstead, or a ship graveyard) form spatial entities where the archaeological preservation of monuments in the sense of sustainable cultural management concerns Has. Although many of these above-mentioned sites are already monuments according to DSchG-SH §2, their protection cannot yet be adequately guaranteed or taken into account, since their positions are not made public.



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e. Areas outside regional territorial waters

In purely legal terms, the EEZ is not defined as a territory, but within the framework of the Convention on the Law of the Sea, objectives and principles of regional planning can be exercised by the neighbouring state (Nolte 2010, 79). However, this does not happen through the federal states, but federal authorities. However, there is nevertheless a legitimate interest in the inclusion of the EEZ, since the Spatial Planning Act presupposes supra-regional and supranational cooperation (ROG § 2, para. 2, no. 8). Especially in the Baltic Sea, where the German EEZ only forms a thin strip of a few nautical miles between Schleswig-Holstein and Danish territorial waters, a cross-border approach is recommended. As stated at the beginning, there is no federal authority responsible for the preservation of historical monuments. However, with regard to the protection of cultural property, the EEZ is not a law-free area, since the highest federal authority responsible for culture and media has the supervision for the Federal territory (KGSG § 3, para. 2).

According to the Cultural Property Protection Act (KGSG), the latter is also responsible for "cultural objects unlawfully removed from the territory of a Member State" (according to KGSG § 3, section 2), whose definition also includes archaeological cultural assets from waters of the state of origin (according to KGSG §. 2, para. 1, no. 1 and 8). However, the Cultural Protection Act refers primarily to the art trade, in so far can be doubted that salvaged by robbery cultural assets in the EEZ was perceived as part of the jurisdiction of the Authority accordingly.

Although the Ordinance on Spatial Planning in the German Exclusive Economic Zone in the Baltic Sea (EEZ Baltic Sea ROV) basically gives maritime navigation in the EEZ priority over all other uses, the interests of cultural assets and their protection against the extraction of raw materials (EEZ Baltic Sea -ROV § 2, para. 3.2.1, no. 10), route paths (EEZ-Baltic Sea ROV § 2, para. 3.3.1, no. 7), marine scientific research activities (EEZ Baltic Sea ROV § 2, para. 3.4.1, No. 6), offshore wind farms, (AWZ-Baltic ROV § 2, para. 3.5.1, no. 12), mariculture and fisheries, (AWZ-Baltic ROV § 2, para. 3.6. 1, no. 4), with the wording for all sectors always being unchanged as follows: The choice of location for [...] should take into account known sites of cultural objects. If cultural objects found in the seabed are found, appropriate measures should be taken to safeguard the cultural assets. If the reason to e.g. extraction of raw materials (identical in the other sectors) is explicitly addressed by archaeological goods: in the seabed, cultural assets of archaeological value, such as Bodendenkmale, also settlement remains or historical shipwrecks. A large number of such shipwrecks are known and recorded in the underwater database of the Federal Maritime and Hydrographic Agency (BSH).

The information available to the competent authorities should be taken into account when defining a mining area. However, it cannot be ruled out that previously unknown cultural

assets can be

found in the search for and extraction of raw materials. In order to avoid damaging them, appropriate precautionary measures should be taken in agreement with the competent authority. Due to the absence of a "competent body" for the preservation of historic monuments in the EEZ, specialized authorities must be individually determined. In preparation for the fixed link across the Fehmarnbelt, the supervision of the archaeological preservation of monuments in the AZW in the area of the Fehmarn Belt was subordinated to the ALSH by an extension clause (personal comm. Ulf Ickerodt). This shows that a planning approach to underwater cultural heritage is possible only in the context of imminent development and meets the minimum requirements of the EEZ Baltic Sea ROV. However, sustainable, anticipatory planning including cultural heritage is not yet possible. This could change with the ratification of the UNESCO Convention for the Protection of the Underwater Heritage.



Fig. 2. The German Exclusive Economic Zone (EEZ) in the Baltic Sea in the previous planning (Source:



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4.5.3 Special spatial contexts

a. Sea floor

Even more important than the seabed surface is the sediment underground for archeology. The Schleswig-Holstein State Planning Act (LaplaG) explicitly includes the subterranean areas

of the Schleswig-Holstein region (LaplaG § 2, para. 2), and therefore also the seabed in the territorial waters. This is further specified in the general provisions, where a "conservation of certain properties of the subsoil, in particular special geological or geomorphological formations (...)" (LaplaG § 5, paragraph 3) is set. Ebendiese condition also the finding context and condition of preservation and in the monument protection law (in another wording but identical content) also as part of a cultural monument: "(...) this also includes real evidence such as changes and discoloration in the natural soil condition (...)" (DSchG -SH § 2, para. 2, no. 2).

b. Cultural landscapes

The Spatial Planning Act should also apply to large-scale planning and be explicitly applicable to historically shaped and grown cultural landscapes in their distinctive features and with their cultural and natural monuments as well as the UNESCO World Cultural and Natural Heritage (ROG § 2, Abs. 2, Nr. 5). With this aim, there is a consensus on preventive flood protection through the designation of retention areas, relief areas and floodplain reclamation, which is also to be completed deep inland (ROG § 2, para. 2, no. 6). If this is in the form of a gradual deconstruction of modern river straightening, land reclamation and direct ditching (such as in the Netherlands), these measures are appropriate to give river landscapes a more original character, in which rivers and meadows will be given the space natural meanders, river islands and To form floodplains. Not only would this have a major impact on the overall perception of a fluvial cultural landscape, but it could also alter the rate of discovery of new archeological settlement sites due to altered erosion dynamics.

Minor changes to the spatial plans may be subject to an environmental assessment. Nevertheless, possible effects on the likely areas affected, i.a. with reference to monuments or memorials listed in official lists or maps, monuments or territories classified as archaeologically significant by Land designated monuments authorities (Annex 2 to ROG § 8, para. 2, no. 2.6.9). For Schleswig-Holstein, this would include not only the list of monuments, but also the areas of interest selected by the competent monument protection authority - the Schleswig-Holstein Archaeological State Office - taking into account the country survey and probabilities based on topography and conservation conditions



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c. Border regions

The possibilities for a holistic planning, which bridges jurisdiction borders, is with regard to both country and federal territory (ROG § 24, Abs. 3), as well as to the areas of neighbouring states (ROG § 17, Abs. 1, ROG § 24, Para. 3, ROG § 25). Therefore, it can be expected that both the BSH (for the Confederation) and the State Chancellery Kiel (for the country) will cooperate in order to achieve cross-border coherence. According to LaplaG § 5, para. 11, the environmental assessment for spatial planning plans taking place after ROG must also take into account the effects on areas of neighbouring states and notify the responsible state or its authority (ROG § 9 para. 4).

4.5.4 *International agreements* (see template “statutory protection” – last column: International Conventions and Directives)

In the following, international conventions related to underwater heritage and maritime spatial planning are analysed, always based on the latest version or revision. It is determined whether regulations are purely normative, whether they have already been integrated into the state laws, and whether in practice conflicts and contradictions in the interpretation of the laws arise. In anticipation, conventions are also being analysed that have not yet been ratified by Germany at the present time, but whose forthcoming ratification can be considered probable. The conventions are listed in chronological order.

International agreement	Description	
UNESCO Convention	Germany ratified the Convention in 1976	
UNCLOS	Germany accepted the Convention in 1994	
Valetta Convention	Signed in 1992 and ratified in 2003	
Rio Declaration	Germany was represented at the Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Germany did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Germany signed the Convention.	
Faro Convention	Germany did not sign the Convention.	
Draft model provisions on State Ownership of		



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Undiscovered Objects	Cultural		
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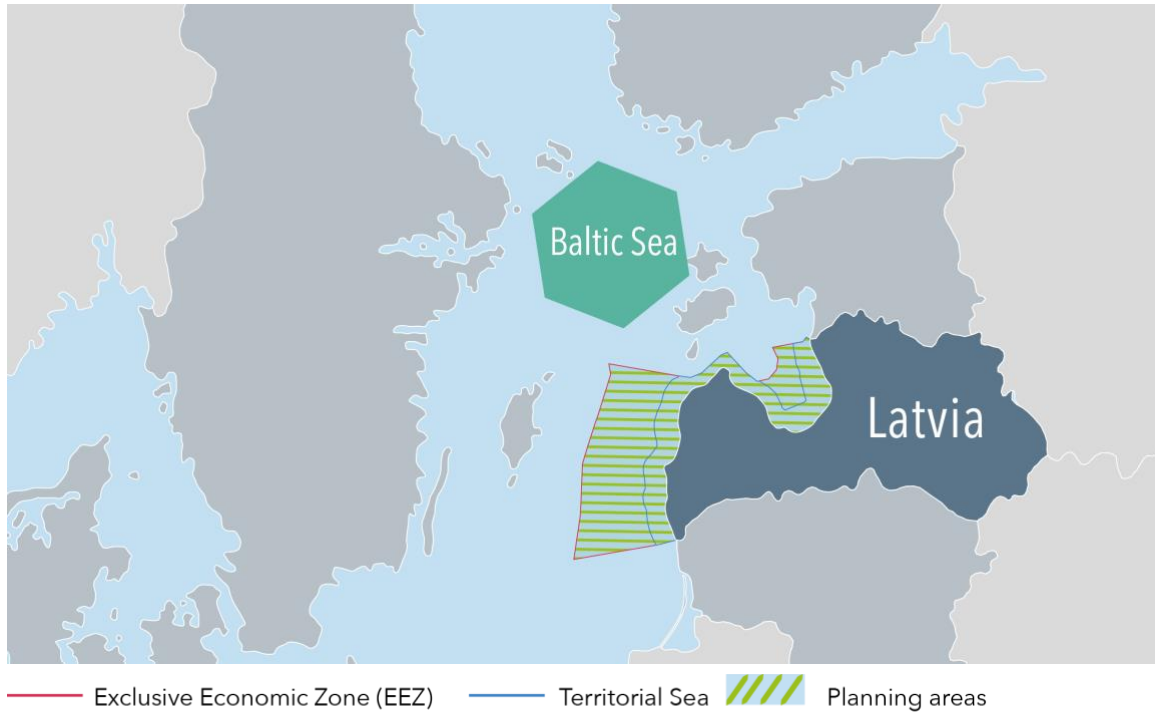
4.5.5 Potential barriers to integrate MCH into planning

- MCH taken into account too late – at the level of the real project planning (EIA and SEA)
- Therefore planners often do not have time to take MCH really into account; stronger sectors are often pushing and demanding a quick planning approach to save money
- In the Exclusive Economic Zone (EEZ), MCH has to be taken into account, but the first real consideration only takes place in the framework of the sub-soil investigations (for example, for corridors, routes for cables, etc.) - which is quite late.
- Solution: It would be better if, as with gravel mining legislation, a precise regulation and step-by-step approach how to handle finds, are available. This would avoid investigation, gather data and seeking of individual solutions for every single real project planning.

4.5.6 Practical ways to integrate MCH into MSP

- There is no consideration of MCH in the main map (1 : 300.000), although not impossible for regional plans
- Due to the character of a shipping waterway, no detailed MSP is possible along the coastal sea in S-H

4.6 Latvia



4.6.1 Protection of MCH

- MCH is protected under the Heritage Act (§18) and building law
- No specific reference to marine areas

4.6.2 MCH in spatial planning

Legal mandate for spatial planning

In Latvia the MSP process is also ongoing (Ministry of Environmental Protection and Regional Development 2018). Underwater cultural heritage, including wrecks have been mentioned there in several cases and the preservation principles of all underwater heritage assets are stated in case of different sectors: healthy marine environment, tourism and recreation, and offshore energy. Not just the preservation of known underwater heritage has been emphasised, but also the identification and preservation of unknown underwater heritage in case of building projects.



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Cultural heritage is also mentioned as an opportunity for viewing in the part concerning unified development of the Baltic Sea Region.

4.6.3 Spatial responsibilities

Latvian marine waters are owned by the State. Therefore, MSP is organised at national level. The responsibility is divided between respective sectorial ministries (Environment, Agriculture, Transport, Economy), whereby the Ministry of the Environmental Protection and Regional Development (MoEPRD) has the main responsibility. In 2015 the competence of planning and management of the 2 km zone seawards from coastline has been given to local municipalities.

In 2009, local authorities have been reduced from 552 to 119 while there are still 5 planning regions.²

General Information on Legislation

The legal base for MSP in Latvia is the Spatial Development Planning Law, issued on 1st of December, 2011, where MSP and the deadline for starting its elaboration (by 1st of January, 2014) is defined, as well the secondary legislation is prescribed. The Regulation of the Ministers' Cabinet (Nr. 740) on Development, Implementation and Monitoring of a Maritime Spatial Plan has been approved by the Latvian Government in 2012.³ The content elaboration procedures, as well as implementation and monitoring procedures of MSP, are defined. The MSP Plan must be submitted and announced through ordinary legislative procedures according to the Cabinet of Minister rules of order. The Government shall approve the MSP.

The benefits of the new Spatial Development Planning Law are a) the integrated long-term view to all territory and b) to set priorities and development objectives (spatial structure plan).⁴

Planning on national level

- The legal base for MSP is the Spatial Development Planning Law, issued on 1st of December 2011; with deadline for starting the elaboration (by 1st January 2014)
- Marine Environment Protection and Management Law (2010) states the necessity of MSP
- The Regulation of the Ministers' Cabinet (Nr. 740) on Development, Implementation and Monitoring of a Maritime Spatial Plan (2012)
- Current legislation covers territorial waters (including internal marine waters) and EEZ

National MSP authority



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- Ministry of Environmental Protection and Regional Development, Department of Spatial Planning (MoEPRD)

Planning on regional level

- There exist already several coastal regional strategies, which principally are focused on terrestrial areas. However two regions, which border the sea in their strategies, consider land-sea interaction and ICZM.

Regional MSP authority

There is none, however local municipalities can plan coastal water areas related to the recreational development. According to the Land Management Law, the terrestrial planning could also cover waters of 2 km wide zone from the coastline.

¹ <https://www.museovirasto.fi/en/cultural-environment/archaeological-cultural-heritage/underwater-cultural-heritage-in-finland>

² http://www.daba.gov.lv/upload/File/Prezentacijas/IntegrPI_140212_LV_IValdmane.pdf

³ Available in English,

[http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_740 - Developmentx Implementation and Monitoring of the Maritime Spatial Plan.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_740_Developmentx_Implementation_and_Monitoring_of_the_Maritime_Spatial_Plan.doc)

⁴⁴ http://www.daba.gov.lv/upload/File/Prezentacijas/IntegrPI_140212_LV_IValdmane.pdf

The final draft of the Latvian MSP and SEIA will be circulated for second transboundary consultation in August 2018.

4.6.5 International agreements

International agreement	Description	
UNESCO Convention	Latvia accepted the Convention in 1995.	
UNCLOS	Latvia accepted the Convention in 1994.	
Valetta Convention	Latvia signed and ratified the Valletta Convention in 2003	
Rio Declaration	Latvia was represented at the Rio Conference	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Latvia did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	The Latvian National Centre for Culture is the responsible body in Latvia for the implementation of the Convention. In 2016 the Law on Intangible Cultural Heritage was adopted – it establishes the National List of ICH, the Council of the ICH, provisions for funding for ICH projects and activities (including preparation of	

	nominations) by the State Culture Capital Foundation, rights of communities to use and transmit its ICH.	
Faro Convention	Latvia signed the Convention in 2005 and ratified in 2006.	

4.6.6 Potential barriers to integrate MCH into planning

The plan has been approved in 2018 and no new approach will be taken to integrate MCH until 2021.

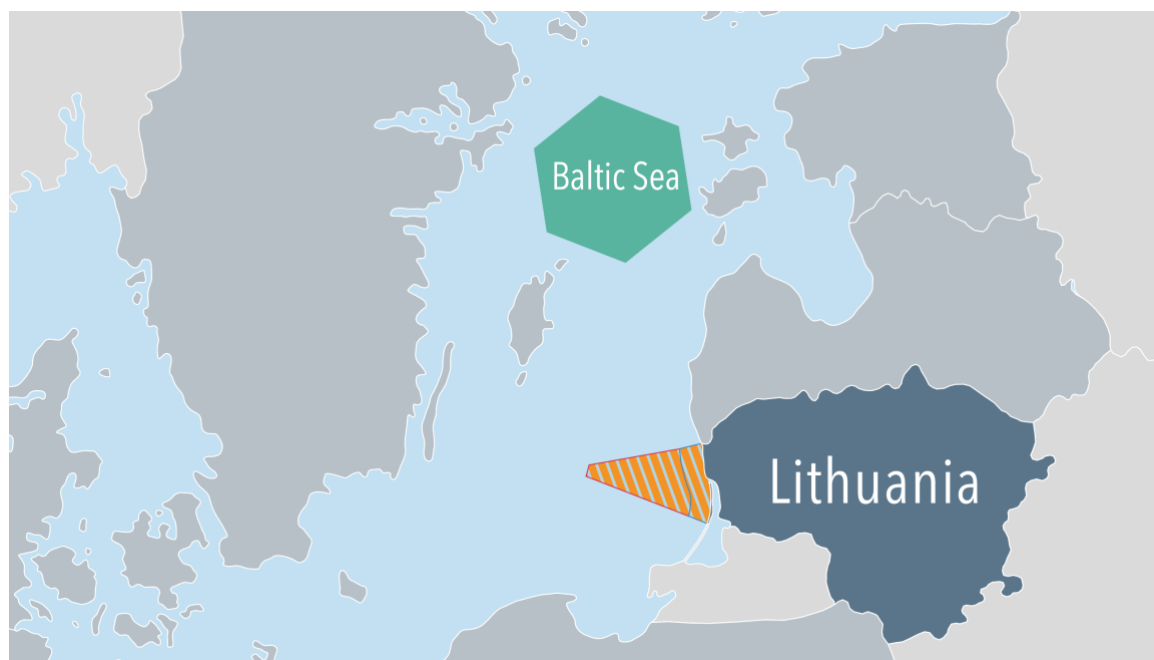
4.6.7 Practical ways to integrate MCH into MSP

Nevertheless, precise sectoral maps on MCH can foster a dialogue between stakeholders and support the preparedness of planners to take MCH into account during the next generation of plans.

4.6.8 Conclusion

Possibly, potential wording for national MSP legislation/strategies can support the integration of MCH.

4.7 Lithuania



— Exclusive Economic Zone (EEZ) — Territorial Sea  Existing Plans



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4.7.1 Protection of MCH

(see template “statutory protection” – column: state level legislation and implementation)

National MSP authority

4.7.2 MCH in spatial planning

Legal mandate for spatial planning

In Lithuania the MSP process ended in 2013 and there is a n implemented maritime spatial plan (Blažauskas 2011). The cultural heritage part is quite short, it has been mentioned that there are no national monuments in the sea, but there are some known wrecks that should be taken into account when building projects are conducted (p. 27-28). Identification of new objects has not been mentioned.

4.7.3 Spatial responsibilities

Planning on national level

- There are more than 20 legal acts (laws and governmental resolutions guiding the use of the sea space).
- MSP is included into the Law on Territorial Planning, 2014
- MSP applies to the entire marine area of Lithuania including territorial waters and the EEZ.
- The UN Law of the Seas is implemented in national legislation on Exclusive Economic Zone. It specifies sectoral laws, which are implemented on EEZ.

National MSP authority

Ministry of the Environment: Territorial Planning, Urban Development and Architecture Department; Spatial Planning Division

The Comprehensive Plan of the Republic of Lithuania (and its part “Maritime territories”) is adopted. The planning solutions are obligatory for implementation since making public (following the legal requirements) the information on adoption of the Plan. The plan is as an extension of the terrestrial spatial plan.

4.7.5 International agreements



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International agreement	Description	
UNESCO Convention	Lithuania accepted the Convention in 1992.	
UNCLOS	Lithuania accepted the Convention in 2003.	
Valetta Convention	Lithuania signed the Valletta Convention in 1998 and ratified it in 1999.	
Rio Declaration	Lithuania was represented at the Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Lithuania ratified the Convention in 2006.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Lithuania continues to improve and develop the national legislation for intangible cultural heritage preservation, research and promotion. In 2015 a new recast of the Law of National Heritage Products (2007) was adopted. The Law defined a system of stimulating and supporting traditional craftsmen. It contributed to developing the field of traditional crafts in general.	
Faro Convention	Lithuania did not sign the Convention.	

4.7.7 Practical ways to integrate MCH into MSP

Examples of legal and management tools for the integration of MCH aspects into MSP lie in the development of sectoral maps and the integration into Environmental Impact Assessments.

4.7.8 Conclusion

Ways to integrate MCH into planning and management are twofold: providing background data and sectoral maps to be integrated into the new generation of plans after the year 2021.

4.8 Poland



4.8.1 Protection of MCH

see template “statutory protection” – column: state level legislation and implementation

4.8.2 MCH in spatial planning

Legal mandate for spatial planning

- In Poland maritime spatial planning has been an on-going process since 2013 (Maritime Institute in Gdansk 2016). In the Polish MSP draft cultural heritage is represented by areas of cultural heritage – wrecks (including wrecks – war cemeteries), underwater remains of settlements. Cultural heritage is covered in pages 265-269, where it has been defined according to the UNESCO convention of underwater heritage and legal documents of Poland. The underwater sites have been mapped and the principles of protection described.
- The need for cultural heritage protection has also been mentioned in case of the areas for wind farms. It has also been stated that in areas where the knowledge of underwater cultural heritage is incomplete according to the analysis made during the MSP process the sea bottom should be investigated prior to any building project. Around the existing cultural heritage objects protection zones should be established.



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maritime spatial plan also includes areas of archaeological repositories and spaces for archaeological park(s) in areas of more intense development of wreck tourism (diving).

- Synergies and conflicts were discussed with stakeholders and the conflict between trawling and preservation of underwater cultural heritage was brought up
- Damaging cultural heritage is also mentioned in connection of flood hazards

4.8.3 Spatial responsibilities

Planning on national level

- The main legal act is the “Act on sea areas of the Republic of Poland and the maritime administration” of March 21st 1991
- Due to implementation of the Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning (MSP Directive) to the Polish law, Polish Parliament has adopted changes in this Act on 5th of August 2015, regarding inter alia, MSP procedures in Poland. The new law is already in force.
- MSP regulations apply to all Polish sea areas, i.e. the internal sea waters, territorial sea and EEZ.

National MSP authority

A maritime spatial plan is adopted by ministerial regulation by the minister responsible for maritime economy and the minister responsible for construction and spatial planning and development in consultation with the ministers responsible for environment, water management, culture and national heritage, agriculture, fisheries, transport, internal affairs and the Minister of National Defence. The drafts of the plans are prepared by the territorially competent Directors of Maritime Offices.

Progress

Preparation of a legally binding maritime plan for all Polish sea areas, except areas of ports, the Szczecin Lagoon, Kamieński Lagoon and the Vistula Lagoon, officially started on 15th November 2013. Directors of Maritime Offices signed an agreement for cooperation on elaborating one, coherent plan for the area mentioned above. The first stage of this process “Study of the Conditions of Spatial Development of Polish Sea Areas” was completed in March 2015. The Study is already available in Polish and English on the websites of maritime offices, for example Maritime Office in Gdynia website: <http://www.umgdy.gov.pl/?cat=96>

At the end of March 2016 the Maritime Office in Gdynia has launched the procedure of developing “The maritime spatial plan for Polish Maritime Areas in the scale 1: 200 000 together with Strategic Environmental Assessment report”, covering all Polish sea areas except areas of ports, the Szczecin the Vistula and the Kamieński Lagoons. The zero draft of the plan (covering delimitation of sea areas and their basic / main and other allowed functions) was ready by the end of June 2017 and was consulted intensively with different stakeholders.



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specialised meetings (i.e. discussing concrete problems such as navigation or fishing in offshore wind farms) and one meeting for the general public were organised in the fall of 2017. The results were used for drafting the first version of the plan, containing also the detailed regulations and prohibitions for all delimited sea areas. The first draft was displayed to public hearings on the 19th of June 2018. Together with this draft, a SEA report was opened to the public hearing. The plan was prepared in collaboration with the team responsible for the SEA report. In parallel, cross-border consultations took place.

In the EEZ

The first complex approach for the EEZ was proposed in Poland. In the Pilot Maritime Spatial Plan for the Western Part of the Gulf of Gdańsk specific prohibitions and requirements were formulated with regard to the protection of MCH for each sea sub-area. Also in the pilot maritime spatial plan for the Southern Middle Bank the following requirement was proposed: „On requirement of the maritime administration, routes of linear infrastructure, location of mining, research or production activities may be changed in order *to protect objects of cultural heritage* against damage caused by installation, construction or mining works, or during monitoring, repairs and dismounting in the future.” This proposal can be considered as the first practical attempt to protect MCH in the EEZ where direct legal and applicable instruments for the sea areas under limited national jurisdiction are absent.

The philosophy tested in the Middle Bank pilot plan was based on the assumption that MCH can be protected in EEZ from damages, even caused by activities being under legal supervision of the coastal state. This was the first time in the BSR that the idea, investments must be preceded by an inventory of MCH in the area for which a mining license or permission for constructing and use of artificial islands, structures or installations is issued, was spelled out during the planning process. A solution was that if such objects are found during construction, installation, monitoring, maintenance or repair works, appropriate organs of maritime administration shall be informed, and location of the investment shall be changed to protect the MCH against damage.

4.8.5 *International agreements* (see template “statutory protection” – last column: International Conventions and Directives)

International agreement	Description	
UNESCO Convention	Poland ratified the Convention in 1976.	
UNCLOS	Poland ratified the Convention in 1998.	
Valetta Convention	Poland signed the Valletta Convention in 1992 and ratified it in 1996.	
Rio Declaration	Poland was represented at the Rio Conference.	
UNESCO Convention on the Protection of the	Poland did not sign the Convention.	

Underwater Cultural Heritage		
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Poland ratified the 2003 Convention on the 8th February 2011 and the ratification document was submitted to UNESCO on 16th May 2011. However, even before the ratification, the Polish National Commission for UNESCO and various institutions had been working on the foreseen implementation of the Convention. Efforts in this regard had been made both by the Ministry of Culture and National Heritage (Ministerstwo Kultury i Dziedzictwa Narodowego, hereinafter: MKiDN), including the Monuments Preservation Department, and by a distinctive body created by MKiDN in 2010, the Intangible Cultural Heritage Committee	
Faro Convention	Poland did not sign the Convention.	

4.8.7 Practical ways to integrate MCH into MSP

Polish MCH authorities provide classification schemes for MCH sites in territorial waters as well as sectoral maps. Both has been uptaken by the MSP authority, at least for consideration. Practical integration of MCH into the MSP until 2021 seems, however, unrealistic.

4.9 Sweden



— Exclusive Economic Zone (EEZ) — Territorial Sea  Planning areas



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4.9.1 Protection of

- Available knowledge on the existence of MCH is included in the evidence for MSP and considered in the preparation of the plans.
- The role of the Strategic Environmental Assessment linked to the Swedish plans includes impacts on cultural heritage and landscape.
- The plans can designate “K” for Culture for areas with cultural or natural heritage sites, where cultural and natural heritage values must be maintained.
- A special designation is in addition available in the Swedish plans for “Particular consideration of high cultural landscape values”.

4.9.2 MCH in spatial planning

a. Legal mandate for spatial planning

- The *type of presentation* of MCH assets depends on the type of MCH, but some spatial designation would be preferred to be as specific as possible with the guidance of the plan.
- MSP may provide a framework for special management approaches and indicate how coexistence between interests including MCH can be achieved.

b. Mandate for the implementation of environmental assessment/Natura 2000 and other instruments – relation?

In Sweden sector authorities designate/propose so called areas of national interest. The Swedish National Heritage Board has the mandate to propose such national MCH-areas. This has however not been done yet. But work is in progress. Such sites would be useful for MSP as a spatial indication of MCH-sites.

4.9.3 Spatial responsibilities

Planning on national level

- Legislation for national marine spatial planning in Sweden has been in place since the 1st of September 2014.
- According to additional section provisions in chapter 4 of the Environmental Code (Sept. 2014), (municipal) marine spatial plans shall be produced for the Gulf of Bothnia, the Baltic Sea as well as for Skagerrak/Kattegat, adopted by the Government. They will cover Sweden's EEZ and all areas in Swedish territorial waters from one nautical mile of the baseline seawards that do not constitute private property. The marine spatial plan shall provide guidance to public authorities and municipalities in the planning and review of claims for the use of the areas covered by the plans. The plans shall contribute to sustainable development.



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National MSP authority

- Ministry of Environment and Energy, supported content wise by the Swedish Agency for Marine and Water Management (SwAM)
- SwAM is supported by the counties of Västra Götaland, Kalmar and Västernorrland, whom have been given the responsibility by the Government to coordinate the work for the three MSP plans in the Gulf of Bothnia, Skagerrak/Kattegat and Baltic Sea.

Planning on regional level

- The municipalities are the lead agencies. Each of the 80 municipalities with sea territory can practice MSP out to the territorial boundary (12 NM from the Base Line). Only a few of the 80 municipalities engage in any marine planning within the territorial sea (baseline to 12 nm). The plans are to be adopted by the municipal assembly.

Regional MSP authority

Only regional planning mandate in two regions, the regional political level has so far played a small supportive role for MSP.

On 15 February 2018 SwAM published draft MSP-proposals for consultations, covering the three national MSP areas (Gulf of Bothnia, Baltic Sea and Skagerrak/Kattegat). On 10 April, strategic environmental assessments (SEAs) and sustainability assessment were published. The SEAs were as far as possible based on the results of the cumulative impact assessments made with the Symphony-tool. During spring 2018 a number of consultation meetings were held with a broad range of stakeholders including County Administrative Boards, municipalities, central government agencies, trade organisations, NGOs, regions, academia and neighbouring countries. The formal consultation ends on 15 August 2018. A meeting with neighbouring countries was held on 19 June in Malmö.

Espoo-consultations started on 15 June 2018 and will run to 15 September 2018 with final deadlines set for 1st October 2018. All plans and SEAs will be translated to English.

4.9.5 International agreements (see template “statutory protection” – last column: International Conventions and Directives)

International agreement	Description	
UNESCO Convention	Sweden ratified the Convention in 1985	
UNCLOS	Sweden ratified the Convention in 1996. It is the understanding of the Government of Sweden that the exception from the transit passage régime in straits, provided for in Article 35 (c) of the Convention is applicable to the strait between Sweden and Denmark (Oresund) as well as to the strait between Sweden and Finland (the Aland islands). Since in both those straits the passage is regulated in whole or in part by long-	

	standing international conventions in force, the present legal régime in the two straits will remain unchanged." The Kingdom of Sweden recalls that, as a member of the European Community, it has transferred competence in respect of certain matters governed by the Convention.	
Valetta Convention	Sweden signed the Valletta Convention in 1992 and ratified it in 1995.	
Rio Declaration	Sweden was represented at the Rio Conference.	
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Sweden did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Sweden ratified the Convention for the Safeguarding of the Intangible Cultural Heritage in January 2011. Since then, the Institute for Language and Folklore has an assignment from the Swedish government to develop working methods on the Convention, and to be the coordinating state agency responsible for work with the Convention in Sweden.	
Faro Convention	Sweden did not sign the Convention.	

4.9.8 Conclusion

Practical steps like MCH classification and development of planning tools to integrate MCH have been taken, e.g. in the SYMPHONY project. Intensive stakeholder consultation will guide planners to use these data and incorporate MCH at least on a low level, e.g. as sectoral map.

4.10 Russia

Up to date, in the Russian Federation there is no legislation on maritime spatial planning. Its development, which began in 2012, was suspended in 2014 due to the need to adopt laws of a higher level. Since these laws have not yet been adopted, there is no progress in developing a law on MSP. Nevertheless, experts and scientific institutes from Russia actively participate in international projects and meetings dedicated to various aspects of the application and implementation of MSP.

However, there is some legislative background:

- Federal law “On strategic planning of the Russian Federation” (2014)
- Federal Law “On State Administration of the Marine Activities of the Russian Federation” (draft, 2015)



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Law “On Maritime (Aquatorial) Spatial Planning” (concept, 2014)

There are also some strategic documents which can be used for MSP:

- National strategy for the development of marine activities – 2030 (2019)
- Marine Doctrine of the Russian Federation – 2030
- Regulation No372 “On Environmental Impact Assessment” (2000)
- National Security Strategy of the Russian Federation – 2020
- Strategy for studying the oil and gas potential of the continental shelf of the Russian Federation – 2020
- Port infrastructure development strategy – 2030
- Transport strategy of the Russian Federation – 2030

The planned date for the development of legislation on MSP in Russia is 2020.

As for the MCH, based on the Federal Law “On Objects of the Cultural Heritage (Historic and Cultural Monuments) of the Peoples of the Russian Federation” dated 25.06.2002 No73-FZ, it is reasonable to allocate the following categories of maritime cultural heritage objects:

1. Cultural heritage object of the federal significance;
2. Cultural heritage object of the regional significance;
3. Cultural heritage object of the municipal significance;
4. Revealed cultural heritage object;
5. Object with the characteristics of the object of cultural importance;
6. Highly valued objects of cultural heritage of the Russian Federation.

In the Russian Federation there are difficulties related to study and preservation of MCH. There is the project of the federal law “Amendments of legislative acts of the Russian Federation concerning the state protection of cultural heritage objects at water areas” which will be considered by the State Duma this year. The amendments are expected to guarantee the preservation of cultural heritage objects and their legal usage.

International agreements



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International agreement	Description	
UNESCO Convention	Russia ratified the Convention in 1988.	
UNCLOS	Russia ratified the Convention in 1997.	
Valetta Convention	Russia signed the Valletta Convention in 1992 and ratified it in 2011	
Rio Declaration		
UNESCO Convention on the Protection of the Underwater Cultural Heritage	Russia did not sign the Convention.	
UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	Russia did not sign the Convention.	
Faro Convention	Russia did not sign the Convention.	

Potential barriers to integrate MCH into planning

There are no active processes related to MSP; therefore, indirect influence conducted by the MCH authorities is needed to draw attention to the sector and to be prepared when planning in maritime realms starts.

5. Wrap-up: MSP's role in providing space for MCH

The following tables x and xx
Table

Marine Cultural Heritage	Denmark	Germany	Poland	Sweden
MSP's role in providing space for MCH	MSP in its infancy but developing; no role for MCH so far	No priority areas for MCH to safeguard space for the sector yet; in EEZ: consideration of MCH at the stage of project planning and SEA; in territorial waters no consideration of MCH so far	In the ocean areas there is enough space. Within the coastal zone is designated shipping routes divided between primary and secondary fairway	Priority areas for shipping shall safeguard space for ship traffic, conflicting or disturbing activities are restricted.
Role of the MCH sector in planning process	Influencing the MSP process by providing sectoral maps of MCH by MSP research and MCH authorities	MSP authority for the EEZ open for proposals of MCH sites; in Territorial Waters exchange of information and interests between MCH and MSP authorities; sectoral topic maps as annex of the MSP	An option to influence the next version of MSP is to provide sectoral maps of existing, valuable MCH sites to be included as text, topic maps or even as zones	Weak as focus in on other aspects like cumulative impact assessment and ecosystem-based approach related to impacts by sectors like shipping, energy, cable and extraction; possibly inclusion of MCH into SYMPHONY approach or EBA approaches
Use of planning criteria	So far not for MCH, only for sectors like shipping and offshore	Not so far	Not so far, MSP only covers the nationally important areas and corridors for	No criteria or indicators to select MCH so far.

			shipping and energy.	
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Marine Cultural Heritage	Estonia	Finland	Latvia	Lithuania
MSP's role in providing space for MCH	Priority areas for MCH not foreseen but possible according to the impact of the influencing approach until 2021 by the MCH authorities; disturbing activities are restricted	Priority areas for MCH in the Kymenlaakso Regional Land Use Plan. Special areas or zoning so far not foreseen in the three MSP drafts; disturbing activities are restricted	No specific areas in the ocean areas. Within the coastal zone optional designated areas for MCH are integrated but not implemented or elaborated yet.	Priority areas for the MCH sector do not exist, however MCH could be protected in case of conflicting or disturbing activities. Until 2021 there will be no new MSP, instead, the old plan will maintain.
Role of the MCH sector in planning process	Development of MCH maps for county plans and for inclusion into the draft MSP process	The Heritage Board gives important input for location +width of priority areas.	Active participation of the Heritage agency in providing data on MCH on a regular basis.	No new MSP yet, therefore the possibility to integrate MCH. However, attempts to influence the MSP process by providing background material on MCH sites and proposals for zoning.
Use of planning criteria	Width of priority areas + safety zones according to sectors of shipping and energy; no criteria for MCH	Due to the large scale of the three drafted MSPs, MCH not highlighted so far as areas/zones or spots; however, data for planning criteria provided by MCH authority and good cooperation with MSP authorities to develop some planning criteria for MCH	MSP does not provide planning criteria for MCH so far.	MSP does not provide planning criteria for MCH so far.

6. MCH Toolbox

As outlined in chapters 4 and 5, maritime spatial planning processes vary enormously by jurisdiction, scale and location, and sector. To support maritime planners with a practical, easily accessible advice on the consideration of MCH within the MSP process, the following approach can be used. This kind of toolbox provides planners within any member state, working within any planning regime with a practical guidance for taking MCH at all states in the planning process into account. To allow an easy understanding and access to the toolbox, the planning process has been divided into the 5 generic steps that are broadly applicable to the preparation of any spatial plan. These 5 steps are:

- scoping,
- assessment
- analysis,
- plan making and



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- monitoring /review.

At each of the steps the MCH toolbox will enable planners to:

- understand and identify potential MCH integration resulting from scoping
- identify the potential data sources and requirements needed to quantify MCH (assessment)
- identify the relevant analytical tools which can be used to assess MCH within the development of the plans (analysis)
- identify the relevant processes required to address MCH (plan making); and
- identify how to monitor and review MCH sites within the MSP review process.

MCH toolbox steps

1. Entry points

One fundamental difference in planning approaches which is reflected in the MCH toolbox and which should be considered from the very beginning, is

- Plan areas where there is an extension of the terrestrial planning system into the marine; and
- Plan areas where there are two planning regimes (terrestrial and maritime).

The following table provides an overview of the different approaches in the BS countries, see table

Country	Character of plan (extension of land-based plan, pure sea-based plan..)
Denmark	The upcoming spatial plan will apply to the marine internal waters, the territorial sea and the EEZ.
Estonia	The Planning Act - in force since July 2015 - also applies to the EEZ (in addition to internal waters and territorial sea). The new Planning Act makes a clear distinction between the terrestrial planning and maritime spatial planning.
Finland	MSP regulations are given as a part of the Land Use and Building Act, which is the most important act to steer land-use, spatial planning and construction. Nonetheless, maritime spatial planning is not part of the land-use planning system of Finland.
Germany	Sea-land based in one complex
Latvia	
Lithuania	The part "Maritime territories" of the Comprehensive Plan of the Republic of Lithuania, that complements the terrestrial spatial planning
Poland	Marine area only
Sweden	Terrestrial and marine area as one compound



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7. Recommendations

Although many of the ongoing, national MSP processes are quite advanced, BalticRIM seeks to offer opportunities for planners and other responsible stakeholders, to still integrate MCH aspects or - at least - start with consideration with the aim to integrate this sector after 2021. The first target group for these recommendations is the HELCOM-VASAB MSP Working Group as they address agreements on actions to be taken jointly by the MSP authorities of the BSR countries. At the same time it is recognised that some recommendations also address the wider group of stakeholders such as other more sector oriented national and transnational authorities and agencies as well as industry and fisheries – and as such cannot be implemented without their involvement.

In all instances the recommendations have a soft character meaning that they aim for voluntary rather than legally binding practices and agreements among the respective national MSP authorities.

The recommendations have been divided into the following four sections: 1) Horizontal Issues (which can be mainly addressed by the HELCOM-VASAB MSP WG and their MSP authorities directly); 2) MCH; and 3) Data for MSP.

7.1 Horizontal Recommendations

Regular update of planning criteria

In view of different planning structures and systems throughout different countries, it is difficult to align planning criteria as to derive to common standards. At the same time a regular exchange on the respective planning and technical design criteria in use in all countries greatly enhances the joint understanding and prevents mismatches.

Thus, it is recommended, that the planning criteria developed under their national processes should be regularly (at least once per year) reviewed and updated with a specific view on MCH and where necessary, by the national MSP authorities.

Regular update of the categorization templates and data assessment sheets

In GoA 2.1 first attempts have been taken to standardise site categorization based on the input and consensus of the BalticRIM partners. These categories, although difficult to establish for all BSR countries due to different proceedings and standards, can be translated into priority zones and help to standardise operative and management terminology. Also information derived from GoA 2.2, the data assessment of MCH per BSR country, has to be updated regularly.

Facilitate cooperation between planners and heritage officials

The maritime cultural heritage is properly protected by sectoral, national legislation. Heritage officials know where the (discovered) protected cultural heritage (CH) is situated and need to inform planners. Therefore, information about the CH register should be readily available for



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the planner, especially during the stocktaking and assessment phases. The statement and information system provided by heritage officials should be kept as simple and straightforward as possible, e.g. in form of a template.

Increase and continue the efforts to take into account the land-sea interaction effects

Proper planning of maritime space should also include on-land effects of maritime uses and vice versa; this is especially relevant for cultural heritage as it can be found on land and in the sea due to geological and historical processes. It is recommended that the HELCOM-VASAB MSP WG and possibly any sub-groups, continues to build on existing efforts made under previous projects and initiatives such as BaltSpace ('Spatial Cost Benefit Analysis Tool', „Identifying Culturally Significant Areas for MSP“ or „Bow-tie approach“) as well as ESPON to develop analytical tools – especially in view of the transnational dimension of such land-sea interactions.

Facilitate cross-border collaboration by highlighting differences in MSP processes

To achieve an understanding of differences across MSP processes and develop a practical translation for planners, we develop a comparative terminology of the BSR MSP processes. In form of a table, this should help planners to examine MSP processes to date across the Baltic Sea Region and to establish levels of coherence existing in MSP processes, with a particular emphasis on the relationships between coherent MSP processes and associated SEAs. The developed table shall facilitate the planners' approach to integrate MCH aspects also in a cross-border context. The table will be provided as an additional output of WP 2.

Fostering a better understanding of different national SEA approaches

The SEA is a core element to integrate MCH into planning processes. However, the extent to which SEA is integrated into the MSP process differs between the BSR countries due to different interpretation of requirements. In some cases, the entire SEA process runs parallel to the MSP process, providing input on potential environmental impact continuously on the Maritime Spatial Planning process. In other cases, the SEA is an one-time assessment, conducted during a certain planning stage. The choice of the method is also related to whether the MSP authority is also responsible for the SEA.

Whether it addresses ecological aspects only, or integrates social and economic factors (as is required to accompany SEA through the Sustainability Appraisal process of the United Kingdom and Strategic Environmental Impact Assessment of Estonia). Therefore, a

7.3 MCH Recommendations

Develop a common approach for MCH finds

In the EEZ, MCH has to be taken into account, but the first real consideration often takes place quite late, in the framework of the sub-soil investigations (for example, for corridors, routes for cables, etc.). Therefore, it would be beneficial to have clear regulations related to the handling and investigation of MCH. This is already the case, e.g. for the sector of gravel quarrying. There is has been previously regulated how to handle finds to avoid stressful, overall investigations in case of finds and how to gather data or seek solutions according to a common approach. This avoids individual solutions for every single real project planning.



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Include MCH aspects from the very beginning of a planning procedure

Currently, MCH is in most of the national MSP processes somehow neglected. Therefore, the sector of MCH should be included into the process from the very beginning to have the opportunity to provide priority areas for MCH, reserved areas or multi-use scenarios and describe these approaches for specific areas as text; topic-specific annexes are also a way to highlight the interests of a sector but have not the impact like a textual description and outline of specific zones.

Highlight interesting areas with identified MCH as “areas of interest”

Certain areas are identified from the outset as "areas of interest" for which certain requirements are made in order to have control and specifications at hand. For the planner is therefore important to know where which MCH lies. In some countries, MSP authorities do not know these locations and cannot work accordingly with these data.

Use on-going MSP processes to influence them

Although MSP processes seem to be quite closed or advanced, the MCH community should try to influence them by providing detailed information on MCH and hands-on for relevant sites to facilitate the work of the planners and/or to convince political stakeholders. This includes direct negotiations and bilateral meetings between MCH and MSP planners to achieve utmost results.

Use the ecosystem-based approach (EBA) for synergies with MCH

Application of EBA (according to various EU regulations and guidance documents, including the EU MSP-Directive (MSPD 2014/89/EU) and The European Marine Strategy Framework Directive (MSFD 2008/56/EC)) pre-supposes a holistic perspective, continued development of knowledge of the seas and their usage, application of the precautionary principle, and flexible management. In all MSP contexts one of the main challenges is the evaluation of cumulative effects that may result from the combination of different projects and activities and the potential lack of a continuous series of data and related assessment tool. MCH has potential to support the implementation of an EBA jointly with nature conservation interests, which will be inter alia tested in WP 3 of the BalticRIM project in a German planning case study. Lessons-learned could be incorporated more actively into national efforts of BSR countries to combine healthy ecosystems with MCH sites management.

7.4 Data for MSP Recommendations

Foster a comprehensive and convenient access to data

Also related to MCH, the following obstacles to receive data, be it on national or cross-border level, occur:

- Limited access to coherent data and information on the spatial development of the Baltic Sea areas.
- Lack of common standards and open access to data relevant for MSP and information in the Baltic Sea Region.
- Lack of resources to encourage Member States to enhance their cooperation in the



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of delivery of comprehensive data for the MSP.

Therefore, a comprehensive, consistent and convenient access to up-to-date data covering the Baltic Sea area is necessary for planners dealing with MCH in MSP. Also fully consistent and convenient open data and information sources provided by national coordinators to drive the sectoral maps on MCH (see GoA 2.3) are very important. Open access for relevant data and information will support the incorporation of MCH into the process of maritime spatial planning in the Baltic Sea. Striving to data harmonization to have a common language, symbology and definitions for MSP data is also crucial to achieve positive results.

Create a transnational database on MCH

A transnational database, e.g. for Germany/Denmark or Germany/Poland would be very supportive to coordinate protection and integration of MCH into maritime spatial plans.

Recommendations for further proceeding per country are highlighted in table 6.

Russia does not have a MSP process so far; however, MSP and MCH authorities start to collaborate and develop own maps to be prepared for integration of the sector into upcoming MSP processes.



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ANNEX

Questionnaire

Example: Estonian MSP authority

Questionnaire to gather information from MSP authorities how MCH could be better promoted by MSP and included into the MSP legislative framework and management:

1. Is Maritime Cultural Heritage (MCH) already considered in the spatial planning framework in your country?

In territorial waters

In the EEZ

In cross-border situations?

E.g. are aspects of cultural heritage and its protection considered related to the winning of resources, cable routes, marine research, offshore wind farms, aquaculture and fisheries?

Yes, MCH is in our legislation and we have to take MCH into account while carrying out MSP.

2. If yes, how is it addressed?

Please explain shortly and cite, if possible, the specific law, e.g. the national spatial planning law or relevant conventions (e.g. the Valetta Convention) you would take into account.

It is in our national legislation. Planning Act §14 (2) states that one of the functions of MSP is to determine the measures required to ensure the preservation of heritage values.

3. Are you aware of any examples coming e.g. from a specific construction/building effort in the coastal/marine area which show that MCH has to be integrated into concrete planning projects? Can you shortly describe the role of the Environmental Impact Assessment (is it the only way to protect MCH or exist other instruments as well)? Is there a possibility to protect archaeological cultural landscapes?

MCH has to be considered in every superficies licence application phase when the impact to MCH may occur. EIA must evaluate the impacts to MCH. But in Estonia all wrecks are not MCH and therefore there are cases when this requirement does not apply.

4. From your experience and knowledge do you think that knowledge about MCH sites will be considered within the current MSP processes? If so, by when are you expecting this input will be asked for from the MCH authorities?

Yes. MCH authority is in our working group and input to the plan has already been asked. Also MCH authority is one of the stakeholders that has to approve the plan.



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5. If you

were asked to provide support for the inclusion of MCH into MSP, what *type of presentation* of MCH assets would you recommend in the plan: real zoning, spots or just a description of the asset in the plan?

To my mind spots are detailed enough for a national plan. If there is a concrete conflict between different uses, then maybe a description of the asset may be needed, but usually this is too detailed level.

6. In your view is it useful to have *preparing meetings* with MCH experts on municipal, national or even cross-national level to discuss the availability of MCH data, the significance of MCH sites and the way how to include them a MSP? Or do you see not such a need for exchange?

I think in a national level it is very useful and we have already conducted the meetings. Municipal level is too detailed for a national plan and in Estonian case I do not see a need for a cross-national level of discussions.

7. Do you see a *role of MSP to promote MCH* interests within the plan(s)? If yes, how could this role look like?

To my mind every marine use that has a spatial value must be in MSP and treated equally to others. So MSP can promote and give different conditions to take MCH into account, but it cannot promote only MCH interest. All interests must be balanced by MSP.

8. Do you see a *need for special management approaches* based on a MSP to support MCH interests or should the management exclusively done by the MCH side?

I do not see a need and I think it is a MCH authorities responsibility.

9. From your point of view, how important are *in practice* other instruments like Natura 2000 to support the link between MCH, nature protection and sectors like tourism?

It can be linked and to my mind all different protection ways should be looked into together, because the need for protection aim is usually the same – to preserve something.

Definition of Maritime Cultural Heritage (MCH):

Underwater Cultural Heritage can be linked by its nature to the planning scope of MSP. But also coastal zones with their historical aspects should be considered. The term MCH reflects the linkage between MSP and integrated coastal zone management as well as regional land planning.