

# Appropriate Scale and Level in Marine Spatial Planning – Management Perspectives in the Baltic Sea

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## Abstract

The ecosystem approach has become a common tool in environmental governance over the last decade. Within the EU context this is most clearly accentuated through the adoption of the Marine Strategy Framework Directive and the Directive on Maritime Spatial Planning, that both include requirements for member states to apply the approach. This paper examines how the EU countries in the Baltic Sea Region have organised their marine spatial planning (MSP) in terms management levels and geographic delimitations. The examination shows that there is no consistent interpretation of what the appropriate level of management, or ecosystem scale, is. These findings are used to inform a discussion on how the ecosystem approach has been applied in the countries around the Baltic Sea, and how this may affect the potential of transboundary cooperation initiatives.

## Highlights:

- Transboundary cooperation is highly dependent on national administrative structures
- There are significant discrepancies in how Baltic EU states have transposed the MSP Directive
- Such discrepancies reflect unclarities in the EU definition of the Ecosystem Approach

Keywords: Marine Spatial Planning, Ecosystem Approach, Transboundary Cooperation, Marine Management

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## 1. Introduction

The EU directives concerning marine waters all require the application of, or are supposedly consistent with, an ecosystem approach.<sup>1</sup> However, it is clear that there is no coherent methodology to define, and geographically delimit, ecosystems. Nor is their much guidance on what the appropriate levels or temporal scales of management are. In addition, in the Baltic Sea context, cooperation regarding the marine environment is taking place under the aegis of the Convention on the Protection of the Marine Environment of the Baltic Sea (the Helsinki Convention), while the intergovernmental cooperation framework Visions and Strategies Around the Baltic Sea (VASAB) covers spatial planning issues. Furthermore, there are, *inter alia*, the Common Fisheries Policy of the EU, and international shipping regimes that need to

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<sup>1</sup> The term ecosystem approach has many names, but for the sake of consistency 'ecosystem approach' will be used throughout this paper, except when citing external sources.

be taken into account. Such a multi-level mosaic of governance tools creates challenges for a functional environmental management and sets high demands for regional cooperation.

The aim of this paper is to show how the institutional infrastructure for MSP within the different Baltic Sea countries<sup>2</sup> can affect regional cooperation efforts in regards to MSP. To highlight this, the discussion will be framed in terms of choices of geographic and temporal scales as well as management levels in individual the countries. By analysing these choices, it is possible to discuss if there is *one* appropriate scale or level to be identified in the MSP system of the Baltic Sea. Such a discussion may also say something about how coherent the different interpretations of the ecosystem approach are. A framework of legal geography will be used as the theoretical basis for these discussions.

## 2. Material and methods

This article is based on an analysis of official documents pertaining to the legal setup of marine spatial planning in the EU states around the Baltic Sea.

## 3. Background

The Directive on Maritime Spatial Planning [1] (MSPD) is the latest addition to the collection EU legal acts relating to marine issues. Already existing were the Water Framework Directive [2] (WFD) and the Marine Strategy Framework Directive [3] (MSFD). In addition to these directives, there are more legal acts and policies with implications for the management of marine resources in the Baltic Sea, such as the regional Helsinki Convention and the EU Common Fisheries Policy.

Although all of these legal acts and policies have somewhat different focus areas, the ecosystem approach, in some shape or frame, is relevant for most of them.<sup>3</sup> Through analysing the interpretation of the ecosystem approach within the implementation of one single act; the MSPD, this paper highlights coordination difficulties between these different legal acts and policies. The basic presupposition is that if there are coordination difficulties within one legal act, these will be multiplied when aiming to coordinate actions between different legal acts.

While both the WFD and the MSFD have environmental concerns as their prime objective, the MSPD has a broader purpose. MSP is not primarily an environmental management tool, rather it can be defined as a tool that can assist in '[...] analysing and allocating parts of the three-dimensional marine space to specific uses, to achieve ecological, economic, and social objectives that are usually specified through the political process' [4, p. 24]. The objectives governing MSP regimes may differ between states, and environmental concerns may be more or less in focus. In the EU Integrated Marine Policy (IMP) [5], MSP is promoted as a '[...] fundamental tool for the sustainable development of marine areas and coastal regions, and for the restoration of Europe's seas to environmental health' [5, p. 6]. Thus, from an EU perspective MSP is a tool for growth, as well as environmental protection. In the

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<sup>2</sup> As the analysis is connected to an EU directive, Russia is excluded. When the terms "Baltic countries" or "Baltic Sea countries" are used it is thus only the EU countries that are intended.

<sup>3</sup> While not explicitly stated in the WFD, the directive is considered to be consistent with the approach.

Roadmap for Maritime Spatial Planning, communicated by the EU in 2008, the ecosystem approach is promoted as an over-arching principle for MSP [6, p. 9]. This is reflected in the MSPD, where Art. 5 requires member states to apply an ecosystem approach when establishing and implementing MSP. Thus, although the EU member states around the Baltic Sea may have different objectives for their MSP, they are all required to apply an ecosystem approach. The purpose of this approach is to see that human activities do not compromise important ecosystem components [7, p. 4]. This paper focuses on the ecosystem approach, and how ecosystems have been administratively defined in the Baltic Sea. The basic presupposition is that there needs to be a coherent understanding of the concept 'ecosystem approach' around the Baltic Sea, regardless of other differences in national MSP objectives, in order to ensure that human activities do not compromise important ecosystem functions.

Being a semi-enclosed sea, almost entirely surrounded by EU states, the Baltic Sea has unique preconditions for regional cooperation. In regards to MSP, the most relevant initiative for coordination, on a government level, is the joint HELCOM-VASAB working group for MSP [8]. Both of these organisations (HELCOM and VASAB) separately promote the development of MSP in the Baltic Sea; HELCOM through the Baltic Sea Action Plan (BSAP) [specifically 9], and VASAB, as it is a cooperation network with representatives for the ministries responsible for environmental protection and spatial planning around the Baltic Sea [see 10]. The joint working group is thus a way to coordinate the efforts. The overall aim of the group is to "ensure cooperation among the Baltic Sea Region countries for coherent regional Maritime Spatial Planning processes" [8, p. 1]. In addition, there have been a number of cooperation efforts concerning MSP around the Baltic Sea. The latest project, Baltic SCOPE, was concluded in March 2017. The aim of the project was to collaborate in transboundary MSP, and to identify cross-border issues and solutions [11, p. 8]. The Baltic SCOPE project resulted in *inter alia* recommendations on cross-border MSP, and a checklist for the application of the ecosystem approach in MSP. The aim of the checklist was to harmonise the understanding of what the ecosystem approach is. Currently, a new cooperation project, the Pan-Baltic Scope, is in the start-up phase. The aim with this project is to achieve coherent national MSP processes in the Baltic Sea region, and to create a lasting cross-border MSP cooperation [12]. In addition to these two projects, there is the ongoing Baltic LINES project that has the aim to promote coherent shipping lines and energy corridors in the MSP around the Baltic Sea [13]. Furthermore, the BaltSeaPlan and PartiSEApate projects have previously been completed, both directed at transboundary MSP issues in the Baltic Sea region [see 14].

These initiatives are important for the coordination of planning efforts around the Baltic Sea, and as such, central for a successful implementation of the EU directives aimed at the marine environment. Nevertheless, this paper argues, even where there are common models and understandings of MSP on a regional level, a coherent implementation can only be achieved as long as the institutional setting in the individual countries allows for it. A Swedish municipality may use the same method of planning as the Polish or German government, however, the conclusions and weighing of interests may still differ between them, as a result of differences in the focus of planning.

MSP is implemented through, *inter alia*, sectoral decision-making and national permit systems. These decisions fall outside of the scope of this article. The main argument for such a delimitation is that all types of implementation measures are contingent on how the plan system is designed. The marine plans are supposed to be guiding for subsequent sectoral decisions and permit processes. Through a cross-sectoral integrated approach, MSP ensures that the marine space is used in a sustainable way. Thus, the geographic scope of the marine plan is of importance, as activities outside of the plan will not be covered by the integrated approach and left to local, or sectoral decision-makers. In Sweden, for example, the coastal waters are not included in the marine plans, consequently, the plans cannot be guiding for subsequent decisions, or local plans, in that area. The same can be said for transboundary cooperation initiatives. The findings within such initiatives will be implemented in the national MSP systems. If these systems do not cover the entire marine and coastal waters in the cooperating states, this will affect how the cooperation measures can be implemented. Another way of phrasing this is that MSP is a multi-level management tool, but if the levels are not sufficiently connected to each other, the management objectives may be lost.

This does not mean that transboundary cooperation efforts are futile, or that all national MSP systems need to have the same objectives and functions to be able to implement a coherent MSP. Indeed, a focus on the national planning systems can inform a discussion on the way the ecosystem approach is implemented in a pan-Baltic context, and what challenges the transboundary cooperation faces on the national levels. An example of how the transnational efforts may not trickle down to the local decision-makers and planners, is how the ecosystem approach is treated in municipal planning in Sweden. A review of all comprehensive plans for coastal municipalities in Sweden<sup>4</sup> shows that the ecosystem approach is only mentioned in one instance; in a plan concerning a specific area within one municipality.<sup>5</sup> This shows the importance in how a fragmented management regime may lead to a loss in understanding of concepts that are deemed important on a more centralised level.

#### 4. Legal Geography

In the previous section, it was claimed that different planning authorities may have different focuses in their planning, which in turn may lead to differences in how the planning is performed. This could also be explained by saying that there are differences in planning rationale. To explain this, and to adopt a way of thinking in terms of how management can be performed, the theoretical framework of legal geography is used.

Legal geography is the study of law and spatiality. The concept of ‘space’ is the centrepiece of this theoretical perspective. Space can be understood in a variety of manners; social space, lived space, legal space or natural space, to name a few [the concept of space has been theoretically covered and elaborated by a number of scholars, for further reading, see e.g. 15, 16, 17]. This paper aligns itself with a legal geography concerned with how the legal world forms the physical world, and how it

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<sup>4</sup> The plans studied were current plans, or plans in the consultation phase, autumn 2017.

<sup>5</sup> The review was performed using a word search for the ecosystem approach in plans retrieved from the official websites of the coastal municipalities. The relevant data can be accessed through the author.

in a way creates new spaces [for further reading on legal geography see 18]. A seminal work in the early years of legal geography was Boaventura De Sousa Santos' article 'Law: A Map of Misreading – Toward a Postmodern Conception of Law' from 1987. Here, De Sousa Santos uses the map as a metaphor for law, highlighting how choices in scale and projection of jurisdiction will affect the perspectives in adjudication, management etc. [19]. For the purpose of this paper the map metaphor is relatively concrete. Environmental management is confined in physical space. Choices of scale decide the level of detail in management; if the entire Baltic Sea is chosen as the unit to be managed, some details may be lost. Conversely, if the geographical boundaries of a local municipality are chosen as the appropriate scale, the overall perspective may be lost. In addition to the geographic scale, choices in administrative management level have implications for *how* management is performed [20]; a local government may have different priorities and rationales in their planning than a national authority would. In her paper on jurisdiction and scale, Mariana Valverde adds to the discussion on management perspectives. She divides governance analysis into four questions, where the first two inform the answers to the following two [20, p. 144]. These questions are:

1. where: territories;
2. who: authorities (whether sovereign delegated, or private);
3. what: the objects of governance;
4. how – which in turn has two dimensions:
  - (a) governing capacities, and
  - (b) rationalities of governance.<sup>6</sup>

For the purpose of this paper I have chosen to adjust these questions somewhat, to better fit the legal problems analysed. Here, the following questions will be used to theoretically inform the discussion:

1. What? Territories (in the case at hand the scale of ecosystems)
2. Who? Authorities (level of management)
3. When? Planning cycles (temporal scale)
4. How? Rationalities of governance.

Based on the above questions, this paper analyses how the countries around the Baltic Sea have chosen to design their respective systems for MSP. Answering the first three questions in terms of what the geographical delimitations of marine areas are in different countries, and who the competent authority for coordinating planning efforts is, enables a discussion on consequences in how this management is being performed. The answer to the first three questions will indicate potential discrepancies and lay bare some of the institutional challenges following the increasing number of legal acts that cover the marine environment of the Baltic Sea. Such indications will open up for a wider discussion on the challenges in EU marine policy.

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<sup>6</sup> The rationales of governance in this case would be the underlying perspectives within different administrative bodies: Municipalities may have a local perspective/rationale, a ministry of finance may have an economic perspective/rationale, while a ministry of environment might have a more conservationist perspective/rationale. This discussion is further developed in section 5 and 6.

## 5. The Ecosystem Approach

A common denominator for the marine governance tools applicable in the Baltic Sea, is the ecosystem approach. The exact formulation of this approach varies between legal acts and actors [21, p. 100]. However, the most commonly cited definition is the one forwarded by the Parties to the Convention on Biological Diversity (CBD), through the Malawi principles [22]. The basic idea of the ecosystem approach, as stated here, is to be:

‘(...) a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way’ [22, pp. 103–104].

Much has been written about the ecosystem approach as a concept. While the aim of this paper is not to identify a specific meaning of the approach, two of the Malawi principles will be used as examples of how coherent (or not) the application of the ecosystem approach is in the implementation of the MSPD in the Baltic Sea context. Focusing on two specific principles opens up for an analysis of differences in interpretations of the approach. The two principles are:

‘Management should be decentralised to the lowest appropriate level’, and

‘The ecosystem approach should be undertaken at the appropriate spatial and temporal scales’

These principles have been chosen as, while relatively clearly formulated, they leave room of discretion for national/regional legislators in their application of the ecosystem approach. Furthermore, they relate to the theoretical framework presented at the beginning of this paper. The first principle pertains to management level, i.e. who is the competent authority for ecosystem management? Such choices are governed by a number of factors; pre-existing administrative structures, political considerations etc. This paper argues that choices in management level also include choices of perspectives, or rationales, in management. These choices are thus of great importance for the ecosystem governance. The second principle pertains to the geographical and temporal scales of the ecosystem to be managed. This principle is of importance as the choices of scale may entail prioritisations that could have been different, had another scale been chosen. From an ecological science perspective, it is clear that processes that are visible in one scale, may be lost in another [23, p. 279]. In terms of temporal scale, there may be differences in planning cycles, both among the Baltic states, but also within a single state, where there is more than one planning authority. There are, furthermore, differences in when the planning in the different states was initiated, which can lead coordination difficulties as the states will be in different stages of their planning, even if they apply the same length of planning cycles. For the purpose of this paper, the two principles will serve as examples to highlight discrepancies in the application of the ecosystem approach around the Baltic Sea.

## 6. The MSP Directive – a short introduction

The MSPD was adopted in 2014, and stipulates that all member states shall ‘establish and implement maritime spatial planning’ by 2021 at the latest [1, Arts. 4.1 and 15.3]. The geographical scope of the directive covers the marine waters of member states,

excluding coastal waters or parts thereof covered by town and country planning, and be governed by an ecosystem approach [1, Arts. 2.1 and 5.1]. Furthermore, there are some minimum requirements that are, to say the least, wide-ranging in their formulation. *Inter alia*, member states are required to take land-sea interactions into account, and ensure the involvement of stakeholders [1, Art. 6.2]. Initially, the directive was planned to cover all marine waters, including coastal waters. In fact, the benefits of coordinating efforts between MSP and Integrated Coastal Zone Management (ICZM)<sup>7</sup> were highlighted in the impact assessment accompanying the proposal to the MSPD [24, p. 10]. However, in the process leading up to the adoption of the directive it became clear that the coastal waters exhibited too many inherent, competing, political interests, and were thus excluded from the final text.

### 5.1 Indications of ecosystem scale in the MSPD

In terms of ecosystem scale, the MSPD applies the same definition as that of the MSFD [1, Art 3.3], where eight marine regions and eight sub-regions are defined. These should be considered by the member states when implementing the directive. The Baltic Sea is one such marine region [see 1, Art. 4]. As no further divisions into smaller ecosystems are made, this can be considered the ecosystem scale chosen in the two directives. This view is also promoted in the BaltSeaPlan Vision 2030, where it is stated that the Baltic Sea is ‘[...] One large ecosystem consisting of a number of bioregions’ [14, p. 12]. This vision is supported by *inter alia* VASAB [25].

### 5.2 Disentangling the purpose of the MSPD

For the EU to be able to adopt new legislation, the subject matter needs to fall within the competence of the Union. Such competences, or legal bases, follow from the Treaty on the Functioning of the European Union (TFEU) [26]. Spatial planning of marine areas is not mentioned in this treaty and thus primarily falls outside of the competence of the EU. However, in the MSPD, this is dealt with by the use of a number of different legal bases, which are all within the EU competence. These bases are: Fishing (art 43(2) TFEU), Transport (art 100(2) TFEU), Environment (art 192(1) TFEU) and Energy (art 194(2) TFEU).

When a directive has one legal basis, such as the MSFD, which derives its legal status from the predecessor to art 192(1) TFEU (environment) [3], this is indicative of the purpose of the directive; in this particular case, environmental protection is the main focus of the directive. The multiple legal bases of the MSPD makes for some confusion in this regard. National authorities have no guidance as to what the main purpose of the directive is. It has been claimed that the final version of the directive entails a strong preference for economic activities and the promotion of “blue growth” [27, p. 38]. Furthermore, the responsibility for implementing the MSPD is placed under the Directorate General for Maritime Affairs and Fisheries (DG MARE), which has a clear economic focus [see 28, 29, pp. 98–99]. Nevertheless, it is up to individual member states to decide what should be the governing interests in the national MSP system. The directive has clear references to the ecosystem approach and uses environmental protection as one of the legal bases, which opens up for a more conservationist interpretation of the purpose. As the review of the MSP legislation of

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<sup>7</sup> The concept of ICZM will not be further developed here, other than concluding that it is a management strategy for the coastal zone where both the terrestrial and marine environment are considered.

the Baltic countries below shows, the interpretation of the purpose may differ, as half of the countries have chosen to place MSP under a ministry with an environmental focus, and the other half chose a ministry with a more economic growth focus. Without a further review of the implementation of MSP in each of the Baltic states, it may be difficult to draw any decisive conclusions as to how the rationales of different ministries affect the objectives of the MSP processes. However, tensions between government bodies with different objectives have previously been discussed in an EU context. Here, focus was on the institutional tensions between different Directorate Generals (DG) [29, pp. 98–99]. The sometimes-conflicting objectives of the DGs have been identified as a problem when aiming to implement different directives. In a member state context, it is easy to see how different types of ministries may have different rationales in their planning endeavours. While the EU context is not directly translatable to national context, there are still obvious similarities between the two systems, and it is thus possible to discuss the same potential challenges of differing objectives.

The framework construction of the MSPD, paired with the vague minimum requirements, and the somewhat unclear focus of the directive, leads to a variety of national systems for MSP around the Baltic Sea. A variety that begs the question if it is possible to claim that there is *one* ecosystem approach within EU marine policy.

## **7. MSP legislation in the Baltic states**

The following section of the paper consists of a review of the national MSP legislation in EU member states around the Baltic Sea. The main aspects studied for each country are the spatial scales chosen for planning, which in some cases also includes information on who the competent planning authorities are (i.e. management level), which ministry is responsible for the MSP process, and the temporal scale of planning (planning cycle). Through such a review, it is possible to discuss potential discrepancies in planning rationale and perspective between the Baltic countries. The results from the review are presented below in figure 1, which is followed by a more in-depth comparison between the Swedish and Finnish systems for MSP, and how they relate to the wider perspective of a coordinated planning of the Baltic Sea.

	<b>Sweden</b>	<b>Finland</b>	<b>Estonia</b>	<b>Latvia</b>	<b>Lithuania</b>	<b>Poland</b>	<b>Germany</b>	<b>Denmark</b>
<b>National plans</b>	x		x	x	x	x	x	x
<b>Regional plans</b>		x					x	
<b>Local plans</b>	x	x		x				
<b>Responsible ministry</b>	Ministry of environment	Ministry of environment	Ministry of Finance	Ministry of Environmental Protection and Regional Development	Ministry of Environment	Ministry for Maritime Economy	Federal Ministry of Transport and Digital Infrastructure	Ministry of Business and Growth
<b>Planning cycle</b>	8 years	10 years	10 years	6 years (review)	-	10 years	10 years	10 years

Figure 1. National systems for MSP [information acquired through 30, 31, 32, Art. 30, 33, Section 7(8)].

Figure 1 above shows clear differences between the legislative systems for MSP in the countries around the Baltic Sea. To exemplify how these differences may affect the efforts for a coordinated planning of the Baltic Sea, the Swedish and Finnish systems are studied more in detail below.

The Swedish Agency for Marine and Water Management (SwAM) is responsible for developing the Swedish national marine plans. Currently, there is an ongoing planning process, with the aim of adopting the marine plans in 2020/21. There are three proposed plan areas; one for the Gulf of Bothnia, one for the Baltic Sea area and one for Skagerrak/Kattegat. The plans cover the area one nautical mile (nm) seaward of the baseline, until the end of the Exclusive Economic Zone (EEZ) [34, Chapter 4 Art. 10]. For waters landward of this area, planning is performed by the local municipalities. The municipalities also have a planning competence regarding the territorial sea [35, Chapter 1 Art. 2], which means there is an overlap between the two planning authorities of up to 11 nm. Thus, from the perspective of scale, there are two types of plans; local, and national. The national plans are not binding<sup>8</sup> and the marine areas of municipalities are mainly covered by non-binding comprehensive plans. From a management level-perspective, there are thus two management levels. In terms of temporality, there are further differences between the types of plans. The municipal comprehensive plans are supposed to be evaluated every four years, a time frame which is connected to the terms of office for the local governments [35, Chapter 5 Art. 27]. The national plans, on the other hand, are supposed to be revised at least every eight years [36, Art. 21]. In addition to there being two levels of plans, with different temporal scales, there are vast differences between municipalities as to when the plans were adopted and what temporal perspective they have. Although the plans are supposed to be evaluated every four years, it is not common to adopt new plans. Thus, the oldest plan for a Swedish municipality bordering the Baltic Sea was adopted in 2002,<sup>9</sup> while the most current was adopted in 2017<sup>10</sup>. Needless to say, such differences in when the plans were adopted may lead to discrepancies in the focus of planning, as well as in the considerations made in the plans.

Similar to Sweden, Finland has three types of plans with a somewhat overlapping jurisdiction. Planning of the territorial sea and internal waters is a regional, and municipal, affair: municipalities have the right to plan internal waters and the territorial sea. This is usually done through the adoption of general plans for the entire municipality, or for parts of it [37, p. 17]. These plans are coordinated through eight regional councils, tasked with adopting binding regional plans for their respective areas. These councils are made up by representatives of the municipalities and the regional plans shall ‘guide regional development and steer decisions on issues that are of a trans-municipal and regional nature’ [38, p. 5]. The regional councils are also MSP authorities, and as such they are grouped together and between them supposed to draft three marine plans, covering the territorial waters and the EEZ. The marine

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<sup>8</sup> There is a possibility for the government to decide on binding prohibitions for certain activities in the plans, however, the plan itself is not binding and there are no such prohibitions proposed in the current drafts for marine plans.

<sup>9</sup> The plan of the municipality of Norrköping. There are a couple of plans still in force that were adopted earlier, however they are currently under revision and thus not considered here.

<sup>10</sup> There are a number of plans up for adoption in 2017/18, one example of a plan that was adopted in 2017 is the one for the municipality of Sölvesborg.

plans, in contrast to the regional ones, are non-binding. Within this system there is thus one management level, the regional, but two scales in planning. In addition, the autonomous territory of Åland has its own planning regime. MSP in Finland is placed under the Ministry of the Environment, Department of the Built Environment [39]. The temporal scale for the Finnish MSP is that the plans should be updated at least every 10 years [40, Art. 2].

Studying the different transpositions of the MSPD into national legislation, there are a few points to be made in regards to geographic scale, and management levels. The coordination of planning efforts around the Baltic Sea is not merely one of reconciling different national interest among the Baltic countries. The review above shows that, in addition, there are a number of local and regional actors that impact how planning is performed. Such actors may have different interests and perspectives in their planning than national, or international actors.

Although the Baltic Sea, from both the EU and VASAB perspectives, is considered to be one marine ecosystem, many Baltic states have divided their marine areas into smaller units than the national. There is the local perspective, represented by e.g. municipal planning in Latvia and Sweden, there is the regional perspective of Finnish and German MSP, and there is the Polish and Estonian perspective with a national authority responsible but where the marine waters are divided into smaller plan areas. These divisions indicate choices of scale that may generate a quite detailed perspective to planning. Such a perspective may, however, not be reconcilable with the Baltic Sea-wide perspective [19, p. 287]. The aim of this paper is not to make any claims as to what level of governance should be considered appropriate from an ecosystem perspective. Still, in line with what was stated in section 3 on ecosystem processes, if the entire Baltic Sea is considered to be one ecosystem, then processes within that ecosystem may be lost if the management is fragmented to local and regional scales. Using the same methodology for planning across the board could counteract such fragmentation. However, using a methodology that takes into account ecological processes relevant for all of the Baltic Sea may seem unfeasible for civil-servants on the municipal level. Furthermore, it would not address the issue of differences in management perspectives or the rationale informing the planning decisions.

It is possible to separate the different levels of management into local, regional or national, and discuss how these levels in themselves entail different rationales of planning. Here the analysis returns to the three theoretical questions presented above,<sup>11</sup> specifically the questions regarding the “who” of management, and the “how”. In itself, the level of management may entail a certain planning rationale that may not be explicit in the legislative process. The Swedish system for planning of the marine areas can be used as an example here; all terrestrial planning is performed by municipalities. All municipal action is governed by a “location policy”, which means that municipal competence is restricted to what is of public interest for the members of the municipality [41, p. 40]. This, paired with a system where the local governments are elected for four-year terms of office, creates a situation where the local decision-makers have strong incentives to have a local perspective in their planning decisions. Usually there is a planning department in the municipal organization where

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<sup>11</sup> See section 2.

civil servants prepare the plans, these are then adopted at the political level. Here, there is a close connection between planners and politicians. The national planning authorities may also be affected by elections, but not to the same extent as municipalities, as their process is more separated from the political arena.

A related issue is that there might be differences also within each management level. If the competent planning authority is the Ministry of Finance, their main interest is arguably economic development, while a Ministry of Environment will be more conservationist, with a focus on sustainable resource use. The review above shows that in half of the Baltic countries, the ministry of environment is responsible for the MSP process, and in the other half, a more economically focused ministry is in charge. This adds a dimension to the already geographically and administratively fragmented marine spatial planning of the Baltic Sea. These choices of responsible ministry also have bearing on how the regional cooperation efforts may perform. While the MSPD may have a focus on blue growth [1, Arts, 2.1 and 5.1], HELCOM is basing their recommendation on MSP on the strive to reach the targets of favourable conservation status of Baltic Sea biodiversity [42, p. 19]. The joint HELCOM-VASAB MSP working group applies an approach where both the economic potential and the vulnerability of the ecosystem in the Baltic Sea are highlighted [8, p. 1].

## 8. Discussion

The above analysis aims at highlighting institutional difficulties and discrepancies in the implementation of the MSPD in the Baltic Sea. The MSPD, as well as the MSFD, the Helsinki convention, the CFP, and to some extent also the WFD, are all supposedly guided by the same ecosystem approach. This approach may be formulated in different ways. Still, all of these acts are derived from the same legislator, the EU, or has become part of EU legislation (the Helsinki convention). Thus, there ought to be some coherent idea of what the ecosystem approach is. The MSPD case highlights that there is no such common understanding of what the appropriate scale or appropriate management level for the application of the ecosystem approach is, not even within the frame of this single legal act. Added to this are the different rationales in planning that follow the choices of management level. Granted, such choices may flow from pre-existing administrative structures; however, they are also political choices. Choices that explicitly, or implicitly, decide what rationale should govern the marine planning. These rationales differ, not only between the level in the administrative system (vertically), but also between administrative bodies at the same administrative level (horizontally). As argued above, a government agency whose main focus is maritime<sup>12</sup> [see e.g. 43, p. 35] activities will prioritize differently than an agency that has environmental protection as its specific priority. The same could be argued for different ministries of government being in charge of the national MSP processes. This argument is equally valid at the EU level, where it can be of importance which Directorate General is tasked with overseeing the implementation of a certain directive [see 29].

What all this means for the functional application of an ecosystem approach across the Baltic Sea is not easy to say. Studying how the MSPD has been transposed into

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<sup>12</sup> Here, the term “maritime” is understood as more oriented towards growth than the term “marine”, which has more environmental connotations.

the national systems around the Baltic Sea, there are some evident challenges. In Estonia, Germany, Denmark and Poland, the authorities responsible for MSP have a more economic focus, while states such as Sweden, Finland, Lithuania and Latvia have placed MSP under their Ministries of Environment. Such differences in basic planning rationale might have a small impact on how the actual planning is performed. Yet, paired with the differences in management levels and scales, where a number of different local and regional bodies are in charge of the actual planning, they create a plurality in management perspectives that risk hampering efforts of coordination.

There are a number of legal acts pertaining to the marine environment of the EU, the MSPD being the latest addition. In fact, before the directive was adopted, there were voices arguing against the necessity of a MSP directive, as the MSFD already provided a legal framework for an ecosystem-based MSP, and that yet another directive would create more challenges to the institutional consistency of EU marine governance [44]. This paper has shown that such an argument is still valid and that the fear of an increased institutional ambiguity concerning the marine environment seems to have been warranted. To this end, the regional cooperation initiatives may be of importance. The work undertaken in regards to the MSFD, through HELCOM, and the MSPD, through the joint HELCOM-VASAB MSP working group, and the Baltic SCOPE project, can be counteract inconsistencies between the directives. As the Baltic SCOPE project was finalized relatively recently we still stand to see what coordination effects may come from it. However, the national discrepancies in scales and levels are still present and pose great challenges for all such cooperation endeavours.

## 9. Conclusion

Studying the implementation challenges concerning the new directive on MSP, the question needs to be asked if it really was more legislation that was needed for a sustainable use of the European marine areas. When the MSPD was adopted, the MSFD was still relatively fresh, and had not had time to reach its full potential. I argue that many of the planning issues could have been resolved through references to good environmental status in the MSFD. Granted, for a long-term economic development with foreseeability for individual operations, MSP might be the best tool. However, for the purposes of planning the Baltic Sea environment, it seems as if the MSPD is too imprecise to create the national foundations needed for successful regional cooperation efforts. In anyway, it does not bring anymore clarity to the definition of the elusive concept of an EU ecosystem approach.

## Glossary

CBD	Convention on Biological Diversity
CFP	Common Fisheries Policy
DG	Directorate Genreal
DG MARE	Directorate General for Maritime Affairs and Fisheries
EEZ	Exclusive Economic Zone
HELCOM	Baltic Marine Environment Protection Commission - Helsinki Commission

ICZM	Integrated Coastal Zone Management
IMP	EU Integrated Marine Policy
MSFD	Marine Strategy Framework Directive
MSP	Marine spatial planning
MSPD	Maritime Spatial Planning Directive
nm	nautical mile
SwAM	Swedish Agency for Marine and Water Management
TFEU	Treaty on the Functioning of the European Union
VASAB	Visions and Strategies Around the Baltic Sea
WFD	Water Framework Directive

## References

- [1] Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2016 establishing a framework for maritime spatial planning (Maritime Spatial Planning Directive, MSPD).
- [2] Directive 2000/60/EC of the European Parliament and of the Council of the 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive, WFD).
- [3] Directive 2008/56/EC of the European Parliament and of the Council of the 17 June 2008 establishing a framework for the community action in the field of marine environmental policy (Marine Strategy Framework Directive, MSFD).
- [4] C. Ehler, F. Douvere, Visions for a Sea Change. Report of the First International Workshop on Marine Spatial Planning, Intergovernmental Oceanographic Commission and Man and the Biosphere Programme, 2006, doi:10.17605/OSF.IO/U7EAN.
- [5] European Commission COM(2007) 575, An Integrated Maritime Policy for the European Union.
- [6] European Commission COM(2008) 791, Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU.
- [7] ICES, Guidance on the Application of the Ecosystem Approach to Management of Human Activities in the European Marine Environment, 2005.
- [8] Mandate for the Joint HELCOM-VASAB Maritime Spatial Planning Working Group, HELCOM HOD 41-2013 and 62nd VASAB CSPD/BSR Meeting, 2013.
- [9] HELCOM Recommendation 28E/9 - Development of broad-scale marine spatial planning principles in the Baltic Sea area, 2007.
- [10] Vision and Strategies around the Baltic Sea - Towards a Framework for Spatial Development in the Baltic Sea Region, 1994 (2014 reissue).
- [11] Baltic SCOPE, Baltic SCOPE - Better Together, 2017. Available online: <https://www.havochvatten.se/download/18.6fd0111715ea3671b2530df/1505988659317/baltic-scope-better-together.pdf> (accessed 4.6.2018).

- [12] VASAB, Pan Baltic Scope, 2018: <http://www.vasab.org/index.php/projects/pan-baltic-scope> (accessed 19.3.2018).
- [13] VASAB, Baltic LINES, 2018: <http://vasab.org/index.php/projects/baltic-lines> (accessed 19.3.2018).
- [14] BaltSeaPlan, Vision 2030 – Towards the sustainable planning of Baltic Sea space, 2011.
- [15] H. Lefebvre, *The production of space*, Basil Blackwell, Oxford, 1991.
- [16] D. B. Massey, *For space*, SAGE, London, 2005.
- [17] D. Delaney, *The spatial, the legal and the pragmatics of world-making: nomospheric investigations*, Routledge, 2010.
- [18] I. Braverman et.al, *The expanding spaces of law: a timely legal geography*, Stanford Law Books, Stanford, California, 2014.
- [19] B. De Sousa Santos, *Law: A Map of Misreading – Toward a Postmodern Conception of Law*, *Journal of Law and Society* Vol. 14, No. 3 (1987), 279–302.
- [20] M. Valverde, *Jurisdiction and Scale: Legal 'Technicalities' as Resources for Theory*, *Sage Journals* Vol. 18(2) (2009), 139–157. DOI: 10.1177/0964663909103622.
- [21] V. De Lucia, *Competing Narratives and Complex Genealogies: The Ecosystem Approach in International Environmental Law*, *Journal of Environmental Law*, Volume 27, Issue 1 (2015) 91–117.
- [22] UNEP/CBD/COP/5/23, Decision V/6 Ecosystem Approach, 2000.
- [23] N. Sayre, *Ecological and geographical scale: parallels and potential for integration*, *Progress in Human Geography* Vol 29, Issue 3 (2005) 276–290.
- [24] European Commission SWD(2013) 65, *Impact assessment accompanying the document Proposal for a directive if the European Parliament and the Council establishing a framework for maritime spatial planning and integrated coastal zone management*, 2013.
- [25] VASAB, Press release – VASAB supports BaltSeaPlan Vision 2030, 2012. Available online: [http://www.vasab.org/images/VASAB\\_Vision19042012.pdf](http://www.vasab.org/images/VASAB_Vision19042012.pdf) (accessed 4.6.2018).
- [26] European Union, *Consolidated version of the Treaty on The Functioning of the European Union*, OJ C 326/47.
- [27] A. Zervaki, *The Legalization of Maritime Spatial Planning in the European Union and Its Implications for Maritime Governance*, *Ocean Yearbook Online*, Volume 30, Issue 1 (2016) 32–52.
- [28] DG MARE, *Mission Statement (7/4-2017)*.
- [29] E. M. De Santo, *The Marine Strategy Framework Directive as a Catalyst for Maritime Spatial Planning: Internal Dimensions and Institutional Tensions*, in: M.

Gilek, K. Kern (Eds.), *Governing Europe's marine environment: Europeanization of regional seas or regionalization of EU policies?* Corbett Centre for Maritime Policy Studies, Ashgate, Farnham, Surrey, 2015, pp. 95–119.

[30] European MSP Platform, [www.msp-platform.eu/](http://www.msp-platform.eu/) (accessed 11.4.2017).

[31] J. Schmitdbauer Crona et.al, *The Ecosystem Approach in Maritime Spatial Planning – A Checklist Toolbox*, Baltic Scope, 2015. Available online: [http://www.balticscope.eu/content/uploads/2015/07/BalticScope\\_Ecosystem\\_Checklist\\_WWW.pdf](http://www.balticscope.eu/content/uploads/2015/07/BalticScope_Ecosystem_Checklist_WWW.pdf) (accessed 4.6.2018).

[32] Republic of Latvia, Regulation No. 740 of the Cabinet of Ministers, on the Procedures for the Development, Implementation and Monitoring of the Maritime Spatial Plan, Adopted 30 October 2012.

[33] The Federal Republic of Germany, Spatial Planning Act (ROG) - English translation, 2017.

[34] Swedish Environmental Code (1998:808).

[35] Swedish Planning and Building Act (2010:900).

[36] Swedish Ordinance on Marine Spatial Planning (2015:400).

[37] Ö. Pettersson, K. Andersson, *Havet som kommunal angelägenhet - Planeringsförutsättningar i kommunerna kring Kvarken*, GERUM Kulturgeografisk arbetsrapport 2014-08-18, 2014.

[38] Joint HELCOM-VASAB Maritime Spatial Planning Working Group, MSP Country Fiche Finland, 2016.

[39] European MSP Platform, *Maritime Spatial Planning Information, Finland*, 2016: [www.msp-platform.eu/countries/finland](http://www.msp-platform.eu/countries/finland) (accessed 22.3.2017).

[40] Finnish Ordinance on Marine Spatial Planning (816/2016).

[41] U. Björkman, O. Lundin, *Kommunen och lagen: En introduktion*, Iustus, 2011.

[42] HELCOM, *Baltic Sea Action Plan*, 2007. Available online: [http://www.helcom.fi/Documents/Baltic%20sea%20action%20plan/BSAP\\_Final.pdf](http://www.helcom.fi/Documents/Baltic%20sea%20action%20plan/BSAP_Final.pdf) (accessed 4.6.2018).

[43] E. M. De Santo, *Environmental justice implications of Maritime Spatial Planning in the European Union*, Elsevier, *Marine Policy* 35(1) (2011) 34–38.

[44] W. Qiu, P. J. S. Jones, *The emerging policy landscape for marine spatial planning in Europe*, *Marine Policy*, Volume 39 (2013) 182–190. <https://doi.org/10.1016/j.marpol.2012.10.010>.