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EUROPEAN COMMISSION

COMMUNICATION FROM THE COMMISSION

**Commission Notice on recommendations per Member State and region on the 2018 updated reports
for Articles 8, 9 and 10 of the Marine Strategy Framework Directive (2008/56/EC)**

(2022/C 118/01)

1. INTRODUCTION

The Marine Strategy Framework Directive (MSFD, 2008/56/EC) ⁽¹⁾ is a holistic policy to protect the marine environment of the seas around Europe while enabling the sustainable use of marine goods and services. It requires Member States to assess the quality status of the marine environment, determine good environmental status, set appropriate environmental targets and draw up adequate monitoring programmes and implement measures to achieve the Directive's key goal of securing the 'good environmental status' of all EU marine waters by 2020. This goal was not achieved in all EU waters across all the descriptors of the Directive ⁽²⁾.

During the second implementation cycle of the Directive, Member States were due to notify to the Commission by 15 October 2018 their updated reports for Articles 8, 9 and 10 of the Directive ⁽³⁾. The Commission has to assess these Member State reports in accordance with Articles 12 and 17(4) of the Directive.

Member States may provide text-based reports, structured according to national needs, to fulfil their legal obligation to report under the MSFD. Through the MSFD Common Implementation Strategy, Member States also agreed to provide e-reports with structured information that is suitable for the purposes of Article 12 assessments and for dissemination at European level via WISE Marine ⁽⁴⁾.

Out of the 23 Member States that have marine waters ⁽⁵⁾, and therefore need to report under Article 17, 22 had provided text reports by September 2020. Member States who had not reported by the October 2018 deadline were periodically reminded of their reporting obligation at meetings of the MSFD Common Implementation Strategy. Infringement cases for non-reporting were opened against Bulgaria, Croatia, Cyprus, Denmark, Estonia, France, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Slovenia, Spain and the United Kingdom ⁽⁶⁾. All cases have been closed, following receipt of the reports, excepting for Bulgaria whose reports have not been received as of November 2021.

⁽¹⁾ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

⁽²⁾ COM/2020/259 final

⁽³⁾ In accordance with Article 17(2)(a) and 17(2)(b)

⁽⁴⁾ GD14: guidance for 2018 reporting on Art. 8, 9 & 10 updates; Annex 2 worked examples.

⁽⁵⁾ Marine waters are defined in MSFD Article 3(1). Austria, Czechia, Hungary, Luxembourg, and Slovakia are land-locked countries and do not report under Article 17.

⁽⁶⁾ The United Kingdom was still an EU Member State at the time of the reporting obligation in 2018, but had not completed its e-reporting in time for this assessment.

By October 2020, 20 Member States had provided e-reports, and have therefore been included in this Article 12 assessment. In addition to communications via the MSFD Common Implementation Strategy, there has been direct communication with Bulgaria and Greece requesting submission of e-reports ⁽⁷⁾. The late e-reporting by Member States has consequently led to the delay in undertaking this Article 12 assessment.

The assessment has led to a national report per Member State ⁽⁸⁾ and to a regional report on coherence for three ⁽⁹⁾ of the four MSFD marine regions (Baltic Sea, North-East Atlantic Ocean, and Mediterranean Sea) ⁽¹⁰⁾.

In addition, the assessment has led to a set of recommendations per Member State and per region (which are generally applicable to all Member States in those regions). The recommendations aim to identify the ways in which the reports for Articles 8, 9 and 10 should be improved when next updated in October 2024.

In parallel to the analysis of Member State's reports for this MSFD Article 12 assessment, which provide feedback on reporting per Member State, the European Commission Joint Research Centre (JRC) analysed the reports from a scientific and technical perspective. This resulted in a series of 11 technical reports that provide a European overview to support the MSFD implementation process ⁽¹¹⁾.

This notice, with its accompanying staff working document ⁽¹²⁾, presents the recommendations for all countries and regions assessed so far. They are expressed in relation to the three articles (8, 9 and 10) that have been reported on, and in relation to the descriptors identified in Annex I of the MSFD and the criteria identified in Commission Decision (EU) 2017/848.

The accompanying staff working document ⁽¹³⁾ to this notice contains the specific national and regional recommendations for all countries and regions assessed so far.

2. NATIONAL AND REGIONAL RECOMMENDATIONS

Article	Topics	No. of recommendations
Article 8	<ul style="list-style-type: none"> — Features and elements assessed — Assessment methodology — Extent to which GES is achieved — Key pressures preventing GES — Consistency of current assessment against the 2018 GES Determination 	National - 5
	<ul style="list-style-type: none"> — Coherent set of elements — Coherent assessment methodology 	Regional - 4
Article 9	<ul style="list-style-type: none"> — Use of primary criteria — Use of secondary criteria — Qualitative GES description — Quantitative GES determination 	National - 7
	<ul style="list-style-type: none"> — Coherent use of primary criteria — Coherent qualitative GES description — Coherent quantitative GES determination 	Regional - 7

⁽⁷⁾ The remaining two Member States (Bulgaria, Greece) will be assessed when their e-reports become available.

⁽⁸⁾ The technical country-specific assessments were prepared for the Commission by an external consultant – see https://circabc.europa.eu/ui/group/326ae5ac-0419-4167-83ca-e3c210534a69/library/31bf127a-ca1f-483e-a34e-e0243754ef81?p=1&n=10&sort=modified_DESC.

⁽⁹⁾ The fourth marine region, the Black Sea, has only two Member States (Bulgaria and Romania) and cannot be assessed for coherence until Bulgaria provides its e-reports.

⁽¹⁰⁾ The technical region-specific assessments were prepared for the Commission by an external consultant – see https://circabc.europa.eu/ui/group/326ae5ac-0419-4167-83ca-e3c210534a69/library/31bf127a-ca1f-483e-a34e-e0243754ef81?p=1&n=10&sort=modified_DESC.

⁽¹¹⁾ ⁹ JRC reviews: <https://mcc.jrc.ec.europa.eu/main/dev.py?N=18&O=460>.

⁽¹²⁾ SWD(2022)55

⁽¹³⁾ SWD(2022)55

Article 10	— Targets for key pressures — Measurable targets — Assess progress with targets — Quantify gap to GES — Link target to direct measures	National - 5
	— Key pressures in (sub)region	Regional - 1
Total		29

3. CONCLUSION

The consideration of these recommendations by Member States, in particular where additional harmonisation and coherent reporting is required, will need further collaboration among Member States at a technical level in the context of the MSFD Common Implementation Strategy ⁽¹⁴⁾, such as in the MSFD Technical Groups and Joint Research Centre's Expert Networks.

⁽¹⁴⁾ The common implementation strategy is an informal coordination programme set up by the Commission, with the participation of Member States, regional sea conventions and other stakeholders.